

# ENVIRONMENT AND NATURAL RESOURCES CODE OF CAMBODIA

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## **BOOK 1 GENERAL PROVISIONS**

### **TITLE 1 GENERAL PROVISIONS**

#### **CHAPTER 1 OBJECTIVE OF THE ENVIRONMENT AND NATURAL RESOURCES CODE**

##### **ARTICLE 1 PURPOSE OF THE ENVIRONMENT AND NATURAL RESOURCES CODE**

Recognizing that the environment is the source and foundation of Cambodia's wealth and the well-being of its people, the purpose of this Environment and Natural Resources Code is to enable the sustainable development of Cambodia, through protection, restoration and enhancement of the environment and its natural resources.

##### **ARTICLE 2 OBJECTIVES OF THE ENVIRONMENT AND NATURAL RESOURCES CODE**

- a) In order to achieve the purpose described in Article 1, all provisions of this Code shall be interpreted, implemented and complied with in a manner consistent with the Constitution of Cambodia and the following objectives: Protect and preserve the environment, so that it can support the needs of the people of Cambodia, including present and future generations ;
- b) Maintain and enhance the ability of Cambodia's Natural Resources to provide valuable goods and services;
- c) Ensure that the multiple benefits and values of the environment and natural resources are fully integrated into national and regional planning, and decision-making concerning economic and social development;
- d) Preserve and promote Cambodia's national culture, preserve ancient monuments and artefacts, and restore historic sites;
- e) Guarantee and enhance the health and wellbeing of all people in Cambodia, including by safeguarding the individual and collective rights of poor and vulnerable people and indigenous peoples
- f) Promote gender equality and the empowerment of women and girls; Promote collaborative, transparent and inclusive approaches to decision-making about the environment and natural resources, in particular by ensuring the participation of poor and vulnerable people, individuals or groups who are marginalised from decision-making processes, and those

most at risk from changes to the environment;;

- g) Achieve full implementation of Cambodia’s rights, obligations and responsibilities under relevant international agreements;
- h) Respect the principles of environmental decision-making described in Chapter [3].

## ARTICLE 3 SCOPE OF THE ENVIRONMENT AND NATURAL RESOURCES CODE

Subject to the Constitution of Cambodia, all [*legislation, decrees, regulations, and policies*] of the Royal Kingdom of Cambodia shall be interpreted and applied in full accordance with the provisions of this Code, except to the extent that subsequent legislation clearly and explicitly provides otherwise.

## 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. In cases of doubt, matters shall be resolved in a way most likely to promote 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.

## CHAPTER 2 DEFINITIONS/GLOSSARY

In this Environment and Natural Resources Code, the following terms shall be construed as follows:

**The Environment** – All natural and manmade features and conditions in which life exists on Earth, including waters, land, air, species, minerals, oceans, ecosystems, and alterations by people to these features including cultural heritage. The Environment is the total surroundings or conditions in which life exists on earth; major natural, manmade, or altered environmental classes of the Kingdom of Cambodia. These include, but are not limited to, the air, the aquatic, (all types of marine, estuarine, and freshwater), and the terrestrial environment. The terrestrial environment includes, but is not limited to, montane, forest, dryland, wetland, range, urban areas, suburban areas, and rural areas. The term “environment” also includes cultural heritage, archaeological sites, and attributes of the built environment such as temples, buildings, and roads. As such the

“environment” is made up of living (biotic) entities-trees, birds, lichen-and non-living (abiotic) entities-mineral deposits, a pond, a mountain- which interact as systems.

**Natural Resources** – All living and non-living components of the Environment, including ecosystems, that provide flows of valuable goods and services to people.

## A

**Accreditation** – The mechanism for ensuring that a certification body is independent, competent, and produces reliable, replicable results.

**Act of nature** – means an act occasioned by an unanticipated grave natural disaster.

**Adaptation** – the process of adjustment to actual or expected climate and its effects, in order to moderate harm or exploit beneficial opportunities. In natural systems, the process of adjustment to actual climate and its effects; human intervention may facilitate adjustment to expected climate.

**Adaptive Management** – An ongoing process for improving management policies and practices by applying knowledge learned through assessment of previously employed policies and practices to future projects and programs. The practice of revisiting management decisions and revising them in the light of new information.

**Afforestation** – Planting of new forests on lands that historically have not contained forests.

**Agriculture, Forestry and Other Land Uses (AFOLU)** – Agriculture Forestry and Other Land Use. AFOLU projects fall under the following categories: Afforestation, Reforestation and Revegetation (ARR), Agricultural Land Management (ALM), Improved Forest Management (IFM), Reduced Emissions from Deforestation and Degradation (REDD), Avoided Conversion of Grasslands and Shrublands (ACoGS),Wetlands Restoration and Conservation (WRC).

**Animal** – includes, whether live or dead, amphibians, birds, mammals, reptiles, fish, invertebrates and their young, offspring, and eggs and any parts or products or the dead body thereof.

**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.

**Annual Statistical Report** – A report submitted by the Commune Sangkat Council and the Environmental Dispute Resolution Panel to the Ministry of the Environment on the statistics of mediation conciliation and hearings at the local and national levels. This Report tracks the progress of the environmental dispute resolution system in order to rectify deficiencies and plan adjustments accordingly.

**Aquifer** – a geological formation where underground water accumulates permanently.

## **B**

**Banks** – In relation to a river, tributary, stream, canal, lake and reservoir refers to the land normally inundated by the water contained in such river, tributary, stream, canal, lake or reservoir, together with such soil, rock or any other material immediately adjacent thereto, but does not include any land beyond that land, soil, rock or other materials, which is occasionally inundated by such water.

**Baseline Emissions** – Estimate of the emissions, absorption, or capture of greenhouse gases or compounds associated with a baseline scenario.

**Bed** – In relation to a river, tributary, stream, canal, lake and reservoir refers to the portion of land delimited by their respective banks, and normally covered by water.

**Beneficiary groups** –

**Benefit Sharing** – In the context of mitigation, burden sharing refers to sharing the effort of reducing the sources or enhancing the sinks of greenhouse gases (GHGs) from historical or projected levels, usually allocated by some criteria, as well as sharing the cost burden across countries.

**Best Management Practices** – a practice or usually a combination of practices that are determined by the relevant institution to be the most effective and practicable means (including technological, economic, and institutional considerations) of achieving sustainability standards and goals.

**Best practices**

**Biobank** – a facility with a large collection of biological data and tissue samples amassed for research purposes.

**Biodiversity or Biological Resources** – Various organisms in the same or different species and living organisms of all levels and sources, including land, marine and fresh water ecosystems, and the ecological relationships in which these ecosystems exist.

**Biodiversity** – The variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

**Biodiversity Conservation Corridor** – A clearly defined geographical space, recognised, dedicated and managed through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.

**Biodiversity Conservation Corridor and Protected Area Forests** – all forested land within biodiversity conservation corridors and protected areas. These shall be managed in accordance with Book 4 Title 2.

**Biodiversity Conservation Corridor Protection and Management Plan:** An overarching plan for management of a Biodiversity Conservation Corridor, to be determined in cooperation with

local communities, the relevant government authorities, local and international NGOs, and private sector. Subordinate management plans for smaller geographic areas within Biodiversity Conservation Corridor will also be developed on a site – specific basis.

**Biodiversity offsets** – measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development after appropriate prevention and mitigation measures have been taken.

**Biological Control Agents** – Organisms used to eliminate or regulate the population of other organisms

**Biosphere Reserve** – An area representing an ecosystem that is important and not severely damaged, and surrounded by sustainable development zones, allowed for limited human activities.

## C

### **Cambodia Climate Change Strategic Plan (CCCSP)**

**Captive breeding** – wildlife that are alive or dead, and born or otherwise produced in a controlled environment. The term "captive breeding" can be applied to any wildlife breeding venture, whether for conservation or commercial purposes.

**Captivity** – the condition of being restricted in movement by use of an enclosure, cage, building, chain, or otherwise, which is outside of an animal's wild habitat.

### **Carbon credit**

**Carbon offsets** – Credits issued in return for a reduction of atmospheric carbon emissions through projects. One offset credit is equivalent to an emission reduction of one metric ton of CO<sub>2</sub>e.

**Certification** – The process of independent verification that forest management meets the requirements of defined standards, such as worker conditions or soil conservation.

**Certified Emissions Reductions** – Emissions reductions expressed in tons of equivalent carbon dioxide and achieved through activities or projects certified by an entity authorized for such a purpose.

**Chain of Custody** – The path taken by raw materials, processed materials, finished products, and co-products from the forest to the consumer or (in the case of reclaimed/recycled materials or products containing them) from the reclamation site to the consumer, including each stage of processing, transformation, manufacturing, storage and transport where progress to the next stage of the supply chain involves a change of ownership (independent custodianship) of the materials or the product.

**Chemical** – Any organic or inorganic substance of a particular molecular identity, including: any

combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature; and any element or uncombined radical. This definition extends to chemical substances and chemical products.

**Children's products** – toys and other articles which are intended to be entrusted to or for use by children 12 years of age or younger.

**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.

**Cleaner Production** – The continuous application of an integrated preventive environmental strategy to processes, goods, and services to increase overall efficiency, and reduce risks to humans and the environment. Cleaner Production can be applied to the processes used in any industry, to goods themselves, and to various services provided in society.

**Climate Change** – a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

**Climate change mitigation and adaptation** – limiting climate change by reducing emissions and lessening adverse impacts of climate change through implementing adaptation measures

**Climate Finance** – applied both to the financial resources devoted to addressing climate change globally and to financial flows to developing countries to assist them in addressing climate change.

**Climate Smart Agriculture** – an approach that helps to guide actions needed to transform and reorient agricultural systems to effectively support development and ensure food security in a changing climate. CSA aims to tackle three main objectives: sustainably increasing agricultural productivity and incomes; adapting and building resilience to climate change; and reducing and/or removing greenhouse gas emissions, where possible. CSA is an approach for developing agricultural strategies to secure sustainable food security under climate change.

## **Closure**

**Co – benefits** – The positive effects that a policy or measure aimed at one objective might have on other objectives, irrespective of the net effect on overall social welfare. Co – benefits are often subject to uncertainty and depend on local circumstances and implementation practices, among other factors. Co-benefits are also referred to as ancillary benefits.

**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.

**Collaborative Management:** Collaborative management is a mechanism of land and natural resources management and local livelihood development in which national and local level authorities and local communities share roles and responsibilities in the sustainable use, management and protection of natural resources and biodiversity, according to clearly described roles and responsibilities.

**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.

**Commercial purposes** – doing something with the primary aim of gaining income or economic benefits from that activity

**Community Protected Area** – Participation of local community or indigenous ethnic minorities in an elected form of administrative structure, recognized by the Ministry of Environment, with the joint purpose of management and sustainable use of natural resources in a particular part of the protected area, aimed at promoting the standards of living of the local community and indigenous ethnic minorities.

**Community Forest** – State forest subject to an agreement to manage and utilize the forest in a sustainable manner between the relevant government authority and a local community or organized group of people living within or nearby the forest area that depend upon it for subsistence and customary use.

**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 agriculture.

**Community – based ecotourism (CBET):** tourism in which the infrastructure including accommodation, food service, transportation or other services are primarily owned and managed by community members and are operated on a basis of directly sharing profits and other benefits with the community while also contributing to conservation, creating low impact and providing education of visitors and local community members. (Clarification provided by this Environment and Natural Resources Code)

**Community-based tourism (CBT):** tourism in which the infrastructure including accommodation, food service, transportation or other services are primarily owned and managed by community members but which does not fulfil all the basic elements of ecotourism. (Clarification provided by this Environment and Natural Resources Code)

**Competent Authority:** As required by the Basel Convention, the Competent Authority is the governmental body designated by a Party as responsible for dealing with notifications of a transboundary movement of hazardous wastes or other wastes. Under the Basel Convention, the Kingdom of Cambodia has designated the Director of the Department of Pollution Control in the Ministry of Environment as the Competent Authority.

**Conceptual Restoration Plan** – A written and/or graphic representation of Restoration work to be used to develop and refine the extent of site assessment, Restoration alternatives, implementation of Contaminated Site Restoration work, and to support Risk Assessment – based Restoration decisions. The Conceptual Restoration Plan is an optional document and may be prepared and updated at any time during Restoration work as new or revised information becomes available. The Conceptual Restoration Plan may be a single document or may be combined with any other document.

**Conciliation** – One type of Environmental Dispute Resolution Panel mechanism where one member of the Panel acts as a neutral third party in a confidential, flexible, informal process in an attempt to move the parties toward resolution.

**Conservation breeding purposes** – wildlife 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.

**Conservation Corridor (Biodiversity Conservation Corridor)** – An area of protected land connecting Protected Areas, to be managed in accordance with co – management and decentralization principles, in cooperation with community members, local authorities, national level institutions, local and international NGOs, development partners and the private sector.

**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.

**Conservation Zone** – management area(s) of high conservation values containing natural resources, ecosystems, watershed areas, and natural landscapes, often located adjacent to a core zone.

Access to the conservation zone is allowed only with prior consent of the relevant authorities including the implementers of collaborative management that have a signed agreement to collaboratively manage the relevant areas. When in the interests of national security, security and defence sectors may access the conservation zone.

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 of the Ministry of Environment or other relevant authorities, provided that they do not present serious adverse impacts on biodiversity conservation and ecosystem value within the zone.

**Consumers** – everyday purchaser of a good or service in retail or end user in the distribution chain of a good or service.

**Contaminant** – Any physical, chemical, biological, or radiological substance present in any medium in the environment that may result in adverse effects to human health or the environment.

**Contaminated or Contamination** – The presence of any Contaminant in surface water, groundwater, soil, sediment, or upon the land, in concentrations that exceed the general obligations and/or standards for pollution control in Book 6, Titles 1 and 2, or that exceed any Environmental Quality Standards that may be established under Book 2, Title 5, as necessary.

**Contaminated Site** – Any contiguous land, sediment, surface water or groundwater areas that contains Contamination that may be harmful to human health or the environment.

**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) duly authorized 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, and iii) implementers of collaborative management that have a signed agreement to collaboratively manage the relevant areas, including the precise terms of their access to the core zone. When in the interests of national security, security and defence sectors may access the core zone.

**Corporate Social Responsibility** – a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives (“Triple – Bottom – Line – Approach”), while at the same time addressing the expectations of shareholders and stakeholders.

**Critically Endangered Species** – organisms that are considered to be facing an extremely high risk of extinction in the wild, according to the best available evidence.

**Cumulative Effects** – two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

**Customary use/ Subsistence Use/ Family Scale Use** – 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.

**Customary User rights** – Rights which result from a long series of habitual or customary actions,

constantly repeated, which have, by such repetition and by uninterrupted acquiescence, acquired the force of a law within a geographical or sociological unit.

## **D**

**Dam** – Works that include a barrier, whether permanent or temporary, that does or could or would impound water, and the storage area created by the works.

**Damage** – an acute and obvious deleterious impact upon an ecosystem.

**Deforestation** – Conversion of forest to non – forest.

**Degradation** – A level of deleterious human impact to ecosystems that results in the loss of biodiversity and simplification or disruption in the structure, functionality or composition, and generally the reduction in the capacity of the ecosystem to provide ecosystem goods and services.

**Demand management**, for water, includes— a) Reducing demand for water; and b) Increasing the efficiency of water supply works; and c) Increasing the efficiency of the use of water by end users; and d) Substituting a process that does not use a water resource for one that does use a water resource; and e) Substituting one water resource for another.

**Direct Effects** – effects that are caused by a Project and occur at the same time and place.

**Disaster** – a natural or human made serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources. Disasters, including natural disasters, are often described as a result of the combination of: the exposure to a hazard; the conditions of vulnerability that are present; and insufficient capacity or measures to reduce or cope with the potential negative consequences. Disaster impacts may include loss of life, injury, disease and other negative effects on human, physical, mental and social well – being, together with damage to property, destruction of assets, damage or loss of natural resources, loss of services, social and economic disruption and environmental degradation.

**Disaster Risk Reduction** – the concept and practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters, including through reduced exposures to hazards, lessened vulnerability of people and property, wise management of land and the environment, and improved preparedness for adverse events including climate change.

**Discharge** – The addition of a pollutant by a point source or nonpoint source to a surface water, ground water, or water collection system.

**Discharge** – Any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, releasing, or dumping of any Contaminant which occurs and which affects land, sediment, surface water, or groundwater areas.

**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.

**Disposal facility** means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure.

**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.

## E

**Early Warning System** – The set of capacities needed to generate and disseminate timely and meaningful warning information to enable individuals, communities and organizations threatened by a hazard to prepare to act promptly and appropriately to reduce the possibility of harm or loss.

**Ecological Indicators** – a specific, measurable property, component, or condition of an ecosystem that is sensitive to the changes in key attributes of the ecological system, wherein the ecological indicator will have an ecologically acceptable range of variation (e.g. total number of adults in a population, ratio of natural to non – natural vegetation, or water table depth).

**Ecological Integrity**: the ability of an ecological system to support and maintain a community of organisms that has a species composition, diversity, and functional organization comparable to those of natural habitats within a region.

**Ecological outcome** – Means a consequence for an ecosystem in its component parts specified for aquifers, drainage basins, catchments, sub-catchments and watercourses.

**Ecological restoration** – the process of assisting the recovery of an ecosystem that has been degraded, damaged or destroyed.

**Ecological Threats** – any man-made, introduced, or unnatural element that has the potential disrupt a natural ecosystem and/or cause ecological indicators to have values outside of the ecologically acceptable range of variation (e.g. invasive species, mining activities, and climate change).

**Ecologically Functional Population**: a population of a size and dynamism such that it is not only viable, but also able to provide the ecological services and roles of natural, undisturbed population to the surrounding ecosystem.

**Ecology** – A science which studies the relations between living organisms (animals and plants) and the surrounding environment.

**Ecosystem** – A dynamic combination of plant, animal and micro – organism species and

communities and their non – living environment and the ecological processes between them interacting as a functional unit.

**Ecosystem** – A set of mixed interactions in a particular area between living organisms and the surrounding non – living environment (climate, micro – climate, land, water). Together, these interactions make up the environment, and perform certain functions on the earth’s surface (ecosystem services).

**Ecosystem** – small or large scale assemblage of biotic and abiotic components in water bodies and on land in which the components interact to form complex food webs, nutrient cycles and energy flows. The term ‘ecosystem’ is used in the Standards to describe an ecological assemblage of any size or scale.

**Ecosystem** – A biological community of interacting organisms and their physical environment

**Ecosystem Services** – Interaction via biogeochemical cycles that produces and sustains natural resources (e.g. stocks of material or organisms such as coal, forests, water, schools of fish) which provide humans with natural resource goods and services (e.g. flows of benefits from natural resources such as local climate regulation from forests, food from fish, energy from coal). The conceptualization of these goods and service flows will change over time, based in part on science, and based in part on how citizens perceive the values of their environment. Therefore this conceptualization should be understood as dynamic. These goods and service flows, as well as the stocks of natural resources themselves, are valued by humans to varying extents. Some of them have known market prices, such as timber, or coal. Others are valued more intrinsically, such as access to traditional cultural practices, or recreation, or transmission of traditional knowledge about some aspect of the environment.

**Ecosystem Services** (also, Environmental Values) – The benefits people obtain from ecosystems, having monetary or non – monetary value to individuals or society at large. These include: a. Provisioning services such as food, forest products and water; b. Regulating services such as regulation of floods, drought, land degradation, air quality, climate and disease; c. Supporting services such as soil formation and nutrient cycling; and d. Cultural services and cultural values such as recreational, spiritual, religious and other non – material benefits.

**Ecotourism** – sustainable, responsible tourism to relatively undisturbed natural areas, in order to enjoy, study and appreciate nature (and any accompanying cultural features—both past and present), that promotes conservation, has low visitor impact, provides for beneficially active socio – economic involvement of local populations and involves interpretation and education of both visitors and hosts.

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

**Electricity** – **electric** current or power, often carried through a wire that is used to operate machines, lights, etc.

**Emergency Response Action** – Activities initiated within seventy – two (72) hours of discovery of an unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action to alleviate a threat to human health, public safety, or the environment.

**Emission Source** – any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas into the atmosphere.

**Emissions** – release of greenhouse gases and/or their precursors into the atmosphere over a specified area and period of time.

**Endangered Species** – organisms that are considered to be facing a very high risk of extinction in the wild, according to the best available evidence. This may be due to environment changes caused either by natural or human factors such as exploitation, loss of habitat, threat from other species, changes in the food chain, pollution, or a combination of these factors.

**Energy – energy** is the usable power that is derived from heat, electricity, etc. and that is often used in cooking or food preparation process.

**Energy Efficiency** – The Government of Cambodia recognizes the International Organization for Standardization (ISO) 50001 standard as the applicable standard for energy management systems in the country, fostering end – use energy efficiency in private activities and government institutions. If this standard is replaced with any other standard in the future, the new standards will be immediately enforceable in the country, under the terms established in this Code.

**Energy Efficiency (EE)** – encompasses all changes that result in a reduction in the energy used for a given energy service (heating, lighting...) or level of activity. This reduction in energy consumption is not necessarily associated with technical changes, since it can also result from a better organisation and management or improved economic efficiency in the sector (e.g. overall gains of productivity).

**Engineering Controls** – Modifications to a site to reduce or eliminate the potential for exposure to Contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures or capping.

**Environment** includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

**Environmental and social risk management principles** – a set of standards for financial institutions to determine, assess and manage risks stemming from environmental and social issues, including on labour and working conditions; resource efficiency and pollution prevention; community health, safety, and security; land acquisition and involuntary resettlement; biodiversity conservation and sustainable management of living natural resources; indigenous peoples; and cultural heritage

**Environmental Complaints – Requests** filed by appropriate parties for (1) civil violations of

nondiscretionary duties of a government Ministry or its relevant institutions under the Natural Resource and Environment Code; (2) complaints brought by the government or its relevant institutions regarding potential violations of the Code; and (3) any other complaint brought by a person against a private party for violations of the code and other relevant laws. Criminal Complaints are excluded from the environmental dispute resolution process and Panel hearings.

## **Environmental conservation**

### **Environmental disputes**

**Environmental flow objective** – A flow objective for the protection of the health of natural ecosystems for the achievement of ecological outcomes and can include details about the timing, duration, frequency, rate and magnitude of flow.

### **Environmental harm**

**Environmental Impact**, 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 Impacts** – the positive or negative effect of any action upon a given area or resource

**Environmental Labelling and Certification** – Voluntary procedure of ensuring that a product (refers to both goods and services, including their production processes) meets certain specified criteria. Environmental label – claim that indicates the environmental aspects of a good or service. Ecolabel is awarded by an impartial third-party in relation to certain products that meet environmental leadership criteria based on life cycle considerations. Certification is awarded to those products that comply absolutely with a set of baseline standards (Based on International Organisation for Standardisation (ISO) 14020 series).

**Environmental Mediation** – A consensual, confidential process where participants cooperatively aim to resolve environmental disputes.

### **Environmental protection**

**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.

### **Environmental standards**



**Environmental Values** – components of natural and cultural heritage that has worth or utility – in an economic framework, environmental and amenity values may include user values, as well as non – use values such as existence values, bequest values and option values.

**Environmental, social, and governance criteria** – subset of non – financial performance indicators which serve to evaluate corporate behaviour and determine the future financial performance of companies.

**Equipment** – any tool, object, machinery, materials or components that may be used to make such equipment

**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.

**Exporter**, pursuant to the Basel Convention, is a State from which a transboundary movement of hazardous waste is initiated.

**Extended Producer Responsibility (EPR)** as an environmental policy approach in which a producer's responsibility for a product is extended to the post – consumer stage of a product's life cycle. An EPR policy is characterised by: the shifting of responsibility (physically and/or economically; fully or partially) upstream toward the producer and away from municipalities; and the provision of incentives to producers to take into account environmental considerations when designing their products. While other policy instruments tend to target a single point in the chain, EPR seeks to integrate signals related to the environmental characteristics of products and production processes throughout the product chain.

**Externalities** – The positive and negative impacts of activities on stakeholders that are not directly involved in those activities, or on a natural resource or the environment, which do not usually enter standard cost accounting systems, such that the market prices of the products of those activities do not reflect the full costs or benefits.

**Extractive Industries** – oil, gas, mining, and metals industries.

**Extremely hazardous substance** – means a substance on the list described in the relevant list.

## **F**

**Facility** – means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

**Facility** – means all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person).

**Final Decision** – A binding decision of the Environmental Dispute Resolution Panel. A Final Decision can result from (1) both parties consent to a binding decision prior to the hearing through procedures determined by the Ministry of the Environment; or (2) the absence of an appeal where no appeal is filed within 20 days of receipt of the Panel Decision.

**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: The catching, taking, or otherwise obtaining possession of live fish or other living marine resources; The attempted catching, taking or otherwise obtaining possession of live fish or other living marine resources; 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; 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.

**Flammable substance** – refers to fuel oil, coal, natural gas that may be flammable.

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

**Forest By-products** – Fibre, chips, sawdust and other materials generated from timber harvest and processing.

**Forest Classification** – a category of forest usually defined by its vegetation, particularly its dominant vegetation as based on percentage cover of trees

**Forest Designation** – a defined facility involving the use of a forest or its produce, sanctioned by the owner of the forest to individuals or communities.

**Forest Land** – land at least 10 percent stocked by forest trees of any size, including land that formerly had such tree cover and that will naturally or artificially regenerated

**Forest Products** – any material derived from a forest for direct consumption or commercial use, such as lumber, paper, and forage. While wood is the dominant forest product, forest products also consist of non-timber forest products such as nuts and resin, and by products of forest product harvest and processing

**Full Environmental Cost** – direct and indirect economic, environmental, health and social costs of a Project.

**Full supply level** – The level of a dam’s water surface when water storage is at maximum operating level without being affected by flood.

**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.

## G

**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.

**Genetically Engineered Organism:** an organism that has been genetically altered by man such that it is genetically and/or biochemically distinguishable from an organism that is naturally occurring or an organism that has been created by man through a traditional process of sexual or asexual breeding.

**Genetically Modified** – Foods derived from organisms who genetic material (DNA) has been modified in a way that does not occur naturally e.g. through the introduction of a gene from a different organism. Currently available GM foods stem mostly from plants, but in the future foods derived from GM organisms or GM animals are likely to be introduced on the market. Most existing genetically modified crops have been developed to improve yield, through the introduction of resistance to plant disease or of increased tolerance of herbicides.

**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.

**Green Growth** – is environmentally sustainable economic progress that fosters low – carbon, socially inclusive development. It articulates concise and clear entry points and policy approaches for making real gains in eco – efficiency and transferring to low – carbon development, synergising climate action with development goals. (UNEP Green Economy Initiative)

**Green procurement** – “procedure and process of purchasing raw material and green products with quality, which ensures ecosystem safety through a rightful use with effectiveness, transparency, accountability and opportunity, based on green growth principles.” **National Policy on Green Growth (NPGG), p 50**

**Green procurement** – Process whereby organisations take into account environmental elements when procuring goods, services, works and utilities and achieve value for money on a whole life – cycle basis. (European Commission text ([ec.europa.eu/environment/gpp/green\\_vs\\_sustainable.htm](http://ec.europa.eu/environment/gpp/green_vs_sustainable.htm)))

**Greenhouse Gas** – those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re – emit infrared radiation.

**Greenhouse Gas Inventory** – A document required by the UNFCCC that contains the estimate of anthropogenic emissions by source and the absorption by sinks.

**Ground water** – Any water that is beneath the surface of the earth.

**Groundwater** – Water flowing within a saturated soil, rock medium, fractures or other cavities within the ground.

## H

**Habitat** – includes land, water, vegetation or air, which is the natural home of any wild organism.

**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

**Harm** – means damages to, destruction of, damage to, loss, loss of use, or impairment of any resource of Cambodia, and further including but not limited to ecosystem values or services, degradation of ecological connectedness or corridors, threats of or actual injury to any portion or

aspect of a protected area, or area otherwise owned, managed or controlled by the Kingdom of Cambodia, and resulting loss of wages, income, profits, and lost taxes or governmental fees.

**Harvest** – See Fishing above

**Hazardous chemical** – has the meaning given such term by the relevant definition in the code [link it with the definition in the relevant title].

**Hazardous secondary material** means an industrial solid waste secondary material (e.g., spent material, by – product, or sludge) that, when discarded, would be identified as hazardous waste unless and until additional reclamation occurs.

**Hazardous Substance** – A chemical included on the list of Hazardous Substances developed by the MoE. It is classified as such because the chemical meets or exceeds pre – established standards on human health, ecological or environmental risk.

**Hazardous waste** refers to solids, liquids, gases, radioactive substances, explosives, inflammable substances, infectious substances, or substances causing inflammation, rust, oxidation, pollution, cancer or other pollutants causing danger to humans, animals or destruction to plants, public property and the environment. Sources of hazardous waste may be those from housing, markets, supermarkets, recreational sites, public buildings, educational institutions, business activities, services, handicrafts, factories, agricultural activities and mining activities.

**Health surveillance** – the process of generating, collecting, analysing and exchanging health information to protect, promote and support decisions affecting the health of wildlife, humans and livestock and their associated social values.

**Hearing – Proceedings** for (i) enforcement of the Natural Resource and Environment Code, and other related laws; and (ii) review of the Ministry of Environment procedures and functions.

**High conservation value** – a biological, social or cultural value of outstanding significance or critical importance

**Household waste** is the part of solid waste which discarded from non – commercial activities from dwellings, public buildings, factory, market, hotel, business building, restaurant, transport facilities, recreation site, etc.

**Hunting** – includes harassing, capturing, killing, poisoning, pursuing, snaring, shooting, trapping, baiting, netting and luring of any wildlife and any attempt to engage in such conduct, and wounding, injuring or destroying or taking any part of the animal or its offspring, including collecting, damaging or disturbing eggs or nests.

## I

**Illegal disposal** means the intentional or negligent disposal of hazardous waste onto the land or

into water without a permit.

**Impact** – All individual and cumulative effects on biophysical condition or values.

**Importer**; pursuant to the Basel Convention, is a State to whom a transboundary movement of hazardous wastes is destined for the purpose of disposing the waste in that country, or for loading the waste prior to disposal of the waste in another country.

**Importer** – means any person that undertakes the entry of a product or substance into the country.

**Indirect Effects** – effects that are reasonably foreseeable and caused by a Project, but occur at a different time or place.

**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.

**Industrial solid waste** refers to solid waste or generated from a business or commercial activity from a process or during the production of a product or service.

**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, and tunnels), communication, sewage, water supplies and electricity

**Institutional Controls** – The restriction on use or access to a Site to eliminate or minimize exposure to Contaminants. Such restrictions may include, but are not limited to, deed restrictions in property records, conservation easements, or restrictions imposed by MOE or other ministries and governmental entities.

**International Forest Product And Management Certification** – a certification that assures that buyers that timber has come from a forest which has been evaluated and certified as being managed according to the correct social, economics and environment standards. Forest management certification is an independent assessment that ensures your forest management practices times taken to alleviate potential adverse effects of natural or human – caused disturbances.

**International river** – A river geographically situated in the territory of two or more states.

**International Standards** – International energy and environmental standards are the body of principles, policies, treaties, declarations and international instruments, both from public and private origin, that regulate practices and technical requisites for goods and services relative or relevant to the energy and electricity projects.

**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

**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

**Invasive Species:** a plant or animal species that is not native to specific location or ecosystem, and which has the ability and/or tendency to spread to a degree that can cause damage to the environment, economy, or human health.

**Involuntary Resettlement** – physical displacement (relocation or loss of shelter) or economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood) as a result of Project – related land acquisition and/or restrictions on land use which the affected persons or communities do not have the right to refuse, including (i) lawful expropriation or temporary or permanent restrictions on land use and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.

## J

**Jurisdictional organisation**

## K

## L

**Landscape** – An area of land that the Ministry of Environment has determined to be ecologically significant, comprised of Conservation Corridor(s), Protected Area(s) and land considered ecologically significant but that has not been given a specific protection status.

### **Landscape Values**

**Landscape:** An area of land that the Ministry of Environment has determined to be ecologically significant, comprised of Conservation Corridor(s), Protected Area(s) and land considered ecologically significant but that has not been given a specific protection status.

**Lead paint** – paint or other similar surface coating materials containing lead or lead compounds and in which the lead content (calculated as lead metal) is in excess of 90 ppm by weight of the total non – volatile content of the paint or the weight of the dried paint film.

**Leakage** – Phenomena whereby the reduction in emissions (relative to a baseline) in a jurisdiction/sector associated with the implementation of mitigation policy is offset to some degree by an increase outside the juris – diction/sector through induced changes in consumption, production, prices, land use and/or trade across the jurisdictions/sectors. Leakage can occur at a

number of levels, be it a project, state, province, nation or world region.

### **Liability**

**Life – cycle costing** relates to costs associated with the life cycle of a product or service and includes costs borne by contracting authority and other users (cost of acquisition, use, maintenance, collection and, potentially, recycling at the end of life) and costs of environmental externalities linked to the product or service (e.g. cost of emissions) of greenhouse gases and of other pollutant emissions and other climate change mitigation costs (EU procurement directive). Life – Cycle costing is considered to be a key tool for implementing green public procurement.

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

**Livelihood** – means of securing the basic necessities for life, including food, water, shelter

### **Local Community**

**Local community and indigenous ethnic minority groups.**

### **Local Genotypes**

**Local Government** – includes District, Commune, and Village level governments.

## **M**

**Manufacture** – means to produce, prepare, import, or compound a toxic chemical.

**Manufacturer** – means any person that undertakes the physical or chemical transformation of substances into new products performed either by power – driven machines or by hand and markets it under his name or trademark.

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

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

**Material safety data sheet** – means the sheet required to be developed under the relevant sub –



legislation, as that section may be amended from time to time.

**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 their communities, livelihoods, land and the natural environment. Particular attention should be given to enabling the participation of individuals or groups of people (with a focus on women among others) who are vulnerable, marginalised from decision making processes or at most risk from the development of projects or other uses of or changes to the natural environment.

**Means of transport** – any vehicle used for traveling or the movement of goods, including but not limited to, motorbikes, bicycles, tractor, car, cart, truck, boat, vessel or any other type of vehicle

**Meat** – includes blood, bones, sinew, and eggs, fat and flesh, whether raw or cooked of any wildlife.

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

**Mitigate**

**Mitigation** – A human intervention to reduce the sources or enhance the sinks of greenhouse gases (GHGs).

## N

**National Biodiversity Strategy and Action Plan**

**National Council**

**National Environmental Strategy and Action Plan (NESAP)**

**National SCP Programme** is an umbrella term used to describe the various integrated and strategic approaches that countries take to promoting SCP. These programmes (national, subnational or local) are diverse in nature, are generally elaborated through inter – ministerial collaboration and multi – stakeholder dialogue, and can be composed of national inventories, frameworks of programmes, action plans, and strategies as well as often being treated as a priority issue in other policy frameworks or strategies.

**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.

**Native** – any wildlife species 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.

### **Natural Capital**

**Natural Disaster** – means the destructions to the life and property, livelihood, infrastructures, safety education and health of the public or to the environment due to climate change and other natural or man – made accidents or negligence such as fire, landslides, storms, floods, thunderbolts, droughts, earthquakes, tsunamis, avalanches, heat or cold waves, volcanic eruptions, erosion of banks and shores and maritime accidents; or damage to crops caused by pests or plant diseases, starvation and outbreak of contagious diseases of human or animals; or violence and armed insurgencies; or dangers caused by industrial, chemical or nuclear accidents, oil spills or leakage of natural gas. This expression shall also include any other danger specified as a natural disaster by the National Committee of Disaster Management.

**Natural Habitat:** a habitat in which a population or individual lives wherein the habitat has not been significantly altered by man for agricultural or anthropogenic uses from its natural state.

**Natural Heritage Site** – An area in land and/or water territories, in which there is natural or semi – natural uniqueness and has outstanding or extraordinary value because that area is rare, of a quality that represents the ecosystem, or of beauty or cultural importance.

**Natural Resource Goods and Services** – All flows of valuable goods and services originating from Natural Resources, including goods and services provided by ecosystems.

**Near Threatened Species** – **organisms** not currently considered Critically Endangered, Endangered or Vulnerable, but close to qualifying or likely to qualify for one of these three categories in the near future, according to the best available evidence.

**No – Action Alternative** – identifies the expected environmental impacts in the future if existing conditions were left as is with no action taken.

**Noise** – Noise and vibrations.

**Non – commercial purposes** – conducting an activity for reasons other than monetary gain.

**Non – native (alien)** – any species not originally native to Cambodia but introduced by humans either accidentally or deliberately, including live and dead wild animals and their parts and plants that have been harvested (e.g. trafficked plants and wildlife and their products)

**Non – Native** – Species that have been introduced into new areas that have not historically been

part of their native range.

**Non – Sustainable Energy** – Non – sustainable energy sources are defined as being derived from fossil or nuclear fuels and energy systems that limit the ability of future generations to meet their needs. Energy generated from coal, natural gas, diesel, and large – scale hydropower is defined as non – sustainable for the purposes of this Code.

**Non – Timber Forest Products** – All forest products except timber, including resin, fruits, nuts, oils, leaves, and non – tree plants, and fungi and animals

**Non – timber forest products (NTFPs)** – any product or service other than timber that is produced in forests. They include fruits and nuts, vegetables, fish and game, medicinal plants, resins, essences and a range of barks and fibres such as bamboo, rattans, and a host of other palms and grasses

**Nonpoint source** – Any source that is not a point source but discharges a pollutant into a surface water, ground water, or water collection system. Examples of nonpoint sources include houses or dwellings, offices, stores, forestry operations, and family agricultural activity.

## O

**Operator** – Any person operating a domestic or industrial facility, whether by lease, contract, or other form of agreement, which is subject to regulation under the Environment and Natural Resources Code of Cambodia.

**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.

**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.

**Organism** – a discrete living system, such as an animal, plant, fungus, or micro – organism.

**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.

**Owner** – Any person owning a Site.

## P

**Paint** – is a homogenous mixture of resins, pigments, fillers, solvents, and other additives that

constitutes a finished product, including varnishes, lacquers, stains, enamels, glazes, primers and similar surface – coating materials used for any purpose.

### **Payment for Ecosystem Services**

Payment for Ecosystem Services (PES)

**Performance indicator** – A measure that can be calculated to assess the impact of an allocation and management decision or proposal on water access entitlements and natural ecosystems.

**Permit** – a document with enforceable provisions, granted under this Law or any regulation or rule made thereunder, which confers to a person the right to undertake specific activities.

**Permitted means of hunting** – discriminate methods that target individual wildlife of a particular species, such as slingshots, bows and arrows, crossbows.

**Person** means an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, State, municipality, commission, political subdivision of a State, or any interstate body.

**Person or persons** – includes: an individual or any legal entity.

**Plant** – As used herein, the term plant will refer to all organisms classified in the kingdom Plantae or Fungi.

**Plantations** – production forests composed primarily of single or few species, often with little to no understory, established by artificial seeding, and typically managed for short rotations.

**Point source** – Any industrial, commercial, or municipal activity that discharges a pollutant to a surface water, ground water, or water collection system. Examples of point sources may include sewage treatment plants, manufacturing operations, hotels, hospitals, landfills, fish or shellfish farms, printing shop, commercial agricultural activity (plant – based, animal – based, or both), and construction activity.

**Pollutant** – Any liquid, solid, or gaseous waste that is discharged by a point source or nonpoint source to a surface water, ground water, or water collection system.

**Pollutant** – refers to smoke, dust, ash particle substance, gas, vapour, fog, odour, or a radioactive substance.

**Priority group** – for water allocations managed under a resource operations licence, means the allocations that have the same water allocation security objective.

**Private collections** – the keeping of wildlife in captivity that is not open to the public and is usually not primarily for conservation purposes.

**Private Forests** – Private Forested Land refers to forested land that is either designated as State Private land that is not a Production Forest, land that has legal title, or land has been recognized

under the 2001 Land Law as belonging to indigenous communities.

**Privately – operated (privately-based) ecotourism (POET):** tourism in which the infrastructure including accommodation, food service, transportation or other services are privately owned and managed and are operated primarily on a for – profit or non – profit basis but which also indirectly meet the minimum elements of ecotourism including promoting conservation;, creating low, minimal impact;, providing socio-economic benefits to local people; and providing education of visitors and local community members. (Clarification provided by this Environment and Natural Resources Code)

**Pro se** – A disputant representing himself or herself, without legal counsel, before a Panel proceeding.

**Process** – means the preparation of a toxic chemical, after its manufacture, for distribution in commerce in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such chemical, or as part of an article containing the toxic chemical.

### **Processing, Services, and Value Adding**

**Producers** – Manufacturer or creator of goods that are produced for consumers or for a specific target market. For example, a producer of widgets will assume full responsibility for producing or manufacturing the product but may or may not become involved in the product’s marketing and sales.

**Product/By-Product** – Products from the forest, including timber and non – timber products, and their processed products, as well as services provided by timber.

**Product standard** sets out specific characteristics of a product, such as its size, shape, design, functions and performance, or the way it is labelled or packaged before it is put on sale. In certain cases, the way a product is produced can affect these characteristics, and it may then prove more appropriate to draft technical regulations and standards in terms of a product’s process and production methods rather than its characteristics per se.

**Prohibited means of hunting** – indiscriminate methods that affect multiple individuals and species, or illegal weapons/equipment; 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.

**Prohibited means of hunting** – indiscriminate methods that affect multiple individuals and species, or illegal weapons/equipment; 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.

**Project Proponent** – any natural or legal person that proposes, develops, finances or provides material support for the carrying out of a public or private development project that may create impacts on the environment, health, society, economy and culture.

**Protected Area:** An area of special conservation, ecosystem and livelihood significance that has been specially designated by law and which is subject to specific use restrictions and management arrangements in order to preserve and promote its biodiversity and natural resource, ecosystem, and livelihood values.

### **Protected Areas**

**Protection and Conservation of Biological Resources** – Protection and management of natural resources, living and non-living, by means of ensuring their sustainability for maximum advantage for people at present and in the future.

**Public** – Public includes but is not limited to citizens, including both women and men, communities, civil society, business . . .

### **Public Participation**

### **Public Private Partnerships**

**Public Procurement** – Public procurement refers to the purchase by governments and state – owned enterprises of goods, services and works. The public procurement process is the sequence of activities starting with the assessment of needs through awards to contract management and final payment (OECD).

**Public purpose** – Urban and rural water supply, food production, hydro – power generation, navigation, industrial development, and the maintenance of minimum flows or water levels for ecological, cultural and religious purposes and the preservation of aquatic life.

## **Q**

## **R**

**Ramsar Site** – Wetland that is considered as an area of ecological or biological importance of international nature.

**Reclamation:** Is the process of taking an industrial solid waste that is a hazardous secondary

material and hazardous waste in order to recover or reprocess to obtain a product of commercial value.

**Record of Consensus Points** – Agreement points established during the course of environmental mediation. On appeal, these shall be referred to the Environmental Dispute Resolution Panel as stipulated agreement points reached during environmental mediation. All other notes, communications, and consultations are confidential in mediation.

**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.

**REDD+** – An effort to create financial value for the carbon stored in forests, offering incentives for developing countries to reduce emissions from forested lands and invest in low – carbon paths to sustainable development (SD). It is therefore a mechanism for mitigation that results from avoiding deforestation. REDD+ goes beyond reforestation and forest degradation and includes the role of conservation, sustainable management of forests and enhancement of forest carbon stocks.

**REDD+ Safeguard Information System (SIS)** – Parties agreed that countries seeking to implement REDD+ should have a Safeguards Information System (SIS) to demonstrate that social, environmental, and governance safeguards required under the Cancun Agreements of the UNFCCC are being addressed and respected.

**Reduce – Reuse and Recycle (3Rs)** – The 3R Initiative aims to promote the “3 Rs” (reduce, reuse and recycle) globally so as to build a sound – material – cycle society through the effective use of resources and materials. Agreed upon at the G8 Sea Island Summit in June 2004, it was formally launched at a ministerial meeting in Japan in the spring of 2005. Reducing means choosing to use things with care to reduce the amount of waste generated. Reusing involves the repeated use of items or parts of items which still have usable aspects. Recycling means the use of waste itself as resources. Waste minimisation can be achieved in an efficient way by focusing primarily on the first of the 3Rs, “reduce,” followed by “reuse” and then “recycle”.

**Reference Emission Levels (RELs) and Reference Levels (RLs)** – REL commonly refers to emissions from gross deforestation and forest degradation in a given time period while RL refers to net emissions and removals

**Reforestation** – Planting of forests on lands that have previously contained forests but that have been converted to some other use.

**Registry** (carbon/result – based/etc. – needs to be determined)

**Rehabilitation**

**Rehabilitation and restoration** – the act of restoring something to its original or natural state or condition

**Related Parties** – A definition for this term might be appropriate if it is possible for any Responsible Person or Persons to attempt to shift legal responsibility to a subsidiary, an affiliate, or some other responsible entity not included within the definition of “person” or “persons”. If that would be worthwhile to address, then the term “Related Parties” (as defined), should also be added to the definition of “Responsible Person or Persons.”

**Release** – any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, emptying, dumping, migrating, escape or leaching into the Environment, whether intentional or unintentional.

**Release** – means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance, or toxic chemical.

### **Remediation**

**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 . . .

**Rescue centre** – keeping of wildlife in captivity that have been rescued or confiscated from illegal situations, for the primary purposes of: 1) rehabilitating wildlife, 2) releasing wildlife back to the wild once healthy, 3) providing long – term care for wildlife that either cannot be returned back to the wild, or need to be bred for conservation purposes.

**Resilience** – The capacity of social, economic and environmental systems to cope with a hazardous event or trend or disturbance, responding or reorganizing in ways that maintain their essential function, identity and structure, while also maintaining the capacity for adaptation, learning and transformation.

**Resource efficiency** – is about ensuring that natural resources are Efficiency produced, processed, and consumed in a more sustainable way, reducing the environmental impact from the consumption and production of products over their full life cycles. By producing more wellbeing with less material consumption, resource efficiency enhances the means to meet human needs while respecting the ecological carrying capacity of the earth. (UNEP DTIE)

**Resource or resources of Cambodia** – means the natural, cultural, spiritual, historic, and archaeological resources of Cambodia, whether privately or publicly owned, including but not limited to land, whether terrestrial or submerged, all biota, wildlife, air, fresh and salt water, sediment, groundwater, drinking water, mineral resources, artefacts, real and personal property of



government entities at all levels of government, and the subsistence needs and activities and quality of life of the people of Cambodia. It shall further mean the incomes and livelihood of individuals, corporations and civil society organizations to the extent that same have been adversely impacted or affected by a harm as defined herein.

**Responsible Person or Persons** – See the definition for “Person” or “Persons” proposed for Book 4, Title 6. However, the possibility of a person also constituting a governmental entity should also be considered. For example, the City of Phnom Penh may own the closed sanitary landfill for that city and may own and operate the current sanitary landfill.]

**Responsible tourism (responsible travel):** tourism which a) minimizes negative social, economic and environmental impacts; b) generates greater economic benefits for local people and enhances the well – being of host communities and improves working conditions and access to the industry; c) involves local people in decisions that affect their lives and life chances; d) makes positive contributions to the conservation of natural and cultural heritage embracing diversity; e) provides more enjoyable experiences for tourists through more meaningful connections with local people, and a greater understanding of local cultural, social and environmental issues; f) provides access for physically challenged people wherever feasible

g) is culturally sensitive, encourages respect between tourists and hosts, and builds local pride and confidence

**Restoration** – The assessment of Contamination and the Remedy of activities at a Contaminated Site that reduce the levels of Contaminants at a Site through accepted treatment methods to meet the applicable standards for pollution control and Environmental Quality Standards or that allow for an alternative Risk Reduction completeness determination.

### **Restore Ecosystem Services**

**Restore or restoration** – means an activity or suite of activities undertaken to put back the totality of that which has been lost due to harm through rehabilitation, enhancement, replacement, restoration as the term is commonly used, or acquisition and protection sufficient to compensate over time for the all of the losses from harm.

**Risk** – The potential for consequences where something of value is at stake and where the outcome is uncertain, recognizing the diversity of values.

**Risk Assessment** – a methodology to determine the nature and extent of risk by analysing potential hazards and evaluating existing conditions of vulnerability that combined could potentially harm exposed people, property, services, livelihood and the environment on which they depend. Risk assessments includes, but is not limited to, a review of the technical characteristics of hazards such as their location, intensity, frequency and probability; the analysis of exposure and vulnerability including the physical, social, health, economic and environmental dimensions; and the evaluation of the effectiveness of prevailing and alternative coping capacities in respect to likely risk

scenarios.

**Risk Management** – The plans, actions or policies to reduce the likelihood and/or consequences of risks or to respond to consequences.

**Risk Management** – the systematic approach and practice of managing uncertainty to minimize potential harm and loss. It comprises risk assessment and analysis, and the implementation of strategies and specific actions to control, reduce and transfer risks. It is widely practiced by organizations to minimize risk in investment decisions and to address operational risks such as those of business disruption, production failure, environmental damage, social impacts and damage from fire and natural hazards.

**Risk Reduction** – The lowering or elimination of the level of risk posed to human health or the environment through initial Restoration activities, Restoration, or Institutional and Engineering Controls, if appropriate.

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

**River Basin** – A geographical area determined by the watershed limits of the system of waters, including surface and underground waters.

## S

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

**Shore** – In relation to a river or its tributaries refers to the land covered with sand or soil, and declining towards the water in a body of water, occasionally inundated by such water.

**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.

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

**Silviculture** – The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands to meet identified goals

**Sink** – any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere.

**Site** – A Contaminated Site as defined.

**Solid waste** refers to liquids, solids, semi solids, sludges, hard objects, hard substances, products or refuse or spent materials which are useless without further reclamation, are disposed of, are intended to be disposed of, or required to be disposed of.

**Source Removal** – The removal of Contaminants from soil or sediment that has been Contaminated to the extent that leaching to groundwater or surface water has occurred or is occurring, and the removal of Contaminants floating on groundwater or surface water.

**Sources of pollution** – is divided into two types: A movable source refers to an emission source without permanent location such as an aircraft, ship, vehicle, machinery, and all kinds of loud speakers; An immovable source refers to sources with a permanent location such as a factory, enterprise, warehouse, construction site, incinerator, loud speakers, handicraft, and all kinds of farms.

**Species** – a group of living organisms that share similar characteristics and are capable of breeding together to produce viable offspring.

**Species of Concern** – Species of which there are concerns regarding status and threats, including threatened species, keystone species, umbrella species, and species of economic importance.

**Standard** – means the maximum level of pollutant substances or noise levels permissible in the environment or which may be emitted into the environment.

**State Owned Company** – state owned company is defined as a corporation created by a regulation issued by the government in order to execute economic activities or public services of interest for the state. The company shall be owned entirely by the government of Cambodia and its administration may be delegated to third parties.

**State’s development projects or State activities that have been approved by the government or the National Assembly**

**Stock Forest** – Stock Forests are forested areas that are held in reserve for future production and sustainable use, and include forested areas adjacent to Biodiversity Conservation Corridors or other protected areas or any provincial, municipal protected areas, old – growth forests, religious forests, forests for watershed protection, research forests, recreation forests, and all other non – designated State Public forested lands outside of BCCs and PAs. The designation of Reserve forests may be changed to Production Forest, as outlined in Article # below.

**Storage** means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is must be treated, disposed of, or stored elsewhere.

**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.

**Sub – basin** – A portion of a river basin as defined above.

**Surface water** – Any lake, river, stream, spring, wetland, estuary, marine water out to five (5) nautical kilometres from the coast, or other water that is on the surface of the earth.

**Sustainability** – The state of not causing permanent or gradual erosion, or deterioration of quality of living organisms or other resources in the form of small or large scale use.

**Sustainable Consumption and Production** – The use of services and related products, which respond to basic needs and bring a better quality of life while minimising 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 jeopardise the needs of future generations (Norwegian Ministry of Environment, Oslo Symposium, 1994).

**Sustainable Development** – Development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development includes economic, environmental and social sustainability, which are independent and mutually reinforcing pillars, and can be achieved by rationally managing physical, natural and human capital. Poverty eradication, changing unsustainable patterns of production and consumption and protecting and managing the natural resource base of economic and social development are overarching objectives of, and essential requirements for, sustainable development”. (Based on the Report of the Brundtland Commission, Our Common Future, 1987, and the Johannesburg Plan of Implementation)

**Sustainable Development Goals (SDGs)** – officially known as Transforming Our World: The 2030 Agenda for Sustainable Development, is a set of seventeen aspirational "Global Goals" with 169 targets. Spearheaded by the United Nations through a deliberative process involving its 193 Member States and global civil society, the goals are contained in paragraph 54 United Nations Resolution A/RES/70/1 of 25 September 2015.

**Sustainable Energy** – sustainable energy sources are defined as an energy system that serves the needs of the present without compromising the ability of future generations to meet their needs. These sustainable energy systems derive energy from solar, wind, biomass, geothermal, wave, tidal, and waste to energy technologies.

### **Sustainable Energy Plan**

**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.

**Sustainable Financial Assessment** – the ability to secure stable and sufficient long – term financial resources, and to allocate them in a timely manner and appropriate form, to cover the full

costs of any project or operational costs.

**Sustainable Forest Management** – Sustainable Forest Management is the sustainable use and conservation of forests with the aim of maintaining and enhancing multiple forest values through human interventions. People are at the centre of SFM because it aims to contribute to society's diverse needs in perpetuity.”

**Sustainable Forest Management Plan** – 1. A plan required by the Relevant Institution for the management of a forest unit. 2. The document that identifies standards and guides silvicultural, resource and social actions in a forest unit.

**Sustainable lifestyle** – is a way of living enabled both by efficient Lifestyles infrastructures, goods and services, and by individual choices and actions that minimise the use of natural resources, and generation of emissions, wastes and pollution, while supporting equitable socio – economic development and progress for all. Creating sustainable lifestyles means rethinking our ways of living, how we buy and how we organise our everyday life. It is also about altering how we socialise, exchange, share, educate and build identities. It is about transforming our societies and living in balance with our natural environment. As citizens, at home and at work, many of our choices on energy use, transport, food, waste, communication and solidarity contribute to building sustainable lifestyles. (Report of the Marrakech Process Task force on Sustainable Lifestyles, Swedish Ministry of Environment, Marrakech Process and UNEP)

**Sustainable Procurement** – Process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment. Sustainable Procurement seeks to achieve the appropriate balance between the three pillars of sustainable development i.e. economic, social and environmental. Economic factors include the costs of goods and services over their entire life cycle, such as: acquisition, maintenance, operations and end – of – life management costs (including waste disposal) in line with good financial management; Social factors include social justice and equity; safety and security; human rights and employment conditions; Environmental factors include emissions to air, land and water, climate change, biodiversity, natural resource use and water scarcity over the whole product life cycle. (Procuring the Future – report of the UK Sustainable Procurement Task Force, June 2006. Definition adopted by the Task Force on Sustainable Public Procurement led by Switzerland (membership includes Switzerland, USA, UK, Norway, Philippines, Argentina, Ghana, Mexico, China, Czech Republic, State of Sao Paolo (Brazil), UNEP, IISD, International Labor Organization (ILO), European Commission (DG – Environment) and International Council for Local Environmental Initiatives (ICLEI) and adopted in the context of the Marrakech Process on Sustainable Production and consumption led by UNEP and UNDESA)

**Sustainable Production Forests** – Production Forests are areas where priority shifts from

conservation to a balance of conservation and natural resource use. Production Forests may consist of degraded forestland, forest concessions, Community Forests under agreement, forestland reserved for tree plantation, conversion forestland, and Reserve Forests that have been approved by the relevant government institution. They shall be managed and maintained in compliance with the three (3) criteria. Production is only allowed where permits are obtained. Permitting process will be established in a future sub – decree.

**Sustainable Tourism:** tourism that takes full account of its current and future economic, social and environmental impacts, addressing the needs of visitors, the industry, the environment and host communities. (Source UN World Tourism Organization)

**Sustainable Use Zone** – management area(s) of both high economic potential and high conservation and ecosystem value, with high potential for contributing to the sustainable livelihood of local communities including ethnic minority communities.

Appropriate development and investment activities are permitted in this zone in accordance with relevant land use planning and management in the zone, and subject to approval from the Ministry of Environment or other relevant authorities.

**Sustainably Managed Forests** – all forested areas that are not within Biodiversity Conservation Corridors or other protected areas or any provincial, municipal protected areas. They shall be managed and maintained in compliance with the three (3) sustainability criteria as well as the laws outlined within this Title.

**Swidden agriculture** – a rotational farming technique, in which land is cleared for cultivation and then left for a number of years to regenerate.

## T

**Technical Expert** – An objective, independent person with education and experience in technical and scientific areas of expertise the Environmental Dispute Resolution Panel may require in order to understand the issues within a case.

**Threatened Ecosystems** – Any ecosystem that is listed on The National List of Threatened Ecosystems.

**Threatened Habitats** – a natural habitat where a threatened plant species individual or population persists without the requirement of human intervention.

**Threatened Plant Species:** a species of plant listed on The National List of Threatened Plant Species having any designation or a species of plant indicated in the CITES Annexes 1, 2, or 3.

**Timber** – Wood, other than fuelwood, potentially usable for lumber; cut wood or logs.

**Total lead concentration** – is defined on a weight percentage of the total non – volatile portion

of the product or in the weight of the dried paint film.

**Tourism:** comprises the activities of persons traveling to and staying in places outside their usual environment for not more than one consecutive year for leisure, business and other purposes. This includes all sub-sectors of tourism, such as ecotourism, sustainable tourism, responsible tourism, community-based tourism, and privately operated tourism. (Source: UN World Tourism Organization)

**Toxic chemical** – means a substance on the list described in this chapter.

**Traditional Use** – Includes collection of naturally – dead woods, by – products for traditional medicines, vegetables and fruits, and legal hunting to meet only the occasional needs of the family.

**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.

**Transporter (“transporter”)** is defined as any person or company engaged in the offsite transportation of hazardous waste by air, rail, highway, or water. This includes, but is not limited to: Generators which transport hazardous waste from the site of creation to a TSD facility; A person or commercial carrier which takes physical possession of the hazardous material from the site of creation for the sole purpose of transporting it to a treatment, storage, or disposal facility; or A treatment, storage or disposal facility that has transportation capacity to physically remove and transfer hazardous waste from the site of creation to another facility.

**Treatment** means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non – hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

**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

## U

**United Nations Framework Convention on Climate Change (UNFCCC)** – the United Nations Framework Convention on Climate Change.

## V

**Value** – All monetary and non-monetary descriptions of a level of benefit or importance, including economic, social, cultural and non-market values.

**Vegetation Composition** – Includes the kinds, absolute amounts, or relative proportions of plant species present in a given area.

**Vegetation Structure** – the horizontal, vertical and temporal arrangement of vegetation but excludes the composition of the vegetation such as species, life forms, or leaf morphology.

**Vulnerability** – The degree to which a system is susceptible or unable to withstand the adverse effects of climate change, including climate variability and extreme phenomena. Vulnerability depends on the nature, magnitude, and speed of the climatic variation to which a system is exposed and its sensitivity and capacity for adaptation.

**Vulnerable Species** – organisms considered to be facing a high risk of extinction in the wild, according to the best available evidence.

## W

**Water** – Surface, underground and atmospheric water.

**Water access entitlement security objective** means an objective, which may be expressed as a performance indicator, stated in a river basin water resources plan for the protection of the probability of being able to obtain water in accordance with a water access entitlement.

**Water collection system** – Any system of sewers, canals, or other conveyances for collecting, transporting, and/or discharging wastewater or storm water or both.

**Water infrastructure** – Large and minor dams, weirs, diversion canals, dykes/embankments, large and minor drainage systems, irrigation system, large and small reservoirs, aqua – ducts/ conduits, wells and boreholes, hydropower dams and such other structures or installations as are constructed or used for the purpose of diverting, storing, conveying and abstracting, using, conserving and protecting water resources, for drainage purposes of inundated areas, or for the prevention and mitigation of the effects of floods and of other water – related emergency situations.

**Water resources** – Rivers, streams, waterfalls, canals, swamps, marshes, lakes, ponds, and reservoirs or other means of water storage.

**Water year** – The accounting period prescribed under a river basin water resources plan, sub – decree or water access entitlement for the plan area or entitlement.

**Watercourse** – A river, creek or other stream, including in the form of an anabranch or a tributary, in which water flows permanently or intermittently (regardless of the frequency of flow events) in a natural channel (whether artificially modified or not) or in an artificial channel that has changed



the course of the stream.

**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.

**Wetland** – An area covered by mud and decayed trees, or covered by water naturally or artificially, or covered by permanent or seasonal floods, or covered by still water or flowing water, including sea areas less than 6m deep during lowest tides.

**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** – any animal wild by nature, including captive wildlife, and aquatic or terrestrial vegetation which forms part of any habitat.

**Wildlife farming** – raising, keeping and breeding of wildlife 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 wildlife that is able to fulfil its physical, behavioural, and social needs and be resilient to natural or anthropogenic changes in biological and environmental determinants, including but not restricted to diseases.

**Workplace** – a place where legal persons perform the duties set out in their employment contract.

## X

## Y

## Z

**Zoological institutions** – facilities holding wildlife 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 3 PRINCIPLES OF THE ENVIRONMENT AND NATURAL RESOURCES CODE

This Environment and Natural Resources Code is premised on, and should be implemented and interpreted in accordance with, the following fundamental principles of environmental law and

policy:

## **ARTICLE 6 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 7 THE PRINCIPLE OF ACCESS TO INFORMATION**

The principle of access to information, that individuals, legal entities and civil society shall have 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 8 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, 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.

## **ARTICLE 9 THE POLLUTER PAYS PRINCIPLE**

The polluter pays principle, that all persons, including natural persons, private legal entities and public legal entities who cause environmental harm shall bear the cost for repairing the harm and preventing, avoiding and mitigating the harm.

## **ARTICLE 10 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 11 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 12 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 13 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.

#### **ARTICLE 14 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 15 PRINCIPLE OF GENDER EQUALITY IN ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT**

Gender equality and the empowerment of women in all aspects of environmental conservation, protection and management is to be promoted. Gender equality refers to the equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognising the diversity of different groups of women and men. Impact assessments for

development projects and environmentally relevant policies will include mechanisms to effectively assess the impacts on women as well as men and develop risk management strategies to mitigate and prevent adverse impacts. Gender concerns and the perspective of women will be integrated into policies and programmes for sustainable development and into the implementation of this Code.

#### **ARTICLE 16 PRINCIPLE OF PARTICIPATION OF VULNERABLE, MARGINALISED AND AT RISK PEOPLE IN ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT**

The involvement of vulnerable, marginalised and at risk 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 vulnerable, marginalised and at risk people and will develop risk management strategies to mitigate and prevent adverse impacts. The perspective of vulnerable, marginalised and at risk people will be integrated into policies and programmes for sustainable development and into the implementation of this Code.

#### **ARTICLE 17 THE PRINCIPLE OF PUBLIC INTEREST**

The Government of Cambodia shall ensure that all decision-making relating to the environment or natural resources shall prioritise the public interest over private or individual interests.

#### **ARTICLE 18 THE PRINCIPLE OF NO NET LOSS**

The Government of Cambodia and all legal entities shall ensure that their actions or omissions, individually or cumulatively, do not cause a net loss of Cambodia's stock of living Natural Resources and associated flows of Goods and Services. As a last resort, losses of living Natural Resources and associated Goods and Services in one location may be offset by action that achieves ecologically equivalent gains in another location.

#### **ARTICLE 19 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 20 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 21 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.

## **CHAPTER 4 GENERAL DUTY TO AVOID ENVIRONMENTAL HARM**

### **ARTICLE 21**

A person or legal entity must not carry out any activity that causes, or is likely to cause, significant environmental harm unless the person takes all reasonable and practicable measures to prevent or minimize harm. (The general environmental duty).

## **CHAPTER 5 INTERNATIONAL ENVIRONMENTAL AGREEMENTS**

- This Chapter will explain how the Environment and Natural Resources 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.

### **ARTICLE 22**

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.

## **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
- Ministry of Women's Affairs
- Ministry of Rural Development
- Ministry of Education, Youth and Sport
- National Council for Sustainable Development
- National Committee for Sub-National Democratic Development
- Council for the Development of Cambodia
- 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) 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 #**

Assigning environmental monitoring and information gathering responsibilities among governmental institutions

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

**ARTICLE #**

The Ministry of Environment, in consultation with other relevant Ministries shall establish a Register of Environmental Information.

**ARTICLE #**

The Ministry of Environment shall develop guidelines on the information to be made available on the Register of Environmental Information.

**ARTICLE #**

All information provided in accordance with any requirement under the Environment and Natural Resources Code shall be included in the Register of Environmental Information.

**ARTICLE #**

The Ministry of Environment shall established a Register of Permits and Approvals.

**ARTICLE #**

The Register of Permits and Approvals shall be in both written and electronic form.

**ARTICLE #**

The Register of Permits and Approvals will include all approvals and permits issued by the Ministry of Environment in accordance with the Environment and Natural Resources Code.

**ARTICLE #**

The Register of Permits and Approvals will include all permits that are required to be able to carry out activities or developments under the Environment and Natural Resources Code and all the relevant conditions attached to the permits.

**ARTICLE #**

The Register of Permits and Approvals will be available to be inspected free of charge by any person.

**ARTICLE #**

The electronic Register of Permits and Approvals will be publically accessible to any person.

**ARTICLE #**

The Ministry of Environment will also include any monitoring reports that are required under the permits.

**ARTICLE #**

The Register of Permits and Approvals should ensure that the permits and approval relevant to the project site or activity being conducted are connected.

**ARTICLE #**



The Ministry of Environment shall established a Register of Environmental Audits

**ARTICLE #**

The Register of Environmental Audits shall be in both written and electronic form.

**ARTICLE #**

The Register of Environmental Audits will include any audits that are required to be able to carry out activities or developments under the Environment and Natural Resources Code and all the relevant conditions attached to the permits.

**ARTICLE #**

The Register of Environmental Audits will be available to be inspected free of charge by any person.

**ARTICLE #**

The electronic Register of Environmental Audits will be publically accessible to any person.

**CHAPTER # CAMBODIAN ENVIRONMENTAL MAPPING CENTRE**

**ARTICLE # 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, 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), development activities (e.g. agriculture, mining, ELCs, hydropower, other infrastructures) and communities (e.g. locations of Indigenous Peoples and local communities tenure) 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. The CEMC shall also function as a clearing house for information held outside of the CEMC by other ministries, departments, agencies, institutions, or organizations by maintaining a data catalogue, contact information, and procedures for submitting

information requests.

## **ARTICLE # 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, or access procedures for, 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. Endeavour to make all data provided to the CEMC 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, protection of cultural resources, or matters of national security. If any data are withheld from the public, 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 and storage of existing data.
5. Require that data collected by other institutions be submitted to the CEMC in the technically standardized format specified by the CEMC.
6. Require that geospatial data provided to the CEMC be accompanied by all available and relevant metadata.
7. 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 # CAMBODIAN ENVIRONMENTAL MAPPING CENTRE DISCRETIONARY AUTHORITIES**

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

1. 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.
2. 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.
3. Establish quality assurance and quality control (QA/QC) procedures for all maps and data visualization products produced by the CEMC.
4. Provide for ongoing maintenance, curation, updates, and access to spatial databases hosted by the CEMC.
5. 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 #**

All persons have the rights to participate in the protection of the environment and the management of natural resources.

#### **ARTICLE #**

All persons shall have the rights to report to the relevant authorities any activity or decision that is causing environmental harm or pollution.

#### **ARTICLE #**

For all projects, plans, activities or decisions relating to any matter under this Code, all relevant ministries, institutions or authorities shall ensure that public participation processes are conducted in accordance with the following criteria:

- a) **Early notification** - Where any ministry or relevant institution or authority provides

notification of a project, plan, activity or decision, it shall provide such notification early enough to allow the public to have the opportunity to influence the development and planning of the project, plan, activity or decision including any environmental impact assessment process if applicable) before any irrevocable decisions are made.

- b) **Accessible information** - The responsible ministry or relevant institution shall ensure that all participants are provided with the information they need to participate effectively on a timely basis. Consideration should be given to the appropriate language for this information and the need to use culturally sensitive means of communication. Access to information should only be limited in accordance with the laws relating to access to information and privacy.
- c) **Shared knowledge** – Any project, plan, activity or decision shall be developed on the basis of both technical and scientific knowledge and community and indigenous traditional knowledge. Knowledge, concerns, values and viewpoints shall be shared in an open, respectful and timely manner. This includes information on the potential consequences of a project, plan, activity or decision.
- d) **Sensitivity to community values** – All public participation processes shall be carried out in a manner that respects different community values and needs.
- e) **Reasonable timing** - All public participation processes shall provide the public with a fair and reasonable amount of time to evaluate the information presented and to respond to any relevant proposals and proposed decisions by proponents, ministry, or other relevant institutions or authorities.
- f) **Appropriate levels of participation** - All public participation processes shall provide for levels of participation that are commensurate with the level of public interest.
- g) **Adaptive processes** – All public participation processes shall be designed, implemented and revised as necessary to match the needs and circumstances of the project, plan, activity or decision and to reflect the needs and expressed preferences of participants. All public participation processes shall be flexible and adaptive in keeping with the reasonable expectations of participants.
- h) **Transparent results** – All contributions from the public will be considered in the decision-making process. The public participation process shall, at its conclusion, provide information and a rationale on whether or how the public input was considered and affected the final decision.

## ARTICLE #

Detailed procedures for public participation and access to information shall be determined by a new legal instrument of the Ministry of Environment. Other ministries and relevant institutions may also create procedures for public participation and access to information that are consistent with this Code.

**ARTICLE #**

Any person who is exercising a right to participate under the Environment and Natural Resources Code shall not be charged with a criminal or civil offence.

**ARTICLE #**

Any person who is exercising, in a peaceful and non-violent manner, their rights to object to an activity or activity or to meet to object to an activity or decision on the environment or natural resources shall not be charged with a criminal or civil offence.

**ARTICLE #**

Any person who publishes on a website or in the press information or reports about an activity or a decision that may impact on the environment or natural resources shall not be charged with a criminal or civil offence.

**ARTICLE #**

These protections for public participation do not prevent any person who commits a criminal or civil offence from being charged in accordance with the Criminal or Civil Code.

**ARTICLE #**

**CHAPTER # PUBLIC CONSULTATION IN EIA**

**ARTICLE #**

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, including from individuals or groups of people (with a focus on women among others) who are vulnerable, marginalised from decision making processes or at most risk from the development of projects or other uses of or changes to the natural environment, and integrate such opinions into the decision making process;
- c) review the project proposal and explain impacts on environment, economy, society, and

culture; and

- 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 a new legal instrument 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.

### **CHAPTER # FREE, PRIOR AND INFORMED CONSENT FOR INDIGENOUS PEOPLE 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 for any proposed project, 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;
- c) ensure that the all mitigation measures are governed by a commitment to non-discrimination including gender discrimination, and that particular attention is given to individuals or groups of people (this may include women among others) who are vulnerable or at most risk of their livelihoods deteriorating because of resettlement.

The procedure of resettlement and solution of compensation to the affected community shall be determined by legal instrument.

The formalities and procedures of payment of compensation to the impacted community shall be determined by MoE and the Ministry of Economy and Finance in a legal instrument.

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

### **CHAPTER 1 GENERAL PROVISIONS**

#### **ARTICLE #**

All ministries, other governmental institutions, and other non-governmental and private entities shall disclose all relevant information to ensure that all stakeholders have the opportunity to effectively participate in all decision-making processes set forth in this Code.

#### **ARTICLE #**

All relevant information shall be disclosed and available for inspection prior to any decision being made and in a manner and form as provided for in any Guidelines developed by the relevant Ministries.

#### **ARTICLE #**

The relevant Ministries must disclose all relevant environmental information prior to any decision being made pursuant to any matter under the Environment and Natural Resources Code.

#### **ARTICLE #**

The relevant Ministries may prepare Guidelines on Access to Information to clarify the type of information to be disclosed.

**ARTICLE #**

Any Guidelines on Access to Information that are developed must be prepared based on the presumption of disclosure and the principles contained in the Environment and Natural Resources Code and cannot restrict any rights of access to information contained in the Environment and Natural Resources Code.

Any person or entity has the right to request information related to any matter under the Environment and Natural Resources Code. The holder of this information shall be directly responsible to provide it to the requestor.

**CHAPTER # CONFIDENTIAL INFORMATION**

**ARTICLE #**

All environmental information provided to any Ministry in accordance with the Environment and Natural Resources Code shall be made publicly available unless there is a specific determination that the information is confidential.

**ARTICLE #**

Any information that is requested to be confidential must be provided in a separate document with a request outlining the reasons for the information to be confidential.

**ARTICLE #**

The relevant Ministry must consider the request for the information to be confidential and make a decision to accept or reject the request.

**ARTICLE #**

If the relevant Ministry accepts that the information is to be confidential, the information shall be marked confidential and not released and made publically available.

**ARTICLE #**

If the relevant Ministry accepts that the information is to be confidential, a short note shall be placed to say that there is confidential information claimed.



**ARTICLE #**

The Government may specify certain types of information that should be confidential, including matters of national security. Information pertaining to environment and natural resource matters can in no instance be considered confidential.

**CHAPTER # REVIEW OF CLAIM FOR CONFIDENTIALITY**

**ARTICLE #**

In considering a review whether confidential information should be kept as confidential, the relevant Ministry should consider the public benefit and the possible harm in not releasing the information.

**ARTICLE #**

The relevant Ministry must provide a written reply to the request for review with 20 days of receipt of the request for the review.

**CHAPTER # INFORMATION ON PROJECTS AND ACTIVITIES**

**ARTICLE #**

Project Proponents shall make all project documents, including all draft documents and analysis, publicly available, and shall provide a project specific web-site to include information relevant to the project, including information on environmental assessment, all approvals and permits, including all conditions attached to these approvals and permits, all implementation activities, including monitoring, reporting, and closure activities, and any information relating to any instances of violation or non-compliance with any legal requirement. Project proponents shall also make any such information available to any person or entity upon request.

**CHAPTER # ENVIRONMENTAL INFORMATION**

**ARTICLE #**

All relevant institutions shall develop databases, websites, and other publicly accessible means to provide all environmental information to the public. 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 multi-lateral environmental agreements.
- h) Information on effective access to judicial and administrative proceedings related to environmental issues.

## **CHAPTER # RELIABILITY OF INFORMATION**

### **ARTICLE #**

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 # ENVIRONMENTAL COMPLIANCE RECORDS**

### **ARTICLE #**

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

All environmental review compliance information shall be publicly available.

## **CHAPTER #PUBLIC INFORMATION SYSTEMS**

### **ARTICLE #**

The government shall establish and make publicly available 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
- Database of Biodiversity Conservation Corridors and Protected Areas
- Database of government environmental reports
- Database of environmental laws and regulations

### **ARTICLE #**

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

## **CHAPTER # PROVISION OF ENVIRONMENTAL INFORMATION**

### **ARTICLE #**

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

### **ARTICLE #**

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

### **ARTICLE #**

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.

#### **ARTICLE #**

Mass-media organisations shall be encouraged to dedicate a minimum 5 percent of their time to provide coverage of environment-related issues, including through informational and educational programmes.

### **CHAPTER # USE OF ENVIRONMENTAL INFORMATION TO SUPPORT DEVELOPMENT PLANS AND IMPLEMENTATION STRATEGIES**

#### **ARTICLE #**

MoE in consultation with other responsible Ministries shall establish a process to obtain and integrate environmental information obtained from different sources to provide to decision-makers at the national and district levels and the public. The process shall be aligned with the cycles of development of national and subnational developmental and sectoral plans as well as with the monitoring process of their implementation.

#### **ARTICLE #**

MoE in coordination with the MoEYS and other relevant Ministries shall facilitate access to the environmental information by educational and scientific organisations.

#### **ARTICLE #**

MoE shall coordinate the development of a State of the Environment national report as a stand-alone document or as a part of the national development report.

### **CHAPTER # VIOLATIONS, REMEDIES AND ENFORCEMENT**

#### **ARTICLE #**

MoE shall establish procedures of follow-up and enforcement of the legal requirement of access to information, including specifications of reporting formats, indicators, feedback mechanisms, trainings, and resources to prepare reports.

#### **ARTICLE #**

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

**ARTICLE #**

The government shall establish minimum penalties for non-compliance with requirements for information provision; these provisions do not preclude other remedies established by relevant regulations.

**ARTICLE #**

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

**CHAPTER # PROTECTION OF WHISTLE-BLOWERS FOR PROVISION OF  
INFORMATION AND JOURNALISTS WHO PUBLISH INFORMATION**

**BOOK 2 ENVIRONMENTAL ASSESSMENT AND  
MONITORING**

**TITLE 1 RISK ASSESSMENT**

**CHAPTER 1 SCOPE AND APPLICATION OF RISK ASSESSMENT**

**ARTICLE 1**

All decisions, activities, projects that may have a significant impact on the environment shall be required to undergo Risk Assessment.

**ARTICLE 2**

All Financial Institutions and legal entities providing financial guarantees, financial assurances or loans to projects likely to adversely affect the environment shall be required to undertake a Sustainable Financial Assessment.

**ARTICLE 3**

All Financial Institutions and legal entities providing financial guarantees, financial assurances or loans to projects that do not undertake a Sustainable Financial Assessment shall be liable for compensation for environmental harm caused by the decision, activities and projects.

**CHAPTER 2 RISK ASSESSMENT PROVISIONS**

## **SECTION 1 PURPOSE OF RISK ASSESSMENT**

### **ARTICLE 4**

Risk Assessment shall be used to identify and evaluate potential risks to the environment, public safety, and human health before making a decision or approval of a project or activity, which is subject to the applicable provisions of the Environment and Natural Resources Code.

### **ARTICLE 5**

Risk Assessment shall be used to identify and evaluate future potential risks to the environment, public safety, and human health during construction, operation, or closure of a project.

### **ARTICLE 6**

Risk Assessment shall be used to identify and evaluate actual risks to the environment, public safety, and human health that have resulted from environmental harm caused by a project, activity subject to the applicable provisions of the Environment and Natural Resources Code.

### **ARTICLE 7**

Risk Assessment shall be used to identify and evaluate actual risks to the environment, public safety, and human health that have resulted from environmental harm caused by land that has become contaminated as a result of a project, activity or decision.

### **ARTICLE 8**

The Ministry of Environment or another Ministry to which the Ministry of Environment delegates this authority may prepare a Guidelines for Risk Assessments for Projects or Activities under the Environment and Natural Resources Code.

## **SECTION 2 FRAMEWORK OF RISK ASSESSMENT**

### **ARTICLE 9**

The Ministry of Environment shall develop procedures, tasks, and methods for the performance of a Risk Assessment using commonly accepted and sound scientific principles.

### **ARTICLE 10**

The Risk Assessment which is conducted before making any decision, or approval of a project or

activity, shall be prepared as a part of the environmental assessment process (IEE or EIA).

#### **ARTICLE 11**

The Risk Assessment which is conducted as a result of environmental harm or for contaminated land shall be summarized in a separate Risk Assessment report to be provided to the Ministry of Environment as well as any other relevant Ministries or governmental agencies and shall also be made available to the public in order to foster public participation.

#### **ARTICLE 12**

Risk Assessments shall be conducted and Risk Assessment reports shall be prepared by consultants that have been authorized to perform such work by the Ministry of Environment.

### **SECTION 3 USE OF RISK ASSESSMENTS**

#### **ARTICLE 13**

Risk Assessments shall be used to inform members of the public and to promote public participation to the maximum extent possible in the preparation of the Risk Assessment.

#### **ARTICLE 14**

Risk Assessments shall be used to identify and prioritize actions to be undertaken.

#### **ARTICLE 15**

Risk Assessments shall be used to assist the Ministry of Environment, as well as other Ministries and governmental agencies to allocate personnel and associated expenditure of funds for purposes of reviewing Risk Assessment documents, performing monitoring activities and inspections, and otherwise overseeing the performance of related work.

#### **ARTICLE 16**

Risk Assessments shall be used to help prevent or minimize further adverse environmental impacts.

#### **ARTICLE 17**

Risk Assessment shall be used to determine the extent of restoration necessary to remedy adverse environmental impacts and when restoration may be finished and completed.

## **ARTICLE 18**

Risk Assessment shall be used to help formulate the amount of funding or financial assurance necessary to pay for future closure of a project or for restoration of adverse environmental impacts on contaminated land.

## **SECTION 4 GOALS OF A RISK ASSESSMENT**

## **ARTICLE 19**

A goal of Risk Assessments shall be to help establish funds or financial assurance to be available for a project or activity in order to pay for either or both the future closure of all or part of a Project and, if necessary, restoration of future adverse environmental impacts originating from the project that may occur.

## **ARTICLE 20**

A goal of Risk Assessments shall be to minimize the risks of adverse environmental impacts from occurring during construction, operation, and closure of a project, as well as from any unplanned and unexpected discharge from the project.

## **ARTICLE 21**

A goal of Risk Assessments shall be to help determine the extent of restoration necessary to be performed to address adverse environmental impacts from contaminated land.

## **ARTICLE 22**

A goal of Risk Assessments shall be to help prioritize the use of any available funds, including financial assurance funding mechanisms, for restoration of adverse environmental impacts on contaminated land to address higher ranking risks to the environment, public safety, and human health before focusing on and allocating resources to lower ranking risks.

## **ARTICLE 23**

A goal of Risk Assessment shall be to enable the public to obtain useful and scientifically sound information related to risks identified at a project or on a contaminated site and to foster public participation to the maximum extent possible.

## **ARTICLE 24**



A goal of Risk Assessments shall be to establish records and a database of Risk Assessment-related actions and Risk Assessment reports prepared and finalized in order to address any applicable provisions of the Environment and Natural Resources Code. The records and database referenced shall be included in a central repository available for access through the internet to be maintained by the Ministry of Environment.

## **TITLE 2        STRATEGIC ENVIRONMENTAL ASSESSMENT**

### **SECTION # OUTLINE OF STRATEGIC ENVIRONMENTAL ASSESSMENT**

#### **CHAPTER # OBJECTIVE OF STRATEGIC ENVIRONMENTAL ASSESSMENT**

##### **ARTICLE #**

The objective of SEA is to provide a high level of protection to the environment, including health, through the prior assessment of plans and programmes.

#### **CHAPTER # AIMS OF STRATEGIC ENVIRONMENTAL ASSESSMENT**

##### **ARTICLE #**

The key aims of SEA include:

- a) Ensuring that environmental impacts are thoroughly taken into consideration in the development of plans and programmes;
- b) Contributing to the consideration of environmental impacts, including human health and social impacts, in the preparation of policies and legislation;
- c) Establishing clear, transparent and effective procedures for strategic environmental assessment, with identification of cumulative impacts over time and spatial areas;
- 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.

#### **CHAPTER # IMPLEMENTATION OF SEA**

##### **ARTICLE #**

The SEA procedure will include the following steps:

- 1) Screening
- 2) Scoping
- 3) Preparation of the Draft SEA Report
- 4) Consultation and Public Participation
- 5) Preparation of the Final SEA Report
- 6) Review of the Final SEA Report
- 7) Determination of the SEA Report
- 8) Information on Decision
- 9) Implementation and Monitoring

Article # Relevant Government Institution The relevant government institution shall be the institution with jurisdiction on the sector the subject of the SEA.

#### **ARTICLE #**

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

#### **ARTICLE # ROLE OF THE NATIONAL COUNCIL FOR SUSTAINABLE DEVELOPMENT**

The NCSD shall be coordinating body for SEA with the responsibility to ensure that these procedures are complied with.

#### **ARTICLE #**

The NCSD shall develop Guidelines for the procedures of SEA in required. These Guidelines will include best practice principles for Initial Environmental Evaluation, including requiring that Initial Environmental Evaluations assess the potential gender impacts of the proposed project [*other best practice principles could be added*].

### **SECTION # SCREENING**

#### **ARTICLE # SCREENING FOR SEA**

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.

#### **ARTICLE # REQUIREMENT FOR SEA**

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

- 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.

#### **ARTICLE #**

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

#### **ARTICLE #**

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

**ARTICLE #**

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.

**ARTICLE #**

Public participation in SEA should meet the minimum requirements as required under the Environment Code.

**ARTICLE #**

The NCSD will prepare, in collaboration with MOE, a screening analysis and recommendation.

**ARTICLE #**

In reaching the decision whether to conduct SEA, the NCSD 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, 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.

#### **ARTICLE #**

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.

### **SECTION # SCOPING**

#### **ARTICLE #**

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.

#### **ARTICLE #**

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.

#### **ARTICLE #**

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

### **SECTION # CONSULTATION AND PUBLIC PARTICIPATION**

#### **ARTICLE #**

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.

#### **ARTICLE #**

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

#### **ARTICLE #**

The relevant government institution shall comply with the provisions of the Environment and

Natural Resources Code for access to information.

**ARTICLE #**

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.

**ARTICLE #**

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

**SECTION # DRAFT SEA REPORT**

**ARTICLE #**

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

**ARTICLE #**

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

**ARTICLE #**

The Draft SEA 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.

**ARTICLE #**

The SEA Report shall be submitted in English and Khmer languages.

**ARTICLE #**

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

## **SECTION # REVIEW OF DRAFT SEA REPORT**

### **ARTICLE #**

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.

### **ARTICLE #**

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

### **ARTICLE #**

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

### **ARTICLE #**

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

### **ARTICLE #**

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 Draft 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 DRAFT SEA REPORTS**

The SEA report assessment committee shall send the results of the assessment of Draft SEA Report

to the relevant government institution and MOE.

**ARTICLE #**

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.

**ARTICLE #**

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

**ARTICLE #**

The relevant government institution shall prepare a Final SEA Report taking into account the recommendations of the SEA Report Assessment Committee.

**SECTION # REVIEW OF FINAL SEA REPORT**

**ARTICLE #**

The Final SEA Report shall be submitted to the NCSD.

**ARTICLE #**

The NCSD shall consider the content of the Final SEA Report and approve or reject the Final SEA Report.

**CHAPTER # INFORMATION ON DECISION**

**ARTICLE #**

Once the NCSD 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.

**ARTICLE #**

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

**CHAPTER # IMPLEMENTATION AND MONITORING**

**ARTICLE #**



The relevant government institution in collaboration with MOE shall develop a monitoring programme for the implementation of the SEA in accordance with the Final SEA approved by the NCSD.

**ARTICLE #**

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

**ARTICLE #**

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.

**ARTICLE #**

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 Environment and Natural Resources Code.

**TITLE 3 ENVIRONMENTAL ASSESSMENT**

**CHAPTER # PURPOSE OF EIA**

**ARTICLE #**

The purpose of EIA is to protect the environment, to conserve ecosystems, ensure appropriate use of natural resources, and promote sustainable development by establishing mechanisms for environmental impact assessments caused by all development projects that may create impacts on the environment, health, society, economy and culture.

**CHAPTER # SCOPE OF EIA IN CAMBODIA**

**ARTICLE #**

EIA applies to any development project that may have potential impacts on environment, health, economy, society and culture in the Kingdom of Cambodia.

**CHAPTER # OBJECTIVES OF EIA IN CAMBODIA**

**ARTICLE #**

EIA has the following objectives:

1. Determine that EIA must exist for both public and private development project, before being submitted to competent unit or ministry and the Royal Government to make decision;
2. Promote public participation and the rights of the public to receive information about development project that may cause impacts on environment, health, economy, society, and culture;
3. Ensure that EIA is conducted in an effective, transparent, and equitable manner, and
4. Promote the effectiveness of the establishment and the monitoring of the implementation of the measures for preventing, avoiding, or mitigating negative impacts as well as the measures for repairing, restoring, or compensating for the damages caused by development projects.

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

### **ARTICLE #**

All phases of public and private development projects and activities shall be subject to the EIA process, including but not limited to, exploration, feasibility study, land clearance, construction, operation, expansion, and closure.

## **CHAPTER # RESPONSIBILITY OF PROJECT PROPONENT**

### **ARTICLE #**

The Project Proponent shall bear full legal and financial responsibility for all of the Project Proponent's actions and omissions and those of its contractors, subcontractors, officers, employees, agents, representatives, and consultants employed, hired, or authorized by the Project acting for or on behalf of the Project, in carrying out work on the Project;

### **ARTICLE #**

If a project or activities causes resettlement or impacts on livelihood the Project Proponent shall bear full legal and financial responsibility for all Project Affected Persons until they have achieved socio-economic stability at a level not lower than that in effect prior to the commencement of the Project.

### **ARTICLE #**

The Project Proponent shall bear full legal and financial responsibility for support programs for livelihood restoration and resettlement in consultation with the Project Affected Persons, related government agencies, and organizations and other concerned persons for all Environmental Impacts.

#### **ARTICLE #**

The Project Proponent shall fully implement the EIA, IEE, EMP, all Project commitments, and conditions, and is liable to ensure that all contractors and subcontractors of the Project comply fully with all applicable legal obligations including the EIA Approval Certificate, the EMP, Project commitments and conditions when providing services to the Project.

#### **CHAPTER # RESPONSIBILITY OF MINISTRY OF ENVIRONMENT IN EIA / ROLES AND RESPONSIBILITIES OF SUB-NATIONAL AUTHORITIES ARTICLE #**

Officials of the EIA Department 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**

**ARTICLE #**

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

**ARTICLE #**

EIA Consulting Firms shall have either Khmer or Foreign nationality and shall have a project team leader accredited by the MoE based on international best standards.

**ARTICLE #**

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

**ARTICLE #**

The MoE shall provide criteria for registration of EIA Consultants and EIA Firms for both Khmer nationality and foreign nationality.

**ARTICLE #**

An EIA Consultant or an EIA Firm that does not comply with the criteria for registration by the MoE or the conditions attached to the accreditation may be removed as a registered EIA Consultant and prohibited from registration in accordance with the requirements of the MoE.

**ARTICLE #**

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 Project Proponents must adequately assess the impacts of proposed projects and activities on human wellbeing, the environment, natural resources and values of associated flows of natural resource goods and services. Impacts must be assessed at both local, regional and national scales. Assessments must be approved by the Ministry of Environment before being submitted to the government for assessment.

Before approving an assessment for submission, the Ministry of Environment shall review the multiple costs and benefits of the proposed project or activity to present and future generations. The review shall take into account the recommendations of independent experts, and consider the individual and cumulative impacts of the proposed project on human wellbeing, the environment, natural resources, and values of associated flows of natural resource goods and services.

**ARTICLE #**

Issuance of licenses or permission letters to development projects by Approval Ministry-Institution shall be done in accordance with conditions determined in the EIA Approval Letter and Certificate. Licenses, permission letters, or decisions that are in contradiction to the terms of the provisions of the Environment and Natural Resources Code 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 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 or activities that 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 impacts that shall be determined by the MoE.

#### **ARTICLE #**

An EIA is required in all cases where the Project will be located in or will have foreseeable adverse effects on any legally protected national, regional or indigenous area, including, but not limited to:

- (i) a forest conservation area (including biodiversity reserved area);
- (ii) a protected areas (including marine protected area);
- (iv) a mangrove forest;
- (v) any sensitive coastal area;
- (vi) Any sensitive riparian area;
- (vi) a wildlife sanctuary;
- (vii) a scientific reserve;
- (viii) a nature reserve;
- (ix) a geophysically significant reserve;
- (x) any other nature reserve nominated by the Minister;
- (xi) a cultural heritage area or listed national cultural heritage item; and
- (xii) an archaeological area or area of historical significance

#### **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 # LETTERS OF ENDORSEMENT**

The Project Proponent shall issue a letter of endorsement in a format prescribed by the MoE. Such letter shall be submitted together with the EIA Report, IEE Report, EMP or Environmental Protection Agreement confirming:

- a) the accuracy and completeness of the relevant documents;
- b) that the documents have been prepared in strict compliance with applicable laws including any Guidelines issued by the MoE; and

- c) that the Project will at all times comply fully with the commitments, mitigation measures, EMP, and plans submitted and with the EIA Approval Certificate or Environmental Protection Agreement.

## **CHAPTER # INITIAL ENVIRONMENTAL EVALUATIONS**

### **ARTICLE #**

IEE report shall be required for:

1. Projects listed in a new/existing legal instrument.
2. Projects that have prepared Environmental Protection Agreement and decided by MoE that they do IEE.

### **ARTICLE #**

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.

### **ARTICLE #**

MoE shall issue guidelines for the preparation of Initial Environmental Evaluation. These Guidelines will include best practice principles for Initial Environmental Evaluation, including requiring that Initial Environmental Evaluations assess the potential gender impacts of the proposed project [*other best practice principles could be added*].

### **ARTICLE #**

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

### **ARTICLE #**

The IEE Report shall be submitted in English and Khmer languages.

### **ARTICLE #**

The IEE Report shall be make detailed consideration of possible alternatives to the Proposed Project, including description of each alternative, and an assessment and comparison of the environmental impacts, required mitigation measures and residual impacts of the alternatives

**ARTICLE #**

If the consideration of the alternatives to the Proposed Project, the IEE Report must consider at least one alternative that minimizes or avoids the need for resettlement of PAP or indigenous people and the need to provide compensation for the impact on livelihood.

**ARTICLE #**

The IEE Report shall be prepared in accordance with the public participation procedures in the Environment and Natural Resources Code, the Stakeholder Engagement Plan prepared with the Scoping Report, and any Guidelines prepared by the MoE on public participation and access to information in the IEE process.

**ARTICLE #**

The Stakeholder Engagement Plan must include a commitment to regular engagement with affected women and men during the Initial Environmental Evaluation process. Further the Stakeholder Engagement Plan must include a commitment to paying particular attention to individuals or groups of people (this may include women among others) who are vulnerable, marginalised from decision making processes or potentially negatively impacted by the proposed project, and details of how engagement with these individuals or groups will occur.

**ARTICLE #**

The EIA Consultant shall make available all the environmental information required to ensure genuine and meaningful public participation in accordance with the provisions of the Environment and Natural Resources Code and any Guidelines prepared by the MoE on public participation and access to information in IEE process.

**SECTION # ENVIRONMENTAL IMPACT ASSESSMENT**

**ARTICLE #**

An Environmental Impact Assessment report shall be required for:

1. Projects listed in new/existing legal instrument 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.

**CHAPTER # SCOPING OF EIA REPORT**

**ARTICLE #**



All Projects requiring an EIA shall undergo Scoping and prepare a Scoping Report to be submitted to the MoE for approval. The Scoping Report shall include draft Terms of Reference for the EIA Report and a Stakeholder Engagement Plan for the Proposed Project.

**ARTICLE #**

All Projects requiring an EIA shall prepare a draft ToR for the EIA investigations in accordance with applicable Guidelines issued by the Ministry.

**ARTICLE #**

MoE shall issue guidelines for the preparation of Environmental Impact Assessment. These Guidelines will include best practice principles for Environmental Impact Assessment, including requiring that Environmental Impact Assessments assess the potential gender impacts of the proposed project [*other best practice principles could be added*].

**ARTICLE #**

All Projects requiring an EIA shall prepare a draft Stakeholder Engagement Plan for the EIA investigations in accordance with applicable Guidelines issued by the Ministry. The Stakeholder Engagement Plan is to ensure compliance with the requirements of public participation and access to information in accordance with the Environment and Natural Resources Code.

**ARTICLE #**

The Stakeholder Engagement Plan must include a commitment to regular engagement with affected women and men during the Environmental Impact Assessment process. Further the Stakeholder Engagement Plan must include a commitment to paying particular attention to individuals or groups of people (this may include women among others) who are vulnerable, marginalised from decision making processes or potentially negatively impacted by the proposed project, and details of how engagement with these individuals or groups will occur.

**ARTICLE #**

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.

**CHAPTER # PREPARATION OF EIA REPORT**

**ARTICLE #**

The EIA Report shall be prepared in accordance with the Guidelines issued by the MoE.

**ARTICLE #**

The EIA Report shall be prepared in accordance with the Terms of Reference approved by the MoE.

**ARTICLE #**

The Terms of Reference shall be made publically available.

**ARTICLE #**

The EIA Report shall be submitted in English and Khmer languages.

**ARTICLE #**

The EIA Report shall be make detailed consideration of possible alternatives to the Proposed Project, including description of each alternative, and an assessment and comparison of the environmental impacts, required mitigation measures and residual impacts of the alternatives

**ARTICLE #**

The consideration of alternatives in relation to a proposed Project, means different realistic and feasible means of meeting the general purpose and requirements of the Project, which may include lower-impact alternatives to:

- i) the property on which or location where it is proposed to undertake the Project,
- ii) the type of Project to be undertaken,
- iii) the design or layout of the Project,
- iv) the technology to be used in the Project,
- v) the need to provide resettlement or impact on livelihood,
- vi) the impact on indigenous and local communities.
- vii) the operational aspects of the Project, and
- viii) any other substantive characteristic or aspect of the Project as deemed necessary or appropriate by the MoE.

**ARTICLE #**

In the consideration of the alternatives to the Proposed Project, the EIA Report must consider at least one alternative that minimizes or avoids the need for resettlement of PAP or indigenous people and the need to provide compensation for the impact on livelihood.

**ARTICLE #**

In the consideration of the alternatives to the Proposed Project, the EIA Report must consider at least one alternative that minimizes or avoids the impacts on ecosystem and biodiversity.

**ARTICLE #**

The EIA Report shall be prepared in accordance with the public participation procedures in the Environment and Natural Resources Code, the Stakeholder Engagement Plan prepared with the Scoping Report, and any Guidelines prepared by the MoE on public participation and access to information in the EIA process.

**ARTICLE #**

The EIA Consultant shall make available all the environmental information required to ensure genuine and meaningful public participation in accordance with the provisions of the Environment and Natural Resources Code and any Guidelines prepared by the MoE on public participation and access to information in EIA process.

**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.

**ARTICLE #**

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

**CHAPTER # ESTABLISHMENT OF EXPERT REVIEW COMMITTEE**

**ARTICLE #**

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

**ARTICLE #**

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. The Expert Review Committee shall include a representative from the Ministry of Women's Affairs and civil society organisations. Members of an Expert Review Committee shall be selected on a project-by-project basis by MoE based on the technical and other relevant aspects of the EIA report.

**ARTICLE #**

The organisation and functioning of the Expert Review Committee shall be determined by legal instrument of MoE.

**ARTICLE #**

The members of the Expert Review Committee shall be reimbursed for their services based on an agreement between MoE, each member, and Project Proponent. Reimbursement for participation in an EIA Expert Review Committee shall 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 shall not be specially remunerated.

**CHAPTER # ROLE OF EXPERT REVIEW COMMITTEE**

**ARTICLE #**

The Expert Review Committee shall be responsible for reviewing and assessing the EIA Report and taking into consideration any comments received from the public participation process.

**ARTICLE #**

The Expert Review Committee may provide comments and recommendations on the EIA Report that must be addressed by the EIA consultant.

**ARTICLE #**

The Expert Review Committee shall be responsible for reviewing and assessing the revised EIA Report and recommending whether to approve or reject the EIA Report.

**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.

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 eight (8) weeks.

#### **ARTICLE #**

The time period for the consideration of the Screening Report shall be 15 days.

#### **ARTICLE #**

The time period for the consideration of the Scoping Report shall be 15 days.

#### **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 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.

#### **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.

#### **ARTICLE #**

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.

**ARTICLE #**

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 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.

**ARTICLE #**

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.

**ARTICLE #**

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.

**ARTICLE #**

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.

**ARTICLE #**

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.

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 legal instrument of MoE.

### **SECTION # ASSESSMENT OF EIA REPORT**

#### **CHAPTER # REVIEW 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;

#### **ARTICLE #**

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, paying attention to vulnerable, marginalised and at risk individuals and groups, 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.

### **ARTICLE #**

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.

### **ARTICLE #**

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.



## **ARTICLE #**

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 # 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.

### **ARTICLE #**

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.

**ARTICLE #**

Existing projects may be required to conduct an environmental audit of existing operations, in accordance with the Guidelines prepared by the MoE to ensure that all Projects and Activities in Cambodia are not causing harm to the environment and are operating in accordance with the law.

**ARTICLE #**

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 # TRANSBOUNDARY ENVIRONMENTAL**

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 analyse 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**

### **ARTICLE #**

Environmental Information shall be disclosed to the PAP and Stakeholders in accordance with the principles and procedures of the Environment and Natural Resources Code and Guidelines prepared by the MoE on public participation and access to information in the EIA process.

## **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 legal instrument 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 legal instrument 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.

**TITLE 4 ENVIRONMENTAL AUDITS AND MANAGEMENT REPORTING**

**CHAPTER # OBLIGATION TO REPORT BREACHES OF ENVIRONMENT AND NATURAL RESOURCES CODE**

**ARTICLE #**

The holder of a permit or approval has an obligation to report breaches of the permit or approval to the MoE or other competent authority.

**CHAPTER # ENVIRONMENTAL AUDITS**

**ARTICLE #**

An environmental audit is a documented evaluation of an activity (including an evaluation of management practices, systems and plant) for either or both of the following purposes:

1. to provide information to the persons managing the activity on compliance with legal requirements, codes of practice and relevant policies relating to the protection of the environment,
2. to enable those persons to determine whether the way the activity is carried on can be

improved in order to protect the environment and to minimise waste.

#### **ARTICLE #**

The MoE shall prepare a list of activities that shall require an environmental audit to be conducted in accordance with a legal instrument developed by the MoE.

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

#### **ARTICLE #**

The MoE shall make develop a legal instrument for the following:

1. the accreditation of environmental auditors for the purposes of the Code,
2. the carrying out of environmental audits by environmental auditors

#### **ARTICLE #**

The MoE shall make develop a legal instrument for the following Criteria for certification of an environmental auditor which shall include:

1. understanding the principles, methodology and mechanism of environmental audit;
2. carrying out the environmental audit, which covers planning, implementation, concluding and reporting; and
3. formulating recommendations for measures to improve the environmental performance following the environmental audit.

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

#### **ARTICLE #**

The Minister may direct that an activity or development project undertake an environmental audit within a specified time frame.

#### **ARTICLE #**

All projects and activities that require an EIA shall be required to undertake an environmental

audit to show compliance with the EIA Approval Certificate and EMP.

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

### **ARTICLE #**

The MoE may require that an activity or development project be certified to international standards.

### **ARTICLE #**

The MoE may include a requirement as a condition of an EIA Approval Certificate or Environmental Protection Agreement.

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

### **ARTICLE #**

The MoE shall require that all projects and activities subject to approvals or permits under the Code undertake monitoring in accordance with the provisions of the approvals or permits.

### **ARTICLE #**

The MoE shall include the requirements for monitoring, including frequency and specific details, in the approval or permits.

### **ARTICLE #**

At a minimum, unless otherwise specified, monitoring reports will be required to be conducted annually and include all potential emissions that may cause pollution.

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

### **ARTICLE #**

The MoE shall require that all projects and activities subject to EIA Approval Certificate undertake monitoring in accordance with the provisions of the EIA Approval Certificate or EMP.

### **ARTICLE #**

The MoE shall include the requirements for monitoring, including frequency and specific details, in the EIA Approval Certificate, and EMP.

**ARTICLE #**

At a minimum, unless otherwise specified, monitoring reports will be required to be conducted semi-annually and include all potential emissions that may cause pollution that were identified in the EIA or in the EMP.

**ARTICLE #**

The Project Proponent shall also immediately notify the MoE if there is any breach of the EMP or any condition of the EIA Approval Certificate or Environmental Protection Agreement.

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

**ARTICLE #**

Monitoring reports prepared as a requirement of an approval or permit shall be made publically available by the holder of the approval or permit.

**ARTICLE #**

Monitoring reports shall be placed on a publically accessible web site by the holder of the approval or permit within 7 days of submitting the monitoring report to the MoE or other relevant authority.

**BOOK 3 ENVIRONMENTAL MANAGEMENT AND  
SUSTAINABILITY MECHANISMS**

**TITLE 1 DISASTER RISK REDUCTION AND MANAGEMENT**

The 2015 Law on Disaster Management is hereby supplemented to specifically include natural or human made disasters affecting the environment as is detailed in this Title.

[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management]

The 2015 Royal Decree on the Organization and Functioning of the National Committee for Disaster Management, NS/RKT/1215/1141 is clarified to expand the powers of National Committee for Disaster Management to specifically include natural or human made



disasters affecting the environment.

## **CHAPTER 1 DISASTER MANAGEMENT PLANNING AND PRINCIPLES**

### **ARTICLE 1**

The 2015 Law on Disaster Management shall apply to all disaster management activities related to natural or human made disasters effecting the environment in the Royal Kingdom of Cambodia.

### **ARTICLE 2**

The Ministry of Environment shall support and collaborate with the National Committee for Disaster Management (NCDM), other Ministries, governmental entities, NGOs on the prevention, adaptation and mitigation in the pre-disaster period, due to natural or human-made causes, emergency response during the disaster, and recovery in the post-disaster period in accordance with Article 2 of the 2015 Law on Disaster Management.

### **ARTICLE 3**

The Ministry of Environment shall support and collaborate with the NCDM in its efforts to address all natural or human made disasters affecting the environment, assess the root causes of vulnerabilities to potential and existing disasters, strengthen Cambodia's institutional capacity for disaster risk reduction and management, and work with local communities, ministries and other stakeholder to build resilience of local communities to disasters including climate change impacts and adaptation.

### **ARTICLE 4**

The Ministry of Environment shall support and collaborate with the NCDM to develop a disaster risk reduction and management approach that is comprehensive, integrative, and proactive to minimize environmental, cultural and socio-economic impacts of disasters, including climate change, and promote the involvement of all local communities, ministries, sectors and stakeholders.

### **ARTICLE 5**

The NCDM shall incorporate internationally accepted principles of disaster risk management in the development and implementation of national, regional and local sustainable development and poverty reduction strategies, policies, plans and budgets.

## **ARTICLE 6**

The Ministry of Environment shall support and collaborate with the NCDM to develop Sub-National Committees for Disaster Management, including City and Provincial Committees for Disaster Management, Town and District Committees for Disaster Management and Commune Committees for Disaster Management, according to Article 9 of the 2015 Law on Disaster Management.

## **ARTICLE 7**

The Ministry of Environment shall provide all necessary assistance, coordination and support to ensure the NCDM is accomplishing its roles and responsibilities as assigned in the Royal Decree on the Organization and Functioning of the National Committee for Disaster Management, NS/RKT/1215/1141.

## **ARTICLE 8**

The NCDM shall work with relevant ministries, sub-national governments, NGOs, local communities, and other stakeholders to develop a comprehensive National Strategic Disaster Risk Reduction and Management Plan for natural or human made disasters affecting the environment, specifically including climate change adaptation.

## **ARTICLE 9**

The Ministry of Environment shall support and collaborate with the NCDM as the NCDM works in conjunction with local communities, governmental entities and other stakeholders to develop and implement a comprehensive National Strategic Disaster Risk Reduction and Management Plan.

## **CHAPTER 2 INCORPORATION OF RISK REDUCTION PLANNING**

## **ARTICLE 10**

The NCDM shall adhere to and adopt universal norms, principles, and standards of humanitarian assistance and the global effort on disaster risk reduction to overcome human sufferings due to sudden or recurring disasters.

## **ARTICLE 11**

The Ministry of Environment shall provide support and collaborate with the NCDM in risk reduction planning.

## **ARTICLE 12**

The Ministry of Environment shall support and collaborate with the NCDM to develop and implement guidelines to conduct risk assessment, explore technologies for climate change adaptation, and develop contingency plans for disaster relief and emergency response in accordance with Article 16 of the 2015 Law on Disaster Management.

## **ARTICLE 13**

The Ministry of Environment shall support and collaborate with the NCDM to develop to promote public awareness, develop and provide training and education, and encourage involvement related to disaster risk reduction and disaster prevention and control, including the establishment of early warning systems.

## **ARTICLE 14**

The Ministry of Environment shall ensure multi-stakeholder participation in the development, updating, and sharing of disaster risk reduction planning and information.

## **CHAPTER 3 DEVELOPMENTS TO TAKE INTO ACCOUNT DISASTER MANAGEMENT PLANNING**

## **ARTICLE 15**

The Ministry of Environment shall work in conjunction with the NCDM and other ministries to focus on the pre-disaster period.

## **ARTICLE 16**

In accordance with Article 10 and Article 11 of the 2015 Law on Disaster Management, the Ministry of Environment shall work in conjunction with the NCDM to develop preparedness activities, including but not limited to taking action to develop early warning systems, strategies, contingency plans and emergency response plans for mitigating disaster losses, standard operating procedures for the disaster relief operation, table-top exercise and simulation exercises.

## **ARTICLE 17**

The NCDM and relevant ministries shall consult with the Ministry of Environment for all sub-decrees, prakas, guidelines, and other disaster management planning related to major pollution incidents, energy production, disasters at waste facilities, energy facilities, energy storage facilities and chemical facilities whether natural or human made.

## **ARTICLE 18**

The NCDM and relevant ministries shall consult with the Ministry of Environment for all sub-decrees, prakas, guidelines, and other disaster management planning related to disaster management related to tsunamis, drought, fires, climate change, and all other natural or human made disasters affecting the environment.

## **ARTICLE 19**

The Ministry of Environment shall support and collaborate with the NCDM to engage in multi-level cooperation with other ministries and governmental entities to strengthening public awareness and education related to preventing and managing natural or human made disasters affecting the environment.

## **ARTICLE 20**

In the event of natural or human made disaster affecting the environment, emergency response shall abide by all required or necessary actions put forth in the 2015 Law on Disaster Management including developing contingency plans, standby arrangements, search and rescue, and appealing to the international community.

## **ARTICLE 21**

The Ministry of Environment shall support and collaborate with the NCDM to develop contingency plans for both private and public facilities as identified by the appropriate governmental entity.

# **CHAPTER 4 OBLIGATION TO REPORT POTENTIAL DISASTERS**

## **ARTICLE 22**

The Ministry of Environment shall support and collaborate with the NCDM to establish requirements and mechanism for timely reporting and response to accidents and disasters.

## **ARTICLE 23**

Any person, business entity, governmental entity, NGO, or other entity has an obligation to report potential natural or human made disasters affecting the environment. All reports shall go to the NCDM.

## **ARTICLE 24**

The Ministry of Environment shall, in conjunction with the NCDM, investigate all potential disaster reports, assess losses, and address, and remedy potential concerns as necessary.

## **ARTICLE 25**

The NCDM shall make disaster reports publically available.

## **CHAPTER 5 DISASTER RISK REDUCTION AND MANAGEMENT FUND**

## **ARTICLE 26**

The NCDM shall create a Disaster Risk Reduction and Management Fund. This Disaster Risk Reduction and Management Fund shall remain separate from NCDM's operation budget and will be allocated only for disaster risk reduction and disaster management purposes.

## **ARTICLE 27**

The NCDM shall develop guidelines requiring those responsible for man-made disasters to pay into the Disaster Risk Reduction and Management Fund. These guidelines will be developed in accordance with the polluter pays principle.

# **TITLE 2 CLIMATE CHANGE ADAPTATION AND MITIGATION**

## **CHAPTER 1 GENERAL PROVISIONS**

## **ARTICLE 1**

The purpose of this Title is to:

1. Provide the framework to establish the authorities and responsibilities of the National and subnational government and municipalities in the elaboration and implementation of public policies on climate change adaptation and mitigation of greenhouse gas emissions, compounds, and the impacts of climate change.
2. Regulate the emission of greenhouse gases and other compounds to achieve stabilization of their concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, considering, as appropriate, the provisions of Article 2 of the United Nations Framework Convention on Climate Change and other relevant provisions.
3. Regulate actions for climate change mitigation and adaptation.
4. Reduce the vulnerability of the country's population and ecosystems to the adverse effects

of climate change, as well as create and strengthen national capacities to respond to such phenomenon.

5. Promote the mainstreaming of climate change resilience and information through the use of vulnerability assessments, public engagement, and education.
6. Promote education, research, the development and transfer of technology, as well as innovation and dissemination, in the areas of climate change adaptation and mitigation.
7. Establish the foundations for public participation.
8. Promote the transition to a competitive and sustainable low carbon emissions economy.
9. Ensure climate resilient and low carbon development through the mainstreaming of climate change in policy and regulatory frameworks, planning, and budgeting processes.

## **ARTICLE 2**

Legislation, strategies, policies, and plans relevant to climate change that have been adopted by the Royal Government of Cambodia should not be revised if the change implies weakening standards or protection of collective and individual rights.

## **CHAPTER 2 GREEN DEVELOPMENT PLANNING AND CLIMATE CHANGE**

### **ARTICLE 3**

Any activity that will negatively contribute to the Kingdom of Cambodia's climate adaptation and mitigation goals must mitigate this contribution by adopting reasonable mitigation measures or by implementing lower emission alternatives to the activity.

### **ARTICLE 4**

The competent authorities shall consider the climate variability and changes in future climate regimes when assessing the impact of proposed investments, as well as the impact of proposed investments on climate change.

### **ARTICLE 5**

All ESIA's must seriously consider the contribution a project may have to the Kingdom of Cambodia's climate goals as outlined in the National Climate Change Strategy, National Adaptation Plan, this Code, the UNFCCC, and all relevant international commitments, legislation and sub-legislation.

### **ARTICLE 6**

The impacts of climate change shall be considered in all ESIAAs, as well as in all Strategic Environmental Assessments (SEAs) and Risk Assessments.

#### **ARTICLE 7**

All foreseeable potential climate change impacts, potential climate change contributions of land use, ecosystem value shall be considered in all land use planning and management decisions.

#### **ARTICLE 8**

All potential Climate Change impacts will be incorporated into Disaster Risk management plans [Book XX Title XX].

#### **ARTICLE 9**

In all matters not provided by this Law, the provisions of other laws in the subject matters regulated by this legislation shall apply.

### **SECTION 1 REFERENCE EMISSIONS LEVELS**

#### **ARTICLE 10**

Reference emissions levels shall be developed in accordance with the requirements of the UNFCCC, using guidance from the IPCC.

#### **ARTICLE 11**

To properly reflect the Cambodian context, national circumstances may be factored into the reference levels by taking into consideration secondary data sets such as socio-economic development or population dynamics and distribution.

#### **ARTICLE 12**

Reference levels will be adapted as necessary to better reflect the national context and improvement in technology and data availability.

### **CHAPTER 3 JURISDICTION AND AUTHORITY**

#### **ARTICLE 13**

It is the responsibility of NCSD and all relevant Ministries and Agencies of all levels of government in the Kingdom of Cambodia to formulate and implement policies, regulations, and

programs to:

- 1) Reduce vulnerability and increase the adaptive capacity to climate change impacts of people, particularly those most vulnerable to climate change, and of critical natural, social and economic systems; and
- 2) Regulate GHG emissions and facilitate the shift towards a green development path by promoting low-carbon development and technologies.

#### **ARTICLE 14**

This Title shall be implemented at all levels of government.

#### **ARTICLE 15**

The National and subnational government and municipalities shall exercise their powers on climate change mitigation and adaptation in accordance with the distribution of powers set forth in this Law and in all other applicable Law.

### **SECTION 1 DESIGNATED NATIONAL AUTHORITY**

#### **ARTICLE 16**

The DNA shall establish an efficient and transparent carbon crediting system. This system shall be further elaborated in a legal instrument.

#### **ARTICLE 17**

The DNA is responsible for issuing approval for credits and maintaining the carbon crediting system.

*[to be further developed]*

### **SECTION 2 AUTHORITY/MANDATES FOR NATIONAL AND SUBNATIONAL GOVERNMENT AND MUNICIPALITIES**

#### **ARTICLE 18**

The competent authorities shall:

1. Develop, implement, and update national and sectoral climate change strategies and action plans, as well as other aligned priority-setting mechanisms and instruments, setting policy on identified priorities for adaptation and mitigation interventions in in an open and



transparent manner through consultation with the public;

2. Establish, regulate, coordinate, and implement actions on climate change adaptation and mitigation, including those pursuant to the fulfilment of obligations under international treaties and protocols, such as the UNFCCC, Kyoto protocol, the Paris Agreement;
3. Monitor and evaluate Cambodia's CC response through a national monitoring and evaluation framework, as well as sectoral M&E frameworks and other monitoring instruments to assist in prioritizing interventions and investment decisions at the national, sectoral and sub-national level and tracking effectiveness of response measures in increasing communities' resilience and to assess progress in realizing low carbon development gains;
4. Develop, update and publish national climate-related risk and vulnerability assessments and issue criteria and information to be considered in the development of localized and thematic vulnerability assessments, including indicators and mapped information;
5. Incorporate criteria for climate change adaptation and low carbon development into environmental policy and into planning and budgeting instruments;
6. Strengthen mechanisms to continuously develop institutional capacity at all levels to address CC issues and build knowledge on adaptation and mitigation practices and technologies best suited to the Cambodia context;
7. Strengthen and update the Climate Change Information System, and make it available to the public;
8. Adopt and improve methodologies and criteria, and issue legal provisions to ensure the establishment, update and publication of the National GHG Inventory;
9. Establish and regulate, integrate, administer, publish and update the National Climate Change Registry, integrating registries established under different results-based climate finance mechanisms, including carbon-crediting mechanisms;
10. Design and promote the creation of economic, fiscal, and market-based instruments linked to CC actions;
11. Mobilize and coordinate allocation of resources, in alignment with established priorities in the relevant climate change strategies, plans, legislation and other legal instruments, to propose budget allocations for adaptation and mitigation to adequately finance climate change response;
12. Establish the legal instruments required to promote the participation in carbon crediting mechanisms and other results-based mechanisms to reduce carbon emissions, as well as in domestic and international financing mechanisms;

13. The subnational and municipal governments shall:

## **CHAPTER 4 [BREAKDOWN OF THE] OBLIGATIONS OF ROYAL GOVERNMENT OF CAMBODIA**

*[Chapter to be further development.]*

### **SECTION 1 CLIMATE CHANGE PLANS, POLICIES, AND STRATEGIES**

*[Section to be further development.]*

#### **ARTICLE 19**

NCSD and all relevant ministries shall develop, implement, and evaluate national and sectoral climate change policies, action plans and other relevant instruments. These plans shall be reviewed and updated every 5 years, or sooner when deemed necessary.

#### **ARTICLE 20**

All climate change policies, action plans, and other relevant instruments shall consider the environmental, social, cultural, and economic impacts of climate change and address climate vulnerability and management.

#### **ARTICLE 21**

All climate change policies, action plans, and other relevant instruments shall be made readily accessible to the public.

#### **ARTICLE 22**

All climate change policies, action plans, and other relevant instruments will be implemented through this Title.

#### **ARTICLE 23**

The National Climate Change Strategic Plan and all sector-specific climate action plans shall be implemented through this Law.

### **SECTION 2 IMPLEMENTING ADAPTATION & MITIGATION ACTIONS**

*[Section to be further development.]*

## **ARTICLE 24**

The relevant Ministry shall utilize the National Adaptation Programme of Action to identify adaptation actions that should be taken to address climate change adaptation.

## **ARTICLE 25**

The relevant Ministry will collaborate with all relevant ministries to identify adaptation and mitigation actions that the Royal Government of Cambodia could implement. Once identified, the relevant ministries shall collaborate to begin implementing said actions.

## **ARTICLE 26**

The Royal government of Cambodia will consider implementing adaptation and mitigation mechanisms such as Climate Smart Agriculture, agricultural diversification and increased productivity, promotion of payment for ecosystem services through mechanisms such as REDD+, watershed and ecosystem management, and participatory land use planning, and others.

## **ARTICLE 27**

In the effort to implement climate adaptation actions, the relevant institutions shall endeavour to take the following actions, along with others that may be identified as important for climate adaptation efforts:

1. Collaborate to develop and implement climate resilient agricultural systems;
2. Develop and rehabilitate flood protection infrastructure and efficient irrigation infrastructure;
3. Implement measures for protected areas to adapt to climate change;
4. Strengthen early warning systems and climate information dissemination;
5. Improve dissemination of climate change education to the public;
6. Promote aquaculture production systems and practices that are adaptive to climate change;
7. Strengthen technical and institutional capacity to conduct climate change impact assessments, climate change projections, and mainstreaming of climate change in to sector and subsector plans; and
8. Up-scale malaria control program, as well as up-scale national programmes focused on water-borne and food-borne diseases. This includes conducting surveillance and research on said diseases to understand how they are associated with climate change.

## ARTICLE 28

In the effort to implement climate mitigation actions, the relevant institutions shall endeavour to take the following actions, along with others that may be identified as important for climate mitigation efforts:

1. Promote and improve energy efficiency throughout the country;
2. Increase off-grid energy production;
3. Promote the development and use of renewable energy throughout all sectors;
4. Promote the development and use of mass public transportation;
5. Improve the operation and maintenance of vehicles, as well as encourage the use of fuel-efficient transportation;
6. Increase forest cover and promote sustainable use and production of forests; and
7. Promote proper soil and land use management practices to protect carbon sinks and limit greenhouse gas emissions.

## SECTION 3 MONITORING AND EVALUATION

*[Section to be further development.]*

## ARTICLE 29

With the cooperation of, and through the collaboration with, all relevant institutions, the relevant ministry will design and implement a comprehensive measurement, reporting and verification (MRV) framework, which shall be implemented through ensuing legal instruments.

## ARTICLE 30

The National and provincial governments, and where appropriate with the participation of local governments, may subscribe coordination or public participation agreements with civil society on climate change matters, which would include, among other elements, the actions, location, goals, and financial contributions by each party.

## ARTICLE 31

The Provinces and the municipalities will issue the necessary legal provisions to regulate the subject matters under their authority pursuant to this Law.

The relevant institutions, in collaboration with subnational and municipal institutions, shall identify and develop a set of indicators and other criteria for monitoring and evaluating the implementation of this law.

## **ARTICLE 32**

The National and provincial governments, and where appropriate with the participation of local governments, may subscribe coordination or public participation agreements with civil society on climate change matters, which would include, among other elements, the actions, location, goals, and financial contributions by each party.

## **ARTICLE 33**

The Provinces and the municipalities will issue the necessary legal provisions to regulate the subject matters under their authority pursuant to this Law.

Any and all other monitoring instruments that the relevant ministry deems necessary for full implementation of this Law and all relevant legal instruments shall be created and implemented.

## **ARTICLE 34**

For monitoring purposes, the relevant ministry shall utilize tools such as, but not limited to:

1. Geospatial mapping;
2. satellite imagery;
3. remote sensing;
4. field crew surveys on forest product use;
5. creating and utilizing a national forest inventory;
6. creating and utilizing the national greenhouse gas inventory; and
7. collecting data from companies and other field assessments.

## **ARTICLE 35**

All data and material collected through monitoring instruments shall be organized into databases and shall be utilized assist in prioritizing interventions and investment decisions at all levels, as well as to track effectiveness of response measures in increasing communities' resilience and to assess progress in realizing low carbon development gains.

## **SECTION 4 CLIMATE CHANGE RISK AND VULNERABILITY ASSESSMENTS**

*[Section to be further development.]*

### **ARTICLE 36**

Climate risks shall be considered and addressed in all risk assessments conducted, under Book XX, Title XX.

### **ARTICLE 37**

The relevant institutions shall develop the indicators, criteria, and information to be considered for a national climate vulnerability assessment. The relevant national institutions shall cooperate and collaborate with subnational and municipal institutions to develop the indicators, criteria, and information needed to conduct subnational vulnerability assessments.

### **ARTICLE 38**

All indicators shall be developed in a future legal instrument.

### **ARTICLE 39**

The relevant institutions shall utilize tools such as simulation models, GIS mapping, satellite imagery, field work, interviews and questionnaires, and all other relevant tools.

### **ARTICLE 40**

The national vulnerability assessment will consist of a report that includes key analysis of areas of vulnerability, maps, and other relevant data. A climate vulnerability map shall be created with the vulnerability assessment and made publicly available.

### **ARTICLE 41**

The relevant national institution shall utilize a top-down, future-explicit approach to climate vulnerability assessment, which shall allow for estimating large-scale climate change impacts to inform national climate change adaptation policies. This approach shall concentrate on the biophysical effects of climate change that can be readily quantified.

### **ARTICLE 42**

The relevant subnational and municipal institutions shall collaborate to utilize a bottom up

approach to climate vulnerability assessment, which shall provide an assessment of current vulnerabilities. This approach shall concentrate on identifying and addressing the underlying development context of why people are vulnerable in the first place. It shall explicitly take into account the fact that not all social groups are equally vulnerable to the negative impacts of climate change.

#### **ARTICLE 43**

Subnational and municipal vulnerability assessments shall be participatory and involve public input.

#### **ARTICLE 44**

When the national and subnational assessments are completed, the relevant national and subnational institutions shall collaborate to review and assess the findings. They shall then synthesize the results into a final national assessment that analyses vulnerability from both a social and an environmental perspective.

#### **ARTICLE 45**

All vulnerability assessments shall be reviewed and updated every [XX] years, or sooner when deemed necessary.

#### **ARTICLE 46**

All vulnerability assessments shall be published and made easily accessible to the public.

### **SECTION 5 INCORPORATING CLIMATE CHANGE CONSIDERATIONS INTO POLICY, PLANNING, MANAGEMENT AND BUDGETING INSTRUMENTS**

*[Section to be further development.]*

#### **ARTICLE 47**

Climate change adaptation and low carbon development efforts and criteria shall be incorporated into all new environmental policies at all levels of government.

#### **ARTICLE 48**

Climate Change adaptation and mitigation efforts as well as low carbon development shall be incorporated into all planning, management, and budgeting instruments at all levels, including:

1. land use planning;
2. SEAs and ESIAs;
3. Risk Assessments; and
4. Planning and budgeting processes.

## **SECTION 6 INSTITUTIONAL CAPACITY BUILDING AND KNOWLEDGE**

*[Section to be further development.]*

### **ARTICLE 49**

Institutional capacity at all levels to understand and address climate change shall be regularly reviewed and strengthened.

### **ARTICLE 50**

All relevant officials shall participate in trainings and other education programs to ensure proper understanding of the complexities of climate change.

### **ARTICLE 51**

Mechanisms shall be strengthened and where necessary, developed, to build knowledge on adaptation and mitigation practices and technologies best suited to the Cambodia context.

### **ARTICLE 52**

Mechanisms shall be strengthened and where necessary, developed, to develop institutional capacity to:

1. reduce vulnerability;
2. climate-proof investments; and
3. decrease carbon intensity of the economy

## **SECTION 7 CLIMATE CHANGE INFORMATION SYSTEM**

*[Section to be further development.]*

### **ARTICLE 53**



The relevant institution shall strengthen and regularly update the Climate Change Information System.

#### **ARTICLE 54**

In accordance with [Book XX Title XX *Public Participation and Title XX Access to Information*], the Climate Change Information System will be publicized in an easily accessible manner, and it shall be updated regularly to ensure the public has access to relevant and accurate information.

### **SECTION 8 OBLIGATION 8 – ESTABLISH A NATIONAL GHG INVENTORY**

*[Section to be further development.]*

#### **ARTICLE 55**

The relevant institution shall adopt and improve methodologies and criteria, and shall establish, update, and publish, a National Greenhouse Gas Inventory.

#### **ARTICLE 56**

The relevant institution shall develop detailed criteria and required information in a separate legal instrument.

#### **ARTICLE 57**

A Greenhouse Gas Inventory shall be developed in accordance with Articles 4 and 12 of the UNFCCC, as well as the other relevant decisions of the Conference of the Parties and reporting requirements under the UNFCCC.

#### **ARTICLE 58**

All responsible entities, from both the private and public sectors, shall provide the relevant institution with the required information, detailed in a separate legal instrument, from the categories of emission sources and sinks listed in said separate legal instrument, which shall include, but not be limited to:

1. fuel combustion
2. industrial processes including mineral products, metal production and other production
3. consumption of Halocarbons and SF<sub>6</sub>
4. chemical products, manufacturing and processing

5. agriculture
6. land use, land use change, and forestry
7. waste

## **SECTION 9 OBLIGATION 9 – CARBON REGISTRY**

*[Section to be further development.]*

### **ARTICLE 59**

The relevant Ministry shall establish, integrate, administer, publish and update a national carbon credit registry. The registry shall be further developed in future legal instruments.

### **ARTICLE 60**

All current registries established under different results-based climate finance mechanisms shall be integrated into the National Carbon Registry.

### **ARTICLE 61**

This Registry may include a registry of Climate Change Adaptation interventions and investments, commitments, and targets.

## **SECTION 10 OBLIGATION 10 – FINANCIAL INSTRUMENTS**

*[Section to be further development.]*

### **ARTICLE 62**

The relevant Ministry may utilize, but is not limited to, international finance mechanisms such as the Clean Development Mechanism (CDM) under the Kyoto Protocol, other global dedicated funds, and dedicated and integrated in-country funds.

### **ARTICLE 63**

Ad Hoc Funds shall be determined on a project by project basis. The MoE may request the creation of accounts on a project by project basis to fund projects/activities aimed at capacity development, institutional strengthening, climate change adaptation, climate change mitigation, and social responsibility in support of a community directly affected by development, and in support of the priorities and actions identified in national and local level climate change plans. The accounts may be as special accounts or as commercial bank accounts at an international financial institution.

## **ARTICLE 64**

The relevant Ministry shall collaborate with other relevant ministries to develop coordination mechanisms with donors and private sector; partnerships and promote access to, and disseminate opportunities to, access domestic and international finance in order to adequately finance climate change response actions.

### **SECTION 11 OBLIGATION 11 – MOBILIZING & ALLOCATING RESOURCES FOR CLIMATE FINANCE**

*[Section to be further development.]*

## **ARTICLE 65**

In alignment with established priorities in relevant climate change plans, strategies, legislation, and other legal instruments. . . *[propose budget allocations for adaptation and mitigation]*

### **SECTION 12 OBLIGATION 12 – RESULTS-BASED MECHANISMS**

*[Section to be further development.]*

## **ARTICLE 66**

The Royal Government of Cambodia, through the relevant institutions, shall create regulations establishing rules governing compliance with access and benefit sharing for genetic resources and traditional knowledge associated with genetic resources in accordance with the provisions in the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization.

### **SECTION 13 OBLIGATION 13 – SUBNATIONAL AND MUNICIPAL GOVERNMENT RESPONSIBILITIES**

*[Section to be further development.]*

## **ARTICLE 67**

The National and subnational governments, and where appropriate with the participation of municipal governments, may subscribe coordination or public participation agreements with civil society on climate change matters, which would include, among other elements, the actions, location, goals, and financial contributions by each party.

1. collaborate and cooperate with national government to meet the Royal Government of Cambodia's climate change adaptation and mitigation objectives;
2. develop and implement subnational and local climate change policies in accordance with the national policies and strategies;
3. evaluate and oversee compliance with subnational and local policies and programs in the field, as well as coordinate with the national government to ensure full implementation and compliance;
4. Carry out public education and informational campaigns in coordination with the national government to inform and sensitize the population to the adverse effects of climate change, the impacts people have on the climate, and ways to address these effects and impacts; and
5. Elaborate and integrate information regarding the categories of emission sources originating within their jurisdiction, for its incorporation into the national emissions inventory and, where appropriate, develop the state emissions inventories in accordance with the criteria and indicators developed by the federal government in this field.

#### **ARTICLE 68**

Subnational and municipal leaders are encouraged to develop their own climate change adaptation and mitigation programs. These programs must be in line with the national strategy, but may promote and/or require additional actions to address climate change.

#### **ARTICLE 69**

Subnational governments and the municipalities will issue the necessary legal provisions to regulate the subject matters under their authority pursuant to this Law.

### **TITLE 3        SUSTAINABLE CONSUMPTION AND PRODUCTION**

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

#### **ARTICLE 1 NATIONAL INTEREST IN SUSTAINABLE CONSUMPTION AND PRODUCTION**

The Kingdom of Cambodia assures national interest in sustainable consumption and production as a strategy that refers to use of services and related products, which respond to basic needs and bring a better quality of life while minimising 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 jeopardise the needs of future generations.

## **ARTICLE 2 REAFFIRMING COMMITMENT TO SUSTAINABLE DEVELOPMENT GOAL 12 ‘ENSURE SUSTAINABLE CONSUMPTION AND PRODUCTION PATTERNS’**

The Kingdom of Cambodia reaffirms its commitment to Sustainable Development Goal 12 ‘ensure sustainable consumption and production patterns’ aiming at, but not limiting its aspirations, to efficient management of natural resources, improving ways of using and disposing of toxic waste and pollutants, encouraging sustainable and inclusive production by enterprises, creating conditions for sustainable consumption behaviours among businesses and private consumers. Moreover the attainment of sustainable consumption and production is conducive to achieving related Sustainable Development Goal 9 on inclusive and sustainable industrialization and innovation and Sustainable Development Goal 8 on transition towards green economy.

## **ARTICLE 3 RELEVANCE OF SUSTAINABLE CONSUMPTION AND PRODUCTION TO THE KINGDOM OF CAMBODIA**

The Kingdom of Cambodia reaffirms importance of Sustainable Consumption and Production as a preferred approach that addresses widely recognized urgency to increase the efficiency of use of natural resources and minimize waste, pollution and emissions at source. In addition to minimizing environmental impact, Sustainable Consumption and Production is expected to foster socio-economic development benefits (economic growth, poverty reduction and more employment and investment opportunities).

Cambodia commits to further pursue previously enacted policy and strategy that directly addresses the transition to sustainable patterns and systems of consumption and production including:

- Rectangular Strategy Phase III, 2013-2018
- National Policy on Green Growth, 2013
- National Strategy Plan on Green Growth 2013-2030

## **ARTICLE 4 SCOPE OF APPLICATION**

The Title refers to the aspects related to the national strategy related to Sustainable Consumption and Production as well as to provisions reorienting actions of producers, consumers, including those of institutional consumers towards more sustainable resource use.

## **CHAPTER 2 SPECIFIC PROVISIONS**

The following Articles are specific provisions of the Code with respect to national framework and capacity development for sustainable consumption and production in the country.

## **SECTION 1 ASSURANCE OF DEVELOPMENT OF MORE SUSTAINABLE PATTERNS AND SYSTEMS OF CONSUMPTION AND PRODUCTION**

This Section provides specific requirements to implement Chapters 1 and 2 through establishing national strategy and governance mechanism towards more sustainable consumption and production. In carrying out these requirements the responsible Ministries and other involved parties shall comply with other relevant Books of this Environment and Natural Resources Code.

### **ARTICLE 5 SUSTAINABLE CONSUMPTION AND PRODUCTION ACTION PLAN**

The Government of Cambodia, with leadership of MoE, should develop the Sustainable Consumption and Production Strategy and Action Plan that will include a series of programmes aiming to improve environmental performance of products, production practices and consumption patterns, including through the increased supply and demand for more environmentally friendly products, services and technologies as well as measures facilitating more sustainable consumption. The plan shall address actions encouraging business, civil society organizations, governmental organizations and citizens to engage in innovative measures leading to more resource-efficient and less environmentally damaging consumption and production in the Kingdom of Cambodia. The Strategy and the Plan will be aligned with Green Growth Directive and will be endorsed by the NPSD.

## **CHAPTER 3 SUSTAINABLE PRODUCTION**

The following Articles are provisions of the Code with respect to facilitating the development and application of more sustainable production practices and techniques by enterprises and other organizations.

### **SECTION 1 ASSURANCE OF RESOURCE EFFICIENT AND CLEANER PRODUCTION**

#### **ARTICLE 6 MANDATORY RESOURCE EFFICIENCY ASSESSMENT**

Ministry of the Environment is authorized to establish under the provisions of this Code the mandatory requirements for enterprises and other organizations with high resource consumption and/or environmental impact and/or risk to perform periodic resource efficiency assessment. Compulsory resource efficiency assessment should be required if environmental performance of enterprises and organisations in specified areas exceeds the level determined under this Article by the Ministry of Environment, which is expected to reflect the law, SCP Action Plan and other relevant strategic documents.

Performance in the following areas should justify compulsory resource efficiency assessment:

- Water consumption
- Energy consumption
- Consumption of chemicals or hazardous materials
- Generation of hazardous waste
- Generation of any other solid wastes
- Generation of waste water discharges

## **ARTICLE 7 GOVERNANCE AND RESPONSIBILITIES UNDER THE MANDATORY RESOURCE EFFICIENCY ASSESSMENT**

Resource efficiency assessment should include:

- comprehensive inventory of the use of energy, materials, chemicals, and water as well as generation of waste, waste water and air emissions in the mandated enterprise or other organization
- identification and techno-economic and environmental assessment of improvement opportunities
- time-bound action plan for implementation of identified improvement opportunities up to a level to achieve at least compliance with all applicable environmental and related rules and regulations.

Resource efficiency assessment has to be conducted every 3 years by qualified personal.

After completion of resource efficiency assessment, the enterprise or other entity will submit the assessment report to the Ministry of the Environment or other responsible authority designated by the Ministry of the Environment.

Ministry of the Environment or other designated responsible authority will appraise and approve the resource efficiency assessment report to ensure that resource efficiency findings are included into permit conditions and to ensure, as a minimum, compliance with all legal standards.

In case of suspected discrepancies, the Ministry of the Environment shall undertake compliance audit of enterprises and other organizations to verify their assessment findings and implementation of identified measures. The cost of assessment will be born of the enterprise or other organisation that has been mandated to undertake resource efficiency assessment.

## **ARTICLE 8 CAPACITY DEVELOPMENT OF RESOURCE EFFICIENCY ASSESSMENT SPECIALISTS**

MoE is to establish a system for training qualified resource efficiency assessors. The list of qualified assessors shall be made publicly available, and periodically updated.

## **ARTICLE 9 PROVISION OF EXPERTISE ON RESOURCE EFFICIENCY**

MoE, in coordination with the Ministry of Industry, shall give consideration for providing expert advice to enterprises in the area of resource efficiency and cleaner production. The expertise will be required (but not limited to) the following areas:

- waste reduction and management,
- energy and water efficiency
- emission and effluent reduction
- procurement and supply chain management
- sustainable product development.

## **ARTICLE 10 INFORMATIONAL AND TECHNICAL SUPPORT FOR RESOURCE EFFICIENT PRACTICES**

To facilitate regular exchange of experiences and to foster technical support for the adaptation and uptake of resource efficient practices, MoE, in collaboration with Ministry of Industry, other relevant ministries, industry associations and other relevant stakeholders will:

- Establish an information portal with common resource efficient and cleaner production practices and techniques for key manufacturing and related sectors in Cambodia
- Provide opportunities for regular training and networking based on actual implementation results and experiences in Cambodia.
- Facilitate sectoral consultations with technical, management and other experts
- Facilitate engagement with financial sectors to facilitate access to financing for investment in resource-efficiency techniques

## **SECTION 2 EXTENDED PRODUCER RESPONSIBILITY**

### **ARTICLE 11 RECOGNITION OF RESPONSIBILITY OF PRODUCERS**



The Government of Cambodia recognizes importance of placing the responsibility for the post-consumer phase of certain goods on producers as a mean to ameliorate environmental pressures arising from post-consumer waste. It is seen Extended Producer Responsibility (EPR) as promising approach to encourage producers to accept financial or physical responsibility for treatment, recycling or disposal of post-consumer products.

## **ARTICLE 12 ESTABLISHING EPR SCHEME**

MoE shall establish an Extended Producers Responsibility scheme in the Kingdom of Cambodia with the aim to foster responsibility of producers and importers in Cambodia for the post-consumer waste.

## **ARTICLE 13 RESPONSIBILITIES FOR DESIGNING EPR SCHEME**

MoE, in collaboration with other responsible authorities, will undertake responsibility of determining, based on national priorities and circumstances, the design of the EPR Scheme including:

- Possibility of application of EPR to products, product groups and waste streams, including to historical product
- Clearly defining responsibilities of the actors in the product chain, including but not limited to domestic producers and importers of foreign products and technologies
- Selecting the policy instruments that are fit for specific characteristics of product categories or waste streams
- Designing effective communication and capacity development for the actors along the product chain and beyond
- Making decision on voluntary or mandatory nature of the EPR

The process of developing EPR programmes should be done in consultation with interested or affected parties.

EPR programmes should be biennially evaluated and their goals and design adjusted to the targets for collection, recycling and recovery as well as quotas for taking back products.

## **CHAPTER 4 GREEN (SUSTAINABLE) CONSUMPTION**

The following Articles are provisions of the Code that detail measures related to green (sustainable) public and private procurement as well as actions intended to facilitate sustainable

consumption, including those related to information provision, education, innovation and capacity development initiatives and environmental labelling.

## **SECTION 1 ASSURANCE OF GREEN (SUSTAINABLE) PUBLIC PROCUREMENT**

### **ARTICLE 14 PURPOSE**

Green Public Procurement shall be used:

- To minimize environmental burden from production and consumption by, among other things, establishing minimum environmental performance standard for products and services and discouraging use of environmentally harmful materials and products
- To facilitate demand to more environmentally friendly goods and services by the state and state-owned enterprises and, therefore, reduce environmental burden and promote healthy lifestyle for current and the future generations. The demand for such products and services is to be facilitated through a range of measures including introducing, among other measures, requirements for minimum environmental performance of products and services into public procurement, provision of reliable information on goods and services with lesser environmental load, capacity development of suppliers.
- To ensure that environmental performance requirements are considered together with other considerations of price, quality, availability and performance in procurement decision-making processes.

### **ARTICLE 15 GENERAL PRINCIPLES**

The Green Public Procurement system shall be based on the following principles:

- achieving efficiency, value for money and integrity, through competition, transparency and objective decision-taking in the procurement process
- life-cycle perspective of a product or service and includes costs borne by contracting authority and other users, costs of environmental externalities linked to the product or service
- resource efficiency, 3R, integrated waste management strategy, cleaner production,
- environmentally sound technology,
- green finance

- greening of SMEs' production as well as encouraging development of SMEs producing green(er) products and services

The green procurement procedures shall be applied in a transparent and flexible manner, especially when applied to the small and medium sized enterprises.

## **ARTICLE 16**

The Government of Cambodia recognizes the International Organization for Standardization (ISO) Standard 20400 - *Sustainable procurement – Guidance*, as a document providing guidance to organisational procurement processes.

## **ARTICLE 17**

The Title applies to goods and services that are

1. procured under national and local budget,
2. procured by State Owned Enterprises that are subject to the procurement regulations,
3. procured under donor-funded projects

## **ARTICLE 18**

Environmental criteria shall be considered together with other criteria in public procurement such as price, availability, and quality. In defining environmental criteria the responsible party shall include environmental impact or products and services along their life cycle – at the stage or production, use and end-of-life management as well as impact of transportation at all stages of the life cycle. Unless such criteria are set out as official government policy, all such criteria must be linked to the subject-matter of the procurement contract and may not confer unlimited freedom of choice in choosing suppliers to the government.

## **ARTICLE 19**

Following provision of this Chapter, responsible agencies shall implement policies and practices that encourage their suppliers to comply with environmental regulations and to offer environmentally friendly products and services. Dependent on the type of product/service and the magnitude of procurement action, suppliers of products and services to the public authorities could be required to provide evidence of their commitment to the environment according to the guidelines of relevant sub-legislation.

Application of green procurement policies and practices, including to certification, Special considerations of applying green procurement to small and medium size enterprises.

## **ARTICLE 20**

Environmentally friendly processes, goods and services include:

1. Products, including materials, that carry less or no significant impact on the environmental and human health during their production, use or disposal through: reduction of harmful substances used in a product composition, minimization of excessive use of material and energy [reference to benchmarking], reduction in generation of CO<sub>2</sub> emissions, increase in use of reuse and recycling practices of the product at the end of its working life (whole product or its parts)
2. Services, including those provided for large scale development, that demonstrate lesser environmental load through operations including through reliance on environmentally friendly products to deliver these services
3. Recycled material that are not adding environmental load across the life cycle –
4. Environmental performance of the producers beyond performance of goods and services.

## **ARTICLE 21**

MoE, in collaboration with other relevant ministries, shall develop government-wide green procurement policy and a strategy for its implementation based on assessment of status of procurement, review of procurement-related policies and practices, prioritisation of green procurement goals, market analysis.

## **ARTICLE 22**

To achieve a twin benefit of growth while minimising environmental impact, the Royal Government of Cambodia shall implement measures to remove legal and administrative barriers that prevent introduction, purchase, use, import, export of environmentally friendly products.

## **ARTICLE 23**

Departments of government engaged in procurement shall establish sectoral environmental procurement policies in line with green procurement policy and a strategy for implementation introduced under Article 5.

## **ARTICLE 24**

Office of the National Auditing Authority is responsible to make sure that all governmental authorities and government-owned enterprises that are engaged in procurement have ensured that

environmental criteria are integral part of procurement practices in accordance with Article XX.

## **ARTICLE 25**

Local and national agencies performing procurement on behalf of the government shall include minimum environmental performance requirements in all their procurement actions. Environmental performance requirement shall be considered as a part of the procurement decision-making process together with considerations of price, performance, quality and availability. Where appropriate, life cycle costing shall be used to coherently consider economic and environmental considerations in the procurement decisions.

1. at the stage of planning procurement processes and where appropriate, governmental agencies with procurement responsibilities shall include a minimum environmental criteria in procurement specifications. Environmental criteria shall cover all stages of life cycle of product or service including manufacturing, use, and disposal.
2. Governmental agencies with procurement responsibilities shall clearly communicate requirements for environmental criteria, as pre-qualifying criteria for selecting products or service providers.
3. Assessment of service providers before awarding contracts must include assessment of their environmental performance, including compliance with environmental laws.

## **ARTICLE 26**

Tenders issued by governmental agencies or governmental enterprises shall include, unless special conditions applied, minimum environmental criteria for all products and services, including products used in a course of service delivery.

## **ARTICLE 27**

The responsible authorities shall implement measures that facilitate demand for environmentally friendly products and services. They shall also develop administrative structures and procedures that assist implementing measures for procurement of environmentally friendly goods and services, including locally produced goods that do not impose notable environmental load.

## **ARTICLE 29**

MoE, in collaboration with other responsible authorities conducting purchasing on behalf of government or state owned enterprises, including those responsible for manufacturing, import and sales, develop and annually update a list of environmentally-friendly products and services that

become priority for state, regional and government procurement. They are to decide on the procedures associated with development of the qualifying criteria, promotion strategies towards buyers, producers and importers as well as capacity development for the producers and state, and associated, buyers.

### **ARTICLE 30**

The state agency responsible for procurement shall agree annually on the target and plans for procuring specific designated environmental goods and services. Such plans include planning of budget, information provision and capacity development.

### **ARTICLE 31**

Responsible state agencies will provide publicly accessible report on environmental goods and services purchased during the fiscal year. The Ministry of the Environment will be notified on publication of the report.

### **ARTICLE 32**

Municipality and local authorities shall prepare annual plans for purchasing environmental products and services, including allocation of budget, specification of procedure, and provision of information. Environmental products and services will be defined according to local circumstances with the list of specified products and services publicly accessible. If environmental products are not readily available, authorities responsible for procurement decisions shall consider locally produced products taking into account that this product will have a lesser environmental impact from transportation. Minimum environmental criteria shall be considered to eliminate procurement of environmentally harmful products.

### **ARTICLE 33**

Producers of the goods and services, local and imported, as well as sales and import organizations shall provide, where appropriate, information on products adherence to the minimum environmental performance.

### **ARTICLE 34**

MoE shall work with sectoral ministries and regional authorities responsible for public procurement to balance environmental considerations in procurement guidelines and procedures with the economic situation. They shall provide guidance for inclusion of environmental criteria into procurement and bidding documents, templates for contracts as well as instructions for weighing environmental consideration against other purchasing criteria.

**35 #**

MoE, in collaboration with the other responsible entities shall establish lists of specifications for products that satisfy minimum environmental criteria and for green products and make these specifications publicly available. They shall also develop databases of suppliers with good environmental credentials related not only to the specifications of the products and services but to the overall environmental performance of suppliers. The system that safeguards reliability of the environmental claims with respect the pro product/service and environmental performants of suppliers shall be established.

**ARTICLE 36**

MoE, in collaboration with sectoral ministries, shall support development of the guidance documents and documentation for selecting appropriate suppliers.

**ARTICLE 37**

Responsible entities shall develop and continuously carry on capacity development for the persons engaged in public procurement to assist them in making decisions based on environmental considerations. They shall develop awareness raising activities for suppliers, service providers, contractors (and capacity development where suppliers are locally based) and customers as well as provide them with necessary technical and organisational support in practicing environmental procurement.

**ARTICLE 38**

The Royal Government of Cambodia shall establish independent responsible authority and detailed procedures to monitor fulfilment of procurement obligations by all agencies responsible for governmental procurement.

**ARTICLE 39**

The procuring and contracting authorities shall send annual reports to the MoE and Ministry of Economy and Finance on fulfilling environmental requirements in public procurement.

**ARTICLE 40**

MoE and MEF will receive annual reports form the procuring and contracting authorities in order to collect information on procurement to determine problems and inefficiencies in fulfilling environmental requirements in public procurement. They shall record and analyse recurring challenges and, in collaboration with the procuring and contracting authorities, devise necessary

corrective procedures and actions, including possible amendments of the relevant laws and associated policies. The results of the analysis should be made publicly available.

#### **ARTICLE 41**

The government of the Kingdom of Cambodia shall develop a system for sanctioning bridges of environmental performance of products and services as part of its general procurement performance quality assurance.

### **SECTION 2 ASSURANCE OF GREEN (SUSTAINABLE) PRIVATE PROCUREMENT**

#### **ARTICLE 42 RECOGNITION OF IMPORTANCE OF GREEN (SUSTAINABLE) PRIVATE PROCUREMENT**

The Government of Cambodia recognizes green (sustainable) procurement is significant aspect of social responsibility of business and industries.

#### **ARTICLE 43 GOVERNANCE AND SUPPORT TO GREEN (SUSTAINABLE) PROCUREMENT**

The Ministry of the Environment, in collaboration with other relevant authorities, will design measures encouraging and assisting companies and industries to be proactive in undertaking green (sustainable) procurement practices, where appropriate and applicable, in accordance with relevant standards of, amongst others, the International Organization for Standardization (ISO) and other international agreement and national laws.

Measures supportive of uptake of the green private procurement will, among others, include:

- Facilitation of relevant training opportunities
- Facilitation of development of communities of practice
- Developing recognition scheme to acknowledge and promote enterprises that excel in green (sustainable) procurement practices and in resource efficient and cleaner production practices in general
- Creation of database of products and services with lesser environmental impact.

#### **ARTICLE 44 STANDARDS APPLICABLE TO GREEN (SUSTAINABLE) PROCUREMENT**

The Government of Cambodia recognizes the International Organization for Standardization (ISO)



20400 standard as the standard applicable to practices of procurement by private and public organisations.

The Government of Cambodia also recognizes complementarity of ISO 20400 with other standards relevant to the environmental and sustainability performance of the enterprises, including with ISO 26000, Guidance on social responsibility, by enabling organizations to contribute to sustainable development by minimizing their environmental impact and contributing to society and the economy.

### **SECTION 3 ENVIRONMENTAL PRODUCT INFORMATION**

#### **ARTICLE 45 STANDARDIZATION OF ENVIRONMENTAL PRODUCT DATA**

MoE recognizes standardization of environmental product data as key to promoting improved flow of information of certain categories of products leading to their improved environmental performance.

MoE, in consultation with the Ministry of Industry and in cooperation with industrial associations, will identify such products and explore ways of standardizing information flow on their environmental attribute starting with their material content and gradually including information on material and energy inputs and outputs along the manufacturing chain.

### **SECTION 4 ENVIRONMENTAL LABELS**

#### **ARTICLE 46 AIM AND SCOPE**

This Section provides foundation for development of products and services with better environmental performance while supporting market development for such products and services. It contributes to transparency and reliability of information and confidence of consumers.

Environmental labelling scheme can be applied to a variety of product groups including those of major manufacturing areas and services provided in tourism sector.

#### **ARTICLE 47 PRINCIPLES OF ECOLABEL**

The Ecolabel shall be based on the principles-of

- Conservation of natural resources conservation – raw materials, water, energy
- Waste and pollution reduction at all stages, i.e. sourcing of raw material, use, disposal, transportation

- Waste management – end of life, i.e. disposal, recycling

#### **ARTICLE 48 ESTABLISHING A VOLUNTARY ECOLABELLING SCHEME**

MoE shall establish a voluntary scheme of Ecolabel for products and services with better environmental performance. The products and services recognized by the Scheme shall have lesser environmental burden across all stages of its life cycle.

MoE, in consultation with relevant stakeholders shall establish governance and coordination system for management of the Ecolabel Scheme. The system shall include identification (or establishing) bodies that would fulfil technical functions such as surveying market demand and drafting standards, revision of criteria; operational functions, such as consulting stakeholders, managing process of application, promulgating the standards associated with Ecolabel; auditing functions.

MoE shall develop certification processes, including but not limited to, specification of the steps for application including application fees, review of applications, reward of the Ecolabel, audit for compliance with the rules for use of the logo, and design of measures aiming at corrective actions in case of improper use of Ecolabel.

#### **ARTICLE 49 SUB-DECREE ON THE ECOLABELLING SCHEME**

The regulations for implementing the Ecolabelling Scheme shall be determined by sub-decree by the MOE within one year of the ratification of this Code.

#### **ARTICLE X. ECOLABEL CRITERIA**

The criteria for each of product and service category shall be developed in collaboration with relevant governmental institutions, NGOs, scientific community and other stakeholders. Criteria are set in relation to the principles indicated in the article 2 as well as in relation to quality and functionality. General product type criteria can be complemented by criteria attributed to specific product.

#### **ARTICLE 50 CRITERIA REVISION**

To ensure continuity of environmental performance of the Ecolabel products and services, MoE shall review every three years the Ecolabel criteria based on the advancement of science and technology. The frequency of review is to be established. Products and services that carry ecolabel must apply to assure their compliance with new criteria.

## **ARTICLE 51 ECOLABEL RELIABILITY**

Ecolabel is seen, in accordance with an ISO 14024, as type 1 Ecolabelling system certification controlled by independent third party. Government Department of MoE responsible for establishing of the scheme shall declare that the scheme has a standard and provide assurance that the designated independent third party is competent to verify that standard.

Before awarding Ecolabel, independent experts mandated by the MoE shall evaluate products and services to confirm their adherence to the criteria.

Tests associated with certification processes or with audits have to be performed by the certified laboratories.

Certified laboratories shall be determined in a published list developed by the MoE.

The list of certified laboratories shall be annually updated.

## **ARTICLE 52 INFORMATION AND COMMUNICATION**

MoE shall develop and publish a guidance manual for allocation of Ecolabels as well as user manuals for marketing and the use of logo.

MoE shall maintain and make publicly accessible on its official website a database of products and services awarded the Ecolabel.

MoE shall make information about Ecolabel criteria, process of application, and rules of use publicly available on its official website.

MoE shall cooperate with mass media organisations that are to include promotion of Ecolabels and products associated by it into its advertisements.

## **ARTICLE 53 FACILITATION OF THE ECOLABEL USE**

The governmental authorities and institutions undertaking procurement on behalf of the government shall favour environmentally friendly products and services recognized by Ecolabelling Scheme, in their procurement decisions.

MoE shall assure that Ecolabel criteria and procedures do not impose disproportional administrative or financial burden on small and medium size companies and, thus, discourages them from participation in the scheme.

## **SECTION 5 SUPPORT OF SUSTAINABLE CONSUMPTION INITIATIVES**

### **ARTICLE 54 ASSURING IMPORTANCE OF SUSTAINABLE CONSUMPTION**

The Royal Government of the Kingdom of Cambodia recognizes consumption as a key factor in development. It aspires to facilitate more sustainable consumption patterns among economically or otherwise disadvantaged citizens by facilitating their access to quality sustainable products and services that improve their life, while encouraging sufficiency concepts and discouraging excessive consumption of products, services and natural resources by private and institutional consumers.

### **ARTICLE 55 FOCUS ON SUSTAINABLE CONSUMPTION IN VARIOUS SECTORS AND AREA OF DEVELOPMENT**

The Ministry of the Environment, in collaboration with other responsible agencies, will create opportunities for more sustainable consumption, by individuals and institutional consumers, as described in different chapters of this Code, including but not limited to, areas of management of waste, consumption of water and energy, resource consumption, generation of hazardous waste, tourism, infrastructure development and resource use in the country, urban and rural areas.

### **ARTICLE 56 EDUCATION FOR SUSTAINABLE CONSUMPTION**

Complementary to regulatory, informational and economic instruments, the Government undertakes to empower and entice citizens, by means of education that cultivates sustainability values and competencies, to adopt more sustainable consumption patterns and lifestyles. Book 7 of this Code stipulates provisions for developing required competences and processes that, together with other policies and laws, will initiate the transition towards more sustainable consumption (and production).

## **CHAPTER 5 PROMOTION OF ENVIRONMENTAL TECHNOLOGY**

### **ARTICLE 57 ENVIRONMENTAL TECHNOLOGY VERIFICATION**

The government of the Kingdom of Cambodia, with facilitation of the Ministry of Industry and the Ministry of the Environment, will develop a scheme for environmental technology verification applicable to a wide range of technologies, including those for use by industry, forestry, agriculture, mining, service industries and households.

### **ARTICLE 58 FACILITATION OF DEPLOYMENT OF VERIFIED ENVIRONMENTAL TECHNOLOGY**

MoE and Ministry of Industry and Handicraft undertake to create and make publicly available the register of verified environmental technology, adopting international good practices in Environmental Technology Verification.

In addition to the promotional activities, the government will establish additional fiscal incentives that will facilitate rapid deployment of prioritized verified environmental technology.

## **TITLE 4        SUSTAINABLE CITIES AND URBAN SETTLEMENTS**

The Law on Concessions 2007, the Law on Land 2001, Law on Protection of Cultural Heritage 1996, Law on Water Resources Management 2007, and the Law on Land Management, Urban Planning and Construction 1994 are hereby amended and clarified as follows:

[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management.]

### **CHAPTER 1 PLANNING FOR SUSTAINABLE CITIES**

#### **SECTION 1 NATIONAL ASSISTANCE FOR SUSTAINABLE CITIES**

##### **ARTICLE 1**

The Ministry of Environment shall designate a national agency as possessing the duties and responsibilities of ensuring compliance with this title. This agency shall be referred to as the lead agency for sustainable cities.

##### **ARTICLE 2**

Unless another agency is designated by the Ministry of Environment, the National Council for Sustainable Development shall be the lead agency for sustainable cities.

##### **ARTICLE 3**

The lead agency for sustainable cities may delegate all or part of its duties and responsibilities under this title to a sub-agency or sub-national governmental authority. A governmental authority delegated authority by the lead agency for sustainable cities shall be referred to as a responsible agency for sustainable cities. There may be more than one responsible agency for sustainable cities. A responsible agency for sustainable cities may delegate its duties or responsibilities to another responsible agency for sustainable cities.

##### **ARTICLE 4**

Unless additional action is taken by the lead agency for sustainable cities, the Department of Green Economy shall be designated the sole responsible agency for sustainable cities, based on the Minister's Declaration (Prakas) No. 531 dated Dec 3<sup>rd</sup>, 2015, which provides that the duties and responsibilities of the Department of Green Economy shall be as follows:

1. Study and research on the loss to the economy, environment, social and culture affected by environmental pollution of relevant sectors;
2. Coordinate the feasibility of establishing mechanism for fee collection charge on environmental pollution and to conduct monitoring and evaluation on the implementation of such mechanism;
3. Study and research the establishment of a mechanism to encourage and promote the production and usage of renewable energy, energy efficiency, sustainable usage of water, and monitoring and evaluation on such mechanism;
4. Coordinate with relevant ministries/agencies to ensure the evaluation and reduction on the environmental affection of policies, planning, and sectorial development programs and sub-national programs by using tools to environmental strategic evaluation and integrated impact assessment;
5. Research study and recommend decision-making options for strategic economic development using cost-benefit analysis tools, multi-criteria analysis, or any appropriate supportive tools;
6. Provide recommendations to improve the systems of Environmental Impact Assessment (EIA);
7. Gather all resources to implement policies, guidelines, strategic plans, programs, and project related to green economic development;
8. Research and study to establish documentation guidelines, policies, technical principles related to sustainable urban development;
9. Coordination to establish strategic plan, program and projects on sustainable urban development;
10. Coordinate research studies for green and blue zoning, urban waste management, transport, parking, energy use, security and safety water resource, housing, and urban family scale of agricultural system to ensure sustainable living;
11. Coordinate with all stakeholders including private sectors, civil society to establish criteria,

guiding principles for evaluation of sustainable urban development;

12. Strengthen and improve cooperation with development partners, civil societies, private sectors, academy to gather resources for preparing and implement sustainable urban development policy and relevant programs;
13. Coordination and preparation of policies and guidelines, indicators related to sustainable use and production with green standard;
14. Prepare planning to determine numbers of quota for green marks and certificates, coordination on the monitoring and evaluation for green standard implementation;
15. Conduct public campaigns on the criteria of green standard;
16. Establish science and technology working groups to evaluate and prepare recommendations related to green marks and green environment certificates;
17. Lead and coordinate to monitor and evaluation on the usage of green marks and green environmental certificates.

The duties and responsibilities enumerated in this article shall be the responsibility of the lead agency for sustainable cities to the extent no responsible agency for sustainable cities otherwise substantially fulfils the duties and responsibilities of this article.

## **ARTICLE 5**

In order to fulfil the purpose of this title, the Ministry of Environment or the lead agency for sustainable cities may assign additional duties and responsibilities to the lead agency for sustainable cities.

## **ARTICLE 6**

The powers of the lead agency for sustainable cities to implement those duties and responsibilities enumerated in this title, or otherwise enumerated in previous or subsequent laws, shall pre-empt the authority of any other national agency.

## **SECTION 2 ADVISORY BOARD FOR SUSTAINABLE CITIES**

## **ARTICLE 7**

There shall be an advisory board for sustainable cities, which shall be convened by the lead agency for sustainable cities.

## ARTICLE 8

The composition of the advisory board for sustainable cities shall be as defined by this article. The chair of the advisory board shall be the lead agency for sustainable cities, or a designate thereof. The vice chair of the advisory board shall be the Ministry of Interior, or a designate thereof.

The following ministries shall be members, with the authority to designate a representative, of the advisory board for sustainable cities:

1. National Council for Sustainable Development (NCSD) (Chair)
2. Ministry of Interior (MOI) (Vice-Chair)
3. Ministry of Economy and Finance (MEF)
4. Ministry of Land Management, Urban Planning and Construction (MLMUPC)
5. Ministry of Industry and Handicraft (MOIH)
6. Ministry of Public Works and Transport (MPWT)
7. Ministry of Mines and Energy (MME)
8. Ministry of Environment (MOE)
9. Ministry of Water Resources and Meteorology (MOWRAM)
10. Ministry of Women's Affairs (MOWA)
11. Ministry of Education, Youth, and Sport (MOEYS)
12. Ministry of Planning (MOP)
13. Ministry of Tourism (MOT)
14. Ministry of Commerce (MOC)
15. Council for the Development of Cambodia (CDC)
16. Electricity Authority of Cambodia (EAC)

In addition, the advisory board shall consist of at least six additional at-large members. These at large members shall include, at a minimum, three members of technical working groups whose purpose is to conduct work in furtherance and support of a city's strategic plan, as well as three



members of citizens' advisory councils working in support of a city's strategic plan. The lead agency for sustainable cities shall be responsible for choosing these at large members from a pool of candidates submitted by the cities.

## **ARTICLE 9**

The advisory board for sustainable cities shall have, at a minimum, the following duties and responsibilities:

1. Provide strategic oversight and direction to the implementation of strategic plans and ensure that the plans' vision is realized, the goals are met and the strategic plans are successfully implemented by the end of the deadline;
2. Appoint an officer(s) from their respective ministry to be available to assist the sector-based technical working groups;
3. Endorse and support the delivery of activities of the cities; and
4. Meet regularly to review and monitor the implementation progress and achievement.

Additional duties and responsibilities may be delegated to the advisory board for sustainable cities by the lead agency for sustainable cities. However, the lead agency for sustainable cities shall not have authority to reduce the duties and responsibilities granted to the advisory board for sustainable cities below those established by this title.

## **ARTICLE 10**

The advisory board for sustainable cities shall meet at least twice a year to discuss the progress and challenges in implementing the strategic plan. The agenda, specific date and venue of each meeting shall be provided by the chair at least two weeks in advance. Any member of the public may request notification of such meeting, which shall be provided by an established means of electronic communication. If such notification is not provided to all requesting notification, the meeting may not occur. Additional meetings may be called for when needed and any such additional meetings shall comply with the notification requirements provided in this Article \_\_\_\_#\_\_\_\_.

## **ARTICLE 11**

advisory board shall establish, or adopt, a parliamentary procedure for its meetings. Such procedure must include, at a minimum, the establishment of a voting process and the opportunity for participation of the public in all meetings. A formal, transcribed record of each meeting shall be retained and made available on the Internet no more than one week after the hearing.

The agenda, specific date and venue of each meeting will be informed by the chair or co-chair at least one week in advance. Additional meetings may be called for when needed.

### **SECTION 3 STRATEGIC PLANS FOR SUSTAINABLE CITIES**

#### **ARTICLE 12**

**Each city shall adopt a strategic plan for sustainable cities.**

#### **ARTICLE 13**

Each city's strategic plan for sustainable cities shall convene, at a minimum, the following four technical working groups to provide research and analysis that supports the city's strategic plan for sustainable growth, with duties and responsibilities as follows:

1. the urban planning and transport working group, which shall take primary responsibility technical analyses related to land use planning, zoning, planning of new industrial zones and clusters, creation of urban land reserves for low-income housing, public transport, traffic management, vehicle control, air pollution, parking, and related matters;
2. the manufacturing and energy working group, which shall take primary responsibility technical analyses related to renewable energy, energy efficiency, green manufacturing process, water use in SMEs and Special Economic Zone;
3. the waste management and urban vulnerability working group, which shall take primary responsibility technical analyses related to solid and liquid waste management, household sanitation, decentralized waste water facilities, and flood prevention, drainage; and
4. the public space, cultural heritage and built environment working group, which shall take primary responsibility for technical analyses related to cultural heritage preservation and restoration, and multi-functional recreational parks.

The urban planning and transport working group, the manufacturing and energy working group, the waste management and urban vulnerability working group, and the public space, cultural heritage and built environment working groups shall be referred to collectively as the core technical working groups.

In addition to the core technical working groups, each city may convene additional non-core technical working groups, at the discretion of the advisory board for sustainable cities.

#### **ARTICLE 14**

The duties and responsibilities of the technical working group is to support the city with

implementation of each city's strategic plan for sustainable cities by providing technical advice and support. The responsibilities of the TWGs will be as follows:

1. Provide technical inputs for the implementation;
2. Produce short- and medium-term action plans for their respective sectors;
3. Mobilize resources for the implementation of priority green city projects;
4. Monitor progress toward the green urban goals in the respective sectors;
5. Produce an annual progress report, a copy of which shall be made publicly available and a copy shall be sent to the city, the lead agency for sustainable cities and the advisory board for sustainable cities;
6. Report to the lead agency for sustainable cities and the advisory board for sustainable cities on a regular basis.

Additional duties and responsibilities may be delegated to the technical working groups for sustainable cities by the advisory board establishing the technical working group.

If a city fails to establish a strategic plan for sustainable cities or technical working groups for sustainable cities for its jurisdiction, the lead agency for sustainable cities may draft, or otherwise cause to be drafted, a strategic plan for sustainable cities and convene technical working groups to support a strategic plan for sustainable cities in a non-compliant city. In such a case, the lead agency for sustainable cities shall also have the ability to enforce the strategic plan for sustainable cities without consultation with the non-compliant city.

## **ARTICLE 15**

Each city, along with the lead agency for sustainable cities, shall provide assistance to the advisory boards and technical working groups.

## **ARTICLE 16**

Members of each technical working group will consist of technical representatives from the city's relevant departments, relevant department of line ministries, development partners, non-governmental organizations and civil society, private sector and the academic partners working on relevant sector. Each technical working group should have a chair and co-chair who will report the progress to the city.

## **ARTICLE 17**

Each technical working group will meet every three months to discuss the progress and challenges

in implementing the activities in their respective sectors.

The city shall establish, or adopt, a parliamentary procedure for the technical working group meetings. Such procedure must include, at a minimum, the establishment of a voting process and the opportunity for participation of the public in all meetings. A formal, transcribed record of each meeting shall be retained and made available on the Internet no more than one week after the hearing.

The agenda, specific date and venue of each meeting will be informed by the chair or co-chair at least one week in advance. Additional meetings may be called for when needed.

## **ARTICLE 18**

Each city shall assign qualified staff to assist the technical working groups with the resources needed to fulfil the duties and responsibilities of each technical working group. The lead agency for sustainable cities may also assist by providing resources to any technical working group.

## **ARTICLE 19**

All strategic plans, and the work of the advisory board for sustainable cities and of the technical working groups for sustainable cities, shall be made accessible to the public according to sections \_\_\_\_ and \_\_\_\_ of this Code (access to information and public participation) via an open-access Internet platform hosted by the Ministry of Environment.

The internet platform should allow for the availability of the technical documents, of the minutes of the meetings, as well as the posting of suggestions and comments from members of the public and interested parties.

## **ARTICLE 20**

Once the technical working groups have submitted their reports containing specific proposals, the city shall incorporate the technical working group submittals into a strategic plan. The city may reject a proposal of a technical working group, but must do so publicly and make a reasonable explanation for the removal of the proposal. Proposals accepted into the strategic plan must be quantitative. Each proposal must be given a date by which the proposal should be achieved, revaluated, and the factors by which to evaluate compliance with the proposal. The results of the monitoring and evaluation will be also made publicly accessible.

Each strategic plan must be reviewed at an interval of no more than five (5) years to evaluate compliance with proposals of the plan. All subsequent strategic plans must meet the terms of this article.

## **SECTION 4 CITIZEN'S ADVISORY COUNCILS FOR SUSTAINABLE CITIES**

## **ARTICLE 21**

Each city shall establish a citizen's advisory council to assist the work of each of the core technical working groups.

## **ARTICLE 22**

Each citizen's advisory council shall consist of no more than fifteen residents of the city. Members of the citizen's advisory councils must not be governmental employees, members of a technical working group, or a member of the advisory board for sustainable cities.

## **ARTICLE 23**

The term of office for a member of the citizen's advisory council shall be six years, unless otherwise specified by the city.

## **ARTICLE 24**

Members of the citizen's advisory council shall be responsible for communicating information between the technical working group the council is assisting and the communities that members represent.

## **ARTICLE 25**

The citizen's advisory council for sustainable cities shall make reasonable efforts to draw a diverse group of members representing interests of varied residents in the city.

## **ARTICLE 26**

Proposals submitted by a technical working group to a city must be accompanied by an independent recommendation drafted by the citizen's advisory council assisting the technical working group.

## **ARTICLE 27**

Strategic plans submitted to the advisory board for sustainable cities must be accompanied by an independent recommendation drafted by the citizen's advisory councils assisting the work of each of the core technical working groups.

## CHAPTER 2 ENVIRONMENTAL LAND USE REQUIREMENT FOR URBAN SETTLEMENTS

- This Chapter will require that land use planning and management for urban settlements be conducted to promote the strategic plans for sustainable cities.

### ARTICLE 28

All proposed projects, developments, programmes and plans requiring **an environmental review** by the Ministry of Environment shall be subject to comprehensive development land use planning. No construction permit or environmental clearance for any proposed project, development, programme or plan shall be issued unless all necessary environmental review elements have been submitted and environmental clearance has been granted by Ministry of Environment.

### ARTICLE 29

The process of comprehensive development land use planning for all projects, developments, plans and programmes shall be implemented according to Sections \_\_\_\_ and \_\_\_\_ of this Code (access to information and public participation) and completed according to specific guidelines provided by the Ministry of Environment.

### ARTICLE 30

The Ministry of Environment shall review all comprehensive development land use plans and ensure the following elements are satisfied before granting clearance to any project, development, programme or plan as being environmentally satisfactory and before advising the MLMUPC that the development, project, programme or plan requiring an EIA, IEE, or an environmental protection agreement, as these terms are used in Book 2 Title 3 of this Code, **is environmentally satisfactory/cleared to move forward with development/permitting processes**. These requirements shall apply to all projects, developments, programmes and plans proposed to take place and at all levels of government.

The comprehensive development land use planning process shall consist of the following elements:

1. A requirement to conduct meaningful consultations with all stakeholders (meaningful stakeholder consultations as defined in Article 17 page 20?) / (as is required in Article \_\_\_\_ of this Code).

2. A requirement that the comprehensive development land use plan comply with and the relevant Strategic Plan for creating sustainable cities.

Project proponents may consult with the relevant technical working groups and advisory board for sustainable cities, as is provided in Book \_\_\_\_ Title \_\_\_\_ of this code, when developing their comprehensive development land use plan.

All comprehensive development land use plans shall contain a statement addressing how the proposed developments, projects, programmes or plans align with and will contribute to growth of the sustainable city strategic plan (as is provided in Book \_\_\_\_ Title \_\_\_\_ of this Code).

3. A requirement to research and acquire detailed, site-specific data of physical, social and economic factors including best available data regarding land resource inventory, present land uses, infrastructure, population, land tenure, social structure, government, plants, natural disturbances, hydrological functions, energy flows, normal and cross-boundary movement of wildlife and any other relevant information pertaining to current land uses.
4. A requirement to conduct thorough integrated spatial mapping of all landscapes, land use configurations, land tenures and cultural heritage sites within and adjacent to all proposed projects, developments, programmes or plans.
5. A requirement to acquire best available data about potential land uses and immediately foreseeable environmental impacts of potential land uses within and adjacent to all proposed projects, developments, programmes or plans.
6. A requirement to identify environmental issues and natural resource management issues that are related to socio-economic development and sustainable environmental management.
7. A requirement to consult with qualified land and resource conservation experts throughout the comprehensive development land use planning process.

8. A requirement to reserve as open space a significant percentage of total land area within all proposed projects, developments, programmes or plans The land reserved may be dedicated as state public land or held as private land provided that the owner registers it as open space, files a declaration of such dedication with the provincial and district government in which the land is located, and provides for the management of the open space.

The exact percentage of land that must be reserved as open space to meet this requirement shall be determined on a site-by-site basis by the Ministry of Environment.

9. A requirement that the comprehensive development land use plan thoroughly address the issue of carbon neutrality and includes goals and plans to reduce all carbon emissions associated with all proposed projects, developments, programmes or plans.

10. A Requirement that the comprehensive development land use plan address flood prevention and contain thorough plans for water drainage and runoff.

11. A requirement that the comprehensive development land use plan address surface water and ground water pollution issues and contains thorough plans for the treatment of wastewater.

12. A requirement that the comprehensive development land use plan address goals for the limitation of and management for solid and liquid waste streams.

13. A requirement that the comprehensive development land use plan address forest sustainability measures provided in Book \_\_\_\_ Title \_\_\_\_ of this Code and includes measures to promote sustainable management of all forests located within and adjacent to the operating area of all proposed projects, developments, programmes or plans. The comprehensive development land use plan shall include terms addressing the self-monitoring of this requirement

14. A requirement that the comprehensive development land use plan utilize safe and efficient road circulation systems within the operating area of all proposed projects, developments, programmes or plans and that those road systems tie in safely and efficiently to roads outside the operating area.

15. A requirement that the comprehensive development land use plans address all foreseeable effects, within a 20 kilometres radius, that all projects, developments, programmes or plans may have on all Protected Areas, National Landscapes, Biodiversity Conservation Corridors, Forest Areas, and other protected areas designated for protection by MAFF or the Ministry of Environment. .

The comprehensive development land use plan shall include goals and measures to eliminate any perceived adverse effects. Further, the comprehensive development land use plans shall include terms providing for the funding to be paid to residents and communities located within the relevant Protected Areas, National Landscapes, Corridors or Forest Areas in the event environmental harm occurs.

16. A Requirement the comprehensive development land use plan address goals and measures for the preservation and/or enhancement of any historical, cultural or natural resource values located within and adjacent to all proposed operations sites.

17. A requirement the comprehensive land use development plan contains a statement addressing



how the proposed projects, developments, programmes or plans comply with all relevant master plans and zoning ordinances administered under (RELEVANT LAW).

## ARTICLE 31

The Ministry of Environment may exempt a project, development, programme or plan from some or all of the requirements listed above only if the proposed project, development, programme or plan does not require an EIA, IEE or SEA. Any proposed projects, developments, programmes or plans that do require an EIA, IEE or SEA shall address all requirements located this Book \_\_\_\_\_ Section \_\_\_\_\_ of this Code.

## ARTICLE 32

The comprehensive land use planning process for all proposed projects, developments, programmes or plans, shall achieve the following outcomes:

1. A comprehensive development land use plan shall be established for all proposed projects, developments, programmes or plans that require environmental clearance from the Ministry of Environment.
2. Integrated spatial maps shall be created to document the location of all stakeholders, location of natural resources, location of current and potential land uses and any other information pertinent to specific sites located within and adjacent to the proposed sites of all projects, developments, programmes or plans.
3. Any other planning documents the Ministry of Environment determines is necessary to obtain environmental clearance shall be created.

## ARTICLE 33

The Ministry of Environment shall issue by appropriate legal instrument formal procedures and guidelines for completion of the the comprehensive development land use planning process requirements and the completion of comprehensive development land use plans, integrated spatial maps, and other planning documents.

## ARTICLE 34

All land use plans, integrated spatial maps and other planning documents ,shall be filed with the Ministry of Environment, the MLMUPC, the local municipality, and the relevant commune, district, songkat and provincial offices. All information filed shall be made available to the public

according to sections \_\_\_\_ and \_\_\_\_ of this Code (access to information and public participation).

### **ARTICLE 35**

Upon completion of the comprehensive land use planning process described in Article \_\_\_\_ of this Code, the Ministry of Environment shall formalize the integrated spatial maps and submit them to GIS Department of Ministry of Environment (Cambodian Environmental Mapping Centre (CEMC)) as is provided for in section \_\_\_\_ of this Code.

### **ARTICLE 36**

Proponents of all proposed projects, developments, programmes or plans shall post a notice of proposed activities/development in plain view at the land/site on which permitting is sought. The posted notice shall contain a brief description of the projects, developments, programmes or plans being proposed and where information about the proposed operation can be found.

### **ARTICLE 37**

No decision regarding clearance/permitting of any environmental development shall be provided until 45 days after the public notice requirements, as provided in Book \_\_\_\_ Title \_\_\_\_ of this Code, have been satisfied.

### **ARTICLE 38**

The Ministry of Environment shall post on its website all final decisions made regarding any proposed projects, developments, programmes or plans within 15 days of its decision.

### **ARTICLE 39**

Any authority that grants a development permit to a proposed development, project, plan or programme where all the necessary requirements set forth in Article \_\_\_\_ has not been provided or was provided too late shall be subject to sanctions in accordance with \_\_\_\_ Article \_\_\_\_ of this Code.

### **ARTICLE 40**

The Ministry of Environment may charge fees sufficient to provide for the administration of the land use requirements set forth in this Code and for the enforcement of any permits found to be wrongfully granted. These fees may be used for, among other things, the hiring, training, compensation of enforcement officers and other personnel.

## ARTICLE 41

Any proposal to modify any comprehensive development land use plan shall be subject to additional comprehensive land use planning procedures.

## ARTICLE 42

In addition, the relevant authorities proposing the modification of the comprehensive development land use plan shall prepare documentation detailing the following:

1. The scientific and socio-economic reasons for the proposed modification;
2. The efforts that have been made to retain the current land use status;
3. Any other information necessary to justify the proposal.

## ARTICLE 43

Any proposal to modify the land use master plan of any Biodiversity Conservation Corridor or other protected area shall be subject to the access to information and public participation provisions of Book \_\_\_\_, Title \_\_\_\_ of this Code.

## ARTICLE 44

The Ministry of Environment shall establish by proper legal instrument a schedule of impact fees which shall be imposed on projects requiring an EIA, IEE or SEA. [These impact fees shall be based on objective standards such as number of housing units or square feet of commercial or industrial space utilized.]

The funds shall be payable in full to the Ministry of Environment at the time construction of the project is started.

The funds collected shall only be used to offset environmental, traffic and other impacts of the project and may not be placed in the general treasury.

## ARTICLE 45

There is hereby established the Inter-ministerial Committee on Land Use to coordinate the development and implementation of the requirements provided in this section of the Code . Its Members shall include MLMUPC, MoE, MoI, MAFF, MME and others who may be needed from

time to time. The Committee shall meet at least monthly to review the development, administration, and enforcement of land use requirements in the Kingdom and shall suggest measures to improve them and to provide for coordination among agencies for implementing them.

#### ARTICLE 46

Citizens of the Kingdom of Cambodia are hereby empowered to bring petitions for enforcement of the requirements in Article \_\_\_\_\_ of this Agreement. All petitions shall be filed with the Ministry of Environment according to procedures provided by the Ministry of Environment.

Any Citizen who believes that a permit has been granted in violation of these requirements may file a petition with the Ministry of Environment to revoke or modify such permit within 120 days of the decision to grant the permit being posted on the Ministry Website.

The procedures for filing citizen petitions as well as the procedures for informal and formal dispute resolution shall be set forth in a proper legal instrument issued by the Ministry of Environment.

#### ARTICLE 47

The Ministry of Environment shall act on all properly filed petitions mentioned in section \_\_\_\_\_ Article \_\_\_\_\_ of this Code within 30 days of filing.

#### ARTICLE 48

Compliance with these land use provisions shall be in addition to all requirements for environmental protection contained in other relevant laws, legal instruments, requirements of other Ministries (MLMUPC) and provisions of this Code.

### **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**

**CHAPTER # ENFORCEMENT**

*[Chapter under development.]*

**TITLE 5 SUSTAINABLE TOURISM AND ECOTOURISM**

The Law on Tourism 2009 is hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / Collaborative Management.]*

**CHAPTER 1 GENERAL PROVISIONS**

**ARTICLE 1 NATIONAL INTEREST IN THE TOURISM SECTOR**

The Royal Government of Cambodia finds that there is national interest in the sustainable development and management of all forms of tourism that may be proposed and undertaken on public or private lands within Cambodia.

**ARTICLE 2 SUSTAINABILITY AS NATIONAL STRATEGY**

This Article establishes that sustainable development and management of all aspects of tourism within the Kingdom of Cambodia on public or private lands is a national strategy and goal.

**ARTICLE 3 ACCEPTANCE OF WORLD TRAVEL AND TOURISM COUNCIL  
AGENDA 21**

This Article confirms that the Royal Government of Cambodia accepts in principle Agenda 21 prepared in 1992 by the World Travel and Tourism Council, the World Tourism Organization and the Earth Council concerning the sustainability of the tourism sector, as follows:

- Travel and Tourism should assist people in leading healthy and productive lives in harmony with nature.

- Travel and Tourism should contribute to the conservation and restoration of the earth's ecosystem.
- Travel and Tourism should be based upon sustainable patterns of production and consumption.
- Nations should cooperate to promote an open economic system, in which international trade in Travel & Tourism services can take place on a sustainable basis.
- Travel & Tourism, peace, development and environmental protection are interdependent.
- Protectionism in trade in Travel and Tourism should be halted or reversed.
- Environmental protection should constitute an integral part of the tourism development process.
- Tourism development issues should be handled with the participation of concerned citizens, with planning decisions being developed at local level.
- Nations shall warn one another of natural disasters that could affect tourists or tourist areas.
- Travel and Tourism should use its capacity to create employment for women and indigenous peoples to the fullest extent.

#### **ARTICLE 4 VALUE OF TOURISM TO CAMBODIAN NATION AND PEOPLE JUSTIFIES NATIONAL SUPPORT**

This Article confirms that sustainable development and management of tourism can and should provide substantial social, economic, health and security benefits for individuals, communities, sub-national government units and the nation at large, and that obtaining this value in full justifies an appropriate expenditure of public funds and other resources.

#### **ARTICLE 5 SCOPE OF APPLICATION**

The scope of the general and specific provisions of this Title shall extend to the transportation, accommodation, food service, entertainment, guiding, rental services provided, education and safety and all other activities of international and domestic tourists and the training and behaviour of tourism service providers.

Regulations stipulating the size, type, ownership or other characteristics of tourism establishments or activities which may be exempted from the provisions of this Title shall be published as

supporting legislation.

## **ARTICLE 6 RESOURCES AFFECTED BY THE TOURISM SECTOR**

The Royal Government of Cambodia affirms that tourism and its sub-sectors involve or may involve all of Cambodia's natural, historic and cultural resources in the terrestrial, freshwater, coastal or marine environments, inside or outside of formal protected areas and on private land.

## **ARTICLE 7 MINISTRIES WITH SHARED RESPONSIBILITY FOR TOURISM SECTOR AND RESOURCES ON WHICH IT DEPENDS**

The Council of Tourism is charged with overall supervision and regulation of tourism which is dependent on Cambodia's resources as described in Article 6 'Resources affected by the tourism sector' and which are the responsibility of resource management ministries and agencies.

## **ARTICLE 8 ROLES AND RESPONSIBILITIES AND COORDINATION OF RESPONSIBLE MINISTRIES**

Inter-ministerial coordination in the pursuit of sustainable development and management of the tourism sector is mandated by this Environment and Natural Resources Code, and the roles and responsibilities are clarified or modified according to Special Provisions in Chapter 2 'Special Provisions'. It is further required that those Ministries delegate appropriate authorities and responsibilities to their sub-national Departments and offices at the Provincial and local level and assure that they have the resources and training to exercise those authorities and responsibilities.

## **ARTICLE 9 IMPORTANCE OF SUSTAINABLE ECOTOURISM**

This Article affirms that environmental, economic and social benefits of well planned, appropriately located, privately operated or community-based ecotourism activities are of local, regional and national importance, and in Chapter 2 of this Title provides a framework for ecotourism development and management which will maximize those benefits sustainably on an ecosystem, community, regional and national level.

## **ARTICLE 10 REQUIREMENT TO ENGAGE AND CONSULT STAKEHOLDERS IN COMMUNITY-BASED ECOTOURISM DEVELOPMENT**

This Article mandates that responsible Ministries and their sub-national departments and agents shall actively and transparently undertake planning and management of community-based ecotourism with full engagement of and active consultation with all stakeholders, including local communities who have established their legitimate relationships to Biodiversity Conservation



**Corridors or other public or private lands on which ecotourism activities may be proposed.**

## **ARTICLE 11 REQUIREMENT FOR ENVIRONMENTAL ANALYSIS OF FUTURE TOURISM PROJECTS**

This Article requires that proposed future tourism projects within Cambodia shall undergo environmental analysis prior to approval and that criteria for the determination of the scale, characteristics and location of tourism developments that will trigger a particular level of environmental analysis are stipulated by existing Law and provisions of Book 2 ‘Environmental Planning, Assessment and Monitoring’ of this Environment and Natural Resources Code

## **ARTICLE 12 REQUIREMENT TO REVIEW EXISTING TOURISM PROJECTS**

This Article requires that Ministries identified in Article 7 ‘Ministries with shared responsibility for tourism sector and resources on which it depends’ jointly develop and agree on procedures to identify, review and complete such review of existing tourism projects, including ecotourism projects, which may not have been subject to environmental analysis or that have not complied with provisions stipulated in approval of such projects after environmental analysis, with special attention to recommending and requiring modifications within specified timeframes so that existing tourism projects eventually comply with the national strategy of sustainability. Failure to comply within this timeframe will result in the project being shut down.

## **CHAPTER 2 SPECIFIC PROVISIONS**

The following Articles are specific provisions of the Code with respect to development and management of the tourism sector including ecotourism.

### **SECTION 1 JURISDICTIONS OF RELEVANT MINISTRIES AND SPECIAL AUTHORITIES**

## **ARTICLE 13 CLARIFICATION OF ROLES AND RESPONSIBILITIES OF MINISTRIES AND SPECIAL AUTHORITIES IN TOURISM**

Ministries identified in Chapter 1 ‘General Provisions’, Article 7 ‘Ministries with shared responsibility for tourism sector and resources on which it depends’ have roles and responsibilities defined by their respective existing Laws and other legal instruments. The following Articles clarify or modify those roles and responsibilities according to Chapter 1 ‘General Provisions’ of this Title, Article 2 ‘Sustainability as national strategy’ and Article 10 ‘Requirement to engage and consult stakeholders in community-based ecotourism development’, and other relevant General Provisions.

## **ARTICLE 14 MINISTRY OF TOURISM**

With exceptions noted elsewhere in the Environment and Natural Resources Code, the June 2009 Law on Tourism is confirmed, as are provisions of the Tourism Development Strategic Plan 2012 – 2020. The following clarifications are provided:

- This Title’s national strategy to achieve sustainability throughout the tourism sector emphasizes the Ministry of Tourism’s existing obligation to consult with and consider the expert advice of the Ministries charged with sustainable management of the resources on which tourism largely depends.
- This Title’s requirement to actively and transparently involve all stakeholders in development and management of tourism including ecotourism shall apply to the Ministry of Tourism as it undertakes its duties under the Law on Tourism.
- This Title’s requirement to delegate appropriate authorities and responsibilities to sub-national institutions applies to the Ministry of Tourism and further requires that they secure adequate financial resources and technically competent staff to ensure those institutions can effectively carry out their delegated authorities and responsibilities.
- This Title’s requirement to identify and review existing tourism projects as to environmental issues and guide them towards sustainability may in some instances require that the Ministry of Tourism alter or renegotiate the terms of its existing permits or make other changes in its supervision of projects.
- Detailed roles and responsibilities of the Ministry of Tourism will be in a legal instrument or policy to be developed.

## **ARTICLE 15 THE MINISTRY OF ENVIRONMENT**

With exceptions noted elsewhere in the Environment and Natural Resources Code, the 2008 Protected Areas Law is confirmed. The following clarifications are provided in the Environment and Natural Resources Code:

- Consistent with Title 5 ‘Sustainable Tourism and Ecotourism’, Chapter 1 ‘General Provisions’, Article 2 ‘Sustainability as a National Strategy’ and Article 7 ‘Ministries with shared responsibility for tourism sector and resources on which it depends’, the Ministry of Environment is obligated to consult with and consider the expert advice of the Ministries with which it shares responsibility for assuring sustainable development of the tourism sector.

- In recognition of the Ministry of Environment’s central role in the establishment and management of Cambodia’s system of Biodiversity Conservation Corridors and other Protected Areas, including areas under Collaborative Management, it is recognized that for tourism including ecotourism within Conservation and Protection Areas the Ministry of Environment shall take the lead provided they act in accordance with provisions on Collaborative Management set forth in Book 4 ‘Sustainable Management of Natural Resources’ of the Environment and Natural Resources Code and acknowledge the participation of other stakeholders as respected partners.
- This Title’s requirement to actively and transparently involve all stakeholders in development and management of tourism including ecotourism shall apply to the Ministry of Environment as it undertakes its duties under the 2008 Protected Areas Law and other relevant Laws both inside and outside of Protected Areas.
- This Title’s requirement to delegate appropriate authorities and responsibilities to sub-national institutions applies to the Ministry of Environment further requires that they secure adequate financial resources and technically competent staff to ensure those institutions can effectively carry out their delegated authorities and responsibilities.
- Further definition of the Ministry of Environment’s roles and responsibilities is provided under Section 6 ‘Special considerations for ecotourism within Cambodia’s natural, cultural and historical areas of national and international significance’ of Chapter 2 ‘Special Provisions’ of this Title.
- In addition to the roles and responsibilities as outlined above, the Ministry of Environment shall act as authorized in Book 2 ‘Environmental Planning, Assessment and Monitoring’, Title 8 ‘Environmental Assessment’, with respect to the initiation, development, review and monitoring of Environmental Impact Assessments that may be required for tourism and ecotourism projects.
- In carrying out its function regarding EIA, the Ministry of Environment shall place emphasis on location, design and management of tourism projects to assure they are sustainable.
- Detailed roles and responsibilities of the Ministry of Environment will be in a legal instrument or policy to be developed.

## **ARTICLE 16 THE MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES**

*Content under development.*

## **ARTICLE 17 SPECIAL AUTHORITIES**

*Content under development.*

### **SECTION 2 ASSURANCE OF SUSTAINABILITY IN EXISTING AND FUTURE TOURISM AND ECOTOURISM PROJECTS AND ACTIVITIES**

This Section provides specific requirements to implement Chapter 1 ‘General Provisions’ Article 2 ‘Sustainability as national strategy’ which establishes that sustainability in all aspects of tourism is a national strategy and goal. In carrying out these requirements the responsible Ministries and other involved parties shall comply with other relevant Books of this Environment and Natural Resources Code that may require that certain tourism projects and activities undergo Environmental Analysis.

## **ARTICLE 18 REQUIREMENT FOR EXISTING TOURISM AND ECOTOURISM PROJECTS WITHIN BIODIVERSITY CONSERVATION CORRIDORS AND OTHER PROTECTED AREAS TO PROGRESS TOWARDS SUSTAINABILITY**

*Content under development, included for consideration.*

Tourism and ecotourism projects that have been completed or have been approved but not yet completed within Biodiversity Conservation Corridors and other Protected Areas since enactment of the 2008 Protected Areas Law shall be subject to review of their sustainability by the Ministry of Environment in consultation with the Ministry of Tourism and other Ministries as appropriate.

Recommendations resulting from such review will provide guidance to project owners or managers on improving the sustainability of the project or activity that could result in renegotiation of aspects of the project’s design and operation. Failure to comply within a specified timeframe will result in the project being shut down.

Such review is not equivalent to formal Environmental Analysis but is a separate process for which detailed Guidelines shall be provided by a legal instrument.

Guidelines shall include but not necessarily be limited to consideration of benefit sharing between the tourism project and the local park administration and surrounding communities following models established in the Collaborative Management sections of Book 4 ‘Sustainable management of natural resources and ecosystems’ of this Environment and Natural Resources Code.

## **ARTICLE 19 REQUIREMENT FOR FUTURE TOURISM AND ECOTOURISM**

## **PROJECTS TO PLAN FOR SUSTAINABILITY**

The intent of this Article is to assure that proposed future tourism projects throughout Cambodia are planned and managed according to accepted and evolving best practices for achieving sustainability.

Best practices for sustainability shall be detailed in a legal instrument issued by the Ministry of Tourism upon consultation and agreement with the Ministry of Environment and relevant agencies. At a minimum, those best practices shall include:

- a) choosing locations that minimize environmental and social impacts
- b) providing incentives to meaningfully involve domestic investors
- c) consideration of involving local cooperatives and/or social enterprises
- d) incorporating local materials and styles in construction
- e) using recyclable materials
- f) designing for efficient minimum energy consumption
- g) using renewable energy sources
- h) recruiting and training management and lower staff locally
- i) active participation in benefit sharing with local communities
- j) active participation in benefit sharing with Biodiversity Conservation Corridors, other Protected Areas or other public land units impacted by the project.

Recognizing that the scale of a proposed project may or may not justify imposing a requirement of sustainability, upon consultation and agreement with the Ministry of Environment, the Ministry of Tourism shall issue a legal instrument containing criteria for determining a qualifying or non-qualifying project.

If a proposed qualifying private or public tourism or ecotourism project incorporates, depends upon or provides access to resources on State Public, State Private, or private lands of Cambodia including but not limited to its coastal and marine zones, World Heritage or Ramsar Sites, Biodiversity Conservation Corridors and other protected areas, its planning and management shall be accomplished in an open and transparent process involving the responsible Ministries and

agencies, local governments, affected communities and other stakeholders.

Where such qualified proposals are made involving resources within Biodiversity Conservation Corridors or other protected areas or other lands managed by the Ministry of Environment, their planning and management shall be eligible for Collaborative Management as set out in Book 4 ‘Sustainable management of natural resources and ecosystems’ in this Environment and Natural Resources Code, provided that best practices for sustainability as referenced above are incorporated.

### **SECTION 3 REQUIREMENT TO ENSURE TECHNICAL CAPACITY OF STAFF AND ADEQUATE FINANCIAL RESOURCES IN MINISTRIES PARTICIPATING IN TOURISM AND ECOTOURISM DEVELOPMENT**

#### **ARTICLE 20 PROVISION OF ORGANIZATIONAL STRUCTURE, STAFF AND FINANCIAL RESOURCES**

Relevant Ministries including but not limited to the Ministry of Environment and Ministry of Tourism, shall provide an organizational structure, staff and adequate financial resources sufficient to fulfil obligations and responsibilities in tourism and ecotourism as set forth in Articles 21 – 24 of this Title, and to facilitate their participation in Collaborative Management as set forth in Book 4 ‘Sustainable management of natural resources and ecosystems’ of the Environment and Natural Resources Code.

#### **ARTICLE 20B SUSTAINABILITY INCORPORATED INTO THE NATIONAL TOURISM DEVELOPMENT STRATEGIC PLAN**

The Tourism Development Strategic Plan will be reviewed and amended as necessary to incorporate principles of sustainability as outlined in Article 2 and Article 19 of this title.

#### **ARTICLE 21 ORGANIZATIONAL STRUCTURE**

Each relevant Ministry shall develop a new or strengthen its existing organizational structure at the national and sub-national level focused on implementing the amended Tourism Development Strategic Plan.

#### **ARTICLE 22 STAFF AND TRAINING**

Adequate staff shall be reassigned or newly recruited at the national and sub-national levels to fulfil the organizational structure required to implement the Tourism Development Strategic Plan

and they shall be provided the technical training and participatory planning skills required to implement the provisions of this Title and to participate in Collaborative Management.

## **ARTICLE 23 ALLOCATION OF FINANCIAL RESOURCES**

The Government of Cambodia shall allocate sufficient funds to support salaries of additional staff and for their training and for travel and other expenses associated with implementing the provisions of this Title and their participation in Collaborative Management.

## **ARTICLE 24 ROLE OF NGOS IN PROVIDING TECHNICAL ASSISTANCE AND FUNDING FOR ECOTOURISM**

Until such time as the relevant Ministries have adequate organizational structure, staffing and financial resources required by Articles 21 – 23 of this Title, registered international and local non-governmental organizations with relevant experience shall be encouraged and supported to assist National, sub-national and local community organizations in fulfilling the provisions of this Title.

### **SECTION 4 REQUIREMENT THAT TOURISM AND ECOTOURISM PROJECTS UNDERGO ENVIRONMENTAL ANALYSIS**

*This content is included for consideration.*

The intent of this section is to assure that tourism and ecotourism projects receive the extent of environmental impact analysis that is necessary and appropriate before being approved. Environmental Impact Assessment is the subject of Book 2 ‘Environmental, Planning, Monitoring and Assessment’, Title 8 ‘Environmental Assessment’ of this Environment and Natural Resources Code and its provisions shall apply to tourism and ecotourism projects and in its application responsible authorities shall pay particular concern to the following Articles.

## **ARTICLE 25 MEDIUM TO LARGE SCALE TOURISM PROJECTS**

Environmental Impact Assessment for tourism projects involving medium to large capital investment such as large hotels, hotel complexes, casinos, theme parks and transportation networks among others shall be subject to the full requirements of EIA as set forth in Book 2 ‘Environmental, Planning, Monitoring and Assessment’, Title 8 ‘Environmental Assessment’ of this Environment and Natural Resources Code.

## **ARTICLE 26 SMALL SCALE ECOTOURISM PROJECTS**

Small scale ecotourism projects, whether privately-operated or community-based, including those

that are collaboratively managed, such as small hotels or lodges or providers of services such as guides or equipment, shall be subject to the environmental assessment requirements as set forth in Book 2 ‘Environmental, Planning, Monitoring and Assessment’, Title 8 ‘Environmental Assessment’.

## **SECTION 5 ESTABLISHMENT OF CLASSIFICATION SYSTEM, ACCREDITATION PROGRAM AND PERFORMANCE STANDARDS FOR TOURISM SUB-SECTORS**

The intent of this Section is to ensure that in addition to being sustainable, the tourism sector in Cambodia shall be subject to a classification system and accreditation program derived from international best practices and held accountable for meeting regionally-supported performance standards that assure tourists will be provided with safe, clean, efficiently run transportation, accommodations and food services, be led by qualified guides and receive accurate and relevant information on the resources they are being exposed to.

### **ARTICLE 28 MINISTRY OF TOURISM HAS PRIMARY RESPONSIBILITY**

It is confirmed that the Ministry of Tourism has primary responsibility for quality assurance, standards and licensing for the tourism sector including ecotourism as per Chapter Five Articles 22 – 30 of the 2009 Law on Tourism which shall include development of classification systems, accreditation programs and technical and general standards to be met by each sub-sector, and that the Ministry of Tourism shall continue to exercise that responsibility using existing or future legal instruments.

### **ARTICLE 28B JOINT RESPONSIBILITY OF MINISTRY OF TOURISM AND OTHER RELEVANT MINISTRIES AND AGENCIES**

The Ministry of Tourism will cooperate with the Ministry of Environment and all other relevant ministries and agencies who are managing lands where tourism operations occur, to ensure the protection of the natural environment.

### **ARTICLE 29 SPECIAL CONSIDERATIONS FOR CLASSIFYING, ACCREDITING AND APPLYING STANDARDS IN COMMUNITY-BASED ECOTOURISM**

In its application of classifications, accreditations and standards in community-based ecotourism, the Ministries involved shall be flexible in setting timelines for compliance and penalties for non-compliance in recognition of potentially low levels of understanding and appreciation for these regulatory measures as well as the low level of technical skills of local people in providing services.



## **SECTION 6 SPECIAL CONSIDERATIONS FOR ECOTOURISM WITHIN CAMBODIA'S NATURAL, CULTURAL AND HISTORICAL AREAS OF NATIONAL AND INTERNATIONAL SIGNIFICANCE**

In carrying out the provisions of this Title and other provisions of the Environment and Natural Resources Code and existing Law with respect to tourism and ecotourism within Cambodia's natural, cultural and historical areas of national and international significance, responsible Ministries and authorities are required to comply with the following Articles.

### **ARTICLE 32 ENTRANCE FEES FOR BIODIVERSITY CONSERVATION CORRIDORS AND OTHER PROTECTED AREAS UNDER MANAGEMENT OF MINISTRY OF ENVIRONMENT**

The Ministry of Environment may charge entrance fees for tourists entering Biodiversity Conservation Corridors and other Protected Areas under their jurisdiction. These fees shall be determined for each site by the Ministry of Environment, Ministry of Tourism, Department of Environment, other relevant agencies and stakeholders. These fees shall be received by the Ministry of Environment and shall be used exclusively for management of the Biodiversity Conservation Corridors or other Protected Area for which the entrance fee was charged.

### **ARTICLE 33 WITHIN AREAS OF INTERNATIONAL STATUS SUCH AS WORLD HERITAGE, RAMSAR AND OTHER SITES**

In areas with formally designated international status such as World Heritage, Biosphere Reserves, Ramsar or other sites for which Cambodian Law has created special management authorities, those special authorities are hereby required to establish coordination or increase the extent of existing coordination with and attention to the concerns of the Ministry of Environment and its Nature Protection and Conservation Administration, or other Ministries, in areas where those Ministries have responsibilities for tourism and ecotourism.

## **SECTION 7 GUIDELINES FOR THE STRUCTURE AND BENEFIT SHARING OF COMMUNITY-BASED ECOTOURISM PROJECTS**

### **ARTICLE 34 DEVELOPMENT AND MANAGEMENT OF COMMUNITY-BASED ECOTOURISM PROJECTS IN COLLABORATIVELY MANAGED AREAS**

The development and management of community-based ecotourism projects shall be an integral part of the Collaborative Management process as set forth in Book 4 'Sustainable management of natural resources and ecosystems' in this Environment and Natural Resources Code, for which further details will be issued as a Collaborative Management Guideline as a legal instrument .

Additional considerations (as distinct from the process) are provided by the following Articles.

### **ARTICLE 35 STRUCTURE OF COMMUNITY-BASED ECOTOURISM PROJECTS**

The ASEAN Community Based Tourism Standard as noted in Article 30 ‘Special considerations for classifying, accrediting and applying standards in community-based ecotourism’, Section 5 ‘Establishment of classification system, accreditation program and performance standards for tourism sub-sectors’ of Chapter 2 ‘Special Provisions’ shall be used as a guideline in structuring the project as determined by consultation among all stakeholders. In application of the Standard the following issues or objectives shall also be considered:

- Each situation, including the characteristics of the community, its traditional relationship to the area, the natural, cultural or heritage resources and the type of Protected Area involved is unique, and no single project structure or set of standards should be imposed.
- One objective of the project’s structure should be to maintain the maximum degree of ownership and management by the communities affected and receiving benefits.
- The structure should meet the fundamental definition of ecotourism including providing community benefits, contributing to the conservation of resources on which the tourism depends, and development of cross-cultural appreciation of tourists and local community members through education and interpretation.
- Although gaining insight from the ASEAN standard, stakeholders shall also be guided by the experience of current and past community-based ecotourism projects in Cambodia.
- Outside providers must comply with the same principles and procedures that are applied to sustainable community-based ecotourism projects.

### **ARTICLE 36 ECOTOURISM BENEFIT SHARING**

Details of benefit-sharing shall be established through collaborative efforts of all stakeholders, bearing in mind the broad objectives as follows:

- Each community based ecotourism project is unique and the exact sharing of benefits derived from tourist payments, donations or other contributions shall be determined in consultation with all stakeholders.
- Community members who provide services like accommodation, food, security or guiding services as part of ecotourism activities either as owners or staff are entitled to reasonable

compensation which is distinct from any benefits they may receive as members of the larger community.

- Payments or other benefits beyond those going to service providers will be directed to a community development fund and/or community conservation fund.
- A community conservation fund shall be used to conserve the natural environment on which the ecotourism project relies.
- Projects which benefit the wider community, especially certain disadvantaged or poor members of that community beyond those directly engaged in ecotourism activities, will receive funds through the community development fund. Such projects may include provision of clean water, medical care, private or public toilets, clean drinking water, school and road repairs among others.
- In cases where Protected Area entrance fees are applicable, these shall be contributed to the Ministry of Environment for park management to facilitate patrolling, monitoring and rehabilitation. Where entrance fees do not apply, such as operations outside of Protected Areas, then payments will be made to a community conservation fund.
- Although local stakeholders are ultimately responsible for approving benefit sharing procedures, those stakeholders shall put the highest priority on retaining benefits within the local community, the local government and the Biodiversity Conservation Area or other Protected Area and resist pressure to transfer such benefits or payments to central government budgets.

## **SECTION 8 GUIDELINES FOR MARKETING TOURISM AND ECOTOURISM**

The intent of this section is to encourage those responsible for marketing all tourism and ecotourism in Cambodia to ensure that it is effectively and ethically marketed and reflects the commitment to sustainability that this Title establishes.

### **ARTICLE 38 CONFIRMING JURISDICTION OF THE MINISTRY OF TOURISM**

According to existing law including the 2009 Law on Tourism and subsequent National Tourism Strategic Plan, the Ministry of Tourism has jurisdiction in matters of marketing of the tourism sector, provided that inter-ministerial consultation and coordination is undertaken, and this jurisdiction is confirmed. This consultation and coordination is of particular importance when management of the resources on which tourism is based is the responsibility of other Ministries including but not limited to the Ministry of Environment and the Ministry of Agriculture, Forestry and Fisheries.

## **ARTICLE 39 GUIDELINES FOR MARKETING PRIVATELY OPERATED ECOTOURISM**

*Content to be developed.*

### **SECTION 9 ROLE OF TOURISM AND ECOTOURISM IN PROTECTING AND INTERPRETING CAMBODIA'S CULTURAL HERITAGE**

*Content under development. The points below are included for consideration as critical issues that this section needs to address.*

- More attention should be focused on preservation of Cambodia's intangible cultural resources (language, traditional customs and ceremonies, art forms), and appropriate tourism can play a role.
- Tourism associated with both tangible (buildings, temples etc.) and intangible cultural resources can be classified as privately-operated or community-based ecotourism provided the principles of ecotourism are observed.
- Just as with natural resources, tourism/ecotourism associated with cultural resources can have negative impacts and the Environment and Natural Resources Code should highlight processes to minimize such negative impacts.

## **TITLE 6 SUSTAINABLE ENERGY**

The Law on Electricity 2001 is hereby amended and clarified as follows:

*[Chapter 2 - Framework of the Electric Power Supply and Services; Chapter 3 - Establishment of Electricity Authority of Cambodia; Chapter 5 - Type of Licenses; Chapter 6 - Licensing of Electric Power Utilities; Chapter 7 - Tariffs]*

### **CHAPTER 1 PRINCIPLES, GOALS, AND DEFINITIONS**

#### **ARTICLE 1 PRINCIPLE TO PROMOTE SUSTAINABLE ENERGY PROJECTS**

The Government of Cambodia shall apply sustainable energy principles and prioritize, whenever possible, the development of sustainable energy projects to meet the present and future demand of energy for the Cambodian population.

The Ministry of Environment, the Ministry of Mines and Energy, relevant government institutions,

and state owned entities shall apply sustainable energy principles in their decisions and programming. These government institutions shall consequently ensure that private parties apply the same principles in the projects developed under their purview.

## **ARTICLE 2 GOALS OF SUSTAINABLE ENERGY**

In the term of ten (10) years since the date of approval of this Environment and Natural Resources Code, sustainable energy projects shall generate a minimum of 25% of the total electricity generation portfolio for Cambodia. Moreover, energy efficiency improvement of 30% will have been achieved, measured in terms of energy use intensity of the economy (GDP in constant prices). The Ministry of Mines and Energy, the Electricity Authority of Cambodia, and Electricité Du Cambodge shall be responsible, in their respective areas of work, to take timely and appropriate action to achieve this goal.

## **ARTICLE 3 DEFINITION OF SUSTAINABLE ENERGY**

For the purposes of this Code and the general application of the law of Cambodia, sustainable energy sources are defined as an energy system that serves the needs of the present without compromising the ability of future generations to meet their needs. These sustainable energy systems derive energy from solar, wind, biomass, geothermal, wave, tidal, and waste to energy technologies.

Non-sustainable energy sources are defined as being derived from fossil or nuclear fuels and energy systems that limit the ability of future generations to meet their needs. Energy generated from coal, natural gas, diesel, and large-scale hydropower is defined as non-sustainable for the purposes of this Code.

## **ARTICLE 4 PROVISION OF ENERGY AND ELECTRICITY**

The Government of Cambodia shall address, through the relevant ministries, agencies, and state run entities, both the issue of provision of electricity to households, business and public areas of the country, as well as the provision of energy for activities in households and businesses.

For purposes of this law, a state owned company is defined as a corporation created by a regulation issued by the government in order to execute economic activities or public services of interest for the state. The company shall be owned entirely by the government of Cambodia and its administration may be delegated to third parties.

## **ARTICLE 5 PROMOTION OF ENVIRONMENTALLY FRIENDLY TECHNOLOGY**

The Ministry of Environment and the Ministry of Mines and Energy shall review that every new energy project applies energy efficient, low emission, and low waste technology, in line with EIA guidelines. The Government of Cambodia shall not approve, by any means or under any justification, a project that uses technology or procedures that harm the environment more than an available alternative.

The government shall review existing energy projects to ensure the projects meet the minimum environmental standards of efficient technology use. Projects that are not in adherence with minimum environmental standards shall implement technology that ensures compliance with environmental standards.

To verify that energy efficient technology is applied in an energy or electricity project, during the analysis of the EIA, the Ministry of Environment can request that the project proponent submit alternative designs that are more efficient, and generate less waste and emissions, while still achieving the stipulated goals of the project.

## **ARTICLE 6 PRINCIPLE OF COEXISTENCE OF SOURCES**

The Government of Cambodia will promote the supply of electricity both from the national grid as well as from off-grid sources that can be implemented by individuals or companies, as these systems are complementary and non-competitive.

Users can be both connected to the national electricity grid and have the option to install individual off-grid technologies, which can be used as a primary or secondary source of electricity. The Government shall not have the authority to force citizens to use a specific source of energy generation.

Household electricity generation solutions shall not require any permit from public authorities to be installed, as long as they use certified equipment, in adherence with the terms of this Environment and Natural Resources Code as well as other applicable laws and regulations, including on consumer health and safety. Sustainable energy solutions that are developed by business (individual or joint ventures) or communities mainly for their own provision of electricity may be connected to the grid, at the owner's decision, and in case of supply of electricity generation, the excess supply of energy shall be purchased and regulated by Electricité Du Cambodge, following the rules of this Code and for which Electricité Du Cambodge will develop a policy for in a term of [365] days from the implementation of this Code. .

## **ARTICLE 7 PRINCIPLE OF FAIR COMPETITION**

The electricity market shall be open and the Government of Cambodia shall guarantee that no private party has privilege above others, including in the securing of all permits and licenses, and in the negotiation of conditions of contracts agreed with government entities. All decisions for granting permits, licenses, and formalizing other relevant conditions for contracts shall be made based on technical and economic evidence, as accepted under international practices.

When selecting a private party to develop an energy or electricity generation or transmission related project in Cambodia, the Government shall mandatorily include in the application process the possibility for open competition and other private parties to submit offers for the same project, ensuring that those private parties can have timely and reasonable access to prepare their proposals.

The Government of Cambodia recognizes the importance of transforming its energy portfolio and include in it the generation of electricity and energy from renewable and sustainable sources, with special interest in projects that have little or no impact on the environment or on the livelihood of the communities in the project area.

## **ARTICLE 8 QUALITY CONTROL**

It is the obligation of the Government of Cambodia to establish an independent third party to control the quality of the energy generation devices supplied and used for the national market, in order to ensure that they comply with health, safety, and environmental standards. The independent third party will be tasked with conducting audits, tests, and certifications of such devices.

The Electricity Authority of Cambodia shall verify that the quality of the products sold in Cambodia for energy generation have received a certification of quality before they are commercialized. Certification can be qualified by any internationally accepted standard, such as those approved by the International Standards Organization (ISO). Verification of imported equipment shall be made at customs. Verification for national products shall be made before commercialization to the public by the relevant ministry or authority.

## **CHAPTER 2 APPLICATION OF INTERNATIONAL STANDARDS**

### **ARTICLE 9 INTERNATIONAL STANDARDS DEFINED**

International energy and environmental standards are the body of principles, policies, treaties, declarations and international instruments, both from public and private origin, that regulate practices and technical requisites for goods and services relative or relevant to the energy and electricity projects.

The Government of Cambodia acknowledges the existence and applicability of these standards in

the country, in the terms mandated in this Code.

#### **ARTICLE 10 STANDARDS TO BE APPLIED**

The Government of Cambodia will issue and accept the standards issued by the International Standards Organization and the International Electrotechnical Commission, as well as the decisions agreed by international organizations, signed or ratified by the Government of Cambodia for sustainable energy.

#### **ARTICLE 11 APPLICATION OF STANDARDS IN THE CONTEXT OF NATIONAL LEGISLATION**

If there is a conflict between the technical rules established in an international standard applicable in Cambodia and any legal rule of the country, the former shall prevail.

#### **ARTICLE 12 APPLICATION OF STANDARDS BY AUTHORITIES**

When new standards are created, applicable in the country under the rules of this Code or any other law, these standards shall be applied by government authorities and citizens without requiring additional formalization or approval from any government entity.

### **CHAPTER 3 PLANNING**

#### **ARTICLE 13 PREPARATION OF A NATIONAL SUSTAINABLE ENERGY PLAN**

The National Council for Sustainable Development shall design a National Sustainable Energy and Electricity Plan (NSEEP), coordinating its work with the relevant ministries and other public entities, as well as consulting civil society organizations and communities impacted by the development of energy and electricity projects.

#### **ARTICLE 14 MINIMUM CONTENTS FOR THE NATIONAL SUSTAINABLE ENERGY AND ELECTRICITY PLAN**

The NSEEP shall be a comprehensive tool for policymaking and a mandatory guide for administrative actions, in order to achieve the goals established in the law. The plan shall include, at least:

- Research into the development of a Renewable Portfolio Standard (RPS) policy mechanism to increase the amount and/or proportion of renewable energy purchased in a particular jurisdiction, which could be a country, state, province or city. This should take the form of



a renewable energy road map.

- An assessment of the current state of the energy and electricity generation and transmission infrastructure available in the country.
- A description of the available projects to be developed for provision of fuels and generation of electricity, and for transmission of electricity.
- Specific targets for sustainable energy generation.
- An analysis of the environmental impact of the energy and electricity generation planned projects, especially focused on the effects of the Mekong River system, emissions of Greenhouse Gases, and of the transmission infrastructure plan.
- An assessment of the possible sustainable energy projects to be developed in the country.
- Integrated Resource Planning (IRP), in which competing resources be evaluated based on the costs and benefits of each, including life-cycle costs and externalities. For example, the full cycle costs of each resource should be compared including costs of extraction and equipment manufacture, fuel cost, operational costs and waste disposal and land restoration where applicable.

## **ARTICLE 15 COMPLIANCE AND REPORTING**

The government institutions included in the construction of the NSEEP should be involved mandatorily in its compliance, following the task list organized by the National Council for Sustainable Development.

The Council shall issue periodical reports on the evolution of the NSEEP and the compliance of the goals, with the specification of the areas and entities that are missing the scheduled targets. The report should be published every six months in printed and digital format, and shall be published on the website of the Council.

## **CHAPTER 4 EIA REGULATIONS FOR ENERGY PROJECTS**

### **ARTICLE 16 PROHIBITION OF PROJECTS IN PROTECTED AREAS**

No electricity or energy project, unless used to support activities related to research facilities, shall be permitted within: (a) Landscape Conservation Areas, (except for buffer zones and corridor (connecting) lands), (b) in areas inhabited or subject to traditional use of Indigenous People, except in instances where the free, prior, and informed consent of the affected Indigenous People has been

granted, (c) other Ramsar sites, (d) UNESCO sites, (e) critical freshwater, marine and coastal ecosystems, or (f) other areas of high landscape, species biodiversity or ecosystem conservation value.

#### **ARTICLE 17 EIA EXEMPTION FOR PILOT PROJECTS**

The Ministry of Environment shall grant, after review of the technical support submitted by the petitioner, an exemption of EIA for pilot energy or electricity generation projects that comply with all of the following conditions:

- Generation of energy or electricity is produced from sustainable energy sources.
- Must stay compliant with all other applicable regulations.
- Capacity of generation is less than 5MW.
- Shall submit an Initial Environmental Examination (IEE) and a plan for disposal of any waste to be generated.

If the project lasts for more than three (3) years or increases its generation capacity above 5MW, an EIA shall be submitted for prior approval by the Ministry of Environment.

#### **ARTICLE 18 ECONOMIC ANALYSIS OF ENERGY AND ELECTRICITY PROJECTS**

All energy and electricity projects that require an EIA shall include a business plan and an economic analysis of the project, which shall estimate the long-term impact on third parties and relevant environmental externalities.

#### **ARTICLE 19 SOURCE OF ENERGY GENERATION DISCLOSURE**

In the EIA performed for the development of any project in Cambodia that must use a non-renewable source of energy, the EIA shall expressly include the source from which the project will obtain the energy it needs to operate. The Ministry of Environment may ask clarification and detailed information to determine whether the energy might be generated using illegal or unsustainable energy sources of any kind.

#### **ARTICLE 20 EIA SPECIFIC REQUIREMENTS**

The Ministry of Environment shall require that the current or future operator of any energy, electricity generation, or transmission project, justifies the sustainability of the project according to the following criteria:

- a) Demonstrating that the operator solely source from legal sources for the duration of the project.
- b) Impacts on community, environment and agricultural activities.

This rule shall apply to any other economic activity that uses unsustainable hydrocarbons or wood material, to generate energy or electricity.

## **CHAPTER 5 REGULATION BY TYPE OF ENERGY OR ELECTRICITY PROJECT**

### **SECTION 1 SUSTAINABLE ENERGY FINANCING AND INCENTIVES**

#### **ARTICLE 21 FEED IN TARIFF POLICY**

**Electricité Du Cambodge shall develop a feed-in tariff policy and framework that allows all eligible generators of renewable electricity to receive a fixed and known price for their renewable electricity sales. As part of the policy Electricité Du Cambodge shall be required to pay a specified price for renewable energy, the quantity of which is decided by the market; the quantity (or percentage) of renewable energy is set and the market shall decide the price.**

**The feed-in tariff policy shall be developed within one (1) year after the enactment of the Environment and Natural Resources Code.**

#### **ARTICLE 22 SUSTAINABLE ENERGY FINANCING**

The Rural Electrification Fund will provide conditional cash transfers to Cambodian citizens, in order to help them purchase off-grid devices that generate electricity for their household activities. To qualify for the conditional cash transfer, the purchase of sustainable energy devices shall be made to a business (company or individual) that sells devices duly qualified as compliant with health, safety and environment regulations, following the rules of this Code.

The disbursement of the payment for the device will be made directly to the seller, contingent upon installation, maintenance, and complying with good business practices.

#### **ARTICLE 23 TAX INCENTIVES FOR SUSTAINABLE ENERGY**

In order to promote the adoption of sustainable energy solutions, the Government of Cambodia establishes the following taxation rules:

Business (individual or companies) will receive a reduction of their income tax rate of ten (10) percentage points for five (5) years after they start to report profits (or a 20% reduction of the income tax rate, whichever is applicable), when they execute the following activities:

- a. Generate greater than 75% of their energy for their industrial activities using sustainable energy sources.
- b. When the generation based on sustainable energy sources is partial and less than 75%, the company may use the exemption proportionately.

Business (individual or companies) that commercialize, install or provide technical support or maintenance to sustainable energy devices will be exempt from the payment of national income tax for five (5) years, after they start to report profits (or a 20% reduction of the income tax rate, whichever is applicable).

Businesses that import, produce, distribute, or sell devices that produce sustainable energy or increase energy efficiency, such as solar panels, bio-digesters, wind turbines, LED lights, among others, as well as services to install, maintain and repair such devices, are to be exempt from paying VAT. To benefit from the exemption, business (company or individual) can only sell devices duly qualified as compliant with health, safety and environment regulations, following the rules of this Code.

The Ministry of Economy and Finance will grant the exemption requested, sixty (60) days after the submission of the petition with the technical description of the devices to be sold and the quality certification. If the exemption is not granted in the abovementioned term, it will be automatically granted.

The business benefited for the previous exemption can claim from the Ministry of Economy and Finances the devolution of the VAT paid by them in the purchase of goods and services, following the common rules for this procedure.

The import of devices for the generation of clean energy, referred to in this section of the Code, shall have no tariffs applied to them upon entry into Cambodia.

## **ARTICLE 24 SANCTIONS FOR PURCHASING ILLEGALLY FELLED WOOD**

Use of firewood and charcoal from forests, including all Landscape Conservation Areas, Protected Areas, or Collaborative Management Zones, is strictly prohibited and is punishable as a Class I offense. It is mandatory that sources of energy be either electricity from the national grid or from

renewable energy generation. This article shall also apply to any purchase of wood that cannot prove to be sourced from dedicated plantations or from forest areas exploited under strict management plans that ensure sustainability of the resource. The aforementioned shall be enforced through a timber certification mechanism as outlined in the Sustainable Forest Management section [Book \_\_, Title \_\_\_\_].

In order to incentivize the transition to cleaner energy sources, entities and operators that completely transition from a reliance on biomass for energy or electricity generation shall be granted a 20% reduction on their income tax rate for a period of [5] years.

## **SECTION 2 NUCLEAR POWER**

### **ARTICLE 25 MANDATE TO DEVELOP NUCLEAR ENERGY**

Nuclear energy may be developed only under full government control and ownership, with international oversight and applying the most stringent Health, Safety, and Environment (HSE) standards.

The Government shall develop and approve a Nuclear Energy and Safety Law, as well as structure and organize the required legal and technical entities for overseeing this kind of energy generation project.

Cambodia shall not receive nuclear waste from third countries, in any condition or under any circumstance.

### **ARTICLE 26 NUCLEAR ENERGY TRAINING**

The government, through the Ministry of Mines and Energy, may organize a process of training for its officers, in collaboration with the International Atomic Energy Agency and under its oversight.

The Ministry may also collect information about the development of nuclear energy projects in third countries, in order to study such information and develop local knowledge on this kind of energy source.

## **SECTION 3 HYDROPOWER**

### **ARTICLE 27 HABITAT LOSS CAUSED BY RESERVOIRS**

The loss of habitat upstream of the impoundment is often caused by the flooding of the river basin

and the resulting reservoir. This flooding results in deleterious effects on biodiversity. Projects that involve the creation of reservoirs must include funds in the investment budget for regeneration or compensatory afforestation. The compensatory afforestation is for the purpose of offsetting the loss of forest area to the reservoir created by the hydropower project.

## **ARTICLE 28 SITING OF HYDROPOWER PROJECTS**

Siting, design, and construction of hydropower projects are conditioned upon ensuring the compensation of damage to fish stocks, other aquatic animals, flora and the conditions for their preservation, rehabilitation and reproduction.

## **ARTICLE 29 EROSION**

Enterprises shall carry out activities necessary to prevent and abate the erosion of banks, embankments, and other works.

Organizations that manage water reservoirs must implement a plan for safety of construction and prevention of damage from floods.

## **ARTICLE 30 FISHERIES**

The Fisheries Administration shall authorize the project proponent to construct temporary works designed to improve the conditions of fish life, including fish ladders or other means of ingress and egress for fish

## **ARTICLE 31 WATER QUALITY AND DECOMPOSITION**

The project proponent shall, to the satisfaction of the Ministry of Environment, clear and keep clear from timber, brush and other material, all lands which are to be flooded. The project proponent is also responsible for preventing water logging of land and eutrophication of water.

# **SECTION 4 TRANSMISSION**

## **ARTICLE 32 REDUCTION OF TRANSMISSION LOSSES**

Transmission projects shall use state-of-the-art technology, in order to reduce electricity losses. The Ministry of Environment may deny the approval of an EIA if the most efficient technology available at the moment of the petition for approval is not being used. The technology applied should be the one that is competitive (economically and environmentally) compared to the losses that it helps to avoid.

## **ARTICLE 33 SMART GRID IMPLEMENTATION**

In order to facilitate and efficiently use electricity generated from sustainable energy, Cambodia will need to develop an electrical grid that uses digital communications technology to detect and react to local changes in usage and generation, otherwise known as a “smart grid”. The Government of Cambodia shall design a program to implement smart grid technology and procedures in the national electricity grid. The plan shall be prepared by the Ministry of Mines and Energy and shall be concluded and ready to be implemented within one (1) year after the approval of the Code.

The costs generated by the implementation of smart grid technology and procedures shall be distributed among all users of the grid.

Based on social, economic or environmental considerations, the Government can decide to halt the expansion of the grid to specific areas of the country. In that case, the Government should promote and execute programs to provide off-grid solutions to households based on end user needs, both for electricity and energy generation.

#### **ARTICLE 34 FREE MARKET PURCHASE AND SALE OF ENERGY**

Any household or private entity that owns a generation facility for its own consumption and is connected to the national grid, may sell the surplus of energy produced to Electricité Du Cambodge, using such grid. The decision of selling electricity shall be made by each owner of the generating facility and Electricité Du Cambodge shall develop the capacity to purchase the electricity.

The energy authority shall, in the term of twelve [12] months, issue the required regulations to purchase electricity from private entities. These regulations shall include the plan and timeline for implementing this mandate.

The energy producing household or business shall be paid at a technically and market defined price for the energy provided and shall be charged a similarly calculated rate for the use of the transmission grid and other services provided by Electricité Du Cambodge.

If the implementation of this process requires the purchase of equipment by the suppliers of energy, Electricité Du Cambodge shall provide financing in cases where that service is required to achieve the mandated connection and transaction stated in this article. The financing hereby determined may be paid with energy provision, under agreement of the involved parties.

### **SECTION 5 ELECTRICITY AND ENERGY PRICING**

## **ARTICLE 35 CONSUMER ENERGY PRICING**

The citizens and entities of Cambodia are entitled to pay the real price of the electricity provided by the Government or third-party suppliers. The government shall determine the electricity price applicable. Prices shall be adjusted every month, in consideration of the change of price for the factors that are part of the electricity generation process.

The final price of sale shall include:

- a) The full cost of generation.
- b) The full cost of transmission.
- c) The full cost of distribution.
- d) Reasonable administrative costs, detailed to the final customer.

The information regarding energy price structure shall be available for the community, following the rules of transparency of the information stated in this Section of the Code.

## **SECTION 6 ENERGY EFFICIENCY**

### **ARTICLE 36 DEFINITION OF ENERGY EFFICIENCY AND APPLICABLE STANDARDS**

The Government of Cambodia recognizes the International Organization for Standardization (ISO) 50001 standard as the applicable standard for energy management systems in the country, fostering end-use energy efficiency in private activities and government institutions. If this standard is replaced with any other standard in the future, the new standards will be immediately enforceable in the country, under the terms established in this Code.

### **ARTICLE 37 GOVERNMENT PROMOTION AND PURCHASE OF ENERGY EFFICIENT PRODUCTS**

Immediately after the approval of this Code, all government shall purchase goods, services and conduct public works activities with suppliers and contractors holding ISO 50001 certification, when applicable.

### **ARTICLE 38 ENERGY EFFICIENCY IN BUSINESS AND INDUSTRY**

Business and government entities are mandated to adopt the recommendations included in the ISO



50001 standard in the following terms, after the approval of this Code:

- a) Businesses with income greater than USD \$10,000 in FY 2015, and all government entities in their buildings and facilities: three (3) years.
- b) Business with income between USD \$1,000 and USD \$10'000: five (5) years.
- c) All other business activities with relevant facilities and energy usage: seven (7) years.

Government entities compliance of the ISO 50001 standards will be supported and supervised by the Ministry of Environment and for the appropriate energy authority.

## **ARTICLE 39 ENERGY EFFICIENCY IN RENTED ESTABLISHMENTS**

When a property is rented, the renter may improve the energy efficiency in order to comply with the rules of this Code and of the applicable standards before the term limit stated in the previous article. In that case, the owner shall reimburse the renter for all the improvements included in the construction that are not removable after the lease is concluded.

The price of reimbursement shall be determined by the effective amount spent in the improvements, discounted by the depreciation of goods when applicable, which shall be in accordance with market prices.

## **TITLE 7 RESPONSIBLE EXTRACTIVE INDUSTRIES**

The Law on Mineral Resource Management and Exploitation 2001 is hereby amended and clarified as follows:

*[Chapter 3 - Mineral License Categories; Chapter 4 - Mineral Resource License Procedures; Chapter 5 - Exploration and Mining Operation]*

### **CHAPTER 1 ENVIRONMENTAL MANAGEMENT IN THE EXTRACTIVE INDUSTRIES**

#### **ARTICLE 1 SECTOR-BASED NATURAL RESOURCE MANAGEMENT PLAN**

The Ministry of Environment shall create a sector-based Natural Resource Management Plan for each specific Extractive Industry resource in the Kingdom of Cambodia in accordance with Book 2, Title [1] of this Code. Ministry of Environment must furnish for meaningful stakeholder engagement and in collaboration with the Ministry of Mines and Energy, each such Natural Resource Management Plan on or prior to [July 1, 2017] and finalize and make available each such

Natural Resource Management Plan on or prior to [January 1, 2018].

## **ARTICLE 2 SECTOR-BASED STRATEGIC ENVIRONMENTAL ASSESSMENT**

Ministry of Environment shall create a sector-based Strategic Environmental Assessment (SEA) for the exploration or extraction for each specific Extractive Industries resource in the Kingdom of Cambodia in accordance with Book 2, Title [7] of this Code. For each specific Extractive Industries resource for which exploration or extraction has occurred prior to the enactment of this Code, the Ministry of Environment must furnish for meaningful stakeholder engagement each such SEA on or prior to [July 1, 2017] and finalize and make available each such SEA on or prior to [January 1, 2018].

For each specific Extractive Industries resource for which exploration or extraction has not occurred prior to the enactment of this Code, Ministry of Environment must furnish for meaningful stakeholder engagement each such SEA within [90 days] of the commencement of any exploration or extraction of such resource and finalize and make available each such SEA within [180 days] of the commencement of any exploration or extraction of such resource.

## **ARTICLE 3 TRANS-BOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT**

Project proponents shall conduct a Trans-boundary Environmental Impact Assessment for any Extractive Industries Project in the Kingdom of Cambodia that has potentially significant trans-boundary environmental impacts in accordance with Book 2, Title [8] of this Code.

## **ARTICLE 4 ENVIRONMENTAL IMPACT ASSESSMENT**

Project proponents shall conduct an Environmental Impact Assessment (EIA) prior to any Extractive Industries project in the Kingdom of Cambodia in accordance with Book 2, Title [8] of this Code. This requirement applies regardless of the total size of the project. This law expressly supersedes Inter-Ministerial Prakas (No. 191) on Classification of EIA for projects of all kinds of construction minerals exploitation or other minerals with the characteristic of handicraft or small-scale exploitation.

Ministry of Environment shall issue guidelines for EIA for any Extractive Industries project in the Kingdom of Cambodia on or prior to [July 1, 2017]. These Guidelines will include best practice principles for EIA, including to require that EIA assess the potential gender impacts of any extractive industries project and provide guidance on how project proponents can meet their obligations under Article 4.

Each EIA for any Extractive Industries Project in the Kingdom of Cambodia must contain:

- a) An assessment of the full environmental cost of the project, including those associated with regulatory oversight, reclamation, closure, and post-closure monitoring and maintenance;
- b) Consideration of worst-case scenarios and analyses of off-site impacts to identify potential emergency scenarios and to develop appropriate response strategies;
- c) Rigorous evaluation of any reasonable alternative to the Project, including the No-Action Alternative, and for any alternative which was eliminated, a brief discussion of the reasons for it having been eliminated; and
- d) An environmental and social baseline. The social baseline should include information detailing the socio-economic conditions of directly and indirectly affected communities affected by the extractive industries project and identifying all potentially impacted people. This information should be disaggregated by sex, age and ethnicity.
- e) A detailed assessment of all potential direct effects, indirect effects, and cumulative effects of the project, including:
  - (i) Impacts to ambient soil, air, and water conditions;
  - (ii) Impacts on land, including both privately owned and communal land, and on the women and men that currently use that land;
  - (iii) Noise, odour, and vibrations from operations;
  - (iv) Biodiversity impacts, including all potentially impacted flora and fauna and especially endangered or threatened species;
  - (v) Ecosystem services
  - (vi) Cultural impacts, including effects on shared customs, obligations, values, language, religious beliefs and any other distinct attributes of any impacted social or ethnic group;
  - (vii) Community infrastructure, including any potential land acquisition or Involuntary Resettlement as well as effects on infrastructure, facilities and services and how women and men use these infrastructure, facilities and services;
  - (viii) Quality of life impacts, including effects on sense of place, aesthetics and heritage, perception of belonging, safety and security, voluntary organizations, activity networks and cohesion, solidarity and social norms and aspirations for the future paying attention to the different impacts on women and men;
  - (ix) Health impacts, including effects on mental, physical and social well-being paying attention to the different impacts on women and men;

- (x) Gender impacts, including women and men's workloads, access to and control of resources, including land and water resources, livelihoods, access to or ability to enjoy benefits from the project, health impacts, decision-making in the household and community including in relation to the proposed project, participation in society, and social status; and
- (xi) Impacts on Indigenous People, including the way a project will impact rights to participation, consultation, information, planning, complaints, fair compensation, decision-making, and free, prior, and informed consent.

## **ARTICLE 5 ENVIRONMENTAL MANAGEMENT PLAN**

Project proponents shall create a site-specific Environmental Management Plan for any Extractive Industries project in the Kingdom of Cambodia in accordance with Book 2, Title [8] of this Code. The Environmental Management Plan shall be developed, implemented and updated throughout the lifecycle of the project. The Environmental Management Plan shall include, at a minimum, the following:

- a) Information about the project and the owner and/or operator of the project, which shall include a description of the planned exploration, extraction, closure, post-closure, and reclamation activities;
- b) The project proponent's environmental policy statement;
- c) Plans for compliance with all applicable Environmental Quality Standards;
- d) Plans to prevent pollution;
- e) Programs for the management of air quality, water quality, tailings, hazardous substances, wastes, soil and land;
- f) Programs to avoid adverse effects to biodiversity, ecosystem services and the landscape throughout the lifecycle of the project, with particular emphasis on the protection of endangered species and ecosystem conservation values;
- g) Environmental objectives and targets along with schedules for achieving such objectives and targets; and
- h) Procedures for communicating with regulatory agencies and for facilitating Meaningful Stakeholder Engagement including commitments to regular and ongoing engagement with affected women and men and paying particular attention to individuals or groups of people who are vulnerable, marginalized from decision making processes or negatively impacted by the extractive industries project. The EMP shall be made publicly available.
- i) Details outline the strategy for monitoring of EMP implementation

## **ARTICLE 6 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING**

Project proponents shall conduct Environmental Audits and Environmental Management Reporting for any Extractive Industries project in the Kingdom of Cambodia in accordance with Book 2, Title [9] of this Code.

## **ARTICLE 7 LIMITS AND CONDITIONS ON EXTRACTIVE INDUSTRY ACTIVITIES**

No Extractive Industry projects shall be permitted within: (a) Landscape Conservation Areas, (except for buffer zones and corridor (connecting) lands), (b) in areas inhabited or subject to traditional use of Indigenous People, except in instances where the free, prior, and informed consent of the affected Indigenous People has been granted, (c) other Ramsar sites, (d) UNESCO sites, (e) critical freshwater, marine and coastal ecosystems, or (f) other areas of high landscape conservation value, species biodiversity or ecosystem conservation value.

Project proponents of Extractive Industry projects must integrate biodiversity and landscape conservation into all stages of project development following international standards and practices, and shall ensure that threats to endangered species and ecosystem conservation values are prevented throughout the project lifecycle.

## **ARTICLE 8 RESTORATION AND REHABILITATION FUNDING**

To ensure the restoration and rehabilitation of the Environment from the effects of Extractive Industry projects, project proponents shall comply with Book [8], Title [xxx] on Financing for Closure, Rehabilitation, Remediation and Restoration of Activities affecting the Environment.

The use of funds for restoration and rehabilitation of Extractive Industry project sites must be conducted with Meaningful Stakeholder Engagement and used for the exclusive purpose of restoring and rehabilitating the environment from the effects of Extractive Industry projects.

The Project Proponent shall be responsible for any other fees required by legislation outside of those stipulated by the Environment and Natural Resources Code.

## **CHAPTER 2 ENVIRONMENTAL MANAGEMENT RESPONSIBILITY AND TOOLS**

### **ARTICLE 9 POLLUTION AVOIDANCE AND MINIMIZATION**

Project proponents shall avoid causing pollution or any other environmental harm when conducting Extractive Industries activities.

Project proponents shall use the best available technology to maximize efficiency, minimize pollution or any other environmental harm when conducting Extractive Industries activities. Ministry of Environment must furnish for Meaningful Stakeholder Engagement the best reasonably available technology for each specific Extractive Industry resource within [180 days] of the enactment of this Code and finalize and make available each such best available technology within [360 days] of the enactment of this Code. Ministry of Environment must then update the best available technology for each specific Extractive Industry resource on or prior to [2 years] following the enactment of this Code.

## **ARTICLE 10 ENVIRONMENTAL QUALITY STANDARDS**

Ministry of Environment, in consultation with the Ministry of Mines and Energy, shall establish Environmental Quality Standards and Guidelines, to include air, water, and soil quality standards, for the operations of each specific Extractive Industry within [180 days] of the enactment of this Code. Ministry of Environment must then update the Environmental Quality Standards and Guidelines for the operations of each specific Extractive Industry every [2 years] following the enactment of this Code.

Project proponents shall comply with all Environmental Quality Standards and Guidelines relating to Extractive Industry operations.

## **ARTICLE 11 DISCLOSURE AND USE OF CHEMICALS**

Prior to beginning an Extractive Industry project, project proponents shall disclose to Ministry of Environment all chemicals that will possibly be used in the lifecycle of the project, including exploration, extraction, reclamation, closure, or post-closure activities, in accordance with Book [7], Title [4] of this Code. Such disclosure shall contain a detailed description of such chemicals, the quantity of predicted use of such chemical, and any potential impacts to human health or the Environment associated with the use of such chemical. Ministry of Environment must organize such disclosures in a Chemical Substance Inventory.

Project proponents must also furnish such disclosure to each person or community potentially impacted by such Extractive Industry project.

Ministry of Environment must assess whether any chemical disclosed as possibly being used in the lifecycle of an Extractive Industries project poses an unreasonable risk to human health or the environment, as outlined in Book [6] of this Code. If Ministry of Environment determines that such chemical does pose an unreasonable risk to human health or the environment, then the

Ministry of Environment must prohibit its use with respect to that project.

Project proponents must avoid 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.

Project proponents of mining projects must avoid groundwater or surface water contamination caused by acid rock drainage and metals leaching.

## **ARTICLE 12 RELEASES OF HAZARDOUS SUBSTANCES**

Project proponents must utilize best practices to prevent releases of hazardous or chemical substances, materials or wastes that exceed permitted levels in the lifecycle of all Extractive Industries projects.

If a release of hazardous or chemical substances, materials or wastes occurs during the lifecycle of any Extractive Industries project that exceeds permitted levels, the project proponent must immediately notify the Ministry of Environment and all persons and communities potentially affected by such release.

## **ARTICLE 13 DISPOSAL AND STORAGE OF WASTES**

Project proponents must dispose of wastes from Extractive Industries projects in accordance with Book [6] of this Code.

In adherence with Book [6], project proponents must not dispose wastes from Extractive Industries projects in Tonle Sap Lake or tributaries thereto, the Tonle Sap River or tributaries thereto, the Mekong River or tributaries thereto, or coastal rivers. Project proponents must also 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.

Project proponents must manage wastewater from mining projects by:

- a) Publicly reporting water risks and management activities and performance;
- b) Conducting Meaningful Stakeholder Engagement;
- c) Adhering to social, cultural, economic and environmental values at the water catchment level where the mining project is located; and

Developing and implementing a wastewater management plan. Project proponents of mining projects must also:

- a) Adequately manage waste rocks and tailings to ensure structural stability, control discharge, and protect against the potential impacts of acid mine drainage, metal leaching, or loss of containment;
- b) Avoid building riverine or shallow marine tailings; and
- c) Consider the construction of zero discharge tailings, including permanent storage after decommissioning.

#### **ARTICLE 14 CYANIDE AND MERCURY USE IN GOLD AND SILVER MINING**

Project proponents of gold and silver mining projects must certify to the Ministry of Environment that the cyanide and mercury to be used in their gold or silver mining operations was purchased in a safe and environmentally friendly manner.

Competent Authorities must ensure that agreements with producers, distributors, transporters or project proponents establish responsibility and appropriately allocate liability with respect to safety, security, release prevention, training and emergency response in relation to the cyanide and mercury to be used in gold or silver mining projects.

For cyanide and mercury to be used in gold or silver mining projects, Competent Authorities shall ensure that facilities handling such substances are in accordance with the International Cyanide Management Code and adhere to the requirements outlined below:

- a) Design and construct unloading, storage and mixing facilities consistent with sound, accepted engineering practices, quality control and quality assurance procedures, and release prevention and containment measures;
- b) 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;
- c) Operate and monitor cyanide and mercury facilities to protect worker health and safety and periodically evaluate the effectiveness of health and safety measures;
- d) Implement management and operating systems designed to protect human health and the environment, including contingency planning and inspection and preventive maintenance



procedures;

- e) Implement a comprehensive water management program to protect against unintentional releases;
- f) Implement measures to protect flora and fauna from potential adverse effects of cyanide and mercury processes;
- g) Implement measures to protect flora and fauna from direct and indirect discharges of cyanide and mercury processes to surface water;
- h) Implement monitoring programs to evaluate the effects of cyanide and mercury use on flora and fauna and surface and ground water quality;
- i) Develop and implement emergency response plans and procedures to respond to worker exposure to cyanide and mercury;
- j) Develop procedures for internal and external emergency notification and reporting;
- k) Provide Meaningful Stakeholder Engagement to communicate issues of concern; and
- l) Make appropriate operational and environmental information regarding cyanide and mercury management available to stakeholders.

## **ARTICLE 15 EMERGENCY PLANNING**

Project proponents must develop and implement site-specific emergency response plans to reduce hazards and damage to human health and the Environment caused by Extractive Industries projects. Such plans must contain disaster risk mitigation and management strategies. Project proponents must test and update such plans on a regular basis. These plans must respect relevant national legislated requirements and include Meaningful Stakeholder Engagement as part of the plan's development and preparation.

Project proponents must develop plans to manage the unexpected and early closure of an extractive industries site that arises from unforeseen risks or circumstances.

## **ARTICLE 16 CLOSURE, RESTORATION, AND REHABILITATION PLANNING**

Prior to beginning an Extractive Industries project, project proponents shall develop a plan for the closure of the project and the restoration and rehabilitation of the Environment affected or damaged by the project. This plan must ensure the protection of human health and the environment, the

future beneficial use of the affected or damaged environment, and the return of such environment to a stable condition. The closure, restoration and rehabilitation planning shall be updated where necessary.

The Ministry of Environment and Ministry of Mine and Energy shall develop guideline for the closure plan. Each such plan must:

- a) Provide detailed estimates for the cost of closure, restoration, and rehabilitation;
- b) Demonstrate that the project proponent has appropriate funding to achieve closure of the project and the restoration and rehabilitation of the environment affected or damaged by the project, in accordance with Book [8], Title [ ];
- c) Be the result of a process with Meaningful Stakeholder Engagement; and
- d) Pay specific attention to decommissioning tailings, controlling post-closure methane emissions, and the management of any associated Releases of hazardous or chemical substances, materials or wastes.

## **ARTICLE 17 RESTORATION**

Project proponents must restore the environment of the areas that are affected or damaged by any Extractive Industries project under the inspection and evaluation of the Ministry of Environment. The project proponent must pay all costs incurred by the Ministry of Environment in relation to such inspection and evaluation.

## **CHAPTER 3 PUBLIC AND COMMUNITY ENGAGEMENT**

### **ARTICLE 18 MEANINGFUL STAKEHOLDER ENGAGEMENT**

Ministry of Environment must ensure that the project proponent engages in Meaningful Stakeholder Engagement in accordance with procedures outlined in Book [1 / 2] of this Code, including with Indigenous People, throughout the lifecycle of any Extractive Industries project.

### **ARTICLE 19 INVOLUNTARY RESETTLEMENT**

Competent Authorities and project proponents shall to the greatest extent possible avoid Involuntary Resettlement when conducting any Extractive Industries project.

When deemed unavoidable, Involuntary Resettlement must be minimized to the greatest extent possible and appropriate measures taken to mitigate adverse impacts on displaced persons and host

communities.

If a project requires Involuntary Resettlement, the project proponent must not proceed with such Involuntary Resettlement unless:

- a) The affected persons and communities have received fair compensation for loss of assets, including land, at replacement cost. Compensation is governed by a commitment to non-discrimination including gender discrimination;
- b) Any Involuntary Resettlement is implemented with appropriate disclosure of information, consultation, and the informed participation of those affected, which shall include Meaningful Stakeholder Engagement; and
- c) The Project Proponent has improved, or restored, the livelihoods and standards of living of displaced persons and communities, which shall include the provision of adequate housing with security of tenure at resettlement sites. Livelihood restoration programs and programs to improve standards of living must pay particular attention to individuals or groups of people who are vulnerable or at most risk of their livelihoods or standard of living deteriorating because of Involuntary Displacement.

## **ARTICLE 20 PUBLIC DISCLOSURE**

Competent Authorities shall ensure that details of each Extractive Industries project, including all applicable Natural Resource Management Plans, Strategic Environmental Assessments, Trans-boundary Environmental Impact Assessments, Environmental Impact Assessments, Environmental Management Plans, Environmental Audits, [Environmental Management Reports], and contracts or other agreements between national, sub-national, or local authorities and project proponents, are made available to the public and furnished to potentially affected communities and residents in a manner that is comprehensible and in the appropriate language and format.

Competent Authorities shall ensure that no data relating to any Extractive Industries project shall be considered confidential if it relates to human health or the Environment.

## **BOOK 4 SUSTAINABLE MANAGEMENT OF NATURAL RESOURCES**

### **TITLE 1 ESTABLISHMENT OF BIODIVERSITY CONSERVATION CORRIDORS**

## ARTICLE 1

The following Biodiversity Conservation Corridors are established:

*[Biodiversity Conservation Corridors listed by name, maps referenced.]*

## ARTICLE 2

All Biodiversity Conservation Corridors, or other protected area, or any provincial, municipal, or local protected areas shall be managed according to the following objectives:

1. Biodiversity, wildlife, and natural resource conservation: Management zones shall be developed in consideration of the need to conserve natural resources, including biological diversity, and to ensure the long term sustainability of these resources through proper management, research and awareness raising.
2. Conservation of ecosystem values, goods and services: Management zones shall be developed in consideration of the various values, goods and services that ecosystems provide, such as natural resource products, pollination, pollution filtration, climate stabilization and change mitigation, prevention of soil erosion, clean water supply and watershed integrity, and the need to ensure the long term optimization of these goods and services.
3. Livelihoods development: Management zones shall be developed in consideration of the basic requirements of the local populations whose livelihoods are linked to and dependent on these areas and their natural resources, so as to maintain and improve their livelihoods in a manner consistent with the long term sustainability of the conservation and ecosystem service values of the areas.

## ARTICLE 3

Each Biodiversity Conservation Corridor, or other protected area, or any provincial, municipal, or local protected areas will be subject to one overarching management plan, with sub-management plans created to improve implementability on a site-specific basis and in accordance with Collaborative Management designations.

All Biodiversity Conservation Corridors, or other protected area, or any provincial, municipal, or local protected areas are eligible to be managed in accordance with Collaborative Management principles, in cooperation with community members, local authorities, national level institutions, local and international NGOs, and development partners. Biodiversity Conservation Corridors, or

other protected area, or any provincial, municipal, or local protected areas, or portion thereof, that is designated to be managed according to Collaborative Management, shall be managed in accordance with Title 3 of Book 4, Collaborative Management.

Until such time as Collaborative Management is established in any portion of any Biodiversity Conservation Corridors, or other protected area, or any provincial, municipal, or local protected areas, all such areas shall be managed in accordance with Title 2 of Book 4, Protected Areas Management.

Any Biodiversity Conservation Corridors, or other protected area, or any provincial, municipal, or local protected areas, or any portion thereof, that does not become subject to Collaborative Management, shall continue to be managed in accordance with Title 2 of Book 4, Biodiversity Conservation Corridors Management.

## **TITLE 2        MANAGEMENT OF BIODIVERSITY CONSERVATION CORRIDORS**

### **CHAPTER 1 GENERAL PROVISIONS**

#### **ARTICLE 1**

This Title sets forth the framework of management, conservation and development of Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.

The objectives of this Title is to ensure the management, conservation of biodiversity and sustainable use of natural resources in Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.

The management, conservation and protection of all wildlife are covered within Title \_\_\_\_ on **Wildlife Protection, Conservation and Management**.

#### **ARTICLE 2**

This Title applies in all Biodiversity Conservation Corridors, and other protected areas, and any provincial, municipal, or local protected areas, including all sub-classifications, and sub-zones, and all other underlying land use classifications and categories within the Corridors or other protected areas.

In those areas subject to Collaborative Management, this Title supports the implementation of

Collaborative Management as specified.

## CHAPTER 2 RESPONSIBLE INSTITUTIONS

### ARTICLE 4

The management of Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas shall be under the jurisdiction of the Ministry of Environment and such other institutions and entities in accordance with the provisions in Title \_\_\_\_, Collaborative Management and elsewhere in this Code, and in accordance with. *(cross reference to decentralization)*

Consistent with the provisions of this Code, the management of Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas shall guarantee the rights of local communities, indigenous ethnic minorities and the public to be consulted and participate in the decision-making on the sustainable management and conservation of biodiversity, to provide consent as required by this Code, to fully participate in the management of these areas, and to ensure fair and equitable access to all such areas for resource users.

The provisions in this Title pertain specifically to those management and conservation activities to occur in Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas as follows:

1. Throughout all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, until such time as Collaborative Management is established in any portion of these areas, after which time such areas shall be managed in accordance with Title 3 of Book 4, Collaborative Management of Natural Resources.
2. Any Biodiversity Conservation Corridor and other protected areas, and any provincial, municipal, or local protected areas, or portion thereof, that does not become subject to Collaborative Management, shall continue to be managed in accordance with this Title 2 of Book 4, Biodiversity Conservation Corridor Management.

### ARTICLE 5

In managing Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, the Ministry of Environment shall have the following main duties:

1. Provide the overall framework, oversee and manage, and give technical support to the overall process for developing and implementing the land use planning, zoning classification, and management of the Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.
2. Ensure effective monitoring and oversight of the management of Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, and.
3. Oversee and provide support to the process of integration of Community Forests and Community Protected Areas into overall Biodiversity Conservation Corridors management framework
4. Conduct such technical work, studies, research, reporting and awareness raising as are required to promote the sustainable management of the Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.

## ARTICLE 6

In the course of managing Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, officials of the Ministry of Environment have the following specific rights and duties:

1. Regularly patrol, investigate, control, prevent and crack down on natural resource offences of all kinds.
2. Inspect and issue licenses, permits, and other relevant documents.
3. Take action to prevent and control forest fires.
4. Control export and import of flora and fauna, seeds and samples from/into the Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas
5. Promote education and dissemination among the public and coordinate with local indigenous communities.
6. Serve in the role of judicial police officers.
7. Conduct consultations with relevant stakeholders regarding the establishment and management of Biodiversity Conservation Corridors and other protected areas, and any

provincial, municipal, or local protected areas.

8. Abide by obligations related to receiving Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas financing.
9. Other detailed rights and duties of national and local level officials as may be necessary to fulfil the requirements of this Code. .

## **ARTICLE 7**

The Provincial Department of Environments shall have the following roles and responsibilities:

1. Support Biodiversity Conservation Corridor Directors in the management of Biodiversity Conservation Corridors based on a landscape approach 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, district and commune level 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 and participate in all law enforcement activities related to environment and natural resource conservation matters.

In addition, provincial, district and commune officials shall have those rights and duties as specified by legal instrument in setting forth the details of decentralization of natural resources management.

## **ARTICLE 8**

Biodiversity Conservation Area Directors, other field-based Biodiversity Conservation Area management and technical staff, and Directors of the Provincial Departments of Environment shall be appointed who possess the necessary educational and professional qualifications, including experience in forestry, environment and natural resource management, biodiversity conservation, or other relevant fields.



Biodiversity Conservation Area Directors and other relevant Biodiversity Conservation Corridor staff and Directors of the Provincial Departments of Environment shall be required to complete established courses and trainings at the National Environment and Natural Resources Training Academy (see Book \_\_, Title \_\_) . The Ministry of Environment shall also provide other capacity building opportunities and training for all field-based staff, local authorities and local communities in line with their responsibilities, required skills and capacity needs.

The precise roles and responsibilities of Biodiversity Conservation Area Directors, other field-based Biodiversity Conservation Area management and technical staff, Directors of the Provincial Departments of Environment, local authorities and local communities shall be determined by legal instrument and according to site-specific requirements.

### **CHAPTER 3 ESTABLISHMENT, MODIFICATION AND CLASSIFICATION OF BIODIVERSITY CONSERVATION CORRIDORS OR OTHER PROTECTED AREAS AND**

#### **ARTICLE 9**

Biodiversity Conservation Corridors and other protected areas and any provincial, municipal, or local protected areas are established and managed to secure for perpetuity the country's biological diversity, ecosystem services, natural and cultural resources, and sustainable local livelihoods.

The Ministry of Environment is responsible for nominating areas to be managed as Biodiversity Conservation Corridors or other protected areas. The establishment of new Biodiversity Conservation Corridors or other protected areas or expansion of the boundaries of existing Biodiversity Conservation Corridors or other protected areas is issued through sub-decree.

The relevant local authorities are responsible for nominating any provincial, municipal, or local protected areas as appropriate. The establishment of new provincial, municipal, or local protected areas or expansion of the boundaries of existing areas is issued through the appropriate legal instrument.

Any decision to establish or expand any Biodiversity Conservation Corridors or any provincial, municipal, or local protected areas shall be subject to the access to information and public participation provisions of Book \_\_, Title \_\_ of this Code.

#### **ARTICLE 10**

All Biodiversity Conservation Corridors and other protected areas shall be subject to the land use

planning, zoning and management planning requirements of this Title. Those areas under Collaborative Management shall also be subject to these requirements.

## ARTICLE 11

Unless explicitly stated by sub-decree, no new commercial activity or new development activity may be undertaken in any Biodiversity Conservation Corridors or other protected area until the land use planning and zoning processes contained in this Title are completed with respect to such area.

Article 12 BIODIVERSITY CONSERVATION CORRIDOR AREAS Reduction and DeclassificationDeclassification of all, or part, of a Biodiversity Conservation Corridor or other provincial, municipal, or local protected area is solely reserved for circumstances in which the biodiversity conservation and ecosystem services value of the area have been reduced to such a degree that restoration is not feasible.

Declassification of all, or part of, a Biodiversity Conservation Corridor or other protected area shall occur by Subdecree following recommendation by the Ministry of the Environment and the National Wildlife Advisory Board/Biodiversity TWG under NCSD???

Declassification of all, or part of a provincial, municipal, or local protected area shall occur by appropriate legal instrument following recommendation by the National Wildlife Advisory Board/Biodiversity TWG under NCSD???

Any decision to declassify or reduce any Biodiversity Conservation Corridor or other provincial, municipal, or local protected area shall be subject to the access to information and public participation provisions of Book \_\_\_, Title \_\_\_ of this Code.

## ARTICLE 13

The Royal Government of Cambodia may establish, modify, or take such other steps as required in any area of national or international significance so as to be designated a World or Regional Heritage Site, Ramsar Site or Biosphere Reserve provided that the area responds to criteria set forth by such international or regional conventions, protocols, and agreements.

An area already designated as World or Regional Heritage Site, Ramsar Site or Biosphere Reserve 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.

Any such area which has already been acknowledged by international or regional treaty, convention, protocol, and agreement, shall be determined by a sub-decree.

## **CHAPTER 4 LAND USE PLANNING IN BIODIVERSITY CONSERVATION AREAS**

### **ARTICLE 14**

All Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, shall be subject to comprehensive land use planning.

Each site-specific land use planning process shall be updated every five (5) years, or earlier if required.

### **ARTICLE 15**

The Ministry of Environment and relevant local authorities shall conduct comprehensive land use planning for all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas. In those areas subject to Collaborative Management, the land use planning shall also be conducted in with the active participation of the Collaborative Management Committee and other Collaborative Management community members.

The process of comprehensive land use planning for all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, shall be implemented according to sections \_\_\_\_ and \_\_\_\_ of this Code (access to information and public participation) and completed according to specific guidelines provided by the Ministry of Environment.

### **ARTICLE 16**

Comprehensive land use planning for all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, shall consist of the following elements:

- A.** A requirement to conduct meaningful consultations with all stakeholders (meaningful stakeholder consultations as defined in Article 17 page 20?) / (as is required in Article \_\_\_\_ of this Code).
- B.** A requirement to research and acquire detailed, site-specific data of physical, social and economic factors including best available data regarding land resource inventory, present land uses, infrastructure, population, land tenure, social structure, government, plants,

natural disturbances, hydrological functions, energy flows, normal and cross-boundary movement of wildlife and any other information pertaining to current land uses.

- C. A requirement to conduct thorough integrated spatial mapping of all landscapes, land use configurations, land tenures and cultural heritage sites within and adjacent to all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.
- D. A requirement to acquire best available data about potential land uses and immediately foreseeable environmental impacts of potential land uses within and adjacent to all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.
- E. A requirement to identify environmental issues and natural resource management issues that are related to socio-economic development and sustainable environmental management.
- F. A requirement to consult with qualified land and resource conservation experts throughout the comprehensive land use planning process.

## ARTICLE 17

The comprehensive land use planning process for all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, shall achieve the following outcomes:

- A. A land use master plan shall be established for all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.
- B. Integrated spatial maps shall be created that document the location of all settlements, location of natural resources, location of current and potential land uses and any other information pertinent to specific sites located within and adjacent to the relevant Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.

Upon completion of the comprehensive land use planning process described in Article \_\_\_\_ of this Code, the Ministry of Environment shall formalize the integrated spatial maps and submit them to GIS Department of Ministry of Environment (Cambodian Environmental Mapping Centre (CEMC) as is provided for in section \_\_\_\_ of this Code.

## ARTICLE 18

Land use planning is a necessary prerequisite to zoning classification and management planning for all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.

If in any circumstances land use planning has not been conducted in any Biodiversity Conservation Corridor, other protected area, or provincial, municipal, or local protected area that is proceeding with collaborative management according to section \_\_\_\_, such area is still eligible to receive approval to conduct collaborative management, and such land use planning shall be conducted by the Collaborative Management Committee in the course of its activities.

## **ARTICLE 19**

Any proposal to modify the land use master plan for any Biodiversity Conservation Corridor, any other protected areas, any provincial, municipal, or local protected areas, or any portion thereof, shall be subject to additional comprehensive land use planning procedures.

In addition, the relevant authorities proposing the modification of the master land use plan shall prepare documentation detailing the following:

1. The scientific and socio-economic reasons for the proposed modification to land use master plan;
2. The efforts that have been made to retain the current land use status;
3. The manner in which the modification to permitted land use classification will enhance the livelihood of local communities;
4. The means by which the loss of conservation and ecosystem value will be offset; and
5. Any other information necessary to justify the proposal.

Any proposal to modify the land use master plan of any Biodiversity Conservation Corridor or other protected area shall be subject to the access to information and public participation provisions of Book \_\_\_\_, Title \_\_\_\_ of this Code.

**It shall be a punishable offense for any individual or entity to take any action that is in contravention of an approved land use plan.**

## **CHAPTER 4 MANAGEMENT ZONES OF BIODIVERSITY CONSERVATION CORRIDORS AND OTHER PROTECTED AREAS**

## **ARTICLE 20**

The classification and delineation of Biodiversity Conservation Corridors and other protected

areas, and any provincial, municipal, or local protected areas into management zones shall be determined considering the following three objectives on a landscape-wide basis:

4. Biodiversity, wildlife, and natural resource conservation: Management zones shall be developed in consideration of the need to conserve natural resources, including biological diversity, and to ensure the long term sustainability of these resources through proper management, research and awareness raising.
5. Conservation of ecosystem values, goods and services: Management zones shall be developed in consideration of the various values, goods and services that ecosystems provide, such as natural resource products, pollination, pollution filtration, climate stabilization and change mitigation, prevention of soil erosion, clean water supply and watershed integrity, and the need to ensure the long term optimization of these goods and services.
6. Livelihoods development: Management zones shall be developed in consideration of the basic requirements of the local populations whose livelihoods are linked to and dependent on these areas and their natural resources, so as to maintain and improve their livelihoods in a manner consistent with the long term sustainability of the conservation and ecosystem service values of the areas.

## ARTICLE 21

Consistent with the public participation provisions of Book \_\_, Title \_\_ of this Code, management zones for all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas shall be designated on a site-specific basis by the relevant stakeholders, including Collaborative Management Committees and Collaborative Management community members in those areas under Collaborative Management. Whether or not each management zone type is appropriate for each area, the extent of each zone type to be included in each area, and any sub-zone categories that may be appropriate on a site-specific basis.

All management zoning designations shall utilize the following zoning framework in addition to any further site-specific sub-zoning:

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) duly authorized 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, and

iii) implementers of collaborative management that have a signed agreement to collaboratively manage the relevant areas, including the precise terms of their access to the core zone. When in the interests of national security, and with the express prior authorization from the Prime Minister, security and defense sectors may access the core zone. When accessing the core zone, the security and defense sectors shall inform the Ministry of Environment, Department of Environment and Protected Area Director and other relevant authorities when any such access is required, and shall cooperate with the Ministry of environment and all other relevant authorities and actors to minimize any disturbance to the core zone to the greatest extent possible.

2. Conservation Zone: management area(s) of high conservation values containing natural resources, ecosystems, watershed areas, and natural landscapes, often located adjacent to a core zone.

Access to the conservation zone is allowed only with prior consent of the relevant authorities including the implementers of collaborative management that have a signed agreement to collaboratively manage the relevant areas. When in the interests of national security, and with the express prior authorization from the Prime Minister, security and defense sectors may access the conservation zone. When accessing the conservation zone, the security and defense sectors shall inform the Ministry of Environment, Department of Environment and Protected Area Director and other relevant authorities when any such access is required, and shall cooperate with the Ministry of Environment and all other relevant authorities and actors to minimize any disturbance to the conservation zone to the greatest extent possible.

Small-scale subsistence uses of timber, fuelwood, and small scale use of non-timber forest products (NTFPs) to support local communities and local ethnic minorities' livelihood may be allowed under strict control of the Ministry of Environment or other relevant authorities, provided that they do not present serious adverse impacts on biodiversity conservation and ecosystem value within the zone.

3. Sustainable Use Zone: management area(s) of both high economic potential and significant conservation and ecosystem value, with high potential for contributing to the sustainable livelihood of local communities including ethnic minority communities.,

In addition to the small-scale subsistence uses permitted in the conservation zone, appropriate sustainable harvesting and production, development and investment activities are permitted in this zone in accordance with relevant land use planning and management in the zone, and subject to approval from the Ministry of Environment or other relevant authorities. These activities may include but not be limited to silviculture practices, afforestation, reforestation, sustainable plantation and commercial NTFP cultivation.

4. Community Zone: Management area(s) for socio-economic development of the local communities and indigenous ethnic minorities and, in addition to the uses permitted in the sustainable use zone, may contain existing residential lands, paddy field, and field garden or swidden (Chamkar).

Any commercial sale of timber and fuelwood from the community zone must be in accordance with the area's approved management plan and a permit from the relevant authorities.

Any commercial development, infrastructure, investment activities and exploration shall not be permitted in Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas without an approved Environmental Impact Assessment, and approval for the development from the Prime Minister.

## **ARTICLE 22**

Consistent with the land use planning, zoning, and management procedures set forth in this Title, the relevant stakeholders involved in the management of any Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas including any collaborative management zone may determine that some portions of these areas are best suited to sustainable forestry or other sustainable commercial activity.

In such cases, the relevant authorities may enter into any agreements for such sustainable forestry or commercial activity for the benefit of the local communities, and in accordance with the access to information and public participation provisions of Book \_\_\_, Title \_\_\_ of this Code.

## **ARTICLE 23**

The process of zoning designation for all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas shall be implemented according to sections \_\_\_ and \_\_\_ of this Code (access to information and public participation) and according to guidelines approved by the Ministry of Environment that include criteria for zoning and modification of zoning boundaries, and procedures for engagement of all stakeholders including local communities and indigenous communities in the zoning designation process, including Collaborative Management Committee and Collaborative Management community members in those areas under Collaborative Management.

## **ARTICLE 24**



Upon completion of the zoning process described in **Article 23**, the relevant authorities shall formalize the map for each Biodiversity Conservation Corridor or other protected area, or any provincial, municipal, or local protected areas. The boundaries and zones will be publicly available and disseminated to relevant stakeholders.

## **ARTICLE 25**

Each site-specific zoning designation process shall be updated every five (5) years, or earlier if required.

## **ARTICLE 26**

Any proposal to modify the zone designation of any Biodiversity Conservation Corridor, any other protected areas, any provincial, municipal, or local protected area, or any portion thereof, from a more highly protected status to a lower protected status, shall be subject to the EIA provisions of this Code.

In addition, the relevant authorities proposing the modification of zoning classification shall prepare documentation detailing the following:

1. The scientific and socio-economic reasons for the proposed modification to zone classification;
2. The efforts that have been made to retain the current zoning status;
3. The manner in which the modification to zone classification will enhance the livelihood of local communities;
4. The means by which the loss of conservation and ecosystem value will be offset, and
5. Such other information to justify the proposal.

Any proposal to modify the zone classification of any Biodiversity Conservation Corridor or other protected area shall be subject to the access to information and public participation provisions of Book \_\_\_, Title \_\_\_ of this Code.

## **CHAPTER 5 NATIONAL STRATEGIC AND ACTION PLANS FOR PROTECTED AREAS MANAGEMENT**

## **ARTICLE 27**

The Ministry of Environment shall develop a framework National Biodiversity Conservation Corridor Strategic Management Plan (NBCCSMP) and ensure that the Plan is compatible and consistent with other national plans and strategies and that it properly includes budgetary considerations.

The NBCCSMP shall be developed in accordance with the access to information and public participation provisions of Book \_\_\_, Title \_\_\_ of this Code.

## **ARTICLE 28**

The Ministry of Environment shall make proposals for review and revision of the NBCCSMP 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.

The NBCCSMP shall be revised in accordance with the access to information and public participation provisions of Book \_\_\_, Title \_\_\_ of this Code.

## **ARTICLE 29**

For all Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas that are not subject to the Collaborative Management provisions of Book \_\_\_, Title \_\_\_ Section \_\_\_ of this Code, the Ministry of Environment or other relevant authorities shall develop site-specific management plans in accordance with the NBCCSMP.

The process for the development of these site-specific management plans shall involve coordination and consultations with local authorities, local communities and indigenous ethnic minorities living inside and adjacent to Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, 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.

Site-specific management plans shall be developed in accordance with the access to information and public participation provisions of Book \_\_\_, Title \_\_\_ of this Code.

Each site-specific management plan shall be revised every five (5) years from its date of approval, or earlier if changes are required to achieve the management objectives as stated in the protected area management plan.

Site-specific management plans shall be revised in accordance with the access to information and public participation provisions of Book \_\_\_, Title \_\_\_ of this Code.

#### **ARTICLE 31**

If a natural resource or environmental disaster occurs in a protected area the Ministry of Environment or other relevant authorities shall work with the National Committee on Disaster Management and any provincial level disaster management units to address and remedy the disaster in accordance with the 2015 Law on Disaster Management.

### **CHAPTER 6 COMMUNITY PROTECTED AREAS**

#### **ARTICLE 32**

Any Community Protected Areas that are already existing upon the enactment of this Code shall remain valid, and all rights, duties and obligations regarding such Community Protected Areas, as contained in the 2008 Protected Areas Law, shall remain legally valid, unless and until such time as each community Protected Area is incorporated into a Collaborative Management Zone as set forth in Book \_\_\_, Title \_\_\_, Section \_\_\_ of this Code. .

### **CHAPTER 7 PERMITS AND APPROVALS**

#### **ARTICLE 33**

Subject to the access to information and public participation provisions of Book \_\_\_, Title \_\_\_ of this Code, and consistent with the land use planning, zoning classification and management plans for each area, the Minister of Environment or other relevant authorities have the authority to issue permits, concessions, agreements, or contracts for conservation, management, utilization of and customary, sustainable access to natural resources in Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas .

#### **ARTICLE 34**

Development of any permanent buildings or infrastructure, granting of any type of concession, land clearing, or bulldozing shall be strictly prohibited in the Core Zone and Conservation Zone.

Low impact, non-permanent infrastructure consistent with the area management plan may be permitted in the Conservation Zone.

Any development and investment activities in the Sustainable Use or Community Zones must be consistent with the management plan for these areas and for the direct benefit of the local communities in the area. Such activities are also subject to the EIA, access to information and public participation provisions of this Code, and approved by the relevant authorities.

#### **ARTICLE 35**

Any proposed taking out of or into Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, plants, seeds, wildlife or fish, and cross breeding of wild species or fish of all species shall be subject to prior research, analysis and approval by the Ministry of Environment and the **National Wildlife Advisory Board**/TWG on Biodiversity of the NCSD???.

#### **ARTICLE 36**

All non-commercial export, import or exchange between the Kingdom of Cambodia and other countries of wildlife shall be subject to comprehensive research, diagnosis, and evaluation by the Ministry of Environment. 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.

#### **ARTICLE 37**

Setting forest fire in Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas without a permit is prohibited. The use of fire may be allowed by the Ministry of Environment, for arboriculture, habitat management, fire road and forest sanitation, in accordance with approved management plans.

#### **ARTICLE 38**

Fishing inside the Core Zone of a Biodiversity Conservation Corridor or other protected area, and any provincial, municipal, or local protected area is strictly prohibited.

Fishing with illegal gears inside any zone of the Biodiversity Conservation Corridor or other protected area, and any provincial, municipal, or local 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.

Placing a barrier or obstruction in any aquatic system within a Biodiversity Conservation Corridor or other protected area, and any provincial, municipal, or local protected area that prevents the free passage of fish is prohibited without a permit.

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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas.

Establishment or operation of an aquaculture process is strictly prohibited inside Core Zones and Conservation Zones.

### **ARTICLE 39**

Consistent with its zoning designation and management plan, each Biodiversity Conservation Corridor or other protected area, and any provincial, municipal, or local 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. Removal or destruction of official boundary markers or posts, or placement of private 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 and management plan, 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 wildlife 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. Cross breeding of any wildlife or fish species
11. Illegal fishing practices harmful to natural resources, both marine and freshwater, flooded forests, mangroves, corals and seaweeds, rivers and wetlands
12. 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
13. Mining activities including survey, testing, exploration and extraction of minerals within the Core Zone and Conservation Zone
14. Dredging or extraction of sand and other minerals or resources from rivers, riverbanks or coastal areas within the Core Zone and Conservation Zone
15. Development of small-scale dams or irrigation within the Core Zone and Conservation Zone

#### ARTICLE 40

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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local 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 Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local protected area is strictly prohibited.

Transporting illegal natural resources inside all zones of Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas is prohibited. Transportation of natural resources inside all zones of all such areas without a valid permit is prohibited.

#### **ARTICLE 41**

Harvesting resin within the Conservation Zone or Sustainable Use Zone of Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local 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 Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local 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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local 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 Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local 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 Biodiversity Conservation Corridor 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 Biodiversity Conservation Corridor 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 Biodiversity Conservation Corridor if appropriate, and cease all resin harvesting activities until a replacement permit is issued.

The Biodiversity Conservation Corridor 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 42**

Any person, group, community or legal entity that conducts eco-tourism within the boundary of a Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local protected area must have an agreement with the Ministry of Environment or relevant authorities for the proposed eco-tourism activities and arrangements.

## **CHAPTER 9 LAW ENFORCEMENT AND PROCEDURES TO RESOLVE OFFENCES**

### **ARTICLE 43**

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 Ministry of Environment 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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, and file such cases with the court.



Operations by officials of the Ministry of Environment 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.

Ministry of Environment 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 Ministry of Environment.

All Directors, Deputy Directors of Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas and other relevant staff shall be assigned duties as Judicial Police Officers.

#### **ARTICLE 44**

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 Ministry of Environment officials.

Officials of the Ministry of Environment, 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 Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local protected area .

When conducting an enquiry into offences, Officials of the Ministry of Environment that are not qualified as Judicial Police Officers, are required to make reports, in accordance with the Law on Criminal Procedures.

#### **ARTICLE 45**

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 officer shall wear appropriate uniform, insignia and hierarchical ranking badge, with the exception of covert investigations.

## ARTICLE 46

Officials of the Ministry of Environment, in their role as judicial police, shall have the authority to use weapons and authority to use self-defence against physical violence by offenders while performing their mission. The weapons shall be managed by the Ministry of Interior in accordance with the Law on the Management of Weapons, Explosives and Ammunition.

## ARTICLE 47

Evidence of natural resources offences inside the Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local 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 committing offences (including, inter alia, telephones, financial records, bank records)
4. Assets considered likely to have been purchased through the proceeds of 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 Ministry of Environment has the authority to release or destroy or keep for public benefit the natural resources products and by-products seized. Seizures and management of seized wildlife, wildlife products, trophies or other derivatives, must be duly recorded and follow the guidelines in the Law on Wildlife Protection, Conservation and Management.

## **ARTICLE 48**

Officials of the Ministry of Environment 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 49**

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 50**

Any person who disagrees with the decision made by Ministry of Environment as outlined in this law, except transaction fines as stated in Articles \_\_, \_\_ and \_\_ shall have the rights to make a written complaint to the Ministry of Environment within at most thirty (30) days as of the date a decision by the local Environmental Department or the court is received.

The Ministry of Environment 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 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 stay the process of enforcement by Ministry of Environment officers under this Law.

## **Chapter 10 Natural Resources Offences and Penalties**

## **ARTICLE 51**

Punishments for natural resource offences within Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local 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 Biodiversity Conservation Corridors and other

protected areas, and any provincial, municipal, or local protected areas will be covered under the Title on Wildlife Protection, Conservation and Management and punishment under this Title will be applied.

Restoration for damages to wildlife, habitat, and ecosystem services, inside or outside Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas will be covered under the Title on Restoration and Compensation for Harm in Book 9 on Environmental Offense, Enforcement and Remedies.

Decisions to impose transaction fines, to pay restoration damages and to issue warnings shall be the responsibility of the Ministry of Environment.

If the offender refuses to pay the fines or restoration damages, then the Ministry of Environment may file a court proceeding on the offence.

Confiscation of equipment whether by the Ministry of Environment 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. For example, three First Grade offences will be punished as a Second Grade offence.

## **ARTICLE 52**

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 Ministry of Environment.

The procedures and rights to decide on transaction fines shall be defined by a legal instrument of the Ministry of Environment.

If the offender refuses to pay the fine or restoration damages, within the period as stated in this article then the Ministry of Environment may file a court proceeding on the offence.

## **ARTICLE 53**

The fines imposed by court decision or revenue from selling of evidence shall go to the national budget. and be allocated for use to support management of Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas, and conservation

of wildlife and biodiversity in the Kingdom of Cambodia.

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 54**

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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local 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.

## **ARTICLE 55 (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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local 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 55**.

1. Entry into the Core Zone of the Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local protected area (unless with an approved permit for research and law enforcement purposes)
2. Entry into the Conservation Zone of the Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local 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 Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local protected area .

#### **ARTICLE 56 (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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local 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 timber, firewood, Non Timber Forest Products without correct permit within Sustainable Use or Community Zones of any Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas

- Destroy, change, remove, or damage signage of all kinds
- Remove water from Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas for irrigation or other means

#### **ARTICLE 57 (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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas unless prescribed within the Protected Area management plan and receiving approved Environmental Impact Assessment.
- Collecting or transporting any Timber, Firewood and Non Timber Forest Products without correct permit within Conservation zone of any Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas
- Bring in hunting or any other dogs into Conservation or Core Zones of any Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas unless for valid research or conservation purposes approved by the National Wildlife Advisory Board/NCSD TWG on Biodiversity????
- 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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas
- Bring in chainsaw and other logging machinery and transportation equipment into a Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local protected area without a permit
- Destroying (including but not limited to collecting, logging, uprooting, pruning, cutting, feeling trees to collect fruit) any non-threatened plant or tree species within Conservation or Core Zones of any Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local 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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas
- Build or install boundary posts or markers, fences, putting signs for the purposes of ownership
- Cause obstruction, injury or interference to the Ministry of Environment in performing its functions and duty effectively

#### **ARTICLE 58 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 Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local protected area
- Transporting any plant or tree species IUCN listed as Critically Endangered, Endangered, Vulnerable or Near Threatened in any Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local protected area
- Clearing land >0.5 ha through removing or destroying vegetation within any Biodiversity Conservation Corridor, other protected area, or any provincial, municipal, or local 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 Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas
- Use of any poisonous substances that can have adverse impacts to natural resources and wildlife



- 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*, *Coscinium fenestratus*),
- 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 59**

Any person who threatens and causes obstruction, injury or interference to Ministry of Environment 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 60**

The 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 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 8 MONITORING AND EVALUATION OF BIODIVERSITY CONSERVATION CORRIDOR MANAGEMENT**

## **ARTICLE 61**

Management plans for all Biodiversity Conservation Corridors and other protected areas, and any

provincial, municipal, or local protected areas shall contain objectives by which to measure the achievement of conservation, ecosystem value and livelihood objectives for the area. Reports on the progress of achieving these indicators shall be publicly reported every two years.

## **ARTICLE 62**

All Biodiversity Conservation Corridors and other protected areas, and any provincial, municipal, or local protected areas must employ a system and database for managing and monitoring law enforcement and patrolling efforts. Reports of such activities shall be made publicly available on an annual basis.

## **TITLE 3      COLLABORATIVE      MANAGEMENT      OF      NATURAL RESOURCES**

The Law on Nature Protection Areas 2008, the Law on Environmental Protection and Natural Resource Management 1996, the Law on the Administrative Management of the Capital, Provinces, Municipalities, Districts, and Khans 2008, the Law on Concessions 2007, the Law on Land 2001, and the Law on Land Management, Urban Planning and Constructions 1994 are hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management]*

## **CHAPTER 1 ESTABLISHMENT OF COLLABORATIVE MANAGEMENT**

### **ARTICLE 1**

All Biodiversity Conservation Corridors, or other protected areas, or any provincial, municipal, or local protected areas, Community Protected Areas, Community Forests, and other state public lands with ecosystem or conservation values shall be eligible to be managed according to the principles of Collaborative Management.

### **ARTICLE 2**

Community-based natural resources management mechanisms such as Community Protected Areas, Community Forests, and Community Fisheries, which already exist or under the approval process, shall maintain their legal status until such time as they may become incorporated into a Collaborative Management Protection Zone, at which time they shall become automatically recognized as components of a Collaborative Management Protection Zone, subject to

Collaborative Management rules and regulations.

## **CHAPTER 2 IMPLEMENTATION OF COLLABORATIVE MANAGEMENT**

### **ARTICLE 3**

Local communities, in collaboration with local authorities in any Biodiversity Conservation Corridor, or other protected area, or any provincial, municipal, or local protected areas or other state public lands with ecosystem or conservation values, have the right to submit applications for the establishment of Collaborative Management Protection Zones to the Ministry of Environment.

In preparing an application, local communities' and local authorities' representatives shall determine Collaborative Management arrangements, site-specific land use planning and zoning for Collaborative Management Protection Zones, local community eligibility requirements for Collaborative Management, and other Collaborative Management requirements.

In preparing the application, local communities' and local authorities' representatives shall coordinate with the Ministry of Environment, relevant staff from any Biodiversity Conservation Corridor or other protected area, and other institutions, who each shall support the proponents during the preparation of the application.

In preparing the application and its sub-components, local communities' and local authorities' representatives of Collaborative Management may seek technical advice from international and local organizations and other interested parties. Specific roles for these entities in the implementation of Collaborative Management may be included in the Collaborative Management application.

Completed applications shall contain proposed structure of a Collaborative Management Committee, membership and voting rights of all Collaborative Management community members. Consistent with Book \_\_\_, Title \_\_\_ (Biodiversity Conservation Corridor Management) completed applications shall also include proposed land use planning and zoning for the Collaborative Management Protection Zone, and a proposed Collaborative Management Plan.

The Ministry of Environment shall review all applications according to clear criteria and procedures and shall provide a decision within three months of receipt of the application.

### **ARTICLE 4**

Upon approval of the application, the Collaborative Management Committee shall enter into a

Collaborative Management Agreement with the Ministry of Environment. The precise roles and responsibilities of all stakeholders in an individual Collaborative Management Protection Zone shall be set forth in the Agreement.

If an application is rejected, the Ministry of Environment shall provide detailed comments describing what modifications to the application would be required in order for the application to be accepted upon resubmission.

All documents related to such application, review and approval, shall be publicly available.

## **ARTICLE 5**

Execution of the Collaborative Management Agreement shall create legal recognition for the relevant Collaborative Management Protection Zone as an administrative unit. Properly established Collaborative Management Protection Zones shall maintain this legal status for a period of unlimited duration, subject to satisfactory implementation of Collaborative Management responsibilities as described in Article \_\_\_\_.

Execution of the Collaborative Management Agreement shall vest the Collaborative Management Committee with the status of a legal entity, with rights to manage funds, enter into agreements and transactions, generate income, and such other rights and obligations of legal entities.

Any income or fees received in the course of implementation of Collaborative Management shall be used exclusively for the benefit of the local communities in the Collaborative Management Protection Zone and for the further support of Collaborative Management implementation. Precise means of distribution of such income or fees will be described in the Collaborative Management Agreement.

The Collaborative Management Committee shall be exempt from taxation on any income or fees received in the course of its management of the Collaborative Management Protection Zone.

## **ARTICLE 6**

It shall be a punishable offense for any individual or entity to take any action that is in contravention of an approved Collaborative Management Agreement or any of the rights and responsibilities pursuant to it.

## **ARTICLE 7**

Implementation of Collaborative Management shall be subject to strict monitoring and oversight by the Ministry of Environment. The Ministry of Environment shall have the right to revoke Collaborative Management rights in any Collaborative Management Protection Zone where it determines that Collaborative Management is not being implemented in accordance with the approved Collaborative Management Plan.

#### **ARTICLE 8**

A special Collaborative Management Fund shall be created to provide support for Collaborative Management activities within each CMPZ. The Fund shall be under the control of the Collaborative Management Committee of each CMPZ and shall be transparently established and managed. The fund may receive Funds from the **Environmental and Social Fund** and other public and private sources, including payments provided based upon the valuation of the natural resources stewardship services provided by the Collaborative Management community.

#### **ARTICLE 9**

The precise terms of Collaborative Management, including detailed roles, rights and responsibilities, Collaborative Management Protection Zone zoning procedures, planning and management, funding mechanisms, member eligibility, benefit sharing, dispute resolution and other implementation steps, will be determined and set forth in a legal instrument after review of relevant projects and experience, and after conducting pilot implementation of Collaborative Management at several sites.

Within 18 months after the enactment of this Code, the Ministry of Environment shall issue a legal instrument on the details of implementation of Collaborative Management.

### **CHAPTER 3 COLLABORATIVE MANAGEMENT DURATION AND TENURE**

#### **ARTICLE 10**

Upon designation of a Collaborative Management Protection Zone according to Article \_\_\_, those communities located within the Collaborative Management Protection Zone shall receive a Collaborative Management Communal Land right. The communities also shall receive a Collaborative Management Communal Title, whose validity shall remain for the full duration of the Collaborative Management Protection Zone .

Regardless of any additional registration or requirements, such Collaborative Management Communal Title rights may not be infringed by any public or private entity without the

community's free, prior informed consent.

The Collaborative Management Communal Rights include the right for communities within the Collaborative Management Protection Zone to reside in, conserve, manage and receive benefits from the sustainable use of natural resources within the Collaborative Management Protection Zone according to an approved Collaborative Management Plan. These rights do not include the right to sell or transfer the lands designated as CMPZs.

The Collaborative Management Communal Title rights set out in this article are fixed to the duration of the Collaborative Management Protection Zone and are conditioned upon fulfilment of Collaborative Management responsibilities.

The failure by communities to comply with the Collaborative Management Plan and other Collaborative Management rules and regulations shall result in revocation of the Collaborative Management Communal Title.

A failure of any other party to comply with the Collaborative Management Plan and other Collaborative Management rules and regulations, including a failure that results in the cancellation of a collaborative Management Protection Zone, shall not result in revocation of the Collaborative Management Communal Title.

Such Collaborative Management Communal Title rights may not be transferred to any person or community outside the Collaborative Management Protection Zone.

The rights in this Article are in addition to any rights that indigenous communities may receive in accordance with (indigenous peoples' collective land titling procedures).

## **TITLE 4        SUSTAINABLE FOREST MANAGEMENT**

The Law on Forestry 2002, the Law on Fisheries 2007, the Law on Concessions 2007, the Law on Nature Protection Areas 2008, and the Law on Environmental Protection and Natural Resource Management 1996 are hereby amended and clarified as follows:

*List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management.]*

### **CHAPTER 1 GENERAL PROVISIONS**

## **ARTICLE #**

This Title addresses sustainable forestry management in those forested areas outside of Biodiversity Conservation Corridors or other protected areas or any provincial, municipal, or local protected areas, ,

The General Principles of this Code shall form the basis of sustainable forest governance and practices in the Kingdom of Cambodia. All sustainable forestry management shall be undertaken consistent with the objectives of conservation, ecosystem values, local livelihoods, and sustainable development.

## **ARTICLE #**

An EIA shall be prepared for any major forest ecosystem related activity that may cause adverse impact on society and environment, including all designations, development, harvest, or other type of activity which have an impact on natural resources in forests.

Except as allowed by permits in Sustainably Managed Forests, all forest clearing activities shall be prohibited within the Forest Unit.

The prospection, use, transport, processing, trade, and export of all Forest Resources and Forest Products are subject to this Law.

## **CHAPTER 2 XXXX**

### **SECTION 1 JURISDICTION AND AUTHORITIES**

## **ARTICLE #**

The relevant institution shall perform the following duties:

1. Oversee the implementation of Sustainable Forest Management, which includes the planning, permitting, management and oversight of sustainable forestry practices;
2. Prepare guidelines and procedures for effective enforcement of this Law;
3. Develop and implementing strategic plans, action plans, and technical guidelines for managing Sustainably Managed Forests;
4. Study and collect data on forests regarding scientific, economic, social and environmental factors in order to establish metrics and standards for sustainability;
5. Assess boundaries, classify and demarcate forests in order to establish a land use map of

the Forests in coordination with the Ministry of Land Management Urban Planning and Construction, local authorities and communities;

6. Participate in the development of National, Sub-national, and local environmental and natural resource plans as identified in Book 2, Title 1 of this Code;
7. Ensure the timely and complete assessment of all forest related activities that may have a significant adverse social and environmental impact prior to approval of such activities;
8. Make proposals for the establishment and modification of any Forest classification or designation, as required by the Royal Government of Cambodia or pursuant to regional and international conventions, protocols and agreements;
9. Promote education and dissemination to the public to demonstrate the importance of managing, maintaining and protecting forest resources, as well as to encourage participation in the conservation and protection of natural resources within the BCCs and other protected areas;
10. Restore the ecological services on all degraded forest lands and reforest as appropriate for forest designation, including forest canopy cover and other criteria, to promote and achieve REDD+ and other conservation goals;
11. Promote specialized forestry and forest product development sectors to address forest product demands that result in reduced impacts and loss of existing natural forest stands. This includes fuel wood and construction-related materials;
12. Promote local or national private sector value-added processing of forest products;

## **SECTION 2 JURISDICTION OVER FORMER AND REMAINING CONCESSIONS**

### **SECTION 3 INSTITUTIONAL REFORM**

#### **ARTICLE # NATIONAL ADVISORY COMMITTEE**

A national advisory committee shall be established that shall advise the relevant institution on creation of forestry policy. The national committee shall be co-coordinated by the Minister of Agriculture Forestry and Fishery and Minister of the Environment and shall consist of members of provincial and local governments, indigenous groups, citizenry, forestry profession, and forest commercial representatives.

1. The Authority shall appoint at least seven and no more than twelve people to constitute a Forestry Management Advisory Committee.
2. Unless the Authority adopts Regulations setting forth other provisions, the following requirements apply:



3. In making appointments to the Committee, the Authority shall:
4. Select at least one member from among nominees advanced by each of the following types of stakeholders within the Republic: registered civil society organizations (local, regional, or national); professional forester associations; forest labour organizations; logger associations; universities or other academic institutions; and the Environmental Protection Agency; and
5. Ensure that the interests of women and youth are fairly represented.
6. Each member shall serve a three-year term, and the Authority may reappoint them.
7. The Authority shall name one member of the Committee to serve as chairperson.
8. The Committee shall convene at the request of the chairperson or the Authority.
9. The Authority may ask the Committee for advice as a group, or as individuals, and the Authority shall make available to the public copies of any written advice or comments received from the Committee or from individual Committee members.
10. Any member of the Committee disagreeing with the majority on any matter may submit dissenting views to the Authority.

Upon request of the Committee, or an individual member, the Authority shall provide the Committee with plans, contracts, surveys, or other information in the Authority's possession, and shall make employees of the Authority available on a reasonable basis to assist the Committee.

## **SECTION 4 SUSTAINABLY MANAGED FOREST DESIGNATIONS**

### **ARTICLE # PURPOSE AND STRUCTURE**

Forested areas outside of Biodiversity Conservation Corridors or other protected areas or any provincial, municipal, or local protected areas, shall be classified as Sustainably Managed Forests.

Sustainably Managed Forests include the following three (3) designations:

18. Private Forests: refers to forest land that is either designated as state private land that is not a production forest, forest land that has legal title, or forest land has been recognized under the 2001 land law as belonging to indigenous communities;

19. Sustainable Production Forests: sustainable production forests are areas where priority has shifted from conservation to a balance of conservation and natural resource use. Production forests consist of economic land concessions, degraded forest land, forest land reserved for tree plantation, and stock forests that have been approved by the relevant government institution for redesignation after the appropriate procedures have been complied with. Production is only allowed where

permits are obtained. Permitting process will be established in a future legal instrument;

20. Stock Forests: forested areas that are held in reserve for future sustainable production and use. These include forested areas adjacent to Biodiversity Conservation Corridors or other protected areas or any provincial, municipal, or local protected areas, idle forests, all other non-designated forested lands, rehabilitated forests, forests to be rehabilitated, reforested areas, and areas reserved for forest regeneration. The designation of stock forest may be changed to production forest, as outlined in article # below.

## **ARTICLE #**

All Sustainably Managed Forests must be delineated and categorized before any production or other use may be permitted.

The relevant institution shall apply international agreements and national development goals and policies when classifying and determining the proper designations of forests. Designations shall address goals to reduce emissions from deforestation and forest degradation through the National REDD+ Strategy.

The relevant Ministry shall establish areas of Sustainably Managed Forests and sub-designations based on the following criteria:

1. Forest coverage maps, data on forest and non- forest land with clear coordinates;
21. Multi-scale spatial assessments and planning as identified in Book 2 of this Code;
22. Ecological function of the forest and the importance of forests for the needs of economy, social and culture;
23. Representation of sufficient forest types to capture the range of forest diversity, identified by vegetation structure and composition as related hydric and substrate characteristics; and
24. Goals to reduce emissions from deforestation and forest degradation through the Forest Carbon Partnership.

The relevant institution shall also analyze all existing economic land concessions and include each with the Sustainably Managed Forests designation system.

Consistent with the provisions of this Code, the designation and management of Sustainably Managed Forest shall guarantee the rights of local communities, indigenous ethnic minorities and the public to be consulted and participate in the decision-making on the sustainable management of these forest resources, to provide consent as required by this Code, to fully participate in the management of these areas, and to ensure fair and equitable access to all such areas for resource

users.

Any decision to ..... shall be subject to the access to information and public participation provisions of Book \_\_\_\_\_, Title \_\_\_\_\_ of this Code.

#### **ARTICLE #**

In order to change the designation of a Stock Forest to a Sustainable Production Forest, the relevant government institution must conduct an EIA on the possible change in designation. Where there may be impacts on wildlife, plants habitats or ecosystems, the relevant government institution must ensure compliance with Titles # (Wildlife Protection, Conservation and Management) and # (Threatened Plants, Habitats and Ecosystems) to guarantee the protection of wildlife, plants, habitats and ecosystems. Changes in designation must be accompanied by the proper permits for production activities to commence.

#### **ARTICLE #**

All forest designations must be published and made publicly available by the relevant government institution. When any decision to establish or change a designation is considered, communities must be notified through adequate and timely public notice of the application for change in designation, as well as of all decisions made throughout the change in designation process, in order to ensure full public participation. A final notice must be made publicly available when the designation decision is made.

#### **ARTICLE #**

The relevant government institution shall evaluate alternative forest designations to accommodate emerging needs and opportunities, such as recreation forests, community production forests, experimental forests and restoration forests.. Alternative forest designations will be evaluated on adherence to sustainability principles and other state goals as addressed in management plans.

#### **ARTICLE # DEVELOPMENT OF LEGAL INSTRUMENTS AND [PROGRAM AND TECHNICAL GUIDANCE]**

The relevant institution shall issue a legal instrument to determine the rules on tree plantations in order to encourage individuals to plant and maintain tree plantations that follow principles and standards for sustainable forest management and that are compatible with landscape environmental, social, economic and resource goals, such as sediment loading in streams and fisheries.

## **CHAPTER 3 SUSTAINABLE FOREST MANAGEMENT (SFM)**

### **SECTION 1 LEGAL AND POLICY FRAMEWORK**

#### **ARTICLE #**

The relevant institution shall comply with all applicable laws, regulations and international treaties, conventions and agreements. The ministry shall:

1. Demonstrate that the legal status of the forest unit, including tenure and use rights, and its boundaries, are clearly defined.
2. Develop and implement measures, and/or shall engage with regulatory agencies, to systematically protect the forest from unauthorized or illegal resource use, settlement and other illegal activities.
3. Publicize a commitment to transparency in all steps of the Sustainable Forest Management process.
4. Improve enforcement through
  - a. Increased crime monitoring and reporting
  - b. Rapid response capacity on forest crime information
  - c. Engagement with local and indigenous communities

#### **ARTICLE #**

The relevant Ministries will collaborate to clearly define, and then publicize, the legal status of the forest unit including tenure and use rights, and its boundaries.

#### **ARTICLE #**

The relevant Ministry shall develop and implement measures, and/or shall engage with regulatory agencies, to systematically protect the forest unit from unauthorized or illegal resource use, settlement and other illegal activities.

#### **ARTICLE #**

The relevant Ministries shall publicize and carry out a commitment to transparency in all steps of the Sustainable Forest Management process.

### **SECTION 2 MULTIPLE BENEFITS APPROACH TO SUSTAINABLE FORESTRY**

## **ARTICLE #**

The relevant institution shall efficiently manage the range of multiple products and services of the Forest to maintain or enhance long-term economic viability and the range of environmental and social benefits. These benefits include the well-being of people, environmental quality, and sustained markets and yields. These are achieved through implementation of the following practices related to major components of a sustainability agenda.

## **ARTICLE # EMPHASIS ON THE RIGHTS OF PEOPLE**

In all aspects of Sustainable Forestry Management, the relevant institutions shall engage with, and maintain or enhance the social and economic wellbeing of workers, local communities and Indigenous peoples, by these actions:

1. Identify and uphold Indigenous Peoples' legal and customary rights of ownership, use and management of land, territories and resources;
2. Use Social Impact Assessments, civic engagement and information-sharing;
3. Contribute to maintaining or enhancing the social and economic wellbeing of local communities;
4. Address worker gender equity, safety, living wages, and mechanisms for resolving grievances;
5. Uphold the right of local communities to protect and utilize their traditional knowledge and shall compensate local communities for the utilization of such knowledge and their intellectual property; and
6. Uphold the legal and customary rights of local communities to maintain control over management activities within or related to the Forest unit to the extent necessary to protect their rights, resources, lands and territories.

## **ARTICLE # SUSTAINED YIELDS OF MULTIPLE PRODUCTS**

The relevant institution shall support community and individual efforts achieve fair returns on the value of timber and non-timber, and even by-products of processing through technical support for planning, management and marketing of such products, and through enforcement of forest laws and permitting systems.

## **ARTICLE # ENVIRONMENTAL VALUES AND IMPACTS**

The relevant institution shall maintain, conserve and/or restore environmental values and

ecosystem services of the Forest, and shall avoid, repair or mitigate negative environmental impacts on:

1. Intact forests and waterways;
2. Environmental quality of soils, water and air;
3. Integrity of soil and ecosystems; and
4. Viability of species, especially rare or endemic species.

Where especially rare or endemic species are found on production lands, Book 5 Titles 2-4 apply to determine land use status.

### **SECTION 3 IMPLEMENTATION OF MANAGEMENT ACTIVITIES**

#### **ARTICLE #**

Management activities conducted by or for the relevant institution shall be selected and implemented consistent with National, provincial and local economic, environmental and social policies and objectives.

#### **ARTICLE # MANAGEMENT PLANNING**

The forest manager shall have a management plan consistent with its policies and objectives and proportionate to scale, intensity and risks of its management activities. The management plan shall be implemented and kept up to date based on monitoring information in order to promote adaptive management.

#### **ARTICLE #**

The Forest Administration shall prepare 5-year management plans for Sustainably Managed Forests. Management plans shall be developed based on assessments of the following factors:

1. forest types and qualities (based on forest inventory data);
2. ecological values of forest; and
3. location of indigenous peoples and local communities and their livelihood needs.
4. The plans shall include:
5. Plans for former and remaining concession areas
6. Plans for silvicultural practices including allowable annual coupes for different management areas

7. Plans for afforestation, reforestation, plantation in degraded areas.
8. Plans for forest monitoring and law enforcement

#### **ARTICLE # FIVE YEAR UNIT PLANS**

Forest unit managers will develop Five Year Forest Unit Plans including the following:

1. Statement of Purpose and Need for the plan;
2. Goals, Objectives, and Desired Outcomes of resources, social and profit metrics, where:
3. Goals are statements of intent to set general direction of management;
4. Desired outcomes are well articulated (clear) descriptions (if possible, measurable) of what forest, or community condition will look like once goals are achieved; and
5. Objectives reflect actions that are specific, measureable, attainable, realistic and time-bound, that contribute to the achievement of the desired condition and goals;
6. Area of specific management actions such as swidden agriculture, perennial crops, agroforestry, religious forest, woodlot, natural forest for NTFP harvest. The Forest Unit Manager can designate these by simple map, if mapping technology is not available.
7. Best management practices to be used including actions to be avoided;
8. Silvicultural practices (e.g., thinning, coppicing, planting mixtures and harvest methods);
9. Harvest quotas;
10. Forest product certification procedures;
11. Forest product processing and transportation;
12. Roles and responsibilities;
13. Schedules;
14. Budgets;
15. Monitoring and evaluation; and
16. Reporting framework and timelines.

#### **ARTICLE # ANNUAL UNIT PLANS**

Forest Unit Annual Plans, prepared by the Unit Manager and approved by the Relevant institution will describe

25. Silvicultural practices and schedules,

26. Harvest quotas

27. Harvest schedules

28. Certification activities

## **ARTICLE #**

Forest managers shall seek to:

1. Harvest products at or below a level that can be permanently sustained;
2. Include positive and negative externalities of operation in the management plan;
3. Use local processing, services, and value adding where these are available; and
4. Participate in International Forest Product and Management Certification programs and implement chain-of-custody practices for products not used for local consumption.

## **ARTICLE # BEST MANAGEMENT PRACTICES**

The Institution shall issue detailed guidelines and descriptions of best management practices in daily activities to achieve the aims of certification of SFM. These will include:

1. Restore or facilitate the recovery of degraded or harvested sites, using native species and local genotypes for regeneration, unless there is clear and convincing justification for using others.;
2. Use non-native or genetically modified species / organisms only when justified to address SFM goals and approved through an EIA approval;
3. Use silvicultural practices that are ecologically appropriate for the vegetation, species, sites and management objectives;
4. Minimize or avoid the use of chemicals, and apply integrated pest management;
5. Take all necessary actions to limit and or avoid soil erosion and contamination;
6. Minimize, monitor and strictly control the use of biological control agents in accordance with internationally accepted scientific protocols;
7. Assess risks and reduce potential negative impacts from natural hazards;
8. Manage infrastructure development, including roads so that environmental values are protected, and disturbance of and damages to these values are prevented, mitigated and/or repaired; and



9. Manage activities associated with harvesting and extraction of timber and non-timber forest products so that environmental values are conserved, merchantable waste is reduced, and damage to other products and services is avoided.

## **ARTICLE # CERTIFYING SUSTAINABLE MANAGEMENT AND SUPPLY CHAIN PRACTICES**

All forest managers will obtain an International Forest Product and Management Certification for all forest products produced for domestic use. Forest Managers who intend to export timber [once export bans are removed] are highly encouraged to obtain International Forest Product and Management Certification. The relevant Ministry will assist forest managers as needed with this process.

## **ARTICLE # MONITORING AND ASSESSMENT**

The Institution shall implement quantitative monitoring and evaluate:

1. Progress towards achieving the management objectives;
2. Impacts of management activities and the condition of the Forest unit; and
3. The source and volume of all products that are marketed as certified under an approved International Certification program.

The Institution shall develop guidance on:

1. Identifying the appropriate indicators of the forest and how to measure them;
2. Sampling design for sufficient data interpretation;
3. The timing and frequency of data collecting;
4. Processing monitoring information; and
5. The appropriate office or organizations to which monitoring information will be shared.

## **CHAPTER 4 PLANTATIONS**

### **ARTICLE #**

The relevant institution shall issue a Legal instrument and Program and Technical Guidance to determine the rules on tree plantations in order to encourage individuals to plant and maintain tree plantations that follow principles and standards for sustainable forest management and that are compatible with landscape environmental, social, economic and resource goals, such as sediment

loading in streams and fisheries.

Approval from the relevant institution for Sustainable Production Forests shall include an option to approve plantation. Approvals will be based on:

1. The compatibility of the project with Landscape Conservation Objectives;
2. Regional Natural Resource Plans; and
3. Commitment to following Best Management Practices

#### **ARTICLE #**

The project proponent shall develop an EIA as an application to the relevant institution. The EIA shall identify and evaluate impacts on:

1. Proximity to protected areas and Indigenous and other communities,
2. Tenure issues to previous land owners or users
3. Threatened species, species habitat and ecosystems
4. Connectivity of ecological flows of water or species movements

The EIA and permit application, as appropriate, will also include the proponent's plans for species selection, rotations, and harvesting methods.

#### **ARTICLE #**

The permit application must include a commitment and demonstrated capability to apply best management practices for plantations, as developed in future legal instruments and technical guidance. These practices include:

1. Prohibition on use of non-native invasive species
2. Establishment of buffer zones within and around the plantation, particularly near waterways
3. Use of multiple species
4. Retention of old trees
5. Post harvest rehabilitation and management
6. Soil and water conservation practices

7. Provision of access to authorities for the purpose of monitoring soil, native species, and other indicators of site and landscape condition
8. proposal should also include a commitment to engage in certification programs

## **CHAPTER 5 REDD+**

*[Chapter to be further developed.]*

### **SECTION 1 GENERAL/STRUCTURE**

#### **ARTICLE #**

The Royal Government of Cambodia (RGC) strongly supports the development and implementation of REDD+ as an option to mitigate the impacts of climate change, reduce greenhouse gas (GHG) emissions from the forestry sector, contribute to socio-economic development, and promote the shift towards green inclusive development. Current Cambodian national development policies, strategies and programmes have incorporated REDD+ as part of their strategic agendas.

#### **ARTICLE #**

The RGC will address the drivers of deforestation and forest degradation by mainstreaming sustainable development principles into the national policy framework, strengthening governance and management of forest resources, and promoting sustainable livelihoods and stakeholder engagement.

#### **ARTICLE #**

Following decisions adopted by the United Nations Framework Conventions on Climate Change (UNFCCC), REDD+ implementation in Cambodia has three consecutive phases: Readiness, Implementation, and Results-Based Payments (RBP) for verified emissions reductions.

#### **ARTICLE #**

Based on the Warsaw Framework for REDD+, Cambodia shall establish four interconnected elements:

1. National REDD+ Strategy or Action Plan (NRS);
2. National Forest Monitoring System (NFMS);
3. Safeguards Information System (SIS); and

4. Forest Reference Emissions Level/ Forest Reference Level (FREL/FRL).

**ARTICLE #**

Approaches to REDD+ in Cambodia will follow the requirements outlined in all relevant international agreements.

**SECTION 2 JURISDICTION AND AUTHORITY**

**ARTICLE #**

Implementation of the NRS is expected to follow the RGC's ministerial jurisdictions, with different government ministries contributing to developing REDD+ Action Plans for the different forest areas, according to the existing laws and policies.

**ARTICLE #**

The relevant Ministry that has full responsibility for REDD+ in Cambodia will collaborate and/or partner with other Ministries to implement REDD+ activities in areas under their jurisdiction, and shall:

1. Fulfil Cambodia's contribution to the achievement of the Objectives and Commitments of the UNFCCC;
2. Build on the RGC's existing coordination mechanisms and support the implementation of national policies, laws and regulations related to climate change and sustainable development;
3. Promote cross-sectoral engagement and coordination for the implementation of REDD+ PAMs to ensure that direct and indirect drivers of deforestation and forest degradation are effectively addressed;
4. Seek to provide predictable and adequate finance for the implementation and scaling-up of existing forest management strategies;
5. Ensure the full and effective participation of relevant stakeholders, including those that are most vulnerable such as local communities, indigenous peoples, and women;
6. Build capacity within government institutions and of non-government stakeholders; and
7. Maintain consistency with the international Climate Change negotiation process under the UNFCCC and methodologies set out by the Intergovernmental Panel on Climate Change (IPCC)

**ARTICLE #**

RGC is committed to contribute to national and global climate change mitigation efforts through the improved management of its forest resources.

**SECTION 3 TOOLS FOR IMPLEMENTATION**

**ARTICLE #**

Spatial land use plans will help guide the development of activities (e.g. agricultural development and infrastructure improvements), conservation areas and multiple use zones such that mitigation obligations are met, reference Book II, Title 1

**ARTICLE #**

The relevant government ministry will write sub-decree to include relevant language from the National Level REL and project requirements to strengthen the code language for technical requirements.

**SECTION 4 RESULTS BASED PAYMENTS**

**ARTICLE #**

Results based payments will be used as a sustainable financing mechanism to support landscape conservation areas.

**ARTICLE #**

Financing will be delivered to landscape conservation areas to protect forests and improve local livelihoods.

[

**CHAPTER 6 LINK MARKETS TO PRODUCTION FOREST DEVELOPMENT**

**SECTION 1 INCENTIVES FOR SUSTAINABLE CHARCOAL AND FIREWOOD  
PRODUCTION AND CONSUMPTION**

**ARTICLE #**

Sustainable charcoal and firewood production and consumption shall be promoted through financial and fiscal incentives for certified sustainable producers.

**ARTICLE #**

The sustainable origin of charcoal and firewood shall be insured through chain of custody certification and labeling using international standard like ISO or FSC, or national standard approved by ISC. The sustainability of the origin can be proven by documentary evidence from the relevant national institution in charge of monitoring the proper implementation of the management plan.

**ARTICLE #**

Sustainable production as well as certification shall be promoted through the collection of fees on non-certified charcoal and firewood trade to be paid by end-users. These fees should be invested in forest restoration in Community Forests, throughout Biodiversity Conservation Corridors and landscape Conservation Areas to support the shift to sustainable charcoal production for traditional producers.

**ARTICLE # CONSTRUCTION MATERIAL**

The relevant institution will develop and implement strategies for minimizing the loss or degradation of forest for the purposes of low-grade wood demand, including:

1. Analysis of timber demand for uses such as plywood and concrete framing that can utilize low grade timber such as pine and fast growing species.
2. Promotion of dedicated production forest to address needs for low-grade timber
3. Value added tax increases for the loss of value in high grade timber used in such sectors where low grade timber would suffice
4. Conservation incentives for forest managers that avoid loss of intact forest by adopting woodlot areas for low-grade timber production.

Non-native invasive species will not be used for the development of low-grade timber sources.

**CHAPTER 7 FIRE**

**ARTICLE #**

Guidelines to determine areas for forest fire control, forest fire prevention and creation of Forest Fire-Fighters Committees as a rule for implementation in all forest areas shall be determined by a Legal instruments of the relevant institution. Citizens, armed forces, and authorities of all levels shall have the obligations for forest maintenance and protection, fire prevention and fighting against forest fires.

**ARTICLE #**

The relevant institution shall develop a program to study the causes and effects of agricultural-driven and other human ignition patterns on forest loss, and tree and other species responses to fire. Outcomes of the work should identify common reasons for ignitions, fuel and fire management, and post-fire management, as well as effects on standing vegetation, soils, erosion, and seedbanks.

**ARTICLE #**

The relevant institution shall develop field testing with farmers and foresters to identify and evaluate alternatives to current burn practices to minimize negative impacts to forests and environmental values. The Ministry will then develop a framework to implement the most effective alternatives, and to disincentivize current burn practices. The Ministry will work with farmers, foresters and local communities to implement this framework.

**ARTICLE #**

The relevant institution shall develop training and certification in fire management for public and private sectors.

**CHAPTER 8 RESTORATION OF DEGRADED FORESTS**

**ARTICLE#**

Forest cover and forested ecosystems shall be maintained through sustainable management and where appropriate, restoration through removal of roads and infrastructure, mitigation of soil degradation and erosion, and revegetation with species native to the area affected.

**ARTICLE #**

Forest restoration shall be defined by standards set by the relevant institution and address forest structure, ecological function and services, and biodiversity, including species composition and species interactions, such as pollination.

**ARTICLE #**

Parties responsible for forest degradation shall be held responsible and liable to addressing factors of degradation and restoration response. The relevant institution shall establish guidance for restoration, and parties not compliant with relevant institution direction shall be charged for costs incurred for relevant institution to conduct the work.

**ARTICLE #**

Other degraded areas should be addressed through promotion of local and regional community actions. People, armed forces, and authorities of all levels shall have the obligation to participate in tree planting and reforestation.

**ARTICLE #**

The relevant institution shall develop guidelines and programs to identify characteristics of key tree species, including growth habits and rates, genetic characteristics, reproductive and recovery potential, habitat needs and wood quality.

**ARTICLE #**

The relevant institution shall develop guidelines and programs to collect, study, store and increase plant materials for routine re-planting and restoration of degraded lands both in and outside of the Permanent Forest Estate.

**ARTICLE #**

The relevant institution shall develop appropriate measures for forestry development through extension, education and motivation of individuals, communities and people to plant and protect forests, and by providing necessary technical assistance.

**ARTICLE #**

The participation of the people in tree planting and reforestation shall be encouraged by the Royal Government of Cambodia through mobilizing communities and other social organizations.

**ARTICLE #**

The planting of trees within the State Forestland may be done directly by the Relevant institution, Community Forestry, or by participation of people through a granted right to use state forest.

**ARTICLE #**

Rules on granting rights to use state forestland to plant trees shall be determined by Legal instrument- Kret. These rules and regulations shall take into account the potential social and environmental impact of the selected species to be planted.

**CHAPTER 10 PERMITTING**



**ARTICLE #**

All Forest Products and By-products located and originating from the Forest are State property, unless the rights of these products have been conveyed to an individual or legal entity pursuant to provisions in this law.

**ARTICLE #**

Harvesting of Forest Products, by members of local or indigenous communities, at the amount equal to or below customary subsistence use defined in this Title, shall not require permits.

**ARTICLE #**

Permitting shall be used by the Forest Administration to certify that forest products are sourced from sustainably managed forests and to maintain a national database and accounting for sustainably managed forests and sustainably sourced forest products

**ARTICLE #**

Any individual, legal entity or community that intends to harvest Forest Products and By-products for commercial purposes must possess a harvest permit issued by the Relevant institution.

Harvesting of Forest Products and By-products, by members of local communities, at the amount equal to or below customary subsistence use defined in Chapter XX of this law, shall not be required permits.

**ARTICLE #**

All activities related to the permanent forest estates and forest products and by-products (Timber Products and Non-Timber Forest Products) throughout the Kingdom of Cambodia shall require the following permits:

1. Permit to set annual harvesting quotas for forest products and by-products;
2. Permit to harvest of forest products and by-products;
3. Permit for transport quotas of forest products and by-products;
4. Permit to transport of forest products and by-products;
5. Permit for use of forests;
6. Legal instruments to establish a forestry industry, sawmill, or forest products and by-

products <sup>(L)</sup><sub>(SEP)</sub> processing facility;

7. Permit to enter forest for the coupe preparation;
8. Permit to establish a stock place to sell, distribute forest products and by-products;
9. Permit to establish all types of kilns that use forest products and by-products as raw material;
10. Export quota for forest products and by-products;
11. Export and Import Permits for forest products and by-products;
12. Other types of permits that may be required according to provisions of this law.

## ARTICLE #

The permits stated above shall be issued to the following:

1. Any individual that has received approval for harvesting forest products and by-products in a production forest not under concession; <sup>(L)</sup><sub>(SEP)</sub>
2. A community with the rights to harvest forest products and by-products in a community forest that exceed customary user rights defined by rules on community forestry.
3. A person or customer who transports forest products and/or by-products from the forest area where they were harvested to the defined destination;
4. Any other individual, legal entity, community or customers who may be granted rights under provisions of this law.

## ARTICLE #

Permits under this article shall contain the following items:

1. The name of the permit holder;
2. The duration of the permit;
3. Description of the forest products, character, quantity, etc.
4. The specific location and boundaries of forest products and by-products harvest area;
5. The quantity of forest products allowed to harvest in a unit determined by the Relevant institution;
6. Origin and destination of forest products and by-products being transported;
7. Other items based on the type of permit required by the relevant institution

#### ARTICLE #

The permitting process and fees shall be established and publicized by future legal instrument. This shall be done by *[need to determine time frame]*. The relevant institution shall publish fees for permits to the general public. Fees shall be used to support the relevant institution and other forestry support activities.

#### ARTICLE #

The relevant institution may waive certain fees but all parties operating forests or transporting, processing, or selling and exporting forest products must have permits issued by the FA.

#### ARTICLE #

Permits may be extended, based on an evaluation report by a competent official of the relevant institution for permits and the responsibility for issuing permits would be defined in legal instrument.

#### ARTICLE #

The relevant ministry has the authority to issue a permit for use of forests to an individual or legal entity to conduct the following activities within the Forest Unit:

1. Technical and scientific research;
2. Agricultural education or training;
3. Use of water resources for irrigation or agricultural purposes upon the agreement of the Minister of Ministry of Water Resources and Meteorology;
4. Establishment of botanical garden or experimental station;
5. Establishment of a transferring nursery; and
6. To establish Recreation, sightseeing business or film or video documentation.

Such a permit pursuant to this Article shall not be used to harvest forest products and by- products from the area specified, unless extraction is for the purpose of silviculture research or forest improvement.

## CHAPTER 11 ROYALTIES AND PREMIUMS ON FOREST PRODUCTS

#### ARTICLE #

Any individual or legal entity harvesting Forest Products for commercial purposes within Sustainably Managed Forests shall pay royalties and premiums to the national budget through the relevant Ministry. The Royal Government of Cambodia shall determine the royalties and premiums upon the joint proposal of the relevant institution. The state will not require the payment of royalties or premiums for the harvesting of Forest Products from private forests.

**ARTICLE #**

The relevant institution shall separate a portion of the royalties and premiums collected and redistribute it to local communities.

**ARTICLE #**

The relevant institution may reduce or waive the royalties and premiums for any Forest Products collected from the Permanent Forest Estate for scientific purposes or to create an economic incentive to efficiently use Forest Products.

**ARTICLE #**

The relevant institution shall waive the royalties and premiums for any Forest Products collected by local communities under customary user rights or harvested in Community Forest under the Community Forest Agreement.

**ARTICLE #**

Forest Products that are harvested shall be assessed for quality and quantity by the relevant institution at the log landing within the annual forest coupe, prior to transport from the forest.

**ARTICLE #**

The rules for assessments of quality and quantity, and payment and receipt of revenues from royalties on Forest Products shall be determined by a Prakas from the relevant institution.

**ARTICLE #**

Anyone with legal possession of a permit to harvest Forest Products shall pay all applicable royalties and premiums prior to transferring or selling any of these rights to a third party.

**ARTICLE #**

The relevant institution may approve a delay in the payment of Royalties and Premiums on Forest

Products for a permit holder who the relevant institution has recognized for practicing sustainable forest management, based on criteria described in a Prakas by the Relevant institution.

#### **ARTICLE #**

If a permit holder does not pay royalties and premiums by the agreed scheduled date, the relevant institution shall have the authority to seize the Forest Products, without exception, and detain such products as state property until legal resolution of the dispute.

#### **ARTICLE #**

Before the issuance of a permit to harvest Forest Products, the prospective permit holders shall be required to place a security deposit to guarantee payment of royalties and premiums to the national budget. The amount of the deposit shall be stated in an annual Forest Products harvest quota permit.

#### **ARTICLE #**

A security deposit shall not be required for the harvest of Forest Products within a community forest under a community forest agreement.

### **CHAPTER12 PROHIBITED HARVESTING OF FOREST PRODUCTS AND BY-PRODUCTS, AND FOREST PROTECTION**

#### **ARTICLE #**

Unless authorized by the relevant ministry for reason such as unsuitable weather condition, trees within authorized forest feeder roads or other conditions proposed by the relevant institution, it should be prohibited to harvest the following forest products and by-products within the Forest Unit:

1. Tree species whose diameter is smaller than the minimum diameter allowed to harvest;
2. Rare, threatened, and endangered tree species;
3. designated large or old growth trees;
4. designated groves of large or old growth trees;
5. Trees that local communities have being tapped to extract resin for customary use; and
6. Trees that yield high-value resin.

The prohibited forest products and by-products are determined by Legal instruments of Ministry of Agriculture, Forestry and Fisheries.

**ARTICLE #**

It is prohibited to process forest products and by-products or establish and operate a forest industry, sawmills, forest products and by-products' processing facility or any type of kiln in the domains of the Forest Unit.

**ARTICLE #**

All forest products and by-products' processing facilities and all types of kilns shall be located at least five (5) kilometers away from the boundaries of the Forest.

**ARTICLE #**

The clearing of forest land for the purpose of public road construction in the Forest shall be prohibited, unless approved by the Royal Government, upon request of the Ministry of Public Works and Transport after consultation with Ministry of Agriculture, Forestry and Fisheries. The clearing of forest land for the purpose of construction of forest road in the Forest Unit shall be prohibited, unless approved by the Minister of the relevant Ministry, upon request of the head of the relevant Ministry.

**ARTICLE #**

All projects for public and forest road construction within the Forest shall be subject to consultation with local authorities and communities and an Environmental and Social Impact Assessment pursuant [Book XX Title XX] of this law.

**ARTICLE #**

New settlement along public or forest roads in the Forest shall be prohibited unless a thorough ESIA has been completed and the express permission of the Royal Government of Cambodia has been given after review of the ESIA.

**ARTICLE #**

Any permit for construction shall include requirements for a bond to be maintained by the relevant institution at the rate of two times the estimate made by the relevant institution to restore forests once the use of the road and associated infrastructure is terminated. Permittees can recover their bonds once roads are deconstructed and forests restored to the relevant institution specifications, developed at the time of securing the bond.

**ARTICLE #**

The forests shall be protected against damaging activities caused by excessive exploitation, abusive forest clearing, forest ecosystem pollution, forest fires, shifting cultivation, diseases, noxious insects, and the imports of harmful forest vegetation and wildlife species.

The following activities that damage forests shall be prohibited:

1. To displace, remove, or destroy the boundary posts or distinctive sign marking the forest boundary;
2. To girdle bark, poison, destroy, fell down or uproot any tree without technical necessity;
3. To use harvest rights for forest products and by-products in a manner different from those authorized by permit;
4. To allow unleashed or leashed livestock within an area with tree seedlings or recent growth after harvesting, or forest fires, or in areas being or recently planted;
5. To harvest timber from sensitive areas, including rare or sensitive species habitats, springs, wetlands, riparian areas, or near cultural or religious sites;
6. To significantly disturb soil, causing compaction, erosion, and sedimentation degrading soil and water quality, or to avoid mitigation or restoration of such disturbance; and
7. To establish yellow vine or other forest by-products' processing facilities that may cause significant pollution or destruction to the forest ecosystem.

#### **ARTICLE #**

The Export-Import of seeds or plant materials of forest species shall require a Visa certification that is approved after thorough study, research, and evaluation by the relevant institution is conducted. The import of all kinds of seeds or other plant materials shall have a Visa certification of the forest vegetation seeds issued by the scientific authority of the exporting country, and shall be held in quarantine. Use of such plant materials shall be evaluated through an assessment for plant pathogens, viruses, and other non-native species that could becoming detrimental and invasive in the novel habitats of Cambodian forests. The Relevant institution shall conduct a risk assessment of the potential invasibility and harm to indigenous species and ecosystems before issuing approval for release from quarantine.

#### **ARTICLE #**

The import of all kinds of forest vegetation seeds shall have a Visa certification of the forest vegetation seeds issued by the scientific authority of the exporting country.

#### **ARTICLE #**

In addition to other laws concerned, the quarrying, soil and sand excavation, mining, and other natural resources extraction conducted within the Forest Unit shall require a full and thorough ESIA. This activity will also require approval and authorization from the relevant Ministry, authorization by the Royal Government of Cambodia, and be in compliance with all relevant Titles of this Code. All authorizations must be recorded with the relevant ministry and made publically available.

#### **ARTICLE#**

The ministerial and governmental authorization documents shall be made publicly available and shall state the protection and restoration measures for the site established by project proponent through the ESIA process. The holder of such authorization shall be responsible for:

1. Preventing the cause or aggravation of soil erosion, damage to vegetation, damage to the hydrologic systems and to the quality of water;
2. After project completion, restoring the site of quarrying, soil and sand excavation, mining, or other natural resources extraction, to the site's original state within the time frame set by the permit.

#### **ARTICLE #**

It is prohibited to saw, slice or process logs within the Forest Unit. It is prohibited to use the chain saw to harvest Forest Products within the Forest Unit unless operating under a permit authorized by the relevant Institution .

#### **ARTICLE #**

No individual or legal entity has the right to directly or indirectly issue a permit to fell trees, clear forestlands, conduct any activities involving the harvest of forest products and by- products, or occupy land within the forest contrary the provision of this law.

### **CHAPTER 13 ENFORCEMENT**

*[Chapter under development.]*

#### **ARTICLE #**

The relevant institution shall develop and implement a comprehensive Forest Law Enforcement and Governance (FLEG) Programme across all levels of Forest Governance, in order to contribute in management, protection and development of forests with transparent, fair and efficient manner.



Specific objectives of the FLEG programme are to:

1. Strengthen forest law with control, prevention, suppression and elimination of all illegal forest activities;
2. Ensure that appropriate laws and policies are developed and made operational;
3. Promote good governance through improved conflict management capacity;
4. Mainstream sustainable forest use, public rights and obligations;
5. Improve the capacity building of relevant Institution officials in forest law enforcement;
6. Adopt efficient methods to detect, monitor and suppress illegal forest activities; and
7. Awareness raising to the public on the law and relevant regulations of the forest law enforcement.

## **ARTICLE # STRATEGIES FOR IMPLEMENTATION**

The relevant institution shall identify and develop strategies to address key drivers of forest-related crime. Strategies shall emphasize:

1. Legal and Administrative Reform, including:
  - a) Assess capacity for intelligence and inspection of forest crime;
  - b) Evaluate forest government official performance related to forest crime;
  - c) Improve institutional structure;
  - d) Improve the independence of the judiciary;
  - e) Improve conflict resolution and communication skills of forest government officials;
  - f) Improve interministerial cooperation when investigating, documenting, and prosecuting forest crimes; and
  - g) Improve the practice of good governance, including transparency, responsiveness, cooperation, and observance of rule of law
2. Law Enforcement and Forest Crime Monitoring and Reporting, including:
  - a) Develop infrastructure and facilities;
  - b) Develop effective judicial communication system;
  - c) Improve cross-border collaboration;
  - d) Improve collaboration with other law enforcement agencies; and

- e) Reconcile land grabs and encroachments;
- 3. Rapid Response on Forest Crime Information, including:
  - a) Review and synthesize information on crime detection and response, and
  - b) Develop collaboration with a network of key informants.

#### **ARTICLE #**

No Person shall intentionally and unreasonably interfere with the lawful exercise of rights granted under any Forest Resources License. A violation of this Section is punishable under the Economic Sabotage provisions of the Penal Law.

#### **ARTICLE #**

Relevant institution officials shall pursue investigations and the prosecution of money-laundering, corruption, fraud, counterfeiting, and abuse of power crimes as outlined in the Criminal Code, where applicable.

#### **ARTICLE #**

Forest offenses are criminal offenses, which are specially defined in this law. The relevant institution officials qualified as judicial police officials have jurisdiction to investigate forest offenses and file such cases and documents to the court.

All levels of the Relevant institution shall have the duty to investigate, control and suppress forest offenses within their assigned territory.

The operation of Relevant institution officials qualified as judicial police officials shall be implemented consistent with Law on Criminal Procedures

The Sworn Relevant institution officials are qualified as judicial police officials when certified by the General Royal Prosecutor of the Court of Appeals.

The Relevant institution officials qualified as judicial polices have the right to prepare and sign the official minutes on a forestry offense within their assigned territory.

#### **ARTICLE #**

During investigation, prevention and suppression of forest offenses, the relevant institution Officer shall wear his/her uniform, insignia, hierarchical ranking badge, and shall carry an authorized

mission letter.

The Sworn relevant institution officials are qualified as judicial police officials when certified by the General Royal Prosecutor of the Court of Appeals.

The relevant institution officials qualified as judicial polices have the right to prepare and sign the official minutes on a forestry offense within their assigned territory.

#### **ARTICLE #**

All levels of local authorities, armed forces, custom and excise agents, all airport and port authorities and other concerned authorities shall facilitate and assist in the investigation, prevention and suppression of forest offenses and temporarily safeguard any seized evidence, upon request of competent relevant institution officials.

If any relevant authority has seen a forest offence he/she:

1. Shall immediately inform the nearest office or official of the relevant institution;
2. May temporarily detain the offender and evidence until delivery of the case to the Relevant institution officials qualified as judicial polices to proceed with legal action; and
3. Shall have no authority to directly collect fines or confiscate evidence.

#### **ARTICLE #**

To exercise their duties, the relevant institution officials qualified as judicial polices have the following rights:

1. To require certain individuals to respond to their questions and provide information related to the forest offenses;
2. Monitor or check everywhere, including airports, seaports, river-ports, dry-port, territorial borders, bus stations, train stations in the case of an actual forestry offense in cooperation with concerned authority; and
3. Temporarily revoke license or permit as prescribed under this law, if the license or permit holder violates this law.

In the case of an actual forestry offense, the Relevant institution officials qualified as judicial polices shall have the rights to search the surrounding and inside of a buildings or residence consistent with Law on Criminal Procedures. The search shall be carried out in the presence of the suspect and two (2) witnesses, who are neighbors or owners of the building or residence.

## **ARTICLE #**

In case of an actual offense, the relevant institution officials qualified as judicial polices shall have the authority to temporarily seize:

1. Forest Products and By-products that are in violation of the provisions of this law;
2. Animals in the process of destroying tree crops;
3. Machinery, vehicles, equipment, and animals used as means to conduct forest and wildlife offenses.

The relevant institution Officials qualified as judicial polices shall have the rights to detain, up to 48 hours, a forestry offender in order to file documents on the case and send it to the court

## **ARTICLE #**

The preparation of forestry offense documents shall be carried out consistent with the Law on Criminal Procedures.

The standard forms for forestry offense minutes shall be determined by joint-Prakas of the relevant institution.

## **ARTICLE #**

The evidences of forestry offenses shall be determined as follow:

1. Forest Products and By-products or Wildlife products, which constitute real evidence of the offense, and
2. Materials, equipment, and transportation means used to commit the forest offense.

The evidences stated in paragraph 1 above shall be temporarily seized until the offense has been resolved, whether by paying a transactional fine or a final decision of the Court.

During transportation of Forest Products and By-products, the driver who is not accompanied by the owner of the Forest Products and By-products shall be temporarily seized for the investigation of offenders and other people involved.

The Division level of the relevant institution shall have the rights to release, destroy or maintain for public benefits, seized wildlife products and specimens that are easily perishable, and file correct minutes of that case.

**ARTICLE #**

The relevant institution officials qualified as judicial polices, who attend the court while in session, shall wear a uniform, insignia, and hierarchical ranking badge.

**ARTICLE #**

While the court is in session, the relevant institution officials qualified as judicial police, who were involved in documenting the forestry offense, shall have the right to clarify the results of the investigation of the forestry offense to the court.

**ARTICLE #**

The Statute of limitations to file a case with the court for a forest offense shall be:

1. Class I forestry offense – fifteen (15) years counting from the date the offense was committed;
2. Class II forestry offense – five (5) years counting from the date the offense was committed;
3. Class III forestry offense – one (1) year counting from the date the offense was committed.

The implementation of these statutes of limitation above shall be consistent with the Criminal Law Procedures

**ARTICLE #**

Individual who commits a forestry offense as stated in this law shall be responsible for his/her own actions.

Individuals who are state employees, or employees of the private sector, who have used means from relevant State offices or private companies to commit forestry offenses, the individuals or their employers shall be penalized as described in the provisions of this law.

The employers shall be penalized under the provisions of this Law for forestry offenses committed by an individual or an organized group working for them in their organization.

**ARTICLE #**

Any foreigner, or legal foreign entity that commits a forestry offense, shall be subject to the provisions of this law.

## **ARTICLE #**

Any person dissatisfied by a decision made pursuant to this law by the relevant institution has the right to appeal to the Head of relevant institution within 30 days of notification of the administrative decision.

The relevant institution shall make a decision on the appeal within a maximum of 30 days. After a final decision has been made by the Head of relevant institution, if there is not agreement with this decision, those persons may file a judicial appeal to the court.

Such an administrative or judicial appeal does not affect the authority and the process of law enforcement by the relevant institution officials under this law.

## **CHAPTER 14 OFFENSES AND LEGAL PENALTIES**

## **ARTICLE #**

Punishments for forestry offenses consist of: imprisonment, confiscation of evidence, court fines, transactional fines, repairing damage, warning and revocation or suspension of agreements or permits.

Transactional fines for forestry offenses, repairing damage and warnings shall be the responsibility of the relevant institution. If the offender refuses to pay the transactional fine or repair damage, then the relevant institution may forward the file on the forestry offense to the Court.

Any government official who commits a forestry offense shall be subject to administrative punishment in addition to penalties stated in this law.

## **ARTICLE #**

The relevant institution has the rights to decide transactional fines for a forestry offense as stated in Article 96 of this law. The transactional fines for a forestry offense may be implemented when the offender admits fault and agrees to pay the fine in a manner consistent with the penalty provision of this law, with payment no later than fifteen (15) days counting from the date of the decision to implement the fine.

The rules and authority to decide on transactional fines shall be determined by the Prakas of relevant institution.

In setting the amount of a transactional fine, the following factors shall be considered:

1. The economic gain realized as a result of the offense;
2. The damage caused to the environment;
3. How often the person charged has committed the offense;
4. How much of a fine is required to deter future offenses from occurring; and
5. Whether the offense was intentional.

#### **ARTICLE #**

Transactional fines, fines imposed by court order or proceeds from selling evidence shall be paid to National budget. The Royal Government may decide to award incentives for people and officers who have participated in suppression of specific forest offenses.

#### **ARTICLE #**

Any person or legal entity that violates a provision of this law shall be subject to the penalties as follow:

1. Class I Forestry Offenses –five (5) to ten (10) years in prison and confiscate all evidence as state property;
2. Class II Forestry Offenses –one (1) to five (5) years in prison and/or a fine of ten millions (10.000.000) Riels to one hundred millions (100.000.000) Riels and confiscate all evidence as State property;
3. Class III Forestry offenses –one (1) month to one (1) year in prison or fine of one million (1.000.000) Riels to ten millions (10.000.000) Riels and confiscate all evidence as State property.
4. Warning, repairing damage, transactional fines, revocation or suspension of agreements or permits.

The basic market value for Forest Products and By-products shall be determined by the Prakas of relevant institution for uniform implementation in the country.

#### **ARTICLE #**

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 #**

The relevant institution may issue a written warning and impose a requirement to repair damage for the following activities in the Forest:

1. Use of any means, including unleashed or leashed livestock animals within the Forest, forest plantation or state nursery, that harms trees or seedlings located in that area;
2. Injure or damage trees or other vegetation that have been planted or are under maintenance; and
3. Steal or damage fences, boundary poles or signs in nurseries or the Forest.

## **ARTICLE #**

An individual who has committed the following forestry offenses shall be subject to a transactional fine from the relevant institution for two (2) to three (3) times the market value of real evidence:

1. Fell a tree without mark authorizing the felling;
2. Transport Forest Products and By-products without a permit;
3. Stock Forest Products and By-products without a permit;
4. Transport Forest Products and by-products contrary to the destination or exceeding the quantity authorized in the permit;
5. Use an expired transport permit for Forest Products and By-products;
6. Actual specifications of Forest Products and By-products contrary to those described in a transport permit;
7. Stock Forest Products and By-products exceeding the quantity authorized in a permit;
8. Export Forest Products and By-products, forest seed and vegetation species exceeding the amount in the applicable license;
9. Fell, saw, split and chop logs within the Forest, or use chain saw as a means to harvest forest products without permit or tag;
10. Harvest Forest Products and By-products during unauthorized hours;
11. Transport Forest Products and By-products that were obtained from felling or harvesting contrary to the provision of this law;
12. Forest Products and by-products that were obtained from felling or harvesting contrary to the provision of this law
13. Sell/buy or distribute Forest Products and By-products that were obtained from felling, finding, transporting or processing contrary to the provisions of this law;



14. Forest Products and By-products that were obtained from harvesting, transporting and processing contrary to the provision of this law;
15. Export Forest Product and by-products without a Visa [Permit?] approved by the director of the Relevant institution;
16. Raise or breed any endangered wildlife species;
17. Possess, process, stock, transport or import rare wildlife species or specimens;
18. Raise or breed any rare wildlife species;
19. Transport, trade, stock, process or import common species or specimen without permit;
20. Hunting in public area.

Any individual who has violated the provision of the 1st paragraph of this Article multiple times within a month shall be fined two (2) to four (4) times the market value of evidence by the relevant institution.

All real evidence of forestry offenses shall be confiscated as state property consistent with the provisions of this law. Other evidence of the offenses stated in this Article 96, other than Forest Products and By-products, may be returned to the owner.

## **ARTICLE #**

Any individual who has committed the following forestry offenses shall be punished under a Class I forestry offense subject to five (5) to ten (10) years in prison and confiscation of all evidence as state property, revocation of applicable agreements, licenses or permits, and destruction of false real evidence.

1. Forge or use fake hammer-Stamp, or destroying the mark of the relevant institution affixed on logs;
2. Falsification or unauthorized use of the uniform, insignia, hierarchical ranking badge of the relevant institution Officer;
3. Falsify public documents related to forestry or wildlife domain;
4. Destroy, hide, sell, or steal forest evidence;
5. Destroy, alter, or damage the boundary posts of the forest areas;
6. Clear forest land and enclose it to claim for ownership;
7. Set forest fires intentionally;
8. Girdle bark, poison, destroy, fell or uproot trees to collect stumps;

9. Establish processing base for yellow vine or craft base of other Forest By-products
10. Hunt, kill, trade or export endangered wildlife species.

Any individual who has committed the forestry offenses under class I multiple times shall be penalized double the punishment stated for class I forestry offense of this law.

## **ARTICLE #**

Any individual who has committed the following forestry offenses shall be punished under class II forestry offenses subject to one (1) to five (5) years in prison and/or court fines of ten (10) million to one hundred (100) million Riel, and confiscation of all evidence as state property:

1. Non-compliance with the technical regulation defined in the Code of Practice for Forest Management in Cambodia;
2. Non-compliance with management plan and annual Forest Products and By-products harvest plan;
3. Misuse of a forest use permit to harvest Forest Products and By-products;
4. Use machinery or vehicle with the purpose of Forest Products and By-products harvesting without permit or tags;
5. Quarry, excavate stone or sand, or mine within the Forest;
6. Use forest land exceeding the size of the area authorized in the permit or without permit to construct public road, forest road or all types of building or residence along the road with in the Forest;
7. Establish a forest industry base, sawmill, Forest Products and By-products processing facility at large and medium scale without a Prakas issued by relevant institution;
8. Establishing all types of kilns that use Forest Products and By-products as raw material without permit;
9. Hunt wildlife in closed season or in protected zones;
10. Hunt, kill, trade, or export rare species;
11. Hunt wildlife by dangerous means that harm to animal biology; and
12. Posses, process, stock, transport or import endangered wildlife species or specimens.

Any individual who has committed the following activities shall be punished under a class II forestry offense subject to one (1) to five (5) years in prison and a fine of ten (10) million to one hundred (100) million Riel, and confiscation of all evidence as state property:

1. Harvest Forest Products and By-products without a permit;
2. Harvest Forest Products and By-products outside a coupe area as stated in a permit or outside the location set forth in the annual operational plan;
3. Transfer a right or sell a license or permit without permission;
4. Fell trees within a State Forest plantation;
5. Fell trees with a classified diameter smaller than allowed, that are rare species, that local people tap for resin or that yield high-value resin;
6. Import seeds of forest vegetation species without a visa from the scientific authorities from the exporting country and without permission from Ministry of Agriculture, Forestry and Fisheries;
7. Export Forest Products and By-products without license;

Any individual who has committed class II forestry offense multiple times shall be penalized as stated for a class I forestry offence in this law.

#### **ARTICLE #**

Any individual who has committed the following offenses shall be punished under class III forestry offense subject to one (1) month to one (1) year in prison or fine of one (1) million to ten (10) million Riel. All evidence shall be confiscated as state property:

1. Use any type of chainsaw to harvest Forest Products and By-products without permission from the Head of the relevant institution;
2. Import all types of machinery, vehicles and chainsaws to harvest Forest Products and By-products without an appropriate evaluation by the Ministry of Agriculture, Forestry and Fisheries;
3. Export Forest Products and By-products in a container without a seal from the relevant institution;
4. Harass, harm, or collect egg or offspring of, an endangered or rare wildlife species or destroy its habitat;
5. Establish stock place, wholesale and retail depot for Forest Products and By-products or small scale of Forest Products and By-products processing facilities without permit or contrary to permission.
6. Establish industrial forest factory, sawmill, Forest Products and By-products processing facilities or any type of kiln that use Forest Products and By-products as raw material or as an energy source contrary to permission of the relevant institution.

7. Any individual who commits a class III of forestry offense multiple times shall be penalized as stated for class II of forestry offense in this law

#### **ARTICLE #**

Any activities carried out by the official of local authority, the police officer, Royal armed forces or other authorities that directly or indirectly allow forest exploitation or other activities contrary to the provisions of this law, or to threaten a Relevant institution officer, or to obstruct the performance of duties and operations of a Relevant institution officer, shall be subject to one (1) to five (5) years in prison and fines of ten (10) million to one hundred (100) million Riel.

#### **ARTICLE #**

The following activities shall be regarded as forestry offense committed by a relevant institution Official and shall be subject to one (1) to five (5) years in prison and fines of ten (10) million to one hundred (100) million Riel:

1. Grant authorization contrary to provisions of this law;
2. Entirely or partially participate directly in any forest exploitation activity contrary to the provisions of this law;
3. Allow any forestry offense;
4. Conducting any business related to the forestry sector either as a sole owner, a shareholder, an employee or a guarantor for others, while a position or within one (1) year after quitting the position for any reason;
5. Failure to report or failure to timely file for a class I forestry offense occurring in
6. his/her responsible territory; and
7. Intentionally neglect duties during a mission or provide the false written report that allowed the commission of a class I forestry offense.

#### **ARTICLE #**

Where the Relevant institution has evidence that occupation of any land has been obtained through illegal clearing of State forests, either before the enactment of this law, the Relevant institution has the right, on behalf of Royal Government, as the owner of the State land to issue a written notice by evicting and reclaiming ownership of the State forest land without any condition.

The Forest Administration reserves rights to collect legal, administrative and management costs of evicting and reclaiming ownership of such lands from those parties found to have occupied or

obtained the lands, including forest ecological restoration and community resettlement and reconstruction.

## **CHAPTER 15 IMPLEMENTATION OF COURT VERDICT**

### **ARTICLE #**

The implementation of court verdicts or final court decisions on forestry offenses is the duty of the relevant institution, with the exception of imprisonment.

### **ARTICLE #**

All court verdict or court decisions on forestry offenses shall be copied to the relevant institution.

### **ARTICLE #**

After court verdicts or court decisions come into effect, confiscated evidence shall be managed by the relevant institution according to legal procedures.

## **CHAPTER 16 TRANSITIONAL PROVISIONS**

### **ARTICLE #**

Where the relevant institution has evidence that occupation of any land has been obtained through illegal clearing of State forests, either before the enactment of this law, the relevant institution has the right, on behalf of Royal Government, as the owner of the State land to issue a written notice by evicting and reclaiming ownership of the State forestland without any condition.

The relevant institution reserves rights to collect legal, administrative and management costs of evicting and reclaiming ownership of such lands from those parties found to have occupied or obtained the lands, including forest ecological restoration and community resettlement and reconstruction.

## **TITLE 5      WILDLIFE      PROTECTION,      CONSERVATION      AND MANAGEMENT**

The Law on Forestry 2002, Law on Nature Protection Areas 2008, and the Law on Fisheries 2007 are hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management.]*

## **CHAPTER 1 GENERAL PROVISIONS**

### **ARTICLE 1**

This Title defines the framework of management for all wildlife, within and outside Biodiversity Conservation Corridors and other protected areas, 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.

## **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 Biodiversity Conservation Corridors and other 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 and Scientific Authority for the Kingdom of Cambodia.

The Biodiversity Centre of the National Council for Sustainable Development has the mandate to establish the National Biodiversity Advisory Board, and its sub-committees on wildlife, plants, and ecosystem services to oversee the status of wildlife, plants, and ecosystems and to facilitate

inter-ministerial decisions related to biodiversity management and conservation.

Sub-national governments

Provincial, district, commune --

### **ARTICLE 3**

All relevant departments of the Ministry of Environment shall 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 Biodiversity Conservation Corridors and other protected areas, 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 Biodiversity Conservation Corridors and other protected areas
- To provide oversight, monitoring and regulation of the operation of zoological facilities, conservation breeding centres, rescue and rehabilitation 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
- To coordinate and collaborate with other government agencies, civil society, non-government organisations and participate in international cooperation in the fulfilment 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 staff in Biodiversity Conservation Corridors and other protected areas, 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 fulfilment of this mission
- To manage and relocate all confiscated wildlife in accordance with approved procedures

## **ARTICLE # ON SUB-NATIONAL ENTITIES**

### **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 and wildlife 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 and wildlife 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 # 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).

**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 # 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 # for list of species).

**Schedule 4** - All species considered common in Cambodia as approved by the National Wildlife Advisory Board (see annex # for list of species)

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.

The only fish and invertebrates covered under this law are those categorised as Critically Endangered, Endangered or Vulnerable under the IUCN Red List of Threatened Species, in accordance with the above schedules.

## **ARTICLE 7 PROCESS FOR UPDATING THE CLASSIFICATIONS OF WILDLIFE SPECIES THAT ARE NATIVE AND NON-NATIVE TO CAMBODIA**

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 in a legal instrument.

The National Wildlife Advisory Board shall meet no less than every year, to review and update the Schedule 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 legal instrument and distributed to relevant ministries, sub-national law enforcement agencies, committees for management of Biodiversity Conservation Corridors and other 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 SUB-COMMITTEE**

The National Council for Sustainable Development shall establish the National Wildlife Board as a sub-committee of the National Biodiversity Advisory Board, which shall meet no less than every year. This Sub-Committee 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**

Hunting of all species listed on Schedules 1, and 2 is prohibited in all areas, 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 (outside of approved pest management strategies) 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 Biodiversity Conservation Corridor, other protected area, or provincial, municipal, or local protected area 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, and 3 for commercial purposes is prohibited.

### **ARTICLE 10 PROHIBITIONS ON HUNTING INSIDE BIODIVERSITY CONSERVATION CORRIDORS, OTHER PROTECTED AREAS, OR PROVINCIAL, MUNICIPAL, OR LOCAL PROTECTED AREAS**

All hunting of species listed on Schedules 1, 2, 3 and 4 is prohibited within the Core Zones and Conservation Zones of Biodiversity Conservation Corridors, other protected areas, or provincial,

municipal, or local protected areas. . 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 Biodiversity Conservation Corridors, other protected areas, or provincial, municipal, or local protected areas 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 or Collaborative Management Committee, 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 Biodiversity Conservation Corridors, other protected areas, or provincial, municipal, or local protected areas at all times.

Hunting of any wildlife for commercial purposes is completely prohibited at all times in all Biodiversity Conservation Corridors, other protected areas, or provincial, municipal, or local protected areas .

Hunting using prohibited means is completely prohibited in all zones of Biodiversity Conservation Corridors, other protected areas, or provincial, municipal, or local protected areas.

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 Biodiversity Conservation Corridors and other protected areas and CMPZs, including but not limited to wire, bicycle or motorbike brake cable, electrocution equipment, nets, mesh, fishing line.

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 Biodiversity Conservation Corridors and other protected areas and CMPZs.

It is an offence to fail to stop when approached by law enforcement officers.

## **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/she 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 General of GDANCP.

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 Species Survival Commission 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. A schedule of permitting fees will be developed and published by the Ministry of Environment. Revenue collected from permits 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.

#### **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. A schedule of permitting fees will be developed and published by the Ministry of Environment. Revenue collected from permits 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.

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 Biodiversity Department 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 Biodiversity Conservation Corridors and other 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 Sustainable Use Zones and Community Zones of Biodiversity Conservation Corridors and other 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 Biodiversity Conservation Corridors and other 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 who has had their permit revoked 3 times in cases of illegal hunting or trade of wildlife will result in the prevention of permits being issued 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 or any parts thereof listed on Schedule 1, Schedule 2 and Schedule 3 is prohibited.

Offering or advertising for sale any wildlife or parts thereof listed on Schedule 1, Schedule 2, and Schedule 3 is prohibited.

Counterfeit products advertised as being made from wildlife or parts thereof is also considered an offence and will be treated the same as offences involving genuine wildlife and parts thereof.

No person, organisation, company or other entity, shall purchase, receive or acquire any wildlife or wild animals, on Schedule 1, Schedule 2, or Schedule 3, 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:

- a) a manufacturer of, or dealer, of wildlife, wild animals, trophies or animal parts listed on Schedule 1, 2, or 3
- b) 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
- c) a dealer in trophies derived from any wildlife listed on Schedule 1, 2, or 3
- d) a dealer in any captive wild animals listed on Schedule 1, 2, or 3
- e) a dealer, cook or server of meat derived from any wildlife or wild animal listed on Schedule 1, 2, or 3
- f) an importer, exporter or re-exporter of wildlife, wild animals, animal parts, met 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 in collaboration with the Ministry of Agriculture, Forestry and Fisheries 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 and other relevant ministries and sub-national governments 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 and other relevant ministries and sub-national governments 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 water birds, 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 under the supervision of the Ministry of Environment and 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 Biodiversity Conservation Corridors and other 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 compensatory payment to mitigate 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.

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. The permit must clearly indicate the species involved and number kept. A permit must be obtained within two weeks of obtaining an animal and be provided to enforcement authorities on demand. Guidelines on the conditions and levels of care required for all species in captivity will be developed by the Ministry of Environment. Failure to meet these conditions will result in confiscation of animals and penalties applied under Chapter 16.

Individuals, organisations or other entities not registered as conservation breeding centres, wildlife rescue centres, or zoological institutions are prohibited from keeping more than 3 individuals of any species listed on Schedule 3 or 4.

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.

On recommendation of the National Wildlife Advisory Board any species can be prescribed as completely prohibited to be kept in captivity (as pets, display or working animals) outside registered conservation breeding centres, wildlife rescue centres and zoological institutions.

## **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 wildlife in captivity, if satisfactory conditions for keeping wildlife 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 wildlife 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 wildlife 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 wildlife 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 wildlife and facilities.

### **ARTICLE 30**

It is prohibited to release captive-bred 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 AND THEIR PARTS**

### **ARTICLE 31**

All wildlife and their parts confiscated under this Title must either be:

- a) in the case of live, native wildlife, 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 wildlife and their 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 and their 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 wildlife 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 and their parts 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 and their parts 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 and their 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 and their parts 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 wildlife, without a permit from the Ministry of Environment.

It is prohibited, under any circumstances, to raise, keep, breed, stock and maintain any wildlife 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 wildlife 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 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 wildlife 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;
- f) the date on which the wildlife farm operator acquired the animal;
- g) the name and address of the person from whom the animal was acquired; and
- h) the location of the farm from which the animal was acquired;
- i) the animal's date of death, the cause of death, if known, and any test results; and
- j) where the animal is removed from the operator's wildlife farm;
- k) the date of removal;
- l) the location to which the animal was moved; and
- m) the name and address of the person acquiring the animal.

## 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 wildlife 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 wildlife 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 wildlife to captivity.

#### ARTICLE 43

The slaughter of farmed wildlife shall be conducted in a humane manner. The Ministry of Environment shall produce guidelines for the slaughter of farmed wildlife in collaboration with the Department of Animal Health and Production.

#### ARTICLE 44

Every wildlife farm operator shall transport, or cause to be transported, all captive wildlife according to relevant legal procedures 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 wildlife 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;
- d) 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**

### **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, misdemeanours 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 Officers 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-defence 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 legal instrument on the procedures for recording offences against wildlife.

#### **ARTICLE 56**

Evidence or offending items of wildlife offences shall be defined as follows:

1. Wildlife, 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 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 Ministry of Environment shall make decisions on this complaint within at most thirty working (30) days as of the date the complaint is received.

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 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 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

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 for activities issued under Chapter 6 of this Title when within the permitted 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

## **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 office
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

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.

#### **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**

#### **ARTICLE 72**

The [authorized person] may order such financial rewards he/she 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**

### **ARTICLE 73**

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 Landscape Conservation Areas and other 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.

## **TITLE 6        PROTECTION OF THREATENED PLANTS, HABITATS AND ECOSYSTEMS**

The Law on Seed Management and Plant Breeders Rights 2008 is hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management]*

### **CHAPTER 1 GENERAL PROVISIONS**

#### **ARTICLE 1**

The Kingdom of Cambodia claims and will exercise sovereign rights and exclusive management authority over all threatened plants, habitats and ecosystems.

The appropriate ministry shall have the authority to oversee, regulate and enforce laws relating to the designation and management of threatened plants, habitats and ecosystems, as well as the management of invasive, non-native, or non-naturally occurring species of plants in Cambodia.

The conservation and management measures undertaken by the appropriate ministry shall be based on the best scientific evidence and shall prevent the loss of threatened plants, habitats, and ecosystems. To the extent possible, said threatened plants, habitats, and ecosystems shall be managed and maintained such that the dominant ecological characteristics of the plant, habitat, or ecosystem occur within their natural ranges of variation and can withstand and recover from most perturbations imposed by natural environmental dynamics or human disruptions.

### **CHAPTER 2: RESPONSIBLE INSTITUTIONS**

#### **ARTICLE 2**

The Ministry of Environment has the overall jurisdiction and responsibility for designation, management and enforcement of threatened plants, habitats, and ecosystems in the Kingdom of

Cambodia.

### ARTICLE 3

All agencies with a responsibility to prevent crime, including but not limited to: The Fisheries Administration of the Ministry of Agriculture, Forestry and Fisheries (FiA), The Forestry Administration of the Ministry of Agriculture, Forestry and Fisheries (FA), 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 with, as required by Ministry of Environment guidelines, with the Ministry of Environment on offences involving threatened plants, habitats, and ecosystems, including but not limited to:

- National and international investigations of illegal plant or timber possession, trade or transport.
- Seizures of threatened plants or timber possessed illegally, made under the Law on Customs, Law on Forestry, the sub-decree on prohibited and restricted goods and this Environment and Natural Resources Code.
- All court cases involving threatened plants, habitats, and ecosystems.

### ARTICLE 4

The Ministry of Environment shall establish a National Plant Habitat and Ecosystem Advisory Board [*Technical Working Group*] composed of biological experts from the Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries, scientific and educational institutions, and non-profit organizations.

### ARTICLE 5

The National Plant Habitat and Ecosystem Advisory Board shall meet no less than every 2 years, to review and update the classifications of threatened plant species, threatened plant habitats, threatened ecosystems, and invasive species in Cambodia, as set forth in this Title.

## CHAPTER 3 CLASSIFICATION OF PLANT SPECIES

### ARTICLE 6

The Ministry of Environment shall create and maintain a publicly available national list of threatened plant species occurring within the country of Cambodia. Upon passage of this law, The

National List of Threatened Plant Species will adopt all plant species known to occur in Cambodia that are listed on the International Union for Conservation of Nature (IUCN) Red List. The National List of Threatened Plant Species will continually adopt any new plant species added to the IUCN Red List that are known to occur in Cambodia, effective immediately upon their listing with the IUCN Red List.

#### **ARTICLE 7**

The National List of Threatened Plant Species shall observe the same categories and definitions as set forth the *IUCN Red List Categories and Criteria*, version 3.1, second edition.

#### **ARTICLE 8**

At the time that any plant species listed on the IUCN Red List that was previously not known to occur in Cambodia is discovered to occur in Cambodia, it shall be added to The National List of Threatened Plant Species.

#### **ARTICLE 9**

Plant species that do not occur on the IUCN Red List may be added to The National Threatened Plant Species list by documenting the criteria set forth in the *IUCN Red List Categories and Criteria*, version 3.1, second edition. The required documentation for listing of a species shall be made publicly available by the appropriate ministry within 120 days of listing the plant species.

#### **ARTICLE 10**

Species listed on The National List of Threatened Plant Species will be further categorized into the following schedules:

**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, or those species which have been added to the aforementioned categories on The National List of Threatened Plant Species. All species non-native to Cambodia listed on Appendix 1 of CITES are also included in Schedule 1 (see annex x for list of CITES species).

**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, those species which have been added to the aforementioned categories on The National List of Threatened Plant Species, and all species non-native to Cambodia and listed as Appendix 2 of CITES (see annex x for list of CITES species).

**Schedule 3** - All species, including those non-native to Cambodia, listed as Least Concern on the IUCN Red List of Threatened Species, and all species non-native to Cambodia and listed on Appendix 3 of CITES (see annex x for list of CITES species).

## **CHAPTER 4 PROHIBITIONS ON PLANT COLLECTION**

### **ARTICLE 11**

The collection, destruction, consumption, sale, trade or transport of any threatened plants, or derivatives thereof, that are listed on The National List of Threatened Plant Species except where provided for in Chapter 5 of this Title shall be prohibited.

### **ARTICLE 12**

The collection or destruction of any plants inside of a protected area except where provided for in Chapter 5 of this Title or in proper accordance with a protected area management plan shall be prohibited.

## **CHAPTER 5 GRANTING PERMITS FOR SPECIAL PURPOSES**

### **ARTICLE 13**

The Ministry of Environment may grant special permission for the collection, sale, trade, or transport of threatened plants, or derivatives thereof for family scale use and medicinal use. Wherein the granting of these permissions stipulates appropriate restrictions on scale and timeframe such that the activities practiced under this permission will not diminish natural populations or hinder the rehabilitation of natural populations of the threatened plants, as determined by the best available science at the time of granting. Approval for special permits to be gained from the Advisory Board [*Technical Working Group*].

### **ARTICLE 14**

The Ministry of Environment may grant special permission for the collection of threatened plants for scientific purposes unless such collection is determined to have the potential to cause the extinction of the threatened plant, or cause irreparable damage to the natural population of the threatened plant as determined by the best available science at the time of granting. Permits granted for scientific purposes may only be granted to those representing a recognized academic institution, research institution, conservation organisation, herbaria, or botanical garden.

The Ministry of Environment shall develop permitting procedures and regulations in a new legal

instrument.

## **ARTICLE 15**

The responsible authorities shall deny special permissions under this chapter where there is not sufficient scientific information as to make a determination of the impact of the activities on the threatened plant species or its habitat, with the exception of special permissions being granted strictly for scientific purposes. In such cases where special permissions are granted for scientific purposes, in the absence of sufficient scientific information to make a clear determination, restrictions on the scope of collection will be adequate so as to minimize the possibility that the activities will cause the extinction of the threatened plant, or cause irreparable damage to the natural population of the threatened plant.

## **CHAPTER 6 SUSPENSION OR CANCELLATION OF PERMITS**

### **ARTICLE 16**

The Ministry of Environment shall retain the authority to temporarily or indefinitely suspend, or cancel any permits granted under Chapter 5 of this Title based upon new data, scientific information, or newly identified threats to the threatened plant species or its habitat.

## **CHAPTER 7 CLASSIFICATION OF THREATENED PLANT SPECIES HABITAT**

### **ARTICLE 17**

The Ministry of Environment shall designate any natural habitat of a threatened plant species as a threatened plant species habitat.

## **CHAPTER 8 PROHIBITIONS ON ACTIVITIES AFFECTING THREATENED PLANT SPECIES HABITAT**

### **ARTICLE 18**

The destruction or alteration of the natural habitat of a threatened plant species that is determined by appropriate authorities to cause, directly or indirectly, the destruction of a threatened plant in its natural habitat except where provided for in Chapter 5 of this Title shall be prohibited.

## **CHAPTER 9 PLANT SPECIES MANAGEMENT AND RECOVERY PLANS**

### **ARTICLE 19**

The Ministry of Environment shall develop Species Management and Recovery Plans (SMRP) for

all threatened plant species native to Cambodia listed on Schedule 1 of The National list of Threatened Plant Species. Plans shall cover a 10-year period and a single plan may cover multiple species, including wildlife species.

## **ARTICLE 20**

The Ministry of Environment shall define within SMRPs the necessary conservation and management actions required to ensure ecologically functional populations of listed species persist in Cambodia. SMRPs shall include identification of threats (both direct and indirect) and the actions required to mitigate these threats and secure populations. Plans shall identify the important threatened species habitats for the conservation of species and should prescribe habitat-specific and landscape-specific management actions necessary to achieve the SMRP's goal for the conservation and survival of the species.

## **ARTICLE 21**

SMRPs shall include objective, measurable criteria which when met, would result in improved conservation status of the target species and its habitat, and said SMRPs shall also include estimates of the time and financial resources required to carry out those measures.

## **ARTICLE 22**

SMRPs shall be referred to in all Environmental Impact Assessments that impact known threatened plant species habitats and must demonstrate that the project will not diminish natural populations of threatened plants or hinder the rehabilitation of natural populations of the threatened plants through implementation of the SMRP.

## **ARTICLE 23**

SMRPs shall be developed by relevant experts in collaboration with the relevant department of Ministry of Environment and FA, and reviewed and approved by the National Plant Habitat and Ecosystem Advisory Board [*Technical Working Group*].

# **CHAPTER 10 CLASSIFICATION OF THREATENED ECOSYSTEMS**

## **ARTICLE 24**

The Ministry of Environment shall create and maintain a publicly available National List of Threatened Ecosystems occurring within the Kingdom of Cambodia, which will document ecosystems that are threatened irrespective of the presence or absence of threatened plants or wildlife within said ecosystem. Upon passage of the Environment and Natural Resources Code,

The National List of Threatened Ecosystems will adopt all ecosystems that occur in Cambodia that are listed on the International Union for Conservation of Nature (IUCN) Red List of Ecosystems. The National List of Threatened Ecosystems will continually adopt any new ecosystems added to the IUCN Red List of Ecosystems that occur in Cambodia, effective immediately upon their listing with the IUCN Red List of Ecosystems.

## **ARTICLE 25**

Ecosystems listed on The National List of Threatened Ecosystems will be further categorized into the following schedules:

**Schedule 1** - All ecosystems listed as Extinct in the Wild, Critically Endangered or Endangered on the IUCN Red List of Threatened Ecosystems, or those ecosystems that have been added to the aforementioned categories on The National List of Threatened Plant Species.

**Schedule 2** - All ecosystems listed as Vulnerable, Near Threatened, Data Deficient or Not Evaluated, on the IUCN Red List of Threatened Ecosystems, and those ecosystems that have been added to the aforementioned categories on The National List of Threatened Plant Ecosystems.

**Schedule 3** - All ecosystems listed as Least Concern on the IUCN Red List of Threatened Ecosystems.

## **ARTICLE 26**

Threatened ecosystems in Cambodia that do not occur on the IUCN Red List of Ecosystems may be added to The National List of Threatened Ecosystem by documenting the criteria set forth in the *IUCN Red List of Ecosystems Categories and Criteria*. The required documentation for listing of an ecosystem shall be made publicly available by the appropriate ministry within 120 days of listing the ecosystem.

## **CHAPTER 11 THREATENED ECOSYSTEM MANAGEMENT AND REHABILITATION PLANS**

## **ARTICLE 27**

The Ministry of Environment shall develop Ecosystem Management and Recovery Plans (EMRP) for all threatened ecosystems listed on The National List of Threatened Ecosystems. Plans shall cover a 10-year period.

## **ARTICLE 28**

The Ministry of Environment shall define within EMRPs the necessary conservation and management actions required to ensure persistence and ecological integrity of listed ecosystems in Cambodia. EMRPs shall include identification of the geographical scope, the key focal ecological resources within the ecosystem, ecological threats (both direct and indirect), ecological indicators that can be actively monitored, and a range of ecologically acceptable and unacceptable values for each of the ecological indicators.

#### **ARTICLE 29**

Upon any ecological indicator having a value that is not “acceptable”, the appropriate ministries shall take mitigation steps determined by the best available science at that time that aim to achieve an acceptable value for the ecological indicator.

#### **ARTICLE 30**

EMRPs must be referred to in all Environmental Impact Assessments that impact listed Threatened Ecosystems and must demonstrate that the project will not diminish the ecological integrity of the ecosystem or hinder the rehabilitation and/or management of the threatened ecosystem through implementation of the EMRP.

#### **ARTICLE 31**

EMRPs will be developed by relevant experts in collaboration with the relevant departments of MoE and FA, and reviewed and approved by The National Plant Habitat and Ecosystem Advisory Board.

### **CHAPTER 13 MANAGEMENT OF INVASIVE SPECIES**

#### **ARTICLE 32**

The Ministry of Environment shall create and maintain a National List of Invasive Species that either currently occur in Cambodia or would pose a threat if introduced in Cambodia. The National Plant Habitat and Ecosystem Advisory Board will create and maintain The National List of Invasive Species.

The introduction of invasive species into the natural environment or agricultural landscape, unless approved by the Advisory Board, shall be prohibited.

#### **ARTICLE 33**

The Ministry of Environment shall develop an Invasive Species Management Plan (ISMP) to



address all invasive species currently known to occur in Cambodia. The ISMP will seek to eradicate and/or minimize the impacts of invasive species on the environment, economy, and human health. An ISMP may address the management of more than one invasive species.

## **CHAPTER 14 MANAGEMENT AND APPROVAL OF GENETICALLY ENGINEERED SPECIES**

### **ARTICLE 34**

The appropriate ministries shall establish a National Council on Genetically Engineered Organisms (NCGEO) that will oversee for the approval and regulations for use of any genetically engineered organisms in Cambodia outside of a controlled laboratory environment. The council will be made up of relevant experts from the Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries, Ministry of Health, scientific and educational institutions, and non-profit organizations.

### **ARTICLE 35**

The introduction of genetically engineered organisms into the natural environment or agricultural landscape, unless otherwise approved by the NCGEO, shall be prohibited.

### **ARTICLE 36**

The NCGEO shall establish appropriate regulations for the use of any approved genetically engineered organisms so as to prevent any damage to the natural biodiversity of Cambodia, or to the health of its people.

## **CHAPTER 15 MANAGEMENT OF CONFISCATED THREATENED PLANTS OR DERIVATIVES THEREOF**

### **ARTICLE 37**

All threatened plants or derivatives thereof confiscated under this law must either be:

- a) in the case of living specimens, whenever possible, be appropriately re-introduced into the original habitat or given to an appropriate institution for propagation or research purposes (e.g. botanic garden, herbarium, research institute, or university).
- b) in the case of dead plants or non-propagative derivatives thereof, maintained, stored or destroyed following the approved procedures.

## **ARTICLE 38**

In instances where confiscated items need to be maintained as evidence for court cases, all high-value plant materials or derivatives must be kept secure by the Provincial Department of Environment following appropriate management and security protocols until such time as the court case is completed.

## **ARTICLE 39**

Once a court case has been completed, all plant materials or derivatives thereof maintained as evidence must be returned to the Ministry of Environment for public benefit or in the case of luxury timber, destroyed. Plant and timber products shall not be sold at public auction.

## **CHAPTER 16 PROCEDURES TO RESOLVE OFFENSES**

## **ARTICLE 40**

Offenses regarding the destruction, sale, trade, or transport of threatened plants, and the destruction of threatened plant, habitats and ecosystems are criminal offences specifically as defined herein.

Officials of MOE having duties as judicial police officers have the authority to investigate, prevent offences regarding threatened plants, habitats and ecosystems anywhere within Cambodia, and to file such cases with the court.

Judicial police officers of MOE have the duty to detect felonies, misdemeanours and crimes, to identify and arrest offenders, collect evidence, and to conduct investigations.

Operations by MOE officials who are commissioned as justice police officials shall be carried out in accordance with the law on criminal procedures of the Kingdom of Cambodia.

## **ARTICLE 41**

After an arrest is made, any confiscated evidence shall be managed in accordance with the procedures of the [GDANCP?] as outlined in Chapter 15.

## **ARTICLE 42**

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 offences regarding threatened plants, habitats and ecosystems, or in the temporary custody of any seized evidence so that it can be made available at

the request of MOE.

Officials of MOE, in cooperation with local authorities and enforcement agencies shall take prompt action to investigate any case of offences regarding threatened plants, habitats and ecosystems.

#### **ARTICLE 43**

Officials of the MOE, in their role as Judicial Police Officers, shall have the authority to use weapons and authority to use self-defence against physical violence by offenders, while performing their mission. The weapons shall be managed by the Ministry of Interior.

#### **ARTICLE 44**

The filing of offences against plants, habitats and ecosystems 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 threatened plants, habitats and ecosystems.

#### **ARTICLE 45**

Evidence of offences regarding threatened plants, habitats and ecosystems shall be defined as follows:

- Plants, leaves, roots, timber, extracts, or other derivatives of a plant that are the actual evidence of illegal activities;
- Equipment and means of transport used for committing illegal activities; and
- Evidence as stated in the first sentence above shall be seized and managed following the stipulations of chapter 15 and any other guidelines issued by the Ministry of Environment. Evidence of equipment and means of transport shall be seized and managed following the guidelines issued by the Ministry of Environment.

#### **ARTICLE 46**

Officials of MOE and Provincial Department of Environment have the authority to temporarily stop all or part of a person's or company's activity that has offended against the provisions of this law or breached an agreement until the case is resolved.

#### **ARTICLE 47**

Any person, company or other entity who disagrees with the decision made by MOE as outlined in this law, shall have the rights to make a written complaint to MOE within at most thirty (30) days as of the date a decision by the Provincial Department of Environment or the court is received.

The MOE 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 MOE 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 MOE officers under this Environment and Natural Resources Code.

## **CHAPTER 17 OFFENSES AND LEGAL PENALTIES**

### **ARTICLE 48**

Punishments for offences regarding threatened plants, habitats and ecosystems 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 DOE/MOE may file a court proceeding on the offence.

All offences against this legislation shall result in the immediate confiscation of the offending items, whether plants or equipment/transportation, in addition to the following:

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 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.

The fines named herein shall be increased every 3 years in line with inflation starting from the date this Environment and Natural Resources Code comes into force.

#### **ARTICLE 49**

Offences regarding the collection or destruction of threatened plant, habitats and ecosystems shall be classified as follows:

- Any and all offences regarding the collection or destruction of threatened plant species or threatened plant species habitats listed under chapters 4 and 7 of the Environment and Natural Resources Code against a Schedule 1 species is considered a Class 1 Offence
- Any and all offences regarding the collection or destruction of threatened plant species or threatened plant species habitats listed under chapters 4 and 7 of the Environment and Natural Resources Code against Schedule 2 species is considered a Class 2 offence
- Any and all offences regarding the collection or destruction of threatened plant species or threatened plant species habitats listed under chapters 4 and 7 of the Environment and Natural Resources Code against Schedule 3 species is considered a Class 3 offence

#### **ARTICLE 50**

Failure to carry or produce a valid permit issued under Chapter 5 of this title when carrying out activities that require a permit under this title is considered a Class 2 offence.

#### **ARTICLE 51**

Transfer of a permit to another person not named as the permit holder is considered an offence and will result in the suspension of the permit for 1 year in addition to penalties applied under Article 51.

#### **ARTICLE 52**

Offences related to the trade, transport or commerce in threatened plants and all derivatives thereof, as listed in chapter 3 of the Environment and Natural Resources Code, will be subject to the following penalties:

- Any and all trade, transport and commerce offences against Schedule 1 species is

considered a Class 1 offence and shall be subject to the penalties outlined in Book 9 Title 1 Environmental Offences and Penalties

- Any and all trade, transport and commerce offences against Schedule 2 species is considered a Class 2 offence and shall be subject to the penalties outlined in Book 9 Title 1 Environmental Offences and Penalties
- Any and all trade, transport and commerce offences against Schedule 3 species is considered a Class 3 offence and shall be subject to the penalties outlined in Book 9 Title 1 Environmental Offences and Penalties

When a person, company or other legal entity is already definitively 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.

## **ARTICLE 53**

Assaulting, obstructing, impeding or interfering with any enforcement officer in the performance of his/her functions under this Title, causing the disappearance of, damaging or destroying any item sized under this Title or destroying any item to prevent the seizure thereof, shall be considered a Class 3 offence.

Refusing an enforcement officer access to premises, hindering or delaying any enforcement officer in effecting entry, refusing an enforcement officer any information relating to an offence under this Title or any other information shall be considered a Class 4 offence.

Failure to comply with an enforcement officer's requests shall be considered a Class 4 offence.

## **ARTICLE 54**

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 51, as well as include 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 office
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

The making additional penalties shall follow the guidelines of the Criminal Code of the Kingdom of Cambodia.

## **ARTICLE 55**

These provisions apply to preventing and combating serious crime where the offences involve an organized criminal group.

For the purposes of these provisions, an "organized criminal group" refers to a structured 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 the Environment and Natural Resources Code 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 organized 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 45.

#### **ARTICLE 56**

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 45.

The penalty for aiding, abetting, facilitating, counselling or procuring shall be two times the penalties outlined in Article 45.

#### **ARTICLE 57**

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 law and is considered a Class 1 offence as outlined in Article 45.

#### **ARTICLE 58**

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 59**

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 legislation or in another country
- 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 the Environment and Natural Resources Code applies.

### **CHAPTER 18 REWARDS**



## **ARTICLE 60**

The [authorized person] may order such financial rewards he or she thinks fit to be paid to any person for services rendered in connection with the detection of any offence under the Environment and Natural Resources Code or any of its subsidiary legislation, or in connection with any seizures made under the Environment and Natural Resources Code.

## **CHAPTER 19 REGULATIONS**

## **ARTICLE 61**

The Minister may make such regulations as may be expedient or necessary for better carrying out the provisions of the Environment and Natural Resources Code or for prescribing anything that may be, or is required to be, prescribed under the Environment and Natural Resources Code.

Regulations may be made in respect of the following:

- The administration and management of threatened plants, and threatened plant habitats
- The maintenance and preservation of threatened ecosystems
- The importation and use of invasive species
- The means of disposing of any high value confiscated plant products such as timber

The fees payable under the Environment and Natural Resources Code.

## **TITLE 7 COASTAL ZONE MANAGEMENT**

### **CHAPTER 1 GENERAL PROVISIONS**

## **ARTICLE 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.

## **ARTICLE 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.

### **ARTICLE 3**

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

### **ARTICLE 4**

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**

### **ARTICLE 5**

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.

### **ARTICLE 6**

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

#### ARTICLE 7

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:
  - 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 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**

### **ARTICLE 8**

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

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 8 SUSTAINABLE WATER RESOURCES MANAGEMENT**

The Law on Pharmaceuticals Management 1996 and the Law on Water Resource Management of the Kingdom of Cambodia 2007 are hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management]*

**CHAPTER 1 GENERAL PROVISIONS**

**SECTION 1 PURPOSE AND PRINCIPLES**

**ARTICLE 1**

The purpose of this Title is to foster the sustainable management and efficient use of the country's water resources by establishing a system for the planning, allocation and use of water so as to support environmental protection, sustainable development and the welfare of the people.

**ARTICLE 2**

Consistent with the National Water Resources Policy for the Kingdom of Cambodia approved by Council of Ministers on 16 January 2004, this Title aims to:

- a) Determine the rights and obligations of water users;
- b) Define the fundamental principles of water resources management; and
- c) Ensure the participation of water users and their associations in the sustainable management of water resources.

### **ARTICLE 3**

Water and water resources shall be managed and developed based on the following principles of integrated water resources management (IWRM):

- a) Social equity: ensuring equal access for all users (particularly marginalised and underrepresented groups) to an adequate quantity and quality of water necessary to sustain human well-being;
- b) Economic efficiency: bringing the greatest benefit to the greatest number of users possible with the available financial and water resources; and
- c) Ecological sustainability: requiring that adequate allocation be made to sustain the natural functioning of water-dependent ecosystems and threatened species.

### **ARTICLE 4**

In implementing IWRM, the Ministry of Water Resources and Meteorology (MOWRAM) shall take into account:

- a) All aspects of water resources;
- b) Linkages between water resources and other components of the natural environment, including land, fisheries, flora and fauna; and
- c) The requirements for effective and sustainable water use by human beings and the natural environment.

### **ARTICLE 5**

The implementation of IWRM shall be carried out jointly and within a cooperative framework including all relevant agencies with mandated responsibilities for water use, development, and sustainable management of living aquatic resources and their associated ecosystems.

### **ARTICLE 6**

The Royal Government of Cambodia shall encourage the collaboration with and participation of the relevant agencies, private sectors, beneficiary groups, NGOs and International Organizations in all activities related to the management, investment, exploitation, conservation, and development of the water resources.

## **SECTION 2 OWNERSHIP OF WATER AND WATER RESOURCES**

### **ARTICLE 7**

All water and water resources are owned by the Kingdom of Cambodia.

### **ARTICLE 8**

The diversion of water from the Kingdom of Cambodia territory shall be permitted and agreed only by the Royal Government of Cambodia with due ratification by the legislative bodies.

## **CHAPTER 2 WATER RESOURCES MANDATES**

### **SECTION 1 LEAD MINISTRY MANDATES**

### **ARTICLE 9**

MOWRAM shall manage, lead and supervise the implementation of this Title, including conducting consultations with other concerned ministries and stakeholders in the course of carrying out its mandates.

### **ARTICLE 10**

MOWRAM shall maintain a centralized inventory of the water resources of The Kingdom of Cambodia, including the location, quantity, and quality of the resources during each year.

### **ARTICLE 11**

Data on quantity and quality, and any other water-related information collected by other institutions, whether at the national, provincial or district level, shall be submitted to the MOWRAM on MOWRAM's request in the format requested by MOWRAM.

### **ARTICLE 12**

The above data and information shall be provided free of charge to all government agencies and other communities for the public interests, except for that information classified as confidential. MOWRAM may require the payment of a fee for data requested for commercial purpose.

### **ARTICLE 13**

MOWRAM may establish sub-decrees to give effect to the objectives and provisions of this Title, including, but not limited to, the following:



- a) Areas where the take or interference of water, or the construction of infrastructure, is prohibited;
- b) The regulation of infrastructure to take or interfere with water resources;
- c) The creation and management of river basin authorities;
- d) Priority matters for inclusion in river basin water resources plans;
- e) Incentives for research on, or the development of, new technologies, that will contribute to the reduction of waste and improvement in water quality, and increase water use efficiency;
- f) Incentives and disincentives, including financial mechanisms such as use charges and inclining block tariffs, to encourage the efficient use of water resources;
- g) The creation and management of water user communities, including farmer water user communities;
- h) The regulation of the discharge, disposal or depositing of polluting substances which are likely to deteriorate the quality of water and to endanger human and ecosystem health;
- i) The declaration of protected water use zones;
- j) The designation and management of flood retention areas;
- k) The infilling or alteration of wetlands, swamps, marshes, ravines or gulches;
- l) The regulation of groundwater development and the groundwater development industry, including but not limited to:
  - a. qualifications for bore contractors and bore pump installers;
  - b. evidence required by a holder of a certificate that a drilling machine is being operated under a certificate;
  - c. the taking of samples, tests, analyses, surveys and logs and other bore data and the submission of them to MOWRAM;
  - d. the reclamation of bores and the methods and requirements to be observed in reclamation operations;
  - e. remedial action to be taken with respect to problem bores;

- f. the control of flowing bores;
  - g. the methods of drilling and digging bores, and of determining sources of groundwater;
  - h. the precautions and measures to be taken prior to and during the drilling, digging and development of a bore;
  - i. respecting the maintenance of inactive bores;
  - j. respecting the on going maintenance and operation of active bores; and
- m) The imposition of fees and charges to cover the costs of managing water resources in accordance with this title.

## **SECTION 2 GOVERNMENT COORDINATION**

### **ARTICLE 14**

A National Committee of River Basin Planning and Management shall be established by sub-decree under the Chairpersonship of MOWRAM, involving Secretaries of State from at least 15 key ministries and the Cambodia National Mekong Commission.

### **ARTICLE 15**

The duties of the National Committee of River Basin Planning and Management include:

- a) Coordinating and overseeing the development of the National Strategic Water Plan;
- b) Monitoring and evaluating the implementation of the National Strategic Water Plan for the management, protection, conservation and development of river basins;
- c) Mediating and resolving any conflicts in management, protection, conservation and development of river basins; and
- d) Undertaking any other tasks as directed by the Royal Government of Cambodia.

### **ARTICLE 16**

In case of need, the Royal Government of Cambodia shall set up a joint commission for addressing and coordinating works and activities among the Ministries concerned.

### **ARTICLE 17**

The Kingdom of Cambodia has the right and duty to participate in the utilization, development and management of an equitable and reasonable share of the international river basins in its territory, consistent with the obligations arising from the international agreements to which Cambodia is a Party.

## **ARTICLE 18**

MOWRAM shall pay particular attention to the optimum and effective use of the Mekong River Basin, consistent with the governing principles of the Cambodia National Mekong Committee.

## **CHAPTER 3 WATER RESOURCES PLANNING**

### **SECTION 1 OBJECTIVES AND PRINCIPLES**

## **ARTICLE 19**

MOWRAM shall plan for the allocation and sustainable management of water to meet Cambodia's future water requirements, through the National Strategic Water Plan and by preparing river basin water resources plans.

## **ARTICLE 20**

In preparing river basin water resources plans, MOWRAM must coordinate with all interested and relevant government entities including Commune Offices and private sectors, beneficiary groups, NGOs and International Organizations.

## **ARTICLE 21**

The preparation and implementation of river basin water resources plans may be delegated from MOWRAM to river basin authorities established under sub-decree.

## **ARTICLE 22**

A river basin authority preparing or implementing a river basin water resources plan in accordance with Article 20 must comply with the provisions of this Title.

## **ARTICLE 23**

MOWRAM must collect, store, make available and use information for planning purposes by:

- a) Regularly measuring and keeping publicly available records of the volume and quality of

water in Cambodia;

- b) Collecting information on the water requirements of, and impacts of water management on, natural ecosystems and threatened species, including from other Ministries;
- c) Collecting information about future water requirements; and
- d) Continually upgrading the national monitoring network to ensure information under this Article can be collected.

#### **ARTICLE 24**

MOWRAM may establish a technical advisory group to advise on matters about:

- a) A proposed or draft river basin water resources plan;
- b) A proposed amendment to a river basin water resources plan; and
- c) The grant of authorisations under Chapter 4.

### **SECTION 2 NATIONAL STRATEGIC WATER PLAN**

#### **ARTICLE 25**

A National Strategic Water Plan shall be prepared, in accordance with Article 15, to provide guidance for pursuing the:

- a) Objectives of this Title;
- b) Long-term water supply security within the Kingdom of Cambodia;
- c) Sustainability of the water resources of the Kingdom of Cambodia;
- d) Protection of water and flow dependent ecosystems; and
- e) Fair and effective allocation and utilization of water to prevent disasters and conflicts.

#### **ARTICLE 26**

The National Strategic Water Plan may include, but is not limited to, the following matters:

- a) Identification of ecosystems and species of concern that depend on water and

environmental flows;

- b) Predictions of long term water demand;
- c) Identification of long term climate and weather trends;
- d) Predictions of future water availability and variability;
- e) Options for meeting future water requirements;
- f) Options for managing future water demand;
- g) Prioritization of water uses;
- h) Ensuring that infrastructure does not block, and that there is sufficient flow for navigable passage;
- i) Drought management strategies;
- j) Flood management strategies; and
- k) Water quality performance objectives.

### **SECTION 3 RIVER BASIN WATER RESOURCES PLANS**

#### **ARTICLE 27**

MOWRAM shall prepare river basin water resources plans to:

- a) Define the availability of water for any purpose;
- b) Provide a framework for sustainably managing water and the taking of water;
- c) Identify priorities and mechanisms for dealing with future water requirements;
- d) Provide a framework for establishing water allocations; and
- e) Provide a framework for reversing, where practicable, degradation that has occurred in natural ecosystems, including, for example, stressed rivers.

#### **ARTICLE 28**

River basin water resources plans must also regulate the extraction of groundwater if MOWRAM

is satisfied that there is a risk that extracting, or interfering with, groundwater in the area may significantly affect the:

- a) Availability of water for existing users;
- b) Water requirements of natural ecosystems;
- c) Quality of water; or
- d) Achievement of any of the other objectives or outcomes in a plan.

## **ARTICLE 29**

When MOWRAM issues a notice of intent to prepare a river basin water resources plan, a moratorium takes effect and remains in force until either:

- a) The water resources plan is approved in the form of a sub-decree; or
- b) MOWRAM issues a notice that withdraws the intent to prepare a water resources plan and states the reasons for the withdrawal.

## **ARTICLE 30**

While a moratorium under Article 29 is in effect:

- a) No application under this Code will be accepted or dealt with (even if submitted before the moratorium came into effect) if granting the application would have one or more of the following effects on the water to which the application relates:
  - (i) Increase the amount of water that may be taken; change the location from which water may be taken;
  - (ii) Change the location from which water may be taken;
  - (iii) Increase the rate at which water may be taken;
  - (iv) Change the flow conditions under which water may be taken; or
  - (v) Change the purpose for which the water may be taken.
- b) New works must not be physically started in the area covered by the moratorium;

- c) Works that have been started may be completed only with the express written approval of MOWRAM and subject to any conditions, including a completion date, imposed by MOWRAM;
- d) Completed works in existence must not be raised, enlarged, deepened or changed.

## **ARTICLE 31**

Within a single river basin only one river basin water resources plan may be in effect at any given time, except when separate plans are prepared for surface water and groundwater resources.

## **ARTICLE 32**

A draft river basin water resource plan must:

- a) State the purpose of the draft plan;
- b) Contain a map of the proposed plan area;
- c) State the water to which the draft plan is intended to apply;
- d) In accordance with Articles 25 and 26, state the prioritisation of water and water resource users such that critical human needs and ecosystem services receive sufficient water and water resources prior to allocation of surplus water and water resources to other users;
- e) State the outcomes, including but not limited to, the ecological outcomes, for the sustainable management of the water;
- f) To the extent possible from the best scientific information available, state the strategies proposed to achieve the outcomes identified under subsection e), including but not limited to limits on total abstractions from the basin;
- g) State the strategies proposed for the establishment of water allocations for the proposed plan area;
- h) State the environmental management rules and water sharing rules for the water to which the draft plan is intended to apply;
- i) Identify any water infrastructure to which the draft plan is intended to apply and how it will be operated (including, but not limited to, dams, hydropower schemes, irrigation supply networks and major abstraction pumps);

- j) Identify the full supply levels for any dams included in the infrastructure identified in subsection i);
- k) State the water and natural ecosystem monitoring and reporting requirements to assist in assessing the effectiveness of the proposed management strategies in achieving the outcomes mentioned in subsection e);
- l) State the periodic reporting requirements for the draft plan;
- m) Include a schedule of proposed arrangements for implementing the draft plan;
- n) Include information about any unallocated water available for future consumptive purposes and the priorities and processes for allocating or reserving of the water;
- o) Establish a process for granting, reserving or otherwise dealing with any unallocated water to which the draft plan is intended to apply;
- p) State criteria for adjusting existing water access entitlements, if necessary to achieve the plan outcomes; and
- q) State criteria for addressing any degradation that has occurred in natural ecosystems.

### **ARTICLE 33**

A river basin water resources plan that covers water resources of the Mekong River must also consider:

- a) Transboundary flows of water into the Kingdom of Cambodia;
- b) Any legal or equitable requirements for transboundary flows of water downstream of the Kingdom of Cambodia according to the provisions of the United Nations Convention on the Law of Non-navigational Uses of International Watercourses;
- c) Other transboundary environmental matters; and
- d) The existence, operations and requirements of intergovernmental agreements relating to the Mekong River.

### **ARTICLE 34**

The draft river basin water resources plan provides a framework for establishing water access entitlements and the draft plan must state the following:



- a) Environmental flow objectives;
- b) Water access entitlement security objectives;
- c) Performance indicators for environmental flow objectives and water access entitlement security objectives; and
- d) Priorities for the granting of water access entitlements.

### **ARTICLE 35**

MOWRAM must consider the following when preparing a draft river basin water resources plan:

- a) The volume and quality of water in the plan area;
- b) National, provincial and local objectives and priorities for promoting sustainable development;
- c) Any regional plan for the area;
- d) The duration, frequency, size and timing of water flows necessary to support natural ecosystems and species of concern as assessed using the best scientific information available;
- e) Any beneficial flooding and drying necessary to support natural ecosystems and species of concern;
- f) The underground water levels and underground water recharge processes necessary to support natural ecosystems and species of concern;
- g) The contribution to water management of associated habitats and ecosystems, for example forests and wetlands, that support the objectives of the river basin water resources plan;
- h) Existing entitlements to access, use or interfere with water;
- i) Cambodia's future water requirements, including cultural, economic, environmental and social requirements;
- j) Cultural, economic, environmental and social values;
- k) Technical assessments for the draft plan;

- l) The effects the draft plan will have on water not covered by the draft plan;
- m) The effects the taking, or interfering with, water not covered by the draft plan will have on water covered by the draft plan;
- n) The sustainable resource management strategies and policies for the river basin or underground water basin, including, any relevant coastal zone;
- o) All submissions about the proposed draft plan; and
- p) The public interest.

### **ARTICLE 36**

MOWRAM must publish a notice when the draft river basin water resources plan has been prepared, stating:

- a) Where copies of the draft plan may be physically inspected and an internet site from which it may be downloaded;
- b) That written submissions may be made by any entity about the draft plan; and
- c) A day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.

### **ARTICLE 37**

Any individual may make a submission to MOWRAM about any aspect of a draft river basin water resources plan, including any matters not included in that draft plan, by the date notified under Article 36.

### **ARTICLE 38**

Before finalizing the river basin water resources plan, MOWRAM must consider all submissions made in accordance with Article 37 about the draft plan.

### **ARTICLE 39**

A final river basin water resources plan does not have effect until it is approved by the Council of Ministers and takes the form of a sub-decree.

### **ARTICLE 40**

An approved river basin water resources plan expires after 10 years unless:

- a) It is sooner repealed; or
- b) It is replaced by another water resource plan that has commenced and that states it is a replacement plan.

#### **ARTICLE 41**

MOWRAM may:

- a) Amend a river basin water resources plan; or
- b) Prepare a new river basin water resource plan to replace an existing plan.

#### **ARTICLE 42**

MOWRAM must act under Article 41 if it is satisfied that either:

- a) A river basin water resources plan's outcomes are not being achieved; or
- b) A river basin water resources plan's objectives, or the strategies for achieving the plan's outcomes, are no longer appropriate for its plan area.

#### **ARTICLE 43**

When amending an existing river basin water resources plan under Article 41, MOWRAM must comply with this Chapter as if it is preparing a new river basin water resources plan, unless the amendment is to make minor corrections to the existing plan that do not change its substantive effect.

### **CHAPTER 4 AUTHORISATIONS**

#### **SECTION 1 GENERAL PROVISIONS**

#### **ARTICLE 44**

Every person has the right to take and use water resources, without the need for an authorisation under this chapter, for:

- a) Vital human needs, including drinking, washing, bathing, sanitation the irrigation of

domestic gardens and orchards, and other domestic purposes; and

- b) Emergency purposes, including firefighting.

#### **ARTICLE 45**

Water can only be taken under Article 44 in a manner that will not affect any legal rights of any other person.

#### **ARTICLE 46**

Land owners and occupiers are entitled to collect and use rainwater and water naturally flowing over that land in accordance with Article 44 without authorization under this Chapter, unless the natural flow of water is hindered by the construction of roads, fences, dykes, impoundments or ponds.

#### **ARTICLE 47**

The following activities are prohibited unless allowed by an authorisation issued in accordance with this Chapter and undertaken in accordance with all conditions of the authorisation:

- a) Any interference, diversion, abstraction or use of water resources, other than in accordance with Article 44 and Article 45, and subject to Article 46;
- b) The construction or operation of any infrastructure to interfere with, divert or abstract water resources, other than in accordance with Article 44 and Article 45;
- c) The extraction of sand, soil, stones, gravel, minerals, petroleum and gas from the beds and banks of any watercourse, lake, wetland, floodplain, spring or reservoir and
- d) The filling, lining, channelling or alteration of any watercourse, lake, wetland, floodplain, spring or reservoir.

#### **ARTICLE 48**

MOWRAM may establish by sub-decree thresholds for the interference, diversion, abstraction or use of water resources for certain purposes that do not require an authorisation under Article 47.

### **SECTION 2 INFRASTRUCTURE LICENCES**

#### **ARTICLE 49**

MOWRAM must grant infrastructure licences to all infrastructure that is identified in a river basin water resources plan under Article 32 i).

#### **ARTICLE 50**

Infrastructure licences must be granted in accordance with the river basin water resources plan under which the infrastructure is identified.

#### **ARTICLE 51**

An infrastructure licence authorises its holder to interfere with the flow of water to the extent necessary to operate the water infrastructure to which the licence applies.

#### **ARTICLE 52**

An infrastructure licence must state, but is not limited to, the following:

- a) Details of the licence holder;
- b) The river basin water resources plan to which the licence relates;
- c) The water infrastructure to which the licence applies;
- d) Any operating rules for the infrastructure identified under the relevant river basin water resources plan; and
- e) Any conditions the holder must comply with.

#### **ARTICLE 53**

The conditions of an infrastructure licence may include, but are not limited to, the following:

- a) A requirement to install a meter to measure the water taken or interfered with by the water infrastructure to which the licence applies;
- b) A requirement to carry out and report on a stated monitoring program;
- c) A requirement to report to MOWRAM information about the licence holder's performance under the licence;
- d) Payment of fees prescribed under a sub-decree; and

- e) A prohibition on altering the water infrastructure in such a way that would affect the achievement of the river basin water resources plan objectives.

#### **ARTICLE 54**

An application for a water licence under this section for any new infrastructure that may be developed in accordance with a river basin water resources plan must be accompanied by other development approvals required under this Code, including in relation to the environmental and socio-economic impact assessment processes, specifically those in Book 2 Title 3 Environmental Assessment of this Code.

### **SECTION 3 WATER ACCESS ENTITLEMENTS**

#### **ARTICLE 55**

MOWRAM must maintain a register of all water access entitlements.

#### **ARTICLE 56**

Subject to Section 1, the abstraction, take or diversion of water resources can only be undertaken in accordance with a water access entitlement issued by MOWRAM.

#### **ARTICLE 57**

A person with a legal right to a parcel of land may apply to MOWRAM for a water access entitlement to take or interfere with water from:

- a) A watercourse, lake or spring on or adjoining any of the land;
- b) An aquifer under any of the land;
- c) Water flowing across any of the land; or
- d) Infrastructure operated under an infrastructure licence that can supply the water to the land.

#### **ARTICLE 58**

The application must be:

- a) Made to MOWRAM in the approved form; and
- b) Supported by sufficient information to enable MOWRAM to decide the application,

including any additional information that may be requested by MOWRAM; and

- c) Accompanied by any fee prescribed under a sub-decree.

## **ARTICLE 59**

Once MOWRAM is satisfied that it has sufficient information to decide the application, it must issue a public notice about the application stating:

- a) Details of the application;
- b) Where the application may be viewed; and
- c) A date, at least 20 business days after the public notice is issued, by which written submissions on the application may be made to MOWRAM.

## **ARTICLE 60**

In deciding an application for a water access entitlement, MOWRAM must consider:

- a) The objectives of this Title;
- b) Any existing or planned river basin water resources plan for the area covered by the application;
- c) The effects of taking, or interfering with, water on persons accessing water in accordance with Article 44;
- d) Existing water entitlements and authorities to take or interfere with water;
- e) The effects of taking, or interfering with, water on natural ecosystems and species of concern;
- f) The effects of taking, or interfering with, water on the physical integrity of watercourses, lakes, springs or aquifers;
- g) Strategies and policies for the sustainable management of water in the area to which the application relates;
- h) The sustainable resource management strategies and policies for the river basin, including any relevant coastal zone and regional groundwater systems;

- i) Whether the applicant holds any necessary development approval under this Code or other law of the Kingdom of Cambodia for works required to take or interfere with the water, including under the environmental impact assessment provisions of this Code;
- j) Any properly made submissions on the application;
- k) The public interest; and
- l) Whether the applicant has been convicted of any offence under this Code.

## **ARTICLE 61**

For areas, and water resources, that are covered by a river basin water resources plan, MOWRAM must:

- a) Only grant water access entitlements in accordance with any process provided by the plan;
- b) Ensure that water access entitlements are consistent with the plan; and
- c) Not grant a water access entitlement if its nominal volume would cause the total abstraction limit under the plan to be exceeded.

## **ARTICLE 62**

In deciding an application for a water access entitlement, MOWRAM:

- a) May grant the application in whole or in part, with or without conditions; or
- b) Refuse the application.

## **ARTICLE 63**

Having decided the application, MOWRAM must:

- a) Provide the applicant with a written notice of the decision, including any reasons if the application is refused, within 10 business days;
- b) Issue a public notice of the decision within 10 business days;
- c) If the application is granted in whole or in part, issue a water access entitlement to the applicant within 20 business days; and



- d) Issue a written response to any properly made submission on the application within 20 business days.

#### **ARTICLE 64**

Water access entitlements must state:

- a) Its nominal volume in cubic meters;
- b) The location from which the water may be taken;
- c) The purpose for which the water may be taken;
- d) Any conditions relating to the access to, abstraction of, or use of water, which may include;
- e) Flow conditions under which the water may be taken;
- f) A maximum rate for taking water; or
- g) Any other conditions deemed necessary to achieve the objectives of this Title;
- h) Any river basin water resources plan under which it is managed;
- i) Any infrastructure licence under which it is managed; and
- j) Any priority group to which it belongs.

#### **ARTICLE 65**

The nominal volume stated on a water allocation is the maximum amount of water that may be taken during a particular period of time or in particular circumstances, subject to any water sharing rules established by a river basin water resources plan that applies to the water access entitlement. However, environmental flows are not subjected to a maximum amount, as any water surplus to allocations remains instream to supplement existing environmental flows.

#### **ARTICLE 66**

Prior to the start of each water year, MOWRAM must declare the announced entitlement that can be taken under a water access entitlement for that year, in accordance with the water sharing rules and priority groups established by a river basin water resources plan.

#### **ARTICLE 67**

The announced entitlement:

- a) Is a percentage of the nominal volume of a water access entitlement that may be taken in a water year;
- b) Must be decided before the start of the water year to which the announced entitlement relates;
- c) Is determined based on the actual seasonal availability of water from which the entitlement is accessed;
- d) May be increased during the water year;
- e) May be different in different sub-areas of a basin;
- f) May be announced differently for each water access entitlement within a priority group; and
- g) Does not apply to authorisations with the purpose of urban or town water supply.

#### **ARTICLE 68**

For a water access entitlement that is managed under a river basin water resources plan:

- a) Water can only be taken in accordance with that plan;
- b) If there is a conflict between the plan and the water access entitlement, the plan prevails; and
- c) The water access entitlement cannot be changed in any way that would reduce the amount of, or negatively impact on the conditions under which, water can be taken for the duration of the plan, unless MOWRAM provides the entitlement holder with agreed compensation.

#### **ARTICLE 69**

The nominal volume of a water allocation, and any other conditions, may be adjusted at the end of the life of the river basin water resources plan under which it is managed, without any compensation payable.

#### **ARTICLE 70**

If a water access entitlement relates to water resources provided by infrastructure that is managed

under an infrastructure licence, a supply agreement must exist between the water access entitlement holder and the infrastructure licence holder (unless they are the same legal entity).

#### **ARTICLE 71**

MOWRAM must prepare a standard supply agreement for the storage and/or delivery by infrastructure licence holders of water under water access entitlements, which:

- a) Must be publicly accessible in hard copy and electronically; and
- b) May vary for different locations.

#### **ARTICLE 72**

The standard supply agreement under Article 69 for the location to which the water access entitlement relates applies to the water access entitlement unless a separate supply agreement has been:

- a) Agreed between the infrastructure licence holder and the water access entitlement holder; and
- b) Submitted to MOWRAM in hard copy and electronic form.

### **SECTION 4 RIVERINE PROTECTION**

#### **ARTICLE 73**

A person may apply to MOWRAM for a permit to do either or both of the following activities:

- a) Excavate in a watercourse, lake, wetland, floodplain, spring or reservoir;
- b) Place fill in a watercourse, natural lake, wetland, floodplain, spring or reservoir.

#### **ARTICLE 74**

The application must include the written consent of the registered owners of land, or demonstrate other legal authority to undertake the activity on the land that is:

- a) Wholly containing the length of the watercourse in which the activity is to take place or the part of the lake or spring where the activity is to take place; or

- b) Adjoining the watercourse, lake or spring where the activity is to take place.

## **ARTICLE 75**

Once MOWRAM is satisfied that it has sufficient information to decide the application, it must issue a public notice about the application stating:

- a) Details of the application;
- b) Where the application may be viewed; and
- c) A date, at least 20 business days after the public notice is issued, by which written submissions on the application may be made to MOWRAM.

## **ARTICLE 76**

In deciding whether to grant or refuse the application, or what should be the conditions of the permit, MOWRAM must consider all of the following:

- a) The effects of the proposed activity on water quality;
- b) The quantity and type of material to be excavated or placed;
- c) The seasonal factors influencing the watercourse, lake, wetland, floodplain, spring or reservoir from time to time;
- d) The quantity and type of vegetation that would be destroyed as a necessary and unavoidable part of the proposed excavation or placing of fill (affected vegetation);
- e) The position in the watercourse, lake, wetland, floodplain, spring or reservoir of the proposed excavation or placing of fill and any affected vegetation;
- f) Whether and to what extent the activity that the permit would allow may have an adverse effect on persons accessing water in accordance with Article 44;
- g) The reasons given by the applicant for wishing to carry out the activity;
- h) Whether, and to what extent, the activity that the permit would allow may have an adverse effect on the physical integrity of the watercourse, lake, wetland, floodplain, spring or reservoir;
- i) Any existing or planned river basin water resources plan for the area covered by the

application;

- j) The implications of granting the permit for the long-term sustainable use of the river systems of Cambodia, and especially the cumulative effect of granting the application and likely similar applications;
- k) Any properly made submissions on the application;
- l) The public interest; and
- m) Any other matters MOWRAM considers to be relevant.

## **ARTICLE 77**

In deciding the application, MOWRAM may:

- a) Grant the permit, with or without conditions, and issue a written notice to the applicant within 30 days of the decision; or
- b) Refuse the permit, and issue a written notice to the applicant within 30 days of the decision.

## **SECTION 5 GROUNDWATER DEVELOPERS**

## **ARTICLE 78**

An individual may apply to MOWRAM to be a certified:

- a) Water bore driller;
- b) Water bore digger; or
- c) Groundwater pump installer.

## **ARTICLE 79**

The application must:

- a) Be made to MOWRAM in the approved form; and
- b) State the class of licence prescribed under a sub-decree for which the applicant is applying; and

- c) Be supported by evidence that the applicant has the qualifications or experience prescribed under a sub-decree; and
- d) Be accompanied by the fee prescribed under a sub-decree.

#### **ARTICLE 80**

MOWRAM may require the applicant to give additional information about the applicant's experience or history in the water bore construction industry, including, for example if the applicant has:

- a) Been convicted of an offence against this Code, or any repealed laws; or
- b) Held a certificate to construct water bores that has been cancelled or suspended under this Code, or any repealed laws.

#### **ARTICLE 81**

In deciding the application, MOWRAM may:

- a) Grant the application, with or without conditions, and issue a written certificate to the applicant within 30 days of the decision, that states:
- b) The particular class of certificate; and
- c) Any conditions that apply; or
- d) Refuse the application, and issue a written notice to the applicant within 30 days of the decision.

#### **ARTICLE 82**

Certification under Article 81 is subject to any conditions:

- a) Prescribed under a sub-decree, including the period for which the certification has effect; and
- b) MOWRAM may impose for a particular certification, including, but not limited to, the types of equipment and drilling methods the certificate holder may use.

#### **ARTICLE 83**

If MOWRAM is satisfied the certificate holder is no longer competent to carry out water bore construction activities authorised by the certificate, MOWRAM must give the holder a show cause notice. The show cause notice provides the certificate holder an opportunity to show why the certificate should not be cancelled or provides the certificate holder an opportunity to amend according to what is stated in the notice.

#### **ARTICLE 84**

After considering any properly made submission in response to the show cause notice issued under Article 83, MOWRAM may cancel or amend the certificate.

#### **ARTICLE 85**

If MOWRAM decides to cancel or amend the certificate under Article 82, MOWRAM must give the holder a written notice, including reasons for the decision, within 10 business days of making the decision.

#### **ARTICLE 86**

An authorised officer may require an individual to produce the individual's certificate under this section for inspection, if the officer reasonably suspects the individual is—

- a) Drilling, digging, deepening, enlarging or casing a water bore; or
- b) Removing, replacing, altering or repairing the casing, lining or screening of a water bore;
- c) Decommissioning a water bore; or
- d) Installing, replacing, altering or decommissioning a pump.

#### **ARTICLE 87**

It is an offence to fail to produce a certificate for inspection under Article 86 without a reasonable excuse.

#### **ARTICLE 88**

Any person undertaking work in relation to water bores for professional or commercial purposes shall supply the MOWRAM with a detailed report on the work, including:

- a) The location of the work;

- b) Technical specifications for the work;
- c) Details of the authorization to undertake the work in accordance with this section;
- d) Details of any water access entitlement associated with the work;
- e) Details of any river basin water resources plan for the location; and
- f) Other relevant information.

## **ARTICLE 89**

A certificate holder must keep information prescribed under a sub-decree about any activity the holder may carry out under this Code, and provide this information to MOWRAM if requested.

## **SECTION 6 FORFEITURE OF AUTHORISATIONS**

## **ARTICLE 90**

MOWRAM may issue the holder of an authorisation under this Chapter a show cause notice to provide the authorisation holder an opportunity to show why the authorisation should not be forfeited, if the holder of the authorisation:

- a) Violates any of the conditions imposed in the authorisation;
- b) Violates any provision of this Code or any related sub-decree;
- c) Is convicted of an offence against this Code;
- d) Takes water in a quantity that exceeds the amount authorized;
- e) Takes or interferes with water in a manner that is not authorized;
- f) Uses water for purposes other than those authorized;
- g) Transfers the authorisation without prior approval;
- h) Causes negative impacts on public health or the environment;
- i) Refuses to supply MOWRAM with any information reasonably requested about activities undertaken in accordance with the authorization, without a reasonable excuse; or
- j) Refuses, without justification, to pay any fees or charges under this Code.



## **ARTICLE 91**

After considering any properly made submission in response to the show cause notice issued under Article 90, MOWRAM may forfeit the authorisation.

## **ARTICLE 92**

If MOWRAM decides to forfeit the authorisation in accordance with Article 91, MOWRAM must give the holder a written notice, including reasons for the decision, within 10 business days of making the decision.

## **CHAPTER 5 OFFENCES**

## **ARTICLE 93**

A person must not take, supply or interfere with water to which this Title applies unless authorised to do so under the Title and unless the take, supply or interference is in accordance with the authorization.

## **ARTICLE 94**

The holder of an authorization under this Title must not contravene a condition of the authorization.

## **CHAPTER 6 TRANSITIONAL ARRANGEMENTS**

## **ARTICLE 95**

MOWRAM must establish an implementation schedule, including a list of priority actions, for the preparation of river basin water resources plans in accordance with 0 within 12 months of the commencement of this Title.

## **ARTICLE 96**

A water access entitlement is not required for the following purposes:

- a) Irrigation of land of a total area less than 10 hectares;
- b) Clean water supply, in which the water used is less than 40 cubic meters per day; or
- c) Run-of-river hydropower, or other hydropower techniques, that do not require the impoundment, diversion or abstraction of water.

## ARTICLE 97

Article 96 only has effect until the earlier of the following dates:

- a) 1 January 2019; or
- b) The date on which a sub-decree, established in accordance with Article 13, takes effect.

## ARTICLE 98

Any legal entity that has been undertaking activities covered by 0without any prior authorisation from MOWRAM, or a municipal or provincial Department of Water Resources and Meteorology, shall take action to comply with 0within 6 months of the commencement of this Code.

## ARTICLE 99

The banks and shores of river basin components and features are measured as follows:

- a) Beach and Estuary are measured to be 100 meters from the shore and mouth (the highest tide);
- b) River is measured to be 50 meters from the river bank;
- c) Tributary is measured to be 30 meters from the tributary bank;
- d) Creek is measured to be 20 meters from the creek bank;
- e) Stream is measured to be 10 meters from the stream bank;
- f) Main Canal is measured to be 10 meters from the external part of canal dikes;
- g) Sub Canal is measured to be 5 meters from the external part of canal dikes;
- h) Irrigated Canal is measured to be 3 meters from the external part of canal dikes;
- i) Lake is measured to be 50 meters from the maximum setting of water level in the basin.
- j) Floodplain is not measured in distance, but is defined as an area of reasonably flat land adjacent to a watercourse that:
  - a. is covered from time to time by floodwater overflowing from the watercourse; and
  - b. does not, other than in an upper valley reach, restrict floodwater to generally

following the path of the watercourse.

## **ARTICLE 100**

Article 99 only has effect until the earlier of the following dates:

- a) 1 January 2019; or

The date on which a sub-decree established by MOWRAM to establish the measurements for features of river basins takes effect.

## **TITLE 9        SUSTAINABLE MARINE FISHERIES**

The Law on Fisheries 2007, the Law on Water Resource Management of the Kingdom of Cambodia 2007, the Law on Fishery Management 2006, and the Law on Fisheries Management 1987 are hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management]*

### **CHAPTER 1 GENERAL PROVISIONS**

## **ARTICLE 1**

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.

## **ARTICLE 2**

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.

## **ARTICLE 3**

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**

### **ARTICLE 4**

Pursuant to this authority, the appropriate ministry shall:

- 1) Require a license for all [subsistence or commercial?] 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.
- 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**

#### **ARTICLE 5**

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.

## **TITLE 10      SUSTAINABLE FRESHWATER FISHERIES**

The legal framework for the fisheries sector, including all existing legal instruments and forthcoming legal instruments, shall be made consistent with and implemented in accordance with the general principles and all legal requirements of this Code.

The Law on Fisheries 2007, the Law on Water Resource Management of the Kingdom of Cambodia 2007, the Law on Fishery Management 2006, and the Law on Fisheries Management 1987 are hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, access to information, public participation, decentralization / deconcentration, land management / collaborative management]*

## **BOOK 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. It does not amend the role of APSARA nor amend the 2001 Land Law.
- This Title re-establishes the Supreme Council on National Culture for 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, Pre-Angkor and pre-historic archaeological heritage. MoCFA will have the task to set up and maintain the National Heritage List for Cambodia, combining all existing lists and inventories. This Heritage List 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.
- MoCFA must retain a strong role in heritage protection but this should include consultation and liaison with other Ministries, including the Ministry of the Environment and the Minister for Construction and Land Use Planning. Urban heritage will receive some specific mentions and consultation will be required before heritage items or areas can be development or demolished. Heritage Protection Officers will be required at Provincial and City level to ensure consultation and collaboration between Ministries.
- 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.

The following section of the 1996 Law are dealt with under this Book.

Chapter I – Articles 1 – 4.  
Chapter II – Articles 5, 6.  
Section 3 – Inventory - Recommended Amendment (see also the National Heritage List)  
Section 4 – Classification –.  
Section 5 – No changes  
Section 6 – No changes  
Section 7 – Chance Discoveries - Amendments to strengthen process  
Section 8 – No changes  
Section 9 – No changes  
Section 10 – No changes  
Section 11 – Amendments to create offences and strengthen punishments.

## **CHAPTER 1 OBJECTIVES**

### **ARTICLE #**

This Book has the following objectives:

- (i) To preserve, protect, and manage natural resource and to conserve cultural heritage and natural heritage.
- (ii) To preserve, protect cultural identity of the nation which is the workmanship of our forefathers (intellectual property of national identity).
- (iii) To preserve the beauty and protect the historical identity of the capital, province, urban area, ancient site and shrine (worship place).
- (iv) To promote the collaboration between the Ministry of Culture and Fine Arts and the Ministry of Environment and relevant institutions as well as National and International Organizations and development partners.
- (v) To improve the livelihood, tradition, culture and custom of indigenous community.

### **ARTICLE #**

The purpose of these provisions are to protect national cultural heritage and cultural property in general against illegal destruction, modification, alteration, excavation, alienation, exportation or importation.

### **ARTICLE #**

The national cultural heritage comprises cultural property created or discovered on national territory, which may be of international, national, provincial, indigenous or local heritage value.

**ARTICLE #**

This law shall apply to movable and immovable cultural property, whether publicly or privately owned and on public or private land.

**CHAPTER 2 SCOPE OF THE BOOK**

**SECTION 1 ROLE OF COMPETENT AUTHORITIES**

**ARTICLE #**

Nothing in this Book amends the role and responsibility of the APSARA Authority, the National Authority on Preah Vihear or the obligations or management of Cambodia's World Heritage Properties.

**ARTICLE #**

For the purposes of this Book the competent authority is the Ministry of Culture and Fine Arts.

**SECTION 2 OBLIGATION TO PROTECT THE NATIONAL HERITAGE OF  
CAMBODIA**

**ARTICLE #**

A Ministry or Authority must not take any action, or grant any permit or approval, that will, or is likely to have, a significant impact on the cultural heritage or natural heritage values or an item or place in Cambodia.

**ARTICLE #**

A person or legal entity must not take any action that will, or is likely to have, a significant impact on the cultural heritage or natural heritage values or an item or place in Cambodia except in accordance with a permit granted by the relevant Ministry or Authority.

**CHAPTER 3 DEFINITIONS**

**ARTICLE #**

The cultural heritage of Cambodia includes both tangible and intangible heritage.

**ARTICLE #**

For the purposes of this Code, cultural property is considered to be any work produced by human agency and any natural phenomenon of a scientific, historic, artistic or religious nature which bears witness to a certain stage in the development of a civilization or of the natural world.

#### **ARTICLE #**

For the purposes of this Code, natural heritage is a part of the natural environment that has heritage significant because of the scientific value of its biodiversity, geology, landform or other naturally occurring elements.

### **CHAPTER 4 CRITERIA FOR CULTURAL HERITAGE**

#### **ARTICLE #**

Cultural heritage shall include tangible as well as intangible heritage and shall include pre-historic, pre-Angkor, Angkor, Post-Angkor, Colonial and modern heritage of Cambodia.

#### **ARTICLE #**

The following shall be considered as "cultural heritage":

- (i) 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 local, provincial or national value from the point of view of history, art or science;
- (ii) Groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of local, provincial or national value from the point of view of history, art or science;
- (iii) Sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of local, provincial or national value from the historical, aesthetic, ethnological or anthropological point of view.
- (iv) Other items or things, of an intangible or tangible nature which are of local, provincial or national value from the historical, aesthetic, ethnological or anthropological point of view

#### **ARTICLE #**

Determination of cultural heritage value may be made by:

- (i) 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.
- (ii) A new innovation which is valuable to the society.
  - (iii) Cultural property which is of a special value for the nation.
  - (iv) Cultural property which is of a special value to a province, local community or indigenous community.
  - (v) A movement of architecture which reflect national identity.
  - (vi) An architectural workmanship which influence the next generations.

## **CHAPTER 5 RESPONSIBILITY FOR CULTURAL HERITAGE PROTECTION**

### **SECTION 1 SUPREME COUNCIL ON NATIONAL CULTURE**

#### **ARTICLE #**

The Supreme Council on National Culture is responsible for policy formulation in the domain of national cultural property, in particular in view of protecting and enhancing the national cultural heritage.

#### **ARTICLE #**

The Supreme Council on National Culture is to be reactivated in accordance with the provisions of this Code.

#### **ARTICLE #**

The Ministry of Culture and Fine Arts is responsible for policy implementation and for action to protect cultural and natural heritage.

#### **ARTICLE #**

In the Angkor/Siem Reap region, the Authority for the Protection and Management of Angkor and the Region of Siem Reap, called APSARA, is responsible for the protection, the preservation and the enhancement of the national cultural heritage.

#### **ARTICLE #**

Coordination of work carried out jointly by the Ministry of Culture and Fine Arts and concerned institutions, including provincial authorities, is to be defined by Anukret.

### **SECTION 2 REACTIVATION OF THE SUPREME COUNCIL ON NATIONAL CULTURE**

**ARTICLE #**

The Supreme Council on National Culture shall be reconstituted and shall meet on a regular basis to protect the cultural and natural heritage of Cambodia.

**ARTICLE #**

The members of the Supreme Council on National Culture shall be the Ministers and shall include:

- (i) The Prime Minister
- (ii) Minister for Culture and Fine Arts (Chair)
- (iii) Minister of the Environment
- (iv) Minister of Industry and Handicraft
- (v) Minister for Planning and Urban Development
- (vi) Representative of the APSARA Authority
- (vii) Governor of Phnom Penh City
- (viii) Two Representatives of NGOs involved in heritage protection and conservation
- (ix) Two professionals with heritage qualifications or expertise
- (x) Any other Ministries that the Supreme Council on National Culture shall invite

**ARTICLE #**

The Prime Minister and relevant Ministers may nominate a representative to attend on behalf of the Minister.

**ARTICLE #**

The role of the Supreme Council on National Culture is to identify, protect, preserve, record and promote the protection of the cultural and built heritage of Cambodia for the present and future generations.

**ARTICLE #**

The Supreme Council on National Culture may, if necessary, invite ministries, representatives of the National Assembly and representatives of national and international institutions whose activities concern the field of national culture to participate in its work.

**ARTICLE #**

The Supreme Council on National Culture is in charge of:

- (i) examining cultural sites and historic monuments and listing them as national

- cultural heritage;
- (ii) protecting historic cultural property and antiquities of a physical nature;
- (iii) administering and controlling the regions where listed monuments are situated, together with the collections of art objects associated with them;
- (iv) delivering authorizations for all archaeological research, conservation works and any other activities concerning monumental sites and other cultural property of the Nation;
- (v) administering these historic sites in order to protect the national heritage.

#### **ARTICLE #**

The Supreme Council on National Culture will work with the MoCFA and other relevant Ministries and agencies to:

- (i) draw up a policy for the enhancement of the heritage;
- (ii) organize facilities to allow the public access to the heritage;
- (iii) appoint supervisory and other staff to carry out this work;
- (iv) organize a tourist network;
- (v) promoting cultural values, mobilizing the necessary funds, educating the public, training, and carrying out research on the physical cultural and historic heritage;
- (vi) providing guarantees concerning the management responsibilities and obligations laid down by the cultural conventions and other normative instruments to which Cambodia is party;
- (vii) taking the necessary steps to execute projects and any other action relating to the protection, preservation, restoration, and enhancement of the national heritage.

#### **ARTICLE #**

The Supreme Council on National Culture shall determine its meeting procedures subject to approval by the Minister of Culture and Fine Arts and in accordance with international best practice.

#### **ARTICLE #**

The relevant Ministries shall, in consultation with the Ministry of Finance provide for a budget to enable the Supreme Council on National Culture to carry out its duties.

#### **ARTICLE #**

The Supreme Council on National Culture shall establish a web site for the business of the Council.



**ARTICLE #**

The Supreme Council on National Culture shall ensure that all documents relating to its meeting are placed on the web site of the Council, including the Minutes of meetings and documentation

**SECTION 3 APPOINTMENT OF HERITAGE PROTECTION OFFICERS**

**ARTICLE #**

MoCFA shall appoint a Heritage Protection Officer for each Province and City.

**ARTICLE #**

MoCFA shall appoint the Heritage Protection Officer in consultation with each Province and City government.

**ARTICLE #**

The duties of the Heritage Protection Officer shall be to liaise with Provincial and City governments and MoCFA, to protect heritage items and to assist in the implementation of this Book.

**ARTICLE #**

The qualifications of Heritage Protection Officers shall be determined by MoCFA.

**ARTICLE #**

The role and functions of the Heritage Protection Officers shall be determined by MoCFA.

**ARTICLE #**

The Heritage Protection Officers may work with other Heritage Protection Officers in other Provinces and the MoE to protect heritage in Cambodia.

**ARTICLE #**

The Heritage Protection Officers must be consulted prior to any action that may damage or harm an item or place or area on the National Heritage List or any inventory.

**CHAPTER 6 CREATION OF NATIONAL HERITAGE LIST (THE NATIONAL**

## **HERITAGE REGISTER)**

### **SECTION 1 CREATION OF NATIONAL HERITAGE LIST**

#### **ARTICLE #**

The MoCFA will establish a National Heritage List for Cambodia.

#### **ARTICLE #**

The Minister for Culture and Fine Arts and the Minister of Environment may add items to the National Heritage List for Cambodia.

#### **ARTICLE #**

The MoCFA will determine the categories to be listed on the National Heritage List for Cambodia.

#### **ARTICLE #**

All heritage items and any heritage area recorded on any draft inventory list and the existing inventory by MoCFA, the APSARA Authority, or any item recognised as an item of cultural heritage shall be place on the interim listing on the National Heritage List.

#### **ARTICLE #**

Any heritage item, or heritage area, in immediate danger of destruction may be given emergency listing on the National Heritage List.

#### **ARTICLE #**

All legal protection granted to items listed on National Heritage List shall all be granted to all items on the interim listing on the National Heritage List for Cambodia or any emergency listing on the National Heritage List.

#### **ARTICLE #**

The MoCFA will determine procedures for updating the National Heritage List in consultation with the Supreme Council on National Culture and other relevant Ministries and agencies.

#### **ARTICLE #**

Heritage items shall remain on the National Heritage List and be protected from harm in

accordance with the provisions of the Code until the MoCFA has classified them in accordance with the provisions outline below.

## **SECTION 2 CREATION OF INVENTORY LISTS**

### **ARTICLE #**

Listing in the inventory consists of keeping a record of public and private cultural property which, while not necessarily requiring immediate classification, is nonetheless of some importance from a scientific, historical, artistic or religious point of view.

### **ARTICLE #**

Inscription in the inventory shall be made by a decision of MoCFA.

### **ARTICLE #**

Inscription in the inventory shall place an obligation on the owner or holder of the property to inform the competent authority one month prior to taking any action to alienate, move, destroy, modify, alter, repair or restore the property. The competent authority may oppose such action only by initiating the procedure for classification.

### **ARTICLE #**

Inscription in the inventory shall followed by a proposal for classification in the 12 months following notification thereof.

## **CHAPTER 7 CLASSIFICATION OF CULTURAL HERITAGE**

### **SECTION 1 CLASSIFICATION BY MOCFA**

### **ARTICLE #**

Classification is the registration of public or private cultural property which has already been inventoried and whose protection is in the public interest from a scientific, historical, artistic or religious point of view.

### **ARTICLE #**

A proposal for classification shall be made by MoCFA, which shall duly notify the owner or holder of the property.

**ARTICLE #**

Classification shall be made by a decision of the competent authority. The competent authority must take a decision within three months after having notified the owner or holder of the property of the proposal to do so.

**ARTICLE #**

The owner or holder of the property shall be notified of the classification and, where appropriate, the Land Conservation Department (the department responsible for managing the Land Register) shall also be notified.

**ARTICLE #**

In the absence of the owner's consent, the classification shall be made automatically.

**ARTICLE #**

Classification may give rise to the payment of an indemnity in order to compensate for any loss likely to be caused. The request must be submitted to the competent authority within three months of the notification of the classification decision. The amount of the indemnity shall be set by the competent authority.

**ARTICLE #**

Any objections concerning the decision as to entitlement or as to the amount of the indemnity shall be brought before the appropriate judicial authorities.

**ARTICLE #**

The competent authority shall draw up a list of cultural property classified at the end of each year this list shall be incorporated into the National Heritage List.

**ARTICLE #**

That list, organized by Province and published in an official Gazette, shall indicate:

- (i) The nature of the cultural property classified,
- (ii) The place where it is located,
- (iii) The surnames and first names of its owner,
- (iv) The date of classification.

**ARTICLE #**

Classified cultural property is imprescriptable.

**ARTICLE #**

Any classified cultural property of public ownership or belonging to public legal entities is inalienable.

**ARTICLE #**

Anyone who alienates private cultural property proposed for classification or already classified shall, on pain of nullity of the act of alienation:

- (i) Inform the beneficiary of the status of the property before completion of the act of alienation,
- (ii) Inform the competent authority within fifteen days of the act of alienation by communicating to it the surname, first name and domicile of the person to whom ownership of the property has been transferred, as well as the date of the alienation.

**ARTICLE #**

The alienation of materials or fragments illegally removed from cultural property that has been classified or proposed for classification, and likewise any act resulting in the transfer of possession or control of such materials or fragments to a third party, shall be null and void. Any such third parties jointly responsible with the owners for returning the materials or fragments conveyed to them to their place of origin shall not be entitled to compensation from public entities.

**ARTICLE #**

No cultural property that has been proposed for classification or classified may be moved, destroyed, modified, altered, or subjected to repair or restoration work without the authorization of the competent authority, who shall lay down the conditions for such work and monitor its progress.

**ARTICLE #**

Any owner who requests authorization to alter, repair or restore cultural property that has been proposed for classification or classified must submit to the competent authority all the relevant plans, projects and documents.

**ARTICLE #**

The owner of a classified cultural property shall be responsible for ensuring its protection.

**ARTICLE #**

Any expenses resulting from the restoration, repair or maintenance of the property shall be borne by the owner. Such expenses may be reimbursed in part, by the competent authorities. Full reimbursement is subject to decision of the Supreme Council on National Culture.

**ARTICLE #**

The MoCFA shall examine any urgent repair or restoration proposed on classified cultural property. Final decision on such work will be made by the Supreme Council on National Culture. The owner of the said property may not oppose the execution of such work.

**ARTICLE #**

The consequences of classification shall take full effect from the date of notification of the proposal for classification. The consequences shall apply to the property notwithstanding any change of ownership.

**SECTION 2 CREATION OF NATIONAL HERITAGE PROTECTED AREAS**

**ARTICLE #**

Protected areas containing archaeological reserves or other sites of archaeological, anthropological, cultural or natural or historic value may be established.

**ARTICLE #**

The boundaries of such protected sites shall be defined by kret at the proposal of the SCNC or by the MoCFA.

**ARTICLE #**

Protected areas containing heritage sites shall be called National Heritage Protected Areas.

**ARTICLE #**

Existing protected areas may also include in the boundaries, items of natural and cultural heritage.

**ARTICLE #**

Items of natural and cultural heritage are to be protected in accordance with the provisions of the Code whether or not those items are contained within a National Heritage Protected Areas.

**SECTION 3 CREATION OF URBAN HERITAGE ZONES**

**ARTICLE #**

MoCFA may recommend to the Supreme Council on National Culture on an urban area for designation as an urban heritage zone.

**ARTICLE #**

MoCFA shall require preparation of a plan for the urban heritage zone and the classification of the site in accordance with these provisions.

**ARTICLE #**

MoCFA shall notify the MoE, the Ministry of Construction and Urban Development and other relevant Ministries and agencies of the proposal urban heritage zone.

**ARTICLE #**

Prior to approving construction or demolition or redevelopment within the proposed urban heritage zone an assessment of heritage values will be conducted and considered.

**CHAPTER 8 PROTECTION OF NATIONAL CULTURE HERITAGE AREAS**

**SECTION 1 CHANCE DISCOVERIES DURING DEMOLITION, CONSTRUCTION OR  
OTHER ACTIVITIES**

**ARTICLE #**

When construction work or any other activity bring to light cultural property such as monuments, ruins, ancient objects, remains of inhabited sites, ancient burial sites, engravings or any property likely to be of interest in the study of prehistory, history, archaeology, ethnology, palaeontology or other branches of science dealing with the past or of human sciences in general, the person finding the property and the owner of the site where it was discovered are obliged to stop the construction work and immediately make a declaration to the local police, who shall transmit it to the Governor of the province without delay.

**ARTICLE #**

The Governor shall in turn in turn inform the competent authority and shall take the measures necessary to ensure the protection of the objects and the site.

**ARTICLE #**

Once the change discovery has occurred all work that may impact on the heritage item must halt until MoCFA has had the opportunity to inspect the site.

**ARTICLE #**

The owner or lessee of the land, the project proponent and any person aware of the chance find have an obligation to notify the local police, the Provincial Heritage Protection officer, or MoCFA.

**ARTICLE #**

Within fourteen (14) days the Provincial Heritage Protection Officers and MocFA shall make a preliminary determination of heritage significance.

**ARTICLE #**

MoCFA shall, within thirty (30) days of the preliminary determination, announce the temporary suspension of the work and the safeguarding measures to be taken. If no such measures are announced within that time limit, the effects of temporary halt to work shall no longer apply.

**ARTICLE #**

If it is determined that the item is an item of cultural heritage then specific permission is required before the removal or destruction of heritage item.

**ARTICLE #**

The MoCFA shall decide on the permanent measures to be taken concerning chance discoveries and any activities to salvage the heritage item.

**ARTICLE #**

The owner or lessee of the land, the project proponent has an obligation to record and photograph heritage item in accordance any instructions from the MoCFA or the Provincial Heritage Protection Officer.



**ARTICLE #**

It shall be an offence to fail to comply with the provisions of this section. The failure to report a chance discovery or to destroy an item before the determination of heritage value will result in cancellation of any permits or approval issued under any law and shall be treated as a criminal offence.

**ARTICLE #**

The owner or lessee of the land, the project proponent and any management responsible for the project or activity will be all liable for the offence under this Section.

**SECTION 2 MARINE AND UNDERWATER CULTURAL HERITAGE PROTECTION**

**ARTICLE #**

“Underwater cultural heritage” means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 50 years such as:

- (i) sites, structures, buildings, arte-facts and human remains, together with their archaeological and natural context;
- (ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and
- (iii) objects of prehistoric character.

**ARTICLE #**

MoCFA shall make a declaration in respect of any item of underwater cultural heritage to place the item on the National Heritage List.

**ARTICLE #**

Any underwater item discovered or identified must be reported to the MoCFA and the Provincial Heritage Protection Officer to then determine if the item shall be placed on the National Heritage List.

**ARTICLE #**

It shall be prohibited to damage or destroy or salvage or disturb any underwater cultural heritage.

**ARTICLE #**

MoCFA shall develop Prakas to allow for the protection, scientific evaluation and exploration of underwater cultural heritage.

**ARTICLE #**

MoCFA shall have regard to international obligations and conventions and international best practice in developing Parkas under this Book.

**ARTICLE #**

The Supreme Council of National Heritage and MoCFA may issues permits and approvals in accordance with the Prakas for activities affected underwater cultural heritage.

**SECTION 3 ARCHAEOLOGICAL EXCAVATION**

**ARTICLE #**

No one may carry out excavations or surveys, on land or under water, for the purpose of bringing to light cultural property likely to be of relevance to the study of prehistory, history, archaeology, ethnology, paleontology or other branches of science dealing with the past or of human sciences in general, without the prior authorization of the competent authority.

**ARTICLE #**

Only scientific institutions whose expertise is recognized and which have the necessary experience and financial resources may be empowered to carry out excavations. Foreign scientific institutions that have been granted excavation authorization must associate national scientific institutions in their work.

**ARTICLE #**

Any scientific institution that has been granted authorization for excavation must:

- (i) Record the cultural objects discovered in a special register to be handed to the competent authority at the end of each field season.
- (ii) Protect the excavated site and the cultural objects found there, and take all necessary conservation measures.
- (iii) Inform the competent authority regularly of the progress of the excavation work.
- (iv) Submit a summary report, accompanied by an album containing photographs of all

- cultural objects discovered, at the end of each field season campaign.
- (v) Submit a detailed scientific report on the findings of the excavations within a period not exceeding one year from the end of each field season.
- (vi) Allow inspectors to visit the excavations whenever they so wish and to consult the special register mentioned in paragraph (i).
- (vii) Grant interested researchers access to the excavations, on condition that they respect the scientific ownership rights of the excavator.
- (viii) Train national technicians and researchers.
- (ix) Publish the scientific findings of the excavations within five years of completion of the work.

#### **ARTICLE #**

Any scientific institution in possession of an authorization to carry out excavation shall be entitled to:

- (i) scientific ownership of its discoveries.
- (ii) ownership of the cultural objects granted to it under the terms of Article # subject to final approval by the Supreme Council on National Culture.
- (iii) first publication of the scientific findings of the excavations, on condition that those findings are published within the time limit specified in Article #, paragraph (i).

#### **ARTICLE #**

Immovable and movable cultural property discovered by scientific institutions shall be the property of the State. The competent Authority may donate to those institutions any object of which duplicates have been found and any object that is not indispensable to public collections owing to the fact that these collections already contain objects of the same type, style, material, method of production and scientific or artistic value. Any such donation can be made only on the condition that concerned objects be displayed in a scientific institution accessible to the public.

#### **ARTICLE #**

The competent authority shall be responsible for the inspection of excavations and the monitoring of sites, and shall assist in establishing measures to protect sites under excavation.

#### **ARTICLE #**

The competent authority may authorize excavations on privately owned land, after prior notification to the owner. An inventory of the site approved by all parties must be made at the

beginning of the excavator's occupation of the site. The excavator may occupy the site for a renewable period of two years.

**ARTICLE #**

The owner of land covered by Article # shall be entitled to return to the site, and to compensation for deprivation of use of the land and for damage caused if any.

**ARTICLE #**

In the event of discovery of cultural immovables whose protection is in the public interest, the competent authority may exercise its right of expropriation in accordance with the legislation on expropriation in the public interest.

**ARTICLE #**

If the authorized excavator fails to respect any one of its obligations as set out in Article #, the competent authority may decide to withdraw authorization and/or scientific rights.

Excavations shall be suspended from the day that the holder is notified of the withdrawal of authorization.

**ARTICLE #**

Once an excavation authorization has been withdrawn, the concerned party may not claim any compensation for eviction from the site or for any expenses incurred.

**SECTION 4 PREVENTATIVE AND SALVAGE EXCAVATION**

**ARTICLE #**

In accordance with Chapter 8 Section 1: Chance Discoveries during demolition, construction or other activities, the MoCAF shall determine if preventative or salvage excavation is required.

**SECTION 5 PERMITS FOR DEVELOPMENT PROJECTS AFFECTING CULTURAL HERITAGE**

**ARTICLE #**

All projects requiring EIA in a Heritage Protection Areas or Urban Heritage Zone must make an assessment of the impact of the project on the heritage values which shall be submitted with the

EIA.

**ARTICLE #**

All projects having an impact or potential impact on an item of heritage or an item listed on the National Heritage List must have a permit before any work can be done that may harm the item.

**ARTICLE #**

Procedures to grant a permit shall be determined by Supreme Council on National Heritage.

**ARTICLE #**

It is prohibited to damage or destroy or harm an item on the National Heritage List without a permit.

**ARTICLE #**

Any construction permit or approval cannot be granted until a permit has been granted by the MoCFA or the Provincial Heritage Protection Officer in accordance with the procedures of the Code.

**ARTICLE #**

No permit can be granted until the MoCFA or Provincial Heritage Protection Officer has assessed the heritage value of the item in accordance with the procedures of the Code..

**CHAPTER 9 ARCHAEOLOGICAL ENTITIES**

**ARTICLE #**

The Supreme Council on National Culture shall determine the roles and responsibilities of entities responsible for archaeological items in accordance with the Code and the laws of Cambodia.

**ARTICLE #**

The roles and responsibilities of entities responsible for archaeological items shall be determined by Anukret.

**ARTICLE #**

Nothing in this Book amends the role and responsibility of the APSARA Authority, the National

Authority on Preah Vihear or the obligations or management of Cambodia's World Heritage Properties.

## **CHAPTER 10 DISPUTE RESOLUTION AND EMERGENCY ORDERS**

### **SECTION 1 DISPUTE RESOLUTION PROCEDURES**

#### **ARTICLE #**

In the event of any disputes the parties shall following the procedures established under the Code.

#### **ARTICLE #**

MoCFA shall be involved in any dispute resolution procedures that impact of cultural or natural heritage values.

### **SECTION 2 ORDER TO HALT CONSTRUCTION OR CLEARING IF A HERITAGE ITEM IS THREATENED OR ENDANGERED**

#### **ARTICLE #**

The Supreme Council on Heritage, the MoCFA, the MOE or a Heritage Protection Officer may all issue an emergency order to halt work, construction or clearing if a heritage site is threatened or endangered.

#### **ARTICLE #**

The Supreme Council on Heritage, the MoCFA, the MOE or a Heritage Protection Officer may all issue an emergency order to halt work, construction or clearing if an item on the National Heritage List is threatened or endangered.

#### **ARTICLE #**

The order to halt will last for 14 days and may be extended for a further 14 days.

#### **ARTICLE #**

Any person or legal entity who does not follow the order to halt work commits an offence.

## **CHAPTER 11 MANAGEMENT PLANS**

#### **ARTICLE #**

MoCFA may require for a Heritage Management Plan to be prepared for a cultural and natural heritage site listed on the National Heritage List or an urban heritage zone.

**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 #**

MoCFA shall develop Prakas for the preparing on Heritage Management Plan in accordance with principles developed by ICOMOS and other international best practices.

**ARTICLE #**

In developing the management plan for a heritage site the relevant authority must take into account the impact of the heritage site on the local community.

**ARTICLE #**

All Heritage Management Plans must be prepared in accordance with the principles outline in the Code.

## **CHAPTER 12 PUBLIC PARTICIPATION**

**ARTICLE #**

This Book is subject to the provision on public participation in accordance with the Code.

## **CHAPTER 13 PROMOTION AND PROTECTION OF INTANGIBLE HERITAGE**

**ARTICLE #**

The Supreme Council on National Heritage in consultation with MoCFA shall develop appropriate Prakas to promote and protect the intangible heritage.

**ARTICLE #**

The Prakas shall be in accordance with international best practice and the Convention for the Safeguarding of the Intangible Cultural Heritage.

**ARTICLE #**

The Prakas shall be made available for public consultant and comment prior to adoption by the Supreme Council on National Heritage.

**CHAPTER 14 FUND FOR NATIONAL CULTURAL HERITAGE**

**ARTICLE #**

MoCFA shall prepare with the MoE and the Ministry of Finance a joint parkas to cover the raising of funds to assist in the protection of cultural and natural heritage.

**ARTICLE #**

MoCFA together with other relevant ministries and institutions and NGOs shall develop education and public awareness programs for the conservation and protection of heritage items and sites.

**ARTICLE #**

MoCFA with the MoE and the Ministry of Finance shall develop financial incentives for the conservation and protection of heritage items and sites.

**ARTICLE #**

Management Plans for Heritage Areas may include the provision of entrance fees and charges.

**CHAPTER 15 IMPORT, EXPORT AND SALE OF CULTURAL HERITAGE**

**SECTION 1 RIGHTS OF PRE-EMOTION AND EXPROPRIATION**

**ARTICLE #**

The competent authority may exercise a right of pre-emotion over the sale of any cultural property that has been inscribed in the inventory, proposed for classification or classified. Any person intending to sell a property mentioned in the previous paragraph must inform the competent authority thereof thirty days in advance

**ARTICLE #**



Within thirty days from the date of reception of the information mentioned in Article # the competent authority shall notify the owner of its decision to purchase the property offered for sale on the conditions and at the prices set or to renounce acquisition.

The absence of a reply on expiration of the aforementioned thirty days period is deemed to imply that the use of the right of pre-emption has been relinquished.

#### **ARTICLE #**

Immovable cultural property that is inscribed in the inventor, proposed for classification or classified may be expropriated by the competent authority in the manner provided by the law on expropriation in the public interest.

### **SECTION 6 TRADE IN ANTIQUITIES**

#### **ARTICLE #**

Trade in antiquities shall be authorized, on the conditions stipulated in this law after approval by the competent authority. Procedures concerning this trade are to be defined by Anukret.

#### **ARTICLE #**

Trading permits shall include the surname, first name and residence of the dealer, his or her qualifications, the types of object subject to trade, and shall state precisely where the dealer wishes to trade. This permit is valid for one year, renewable annually, and is inalienable.

#### **ARTICLE #**

All authorized dealers shall be bound by the following obligations:

- (i) to display a notice at the entrance to their sales premises stating they are authorized to sell cultural property;
- (ii) not to place any cultural property intended for sale outside the premises in which they are authorized to conduct their activity;
- (iii) to keep detailed records of the cultural property that they possess, and of day-to-day sales and purchases;
- (iv) to make the records mentioned in (c) available to inspectors whenever requested to do so;
- (v) to display in a prominent position on the sales premises the provisions of this law concerning the export of cultural objects;
- (vi) to show any cultural property in their possession to inspectors during an inspection;

- (vii) to provide inspectors with a photograph of any cultural object in their possession, or to allow them to photograph the cultural object if they so wish;
- (viii) to assist inspectors and facilitate their work during an inspection;
- (ix) to inform the competent authority of any removal of sales premises to another site.

#### **ARTICLE #**

Inspectors may, whenever they deem inspection to be appropriate, enter and inspect the sales premises, examine and itemize the cultural objects located there and consult the records. They also have the right to inspect the residence of the dealer if this is used for storage or as sales premises under the terms of the permit issued to the dealer.

#### **ARTICLE #**

The competent authority may withdraw the permit to deal in cultural property if it becomes apparent that the holder thereof is neglecting or violating any one of the holder's obligations, or if the holder has been sentenced by the relevant court for breach of the provisions of this law.

#### **ARTICLE #**

Following withdrawal of the permit in accordance with the provisions of Article #, the dealer must cease purchasing cultural objects. The dealer shall be authorized to sell cultural property still in the possession of the dealer for a further period not exceeding six months unless otherwise directed by the competent authority.

### **SECTION 2 EXPORT OF CULTURAL PROPERTY**

#### **ARTICLE #**

The export of any cultural object from Cambodia is prohibited, unless the competent authority has granted a special export license for the purpose.

#### **ARTICLE #**

The competent authority must announce its decision within three months of the declaration made to the competent authorities by the exporter.

#### **ARTICLE #**

The export of cultural objects shall be subject to duties and fees. The amount of those export duties and fees shall be set by Prakas.

## **ARTICLE #**

Before granting an export license, the competent authority must ascertain that:

- (i) the proposed export will not result in the impoverishment of the national cultural heritage.
- (ii) public collections contain a cultural object similar to the one for which an export license has been requested.
- (iii) the cultural object to be exported is not of irreplaceable importance for a study of a particular branch of study of the sciences of the past or of the human sciences in general.

## **ARTICLE #**

Procedures for export of cultural property, types of cultural property authorized for export, as well as types of cultural property of which export is prohibited shall be defined by Prakas.

## **ARTICLE #**

The competent authority is required to grant a license for the exportation of cultural objects in the following cases:

- (i) objects donated to a foreign scientific institution which holds an excavation permit in accordance with Article 44, paragraph 2;
- (ii) objects sent abroad temporarily for exhibition or for other scientific purposes;
- (iii) objects exchanged for other objects obtained from museums or similar foreign institutions;
- (iv) objects legally imported into Cambodia.

However, in a case provided for in paragraph 1 (point 2) of this article, the temporary export shall be submitted to appropriate conditions that guarantee the conservation and the return of these objects.

## **ARTICLE #**

Any attempt to export cultural objects without a license shall entail the seizure and confiscation of these objects for the public collections.

## **ARTICLE #**

The competent authority may claim, in behalf of the public collections for the payment of a fair price decided by mutual agreement or fixed by an expert, any cultural object for which an export license has been denied, provided that there are strong indications that the cultural object may be the subject of a fraudulent export attempt.

### **SECTION 3 IMPORT OF CULTURAL PROPERTY**

#### **ARTICLE #**

The import of cultural objects exported in contravention of the national legislation of their country of origin is forbidden. Procedures for the importation of cultural property shall be defined by anukret.

#### **ARTICLE #**

Cultural objects imported illegally shall be seized, placed under the protection of the competent authority and, on condition of reciprocity, the Royal Government may take the decision to return such objects to their country of origin in accordance with international standards and agreements.

#### **ARTICLE #**

Costs incurred by returning such objects are payable by the State requesting their return.

#### **ARTICLE #**

Costs incurred by returning such objects are payable by the State requesting their return.

### **CHAPTER 16 MUSEUMS AND CULTURAL INSTITUTIONS**

#### **ARTICLE #**

The MoCFA shall prepared guidelines for the licensing and management of museums and cultural institutions.

### **CHAPTER 17 ANTI TRAFFICKING PROVISIONS AND PENALTIES AND OFFENCES**

#### **ARTICLE #**

The MoCFA shall established with the MoE and other relevant ministries and agencies a task force to stop the trade and trafficking in cultural heritage.

**ARTICLE #**

The MoCFA shall work with international organisations and ant-trafficking agencies to stop the trade and trafficking in cultural heritage.

**ARTICLE #**

The MoCFA shall work with other Ministries and international organisations to develop rules, based on international best practice, for the return of Cambodia cultural heritage that has been taken overseas.

**BOOK 6 WASTE AND POLLUTION MANAGEMENT AND  
SUSTAINABLE PRODUCTION**

**TITLE 1 GENERAL OBLIGATIONS FOR POLLUTION CONTROL  
AND SUSTAINABLE PRODUCTION**

**CHAPTER 1 PROHIBITION ON POLLUTION**

**ARTICLE 1**

A natural person or legal entity must not pollute the air.

**ARTICLE 2**

A natural person or legal entity must not pollute any water or waters.

**ARTICLE 3**

A natural person or legal entity must not pollute the soil.

**ARTICLE 4**

A natural person or legal entity must not transport, manage, store, treat or dispose of any waste material, whether solid or liquid or gas.

**ARTICLE 5**

A natural person or legal entity must not transport, sell, manage, store, treat or dispose of hazardous or toxic waste.

## **ARTICLE 6**

A natural person or legal entity must not cause any noise pollution.

## **ARTICLE #**

A natural person or legal entity must not cause any vibration above the lawful standards.

## **ARTICLE 7**

A natural person or legal entity must not cause or permit any offensive odours.

## **CHAPTER 2 DEFENCES TO POLLUTION**

## **ARTICLE 8**

A natural person or legal entity has a defence only if the natural person or legal entity has a permit or approval issued in accordance with the provisions of the Code or other relevant authority and the natural person or legal entity was complying with the terms and conditions of the permit or approval.

## **CHAPTER 3 MATTERS FOR CONSIDERATION UNDER THIS BOOK**

## **ARTICLE 9**

The MoE shall take into account the principle of sustainable production and consumption when exercising the duties under this Book to issue approvals or permits.

## **ARTICLE 10**

In determining whether to grant a permit or approval under this Book, the MoE must apply any relevant Environmental Quality Standards or Interim Environmental Quality Standards.

## **ARTICLE 11**

Any permit or approval granted in accordance with this Book must be consistent with a relevant EIA Approval Certificate or Environmental Protection Agreement issued by the MoE.

## **ARTICLE 12**

Any permit or approval granted in accordance with this Book must be consistent with any Environmental Management Plan approved by the MoE.

## **TITLE 2 ENVIRONMENTAL QUALITY STANDARDS**

### **CHAPTER 1 MAKING OF ENVIRONMENTAL QUALITY STANDARDS**

#### **ARTICLE 2**

The MoE shall draft and promulgate Environmental Quality Standards in accordance with the procedures specified in the Code.

#### **ARTICLE 3**

Environmental Quality Standards shall be drafted taking into consideration the following matter:

1. the principles of the Code
2. the potential for harm to human health
3. the potential harm to the environment
4. relevant ASEAN Standards

#### **ARTICLE 4**

Environmental Quality Standards may also take into consideration the following

1. the potential for harm to vulnerable groups, such as children and older people
2. relevant international standard
3. best available techniques
4. industry good practice.

#### **ARTICLE 5**

Environmental Quality Standards may be promulgated for the following;

1. air emissions;
2. water quality in coastal and estuary areas;
3. underground water quality;
4. atmospheric ambient air quality;

5. noise and vibration;
6. other emissions;
7. effluent including waste water;
8. solid, liquid and hazardous waste;
9. sustainable production and consumption;
10. energy efficiency;
11. other environmental quality goals as determined by the Ministry of the Environment or the Government of Cambodia.

## **ARTICLE 6**

The MoE may make Environmental Water Quality water quality standards for some or all rivers, streams, canals, springs, marshes, swamps, lakes, reservoirs and other public inland water sources, according to their usage, environmental value or based on any request received from local communities or civil society.

## **CHAPTER 2 APPLICATION OF ENVIRONMENTAL QUALITY STANDARDS**

### **ARTICLE 7**

Environmental Quality Standards, including existing and interim Environmental Quality Standards, must be applied to all activities, actions, and any permits and licences that are issued under the Environment and Natural Resources Code or any other legislation.

### **ARTICLE 8**

A Ministry shall not issue any approval, licence, permit or authorisation that does not comply with the Environmental Quality Standards.

### **ARTICLE 9**

Any approval, license, permit or authorization that does not comply with the Environmental Quality Standards shall be null and void.

### **ARTICLE 10**

Specifically all IEE and EIA Reports must comply with the relevant Environmental Quality Standards and all EMPs must ensure compliance with the relevant Environmental Quality Standards.



### **CHAPTER 3 INTERIM ENVIRONMENTAL QUALITY STANDARDS**

#### **ARTICLE 11**

All existing Environmental Quality Standards currently in force in Cambodia will remain in force until amended or repealed.

Article #

If no specific Environmental Quality Standards apply in Cambodia, the MoE may apply, as interim standards, any relevant international standards or industry norms.

### **CHAPTER 4 SETTING OF ENVIRONMENTAL QUALITY STANDARDS**

#### **ARTICLE 12**

In preparing the draft, MoE shall consult with all other relevant Ministries.

#### **ARTICLE 13**

The MoE shall place the draft Environmental Quality Standards on public exhibition and received comments for a period of 40 days

#### **ARTICLE 14**

The MoE shall place the draft Environmental Quality Standards on public exhibition and received comments for a period of 40 days.

#### **ARTICLE 15**

The MoE shall take into consideration the submissions received on the draft Environmental Quality Standards and revise the draft Environmental Quality Standards taking into account the submissions, and shall explain the reasons for rejection of any submissions.

#### **ARTICLE 16**

The MoE must promulgate the Environmental Quality Standards and make a copy publicly available on the internet.

#### **ARTICLE 17**

The MoE must ensure that the Environmental Quality Standards are regularly updated.

### **CHAPTER 5 AMENDMENT OF ENVIRONMENTAL QUALITY STANDARDS**

## **ARTICLE 18**

The MoE may, add, amend or modify the Environmental Quality Standards in accordance with scientific and technological advances or requirement of work as and when necessary in the public interest.

## **ARTICLE 19**

Any amendments to the Environmental Quality Standards shall be done in accordance with the provisions of the Code.

## **ARTICLE 20**

Any natural person or legal entity may petition the MoE to amend Environmental Quality Standards based on new information.

## **ARTICLE 21**

The MoE may make regulations to provided further details on the terms for drafting and promulgation of Environmental Quality Standards.

## **TITLE 3      MANAGEMENT      OF      HAZARDOUS      CHEMICAL SUBSTANCES**

The Law on Land Traffic (Transportation of Chemicals and other Hazardous Materials) is hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management.]*

## **CHAPTER 1 GENERAL PROVISIONS**

## **ARTICLE 1**

This Title 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.

## **ARTICLE 2**

This Title 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 Title 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 any stage of their life cycles.

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

## **CHAPTER 2 INSTITUTIONAL RESPONSIBILITY**

## **ARTICLE 4**

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 5**

The Ministry of Environment, in coordination with relevant Ministries, shall establish appropriate mechanisms in a legal instrument for effective management and control of hazardous chemicals through their life cycles, including but not limited to information sharing, inspection, classification, and hazard communication and risk assessment of registered and new hazardous chemicals circulating in Cambodia.

## **ARTICLE 6**

The Ministry of Environment in coordination with the Ministry of Foreign Affairs and International Cooperation and other relevant Ministries shall implement international treaty or convention obligations relevant to hazardous chemical substances including but not limited to the Stockholm and Rotterdam Conventions.

## **ARTICLE 7**

The Ministry of Environmental shall develop a legal instrument setting criteria for a chemical to be considered a hazardous substance.

## **ARTICLE 8**

The Ministry of Environment shall review and update the legal instrument setting criteria for a chemical to be considered a hazardous substance annually, taking into account all new scientific evidence.

## **ARTICLE 9**

The Ministry of Environment shall develop and publish in a new legal instrument a list of hazardous chemicals and classify them into categories based on their toxicity levels.

## **ARTICLE 10**

The Ministry of Environment shall review and update the list of hazardous chemicals annually, taking into account all new scientific evidence.

## **CHAPTER 3 PROHIBITION ON HAZARDOUS SUBSTANCES**

## **ARTICLE 11**

No person shall undertake the following activities:

1. The introduction or delivery of any misbranded hazardous substance or banned hazardous substance.
2. 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).
3. The receipt of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

## **ARTICLE 12**

No person can manufacture, use and distribute persistent organic pollutants (POP) totally banned by Stockholm Convention as listed in a new legal instrument. When the Royal Government of Cambodia becomes a Party to a decision of the Stockholm Convention Conference of the Parties to add a chemical to Annex A, B, or C of the POPs Convention, that chemical is added to this list.

## **ARTICLE 13**

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 14**

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 the Sub-Decree dated October 2009 on “Management of Classification and Labeling of Chemicals”. No person shall manufacture, possess, handle, store, transport, import, export, distribute or use a hazardous chemical substance or hazardous chemical product in manner that is inconsistent with the conditions of its registration under the Sub-Decree dated October 2009 on “Management of Classification and Labeling of Chemicals.”

## **ARTICLE 15**

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 16**

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 17**

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 RESEARCH, REGISTRATION AND INFORMATION DISCLOSURE OF HAZARDOUS SUBSTANCES**

### **ARTICLE 8**

Organisations and individuals shall hold valid official registration of any hazardous chemical substances and hazardous chemical products intended for manufacture, distribution, sale and use in Cambodia.

### **ARTICLE 19**

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 20**

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. The Ministry of Environment shall endorse registration if it has been demonstrated that registration does not pose a significant risk to human health or the environment.

### **ARTICLE 21**

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. If at any time a manufacturer or importer of a chemical has additional factual information regarding significant adverse effects of the chemical, the manufacturer or importer shall submit such information to the Ministry of Environment without

delay.

## **ARTICLE 22**

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.

## **ARTICLE 23**

The Ministry of Environment shall revoke registration of a chemical or of specific uses of a chemical if it determines [following appropriate administrative procedure] that the chemical or the use of the chemical poses a significant risk to human health or the environment, consistent with the Principles of the Environment and Natural Resources Code.

The Ministry of Environment shall suspend registration of a chemical or of specific uses of a chemical if it determines following expedited consideration that the chemical or the use of the chemical may pose a significant risk of imminent endangerment to human health or the environment, consistent with the principles outlined in the Principles of the Environment and Natural Resources Code.

## **CHAPTER 5 INVENTORY, CLASSIFICATION AND LABELLING OF HAZARDOUS SUBSTANCES**

## **ARTICLE 24**

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 25**

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 Labelling (GHS). Role and functions of this inter-ministerial task force shall be specified by a sub-decree.

## **ARTICLE 26**

Organisations or individuals involved in packaging, distribution, transportation, or 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 27**

Organisations or individuals involved in the production, packaging, distribution, transportation, or sale of hazardous chemical substances or products shall make available 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 PRODUCTION, DISTRIBUTION, STORAGE, TRANSPORTATION, USAGE AND DISPOSAL**

## **ARTICLE 28**

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:

1. 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
2. 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 29**

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.



## **ARTICLE 30**

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

## **ARTICLE 31**

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 32**

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 in this Book or by a new legal instrument.

Additional guidelines on disposal of hazardous chemical substances and chemical wastes shall be specified by a prakas [or other sub-legislation] of the Ministry of Environment.

## **ARTICLE 33**

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 34**

No person shall use hazardous chemical substances in food products, cosmetics, and toys that can cause health hazards to human beings.

### **CHAPTER 7 HAZARDOUS SUBSTANCES SAFETY AND ACCIDENT PREVENTION, PREPAREDNESS AND RESPONSES**

#### **ARTICLE 35**

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 36**

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 37**

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 38**

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, organisations or individuals shall provide to the respective ministries and the Ministry of Environment an 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. The format of reports shall be developed by responsible Ministry in cooperation with the Ministry of Environment.

#### **ARTICLE 39**

Organisations or individuals shall have the duty to:

1. Strictly follow technical specification, labelling and safety instruction defined by each hazardous substance;
2. Have prevention and emergency response measures (first aid, evacuation plan, fire elimination equipment) including personal protective equipment for workers at the work place;
3. 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;
4. Set up a chemical emergency response.

#### **ARTICLE 40**

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 41**

A Hazard Chemical Insurance Mechanism shall be set up by a financing mechanism for prevention, response and compensation of hazards or accidents associated with hazardous substances. The regulations and operation of this insurance shall be specified by a sub-decree.

### **CHAPTER # LIMITING LEAD IN PAINT**

#### **SECTION # DEFINITIONS OF REGULATED SUBSTANCES AND ACTIVITIES**

**“Children’s products”** means toys and other articles which are intended to be entrusted to or for use by children 12 years of age or younger.

**“Paint”** is a homogenous mixture of resins, pigments, fillers, solvents, and other additives that constitutes a finished product, including varnishes, lacquers, stains, enamels, glazes, primers and similar surface-coating materials used for any purpose.

**“Lead paint”** means paint or other similar surface coating materials containing lead or lead compounds and in which the lead content (calculated as lead metal) is in excess of 90 ppm by weight of the total non-volatile content of the paint or the weight of the dried paint film.

**“Total lead concentration”** is defined on a weight percentage of the total non-volatile portion of the product or in the weight of the dried paint film.

**“Manufacturer”** means any person that undertakes the physical or chemical transformation of substances into new products performed either by power-driven machines or by hand and markets it under his name or trademark.

**“Importer”** means any person that undertakes the entry of a product or substance into the country.

**“Person”** means an individual, partnership, corporation, or association.

#### **SECTION # BAN ON LEAD PAINT AND CHILDREN’S PRODUCTS BEARING LEAD**

## **PAINT**

### **ARTICLE 1**

Subject to the effective dates in Article 3, paints that contain lead or lead compounds and in which the lead content (calculated as lead metal) is in excess of 90 ppm of the total non-volatile content of the paint or the weight of the dried paint film are banned products.

### **ARTICLE 2**

Subject to the effective dates in Article 3, children's products bearing lead paint in which the lead content (calculated as lead metal) is in excess of 90 ppm by weight of the total non-volatile content of the paint or the weight of the dried paint film are banned products.

### **ARTICLE #**

The Ministry of Environment may update the metric of 90 ppm to be more restrictive based on best available data.

## **SECTION # EFFECTIVE DATES**

### **ARTICLE 3**

The use of lead and lead compounds shall be strictly prohibited in the following production, manufacturing, or importing of: Paints (as a pigment, a drying agent or for some intentional use) with more than 90 ppm threshold limit beyond three (3) years for architectural, decorative, household applications and six (6) years after the date of the promulgation of this law for industrial applications.

## **SECTION # DECLARATION OF CONFORMITY AND TESTING REQUIREMENTS**

### **ARTICLE 4**

Before importing for consumption or distributing in commerce (i) any paint or similar surface-coating material that contains lead or lead compounds, or (ii) any children's product bearing paint or a similar surface-coating material that contains lead or lead compounds, a manufacturer or importer of such products shall:

- Submit sufficient samples of the products to a third party laboratory accredited as per Article 5 to be tested for compliance with the 90 ppm total lead limit, and

- Based on such testing, issue a Declaration of Conformity that certifies that such product complies with the 90 ppm total lead limit.

“Sufficient samples” means the number of samples the manufacturer or importer determines is sufficient to provide a high degree of assurance that the tests conducted for Declaration of Conformity purposes accurately demonstrate the ability of the paint or similar surface-coating material that contain lead or lead compounds, or children’s product bearing paint or similar surface-coating material, to meet the 90 ppm total lead limit.

In the event of a “material change” to any paint or similar surface-coating material that contains lead or lead compounds, or to any children’s product bearing paint or a similar surface-coating material that contains lead or lead compounds, a manufacturer or importer must:

- submit sufficient samples of the affected product to a third party laboratory accredited as per Article 5 to be tested for compliance with the 90 ppm total lead limit, and Based on such testing, issue a new Declaration of Conformity that certifies that such product complies with the 90 ppm total lead limit.

“Material change” means a change that the manufacturer or importer makes to the product’s design, to the manufacturing process, or to the source of component parts for the product, which a manufacturer or importer, exercising due care, knows, or should know, could affect compliance with the 90 ppm total lead limit.

## ARTICLE 5

The testing required by Article 4 and Section 5 Periodic Testing must be conducted by an accredited third-party laboratory.

“Accredited third party laboratory” means an independent laboratory that has no interest in the transaction between the manufacturer or importer and the distributor or retailer, and that has been accredited under ISO/IEC 17025 by a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), or one of its recognized regional bodies: Inter American Accreditation Cooperation (IAAC), European co-operation for Accreditation (EA), and Asia Pacific Laboratory Accreditation Cooperation Incorporated (APLAC).

For its accreditation to be accepted to test for the 90 ppm limit for Declaration of Conformity and periodic testing purposes, a third party laboratory shall use the following sampling and test

methods or future, improved internationally accepted sampling and testing methods, as applicable:

**International Standards for Sample Preparation:**

- ISO 1513, Paints and varnishes – Examination and preparation of test samples;
- ISO 1514, Paints and varnishes – Standard panels for testing;
- ASTM E1645-01, Practice for Preparation of Dried Paint Samples by Hotplate or Microwave Digestion for Subsequent Lead Analysis; or
- ASTM E1979-12, Practice for Ultrasonic Extraction of Paint, Dust, Soil, and Air Samples for Subsequent Determination of Lead; and

**International Standards for Test Methods:**

- ISO 6503, Paints and varnishes - Determination of total lead - flame atomic absorption spectrometric method;
- ASTM E1645-01, Practice for Preparation of Dried Paint Samples by Hotplate or Microwave Digestion for Subsequent Lead Analysis;
- ASTM D3335-85a (2014), Standard test method for low concentrations of lead, cadmium, and cobalt in paint by atomic absorption; or
- ASTM E1613-12, Standard Test Method for Determination of Lead by Inductively Coupled Plasma Atomic Emission Spectrometry (ICP-AES), Flame Atomic Absorption Spectrometry (FAAS), or Graphite Furnace Atomic Absorption Spectrometry (GFAAS) Techniques.

**ARTICLE 6**

In the case of (i) any paint or similar surface-coating material, or (ii) any children's product bearing paint or a similar surface-coating material manufactured in the Kingdom of Cambodia, the manufacturer must issue the Declaration of Conformity pursuant to Article 5.

**ARTICLE 7**

In the case of (i) any paint or similar surface-coating material, or (ii) any children's product bearing paint or a similar surface-coating material manufactured outside the Kingdom of Cambodia, the importer must issue the Declaration of Conformity pursuant to Article 4.

## ARTICLE 8

Manufacturers and importers of (i) any paint or similar surface-coating material, or (ii) any children's product bearing paint or a similar surface-coating material as per Articles 6 and 7 must:

- provide the Declaration of Conformity to distributors and retailers and
- provide the Declaration of Conformity to [*relevant government institution*] upon request.

## ARTICLE 9

Each Declaration of Conformity shall include:

- a) identification of the paint product or children's product covered by the certificate,
- b) identification of the manufacturer or importer certifying compliance of the product with the 90 ppm total lead limit, and
- c) contact information for the individual maintaining records of test results.

## SECTION 5 PERIODIC TESTING

### ARTICLE #

Each manufacturer and importer of (i) any paint or similar surface-coating material, or (ii) any children's product bearing paint or similar surface-coating material, must:

- conduct periodic testing to ensure compliance with the 90 ppm lead limit, and
- maintain records of all periodic test results for [X] years.

Periodic testing must be conducted by an accredited third party laboratory as defined in Article 5.

- Periodic testing is in addition to the testing conducted for a Declaration of Conformity under Article 4.
- Periodic testing must be conducted at least every [XX] years.

## SECTION # INSPECTIONS

### ARTICLE 10

For purposes of implementing this law, officers or employees of [*relevant government institution*], upon presenting appropriate credentials and written notice from [*relevant government institution*] to the owner, operator or agent in charge, are authorized:



- a) to enter, at reasonable times, any factory, warehouse, or establishment in which paint and similar surface coating materials or children's products bearing lead paint or a similar surface-coating material are manufactured or held; and
- b) to inspect and test, at reasonable times and in a reasonable manner, such paint and similar surface coating materials or children's products bearing lead paint or a similar surface-coating material to assess compliance with this law.

## SECTION # PROHIBITED ACTS

### ARTICLE 11

It shall be unlawful for any person to:

- a) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the Kingdom of Cambodia any banned product as defined in [*Section # Ban on Lead Paint and Children's Products Bearing Lead Paint*];
- b) fail or refuse to permit entry or inspection and testing pursuant to [*Section # Inspections*];
- c) fail to furnish a Declaration of Conformity required by [*Section # Declaration of Conformity and Testing Requirements*] or issue a false certificate if such person in the exercise of due care has reason to know that the Declaration of Conformity is false or misleading in any material respect;
- d) exercise, or attempt to exercise, undue influence on a third party laboratory with respect to the testing, or reporting of the results of testing of any product.

## SECTION # CIVIL PENALTIES

### ARTICLE 12

Any person who violates section [*Section # Prohibited Acts*] shall be subject to a civil penalty not to exceed [*amount*] for each such violation.

A violation of section [*Section # Prohibited Acts*] shall constitute a separate offense with respect to each banned product involved, except that the maximum civil penalty shall not exceed [*X amount*].

The maximum penalty amounts authorized in this Article shall be adjusted for inflation.

## ARTICLE 13

The [relevant government institution or applicable court or administrative body] shall consider the nature, circumstances, extent, and gravity of the violation, including the severity of the risk of injury, the number of banned products distributed, the appropriateness of the penalty in relation to the size of the business of the person charged, including how to mitigate undue adverse economic impacts on small business, and other such factors as appropriate.

## SECTION # CRIMINAL PENALTIES

## ARTICLE 14

A violation of section [Section # Prohibited Acts] is punishable by:

- a) imprisonment for not more than [X years] for a knowing and wilful violation of that section;
- b) a fine [penalty] of [X amount]; or
- c) both.

## ARTICLE 15

Any individual director, officer, or agent of a corporation who knowingly and wilfully authorizes, orders or performs a violation of section [Section # Prohibited Acts] shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under Article 14.

## ARTICLE 16

“Knowingly” as used in Article 15 means:

- the having of actual knowledge, or
- the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

## ARTICLE 17

In addition to the penalties provided by [Section # Civil Penalties], the penalty for a criminal violation of this Chapter of Title 4 of the Environment and Natural Resources Code may include the forfeiture of assets associated with the violation.

## ARTICLE 18

The *[applicable courts / administrative body]* shall have jurisdiction to restrain any violation of section *[Section # Prohibited Acts]* and to authorize seizure of the banned product.

## SECTION # PUBLIC INTEREST COMPLAINTS

## ARTICLE 19

Any person or legal entity may bring an action in any *[applicable court or administrative body]* to enforce the ban in *[Section # Prohibited Acts]*, to obtain appropriate injunctive relief, and to apply any appropriate civil penalties under *[Section # Civil Penalties]*, payable to government of the Kingdom of Cambodia.

## ARTICLE 20

A *[court or administrative body]* with jurisdiction over a public interest complain under this provision may order the defendant to pay the attorney's fees and reasonable litigation costs of the plaintiff bringing a good faith citizen suit under this provision.

## TITLE 4 HAZARDOUS WASTE MANAGEMENT

The Law on Land Traffic (Transportation of Chemicals and other Hazardous Materials) is hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management.]*

## CHAPTER 1 GENERAL PROVISIONS

## ARTICLE 1

This Law has the following objectives:

1. To promote effective management, transportation, treatment and disposal of *[industrial solid wastes]* and hazardous wastes in Cambodia;
2. To ensure proper registration of generators and transporters of hazardous waste, and owners and/or operators of hazardous waste treatment, storage or disposal facilities in

order to prevent improper disposal of such wastes and to protect human health and the environment;

3. To provide for monitoring the transportation of hazardous wastes until the proper disposal of such wastes;
4. To enhance public awareness and access to information on waste minimization and the reduction hazardous waste, including generation, transportation, treatment, storage, and disposal;
5. To set up appropriate institutional coordination mechanism and information system for effective management and control of industrial solid waste and hazardous wastes in all stages of waste life cycle;
6. To ensure an operational national system to incorporate cleaner production solutions that generate less [industrial solid waste] hazardous waste in all manufacturing and service sectors. To achieve this goal, this Title sets forth the criteria for reclaiming and recycling hazardous wastes for beneficial use, while ensuring that hazardous by-products from such reclamation and recycling efforts are properly characterized and managed as hazardous wastes.

## **ARTICLE 2**

This law has the goal of protecting the social infrastructure, human health, animals and the environment from risks and hazards caused by misuse and mishandling of [industrial solid wastes] hazardous wastes throughout the waste life cycle.

## **ARTICLE 3**

This law covers all industrial solid wastes and hazardous wastes within the Kingdom of Cambodia and applies to all persons, entities, or organizations that generate, possess, transport, manage, store, treat and dispose of industrial solid wastes or hazardous waste at different stages of the waste's life cycle.

This law does not apply to [Add exclusions] household solid wastewater, non-industrial solid wastes, that are governed by separate law and sections of this Code.

## **ARTICLE 4**

The definitions of the main technical terms related to industrial solid wastes and hazardous wastes are provided in the Definitions section at the head of this Title.

## **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 solid wastes, 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 wastes from generation through final disposal or treatment, including for information sharing, inspection, classification, and hazard communication and risk assessment of waste streams. The Ministry of Environment may identify additional industrial waste streams as hazardous waste, by source or characteristics, through the issuance of sub decree or guidance.

## **ARTICLE 7**

The Ministry of Environment shall coordinate implementation of international treaties or conventions relevant to the management of hazardous waste, and the import or export of hazardous wastes.

# **CHAPTER 3 PROHIBITIONS**

## **ARTICLE 8**

No person shall undertake the following activities:

- a) The generation of industrial solid waste without determining whether the waste is a hazardous waste;
- b) The offer for transportation of a hazardous waste without the preparation of a Manifest in accordance with Annex 2 that accurately describes the characteristics and quantity of the hazardous waste being offered;
- c) The acceptance of hazardous waste for transportation, from the location or facility where the hazardous waste is generated or located or from another transporter, without a Manifest that contains the information described in Annex 2;
- d) The treatment, storage or disposal of hazardous waste except in conformance with the terms and conditions set forth in this Title or a permit issued by the Ministry of Environment;

- e) The disposal of any hazardous waste into any waterbody is expressly prohibited and may not be permitted under any circumstance;
- f) The disposal of any hazardous waste into any sewage system is expressly prohibited unless the Ministry of Environment has explicitly allowed for such a disposal by granting a permit for such disposal
- g) The use of hazardous waste in a manner that constitutes disposal by land application is prohibited, regardless of whether a person claims that such use is a legitimate use, unless that person has received prior approval or a permit from the Ministry of Environment.
- h) The use of hazardous waste by a person as an ingredient in fuel is prohibited, regardless of whether a person claims that such use is a legitimate use, unless that person has received prior approval or a permit from the Ministry of Environment; and The importation or exportation of hazardous waste that is not accompanied by a Manifest as described in this Title is prohibited.

## **CHAPTER 4 IDENTIFICATION OF HAZARDOUS WASTES**

### **ARTICLE 9**

Industrial solid wastes shall be determined to be hazardous waste based on characteristics or hazardous constituents contained in such industrial solid wastes, or by the sources of the industrial solid waste, as described in Annex 1. The Ministry of Environment shall annually update Annex 1 to be consistent with the most recent identification of hazardous wastes subject to the Basel Convention or any other relevant provisions of international or Cambodian law. The Ministry of Environment may also independently add additional hazardous wastes to Annex 1 based on a determination of a threat to human health or the environment, pursuant to established procedures for such actions.

## **CHAPTER 5 NOTIFICATION OF HAZARDOUS WASTE ACTIVITY**

### **ARTICLE 10**

Not later than 90 days after the effective date of this Title, any person generating or transporting hazardous waste or owning or operating a facility for treatment, storage, or disposal of such substance shall file with the Ministry of Environment a notification that describes and states the location and general description of such activity and the identifies the hazardous wastes to be handled and possessed. When submitted to the Ministry of Environment, this notification shall provide the person interim authorization for the storage of hazardous waste, and/or for the treatment or disposal of hazardous waste, as described in the notification, until such time as the formal approval or a permit for these activities has been issued by the Ministry of Environment.

Failure to provide the required notification shall result in the prohibition by such persons to engage in the storage of hazardous waste and/or the treatment or disposal of hazardous waste until such time as the formal approval or a permit has been provided by the Ministry of Environment. In the event that additional hazardous wastes are identified by the Ministry of Environment, to obtain interim authorization, a person managing such newly identified hazardous wastes must provide the required notification of hazardous waste activity prior to the effective date of the addition of such wastes to Annex 1 by the Ministry of Environment.

## **CHAPTER 6 RESPONSIBILITIES OF GENERATORS OF INDUSTRIAL WASTE AND HAZARDOUS WASTE**

### **ARTICLE 11 – HAZARDOUS WASTE DETERMINATION**

A person who generates an industrial solid waste must determine if that waste is a hazardous waste using the following method:

1. The person should first determine if the waste is excluded from regulation because it is properly defined as a household solid waste, as set forth in Title X of this Code.
2. The person must then determine if the industrial solid waste is described by characteristic or by hazardous constituent, or is listed by source as a hazardous waste in Annex 1. For hazardous wastes that are described by constituent or characteristic, the generator should reference the concentrations set forth standards or guidance established by the Ministry of Environment.
3. If the source or type of waste is not listed in Annex 1, the generator must then determine whether the waste has constituents or characteristics which will make the waste hazardous by either:
  - a. Testing or sampling the waste according to the methods approved by the Ministry of Environment; or
  - b. Applying knowledge of the waste in light of the materials or the processes used. Generators should refer to required registration of chemicals used in the production of goods or processes which created the waste to evaluate whether hazardous characteristics or constituents are present in the industrial solid waste.
4. Generators of industrial solid waste are responsible for properly identifying whether such solid waste is a hazardous waste. This obligation continues and applies to all by-products and residues that are generated from the reclamation of hazardous secondary materials which are also hazardous wastes. If a generator fails to accurately perform a required waste determination, this shall be a violation of this Article.

5. If an industrial solid waste is not found to be a hazardous secondary material or a hazardous waste it is a solid waste, and shall be managed according to Title [X] of this Code (Solid waste provisions)
6. The Ministry of the Environment reserves the right to take samples of all industrial solid waste at any given time to ensure proper sampling and waste determinations.

## **ARTICLE 12 MANAGEMENT STANDARDS FOR GENERATORS OF HAZARDOUS WASTE**

A person who generates an industrial solid waste which has been determined to be a hazardous waste shall manage the hazardous waste in accordance with the following management standards:

1. Before offering hazardous waste for transportation off-site, a generator must safely package the waste in accordance with standards established by the Ministry of Environment;
2. Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with standards established by the Ministry of Environment;
3. Temporary Storage.
  - a. A generator of less than 1,000 kilograms of hazardous waste per month may accumulate hazardous waste on-site for up to 90 days without a permit from the Ministry of Environment, provided that:
    - i. The waste is placed in containers and managed in a manner designed to prevent releases to the environment, in accordance with standards established by the Ministry of Environment (such as containers, drums, tanks, drip pads);
    - ii. The generator has submitted the required notice of hazardous waste activity, as described in Article 10 above;
    - iii. The onsite temporary storage of hazardous waste does not exceed 3,000 kilograms;
    - iv. While stored on site, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each hazardous waste container or storage area;
    - v. While stored on site, each hazardous waste container is labelled or marked clearly with the words, "Hazardous Waste" for as long as it remains on site; and



- vi. The generator maintains documentation that the onsite storage of hazardous waste for each hazardous waste container or storage area does not exceed 90 days.
- b. For generators of more than 1,000 kilograms of hazardous waste per month, the time period for temporary storage without a permit from the Ministry of Environment is extended to 180 days, provided the generator does not accumulate more than 20,000 kilograms of hazardous waste on site, and the generator complies with all the conditions set forth in the preceding sections.
- c. The storage of hazardous waste in violation of the above conditions, and any,
- d. Hazardous secondary materials as a subset of hazardous waste, may be stored for later processing into a beneficial product at the location of generation, or at another location, for no more than 1 year, upon notice and written approval by the Ministry of Environment, subject to the condition that the owner or operator of the location of storage can demonstrate a bona fide market use for such hazardous waste. The burden of proof for this demonstration is on the generator.
- e. The storage of hazardous waste in violation of the above conditions, and any other temporary storage of hazardous waste by generators, requires a permit from the Ministry of Environment.

## **ARTICLE 13 MANIFESTING REQUIREMENTS FOR GENERATORS OF HAZARDOUS WASTE**

A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest, in accordance with Annex 2.

## **CHAPTER 7 RESPONSIBILITIES OF TRANSPORTERS OF HAZARDOUS WASTE**

### **ARTICLE 14**

For each shipment of hazardous waste, it is the responsibility of the transporter to:

1. Collect and transport hazardous waste according to the volume and destination described in the accompanying Manifest prepared in accordance with Annex 2;
2. Communicate with the generator and the disposal facility in the event of a disruption in transportation;
3. Ensure safe passage of the hazardous waste from the generator to the TSD facility; and

4. Be equipped to handle emergencies in the event the hazardous waste is spilled or leaked.

## **ARTICLE 15**

Before leaving the generator's property with the hazardous waste, the transporter must sign, date, and return a copy of Manifest to the generator. Both transporter and generator shall keep a copy of the Manifest for their own records and shall make all Manifest copies available to the Ministry of Environment upon request. The Ministry of Environment may establish procedures requiring transporters to send a copy of every Manifest to the Ministry of the Environment.

## **ARTICLE 16**

Upon delivery to the location designated on the Manifest, the transporter shall obtain the handwritten signature from the representative of the facility indicated on the Manifest accompanying the hazardous waste. After obtaining the signature of the designated facility's representative, the transporter shall notify the generator that the waste has been properly delivered.

## **ARTICLE 17**

In the event the hazardous waste cannot be delivered in accordance with the Manifest, the transporter must contact the generator for further instructions. If the generator cannot be reached, the transporter must contact the proper authority as designated by the Ministry of Environment.

## **ARTICLE 18**

In addition to complying with Manifest requirements, all hazardous waste transporters must maintain their own record of transportation activities, including:

1. All dates of transport or temporary storage during transit;
2. Total volume transported per week
3. Location and date at which waste was deposited;
4. A description of all accidents that occurred during transport, regardless of whether hazardous was spilled or leaked.

## **ARTICLE 19**

A transporter may not store hazardous waste for more than 30 days without obtaining a permit for storage from the Ministry of Environment.

## **CHAPTER 8 IMPORTATION AND EXPORTATION OF HAZARDOUS WASTE**

### **ARTICLE 20**

In the event hazardous waste is transported into the Kingdom of Cambodia from a foreign State, both the foreign transporter (“exporter”) and Cambodian importer shall comply with the provisions of the Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal (1989 Basel Convention) in addition to complying with the requirements of this Title. Before initiating transport, the exporter shall provide written notification to the Director of the Department of Pollution Control, Ministry of the Environment, in accordance with Annex 3. The Director must provide its written consent to the exporter before foreign hazardous waste may enter Cambodian territory. Without written consent of the competent authority and proper proof of notification, no foreign hazardous waste may enter the Kingdom of Cambodia.

### **ARTICLE 21**

The exporter must provide the Border Authorities with proof of contract between themselves and the Cambodia treatment, storage or disposal facility where the waste is to be managed and a Manifest that includes all information listed in Annex 3. If the exporter cannot provide proof of contract or the Import Manifest, the hazardous waste may not enter Cambodian territory. The Kingdom of Cambodia may as appropriate prescribe routes which are to be used for the transport of foreign hazardous waste.

## **CHAPTER 9 REQUIREMENT TO OBTAIN A PERMIT OR AUTHORIZATION FOR TREATMENT, STORAGE OR DISPOSAL OF HAZARDOUS WASTE**

### **ARTICLE 22**

A person may only treat, store or dispose of hazardous waste subject to permit or interim authorization issued by the Ministry of Environment. The treatment, storage or disposal of hazardous waste without such a permit or interim authorization is prohibited and is a violation of this Code, and shall be subject to the assessment of penalties by the Ministry of Environment. The obligation to obtain such a permit or interim authorization shall apply to the person conducting the treatment, storage or disposal, and shall apply to the location, or facility, at which the activity occurs.

## **CHAPTER 10 PERMITTING PROCEDURES FOR HAZARDOUS WASTE**

### **ARTICLE 23**

The Ministry of Environment may issue a permit to the owner or operator or person in possession

of a facility where hazardous waste is stored, treated or disposed.

- a) Such permit must contain requirements consistent with this Title and any applicable Sub-Decrees and/or Prakas that are in force.
- b) Such permits generally expire after 1 year. The Ministry of Environment may issue permits for a longer period of time on a case-by-case basis.
- c) The Ministry of Environment may revise or revoke a permit for any subject facility at any time. The Ministry must provide its reasons to the facility in writing.
- d) The Ministry of Environment, in consultation with relevant ministries, may require facilities to pay a reasonable fee for each permit and/or permit renewal.
- e) The Ministry of Environment shall establish reasonable and effective procedures for persons to follow in applying or re-applying for a permit.
- f) Such permit must also contain, as deemed appropriate by the Ministry of Environment, requirements related to monitoring and reporting of conditions at the facility, including recordkeeping, as well as time frames for responses to address releases.
- g) Such permit must contain requirements to protect human health and the environment by controlling the potential for releases of hazardous waste or hazardous constituents into the environment based on the best available technology that is economically feasible, as determined by the best professional judgement of the Ministry of Environment.
- h) All disposal facilities shall only accept hazardous waste for disposal when the hazardous constituents contained in such waste is below the levels set forth in standards or guidance established by the Ministry of Environment.

## **CHAPTER 11 AUTHORITY TO CONDUCT INSPECTIONS, REQUEST INFORMATION AND TO REQUIRE OR PERFORM ENVIRONMENTAL STUDIES OR ASSESSMENT**

### **ARTICLE 24**

The Ministry of Environment shall have the authority to conduct inspections at any location where industrial solid waste or hazardous waste is located in order to determine any person's compliance with this Title or to determine whether a release of industrial waste, hazardous constituents or hazardous waste into the environment has occurred. This authority shall include the authority to take samples and to request information during such inspection. The refusal to comply with a request for inspection shall be subject to the assessment of penalties by the Ministry of Environment.

## **ARTICLE 25**

The Ministry of Environment shall have the authority to make written request for the provision information from persons in order to determine any person's compliance with this Title or to determine whether a release of industrial waste, hazardous constituents or hazardous waste into the environment has occurred. The failure to comply with such requests shall be subject to the assessment of penalties by the Ministry of Environment.

## **ARTICLE 26**

The Ministry of Environment shall have the authority to order a person who controls a location where industrial solid waste, hazardous constituents or hazardous waste are believed to have been disposed or released into the environment to conduct studies or sampling to determine whether such releases pose current or potential future threat to human health or the environment. The failure to comply with such an order shall be subject to the assessment of penalties by the Ministry of Environment.

## **CHAPTER 12 AUTHORITY TO ASSESS PENALTIES AND TO ISSUE ORDERS TO ACHIEVE COMPLIANCE AND TO ADDRESS THREATS TO PUBLIC HEALTH AND THE ENVIRONMENT**

## **ARTICLE 27**

The Ministry of Environment shall have the authority to issue orders to persons in violation of this Title, either directly or by mutual consent that will contain the terms and conditions for such persons to take the actions determined by the Ministry to be necessary to achieve compliance with this Title. This shall include the authority establish a schedule for actions and the authority to direct such persons to cease and desist illegal actions. The failure to comply with such Orders shall be subject to the assessment of penalties by the Ministry of Environment.

## **ARTICLE 28**

The Ministry of Environment shall have the authority to issue orders to persons, either directly or by mutual consent, that will contain the terms and conditions for such persons to take actions determined by the Ministry to be necessary to address releases of industrial solid waste, hazardous constituents and hazardous waste that may pose a potential risk to human health or the environment. The failure to comply with such Orders shall be subject to the assessment of penalties by the Ministry of Environment.

## **ARTICLE 29**

The Ministry of Environment shall have the authority to assess penalties to any person that is in violation of this Title as it deems appropriate, consistent with any guidelines that the Ministry may follow or develop in the future. Such guidelines may address:

- a) the seriousness of the violation;
- b) the conduct of the offender;
- c) the attitude of the offender regarding the harm caused;
- d) the nature of the violation;
- e) any economic benefit incurred by the offender; and
- f) discouraging the violator from repeat violation and/or others from taking similar actions.

### **ARTICLE 30**

Any person who is not satisfied with assessment of penalty or the issuance of an Order by the Ministry of Environment has rights to file a complaint to the Ministry of Environment. The Ministry of Environment shall make a decision on the complaint within fifteen (15) days after receiving the complaint. Any person who is not satisfied with the decision made by the Ministry of Environment has rights to sue to the court based on procedure that is in force.

## **ANNEX 1**

### **CATEGORIES OF HAZARDOUS WASTES**

#### **(BASEL CONVENTION)**

#### **WASTE STREAMS**

<b>Y1</b>	Clinical wastes from medical care in hospitals, medical centres and clinics
<b>Y2</b>	Wastes from the production and preparation of pharmaceutical products
<b>Y3</b>	Waste pharmaceuticals, drugs and medicines
<b>Y4</b>	Wastes from the production, formulation and use of biocides and phytopharmaceuticals
<b>Y5</b>	Wastes from the manufacture, formulation and use of wood preserving chemicals
<b>Y6</b>	Wastes from the production, formulation and use of organic solvents
<b>Y7</b>	Wastes from heat treatment and tempering operations containing

	cyanides
<b>Y8</b>	Waste mineral oils unfit for their originally intended use
<b>Y9</b>	Waste oils/water, hydrocarbons/water mixtures, emulsions
<b>Y10</b>	Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
<b>Y11</b>	Waste tarry residues arising from refining, distillation and any pyrolytic treatment
<b>Y12</b>	Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
<b>Y13</b>	Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
<b>Y14</b>	Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
<b>Y15</b>	Wastes of an explosive nature not subject to other legislation
<b>Y16</b>	Wastes from production, formulation and use of photographic chemicals and processing materials
<b>Y17</b>	Wastes resulting from surface treatment of metals and plastics
<b>Y18</b>	Residues arising from industrial waste disposal operations

## WASTES HAVING AS CONSTITUENTS

<b>Y19</b>	Metal carbonyls
<b>Y20</b>	Beryllium; beryllium compounds
<b>Y21</b>	Hexavalent chromium compounds
<b>Y22</b>	Copper compounds
<b>Y23</b>	Zinc compounds
<b>Y24</b>	Arsenic; arsenic compounds
<b>Y25</b>	Selenium; selenium compounds
<b>Y26</b>	Cadmium; cadmium compounds
<b>Y27</b>	Antimony; antimony compounds
<b>Y28</b>	Tellurium; tellurium compounds
<b>Y29</b>	Mercury; mercury compounds
<b>Y30</b>	Thallium; thallium compounds
<b>Y31</b>	Lead; lead compounds
<b>Y32</b>	Inorganic fluorine compounds excluding calcium fluoride
<b>Y33</b>	Inorganic cyanides
<b>Y34</b>	Acidic solutions or acids in solid form
<b>Y35</b>	Basic solutions or bases in solid form
<b>Y36</b>	Asbestos (dust and fibres)
<b>Y37</b>	Organic phosphorus compounds
<b>Y38</b>	Organic cyanides
<b>Y39</b>	Phenols; phenol compounds including chlorophenols
<b>Y40</b>	Ethers

<b>Y41</b>	Halogenated organic solvents
<b>Y42</b>	Organic solvents excluding halogenated solvents
<b>Y43</b>	Any congener of polychlorinated dibenzo-furan
<b>Y44</b>	Any congener of polychlorinated dibenzo-p-dioxin
<b>Y45</b>	Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

## CATEGORIES OF WASTES REQUIRING SPECIAL CONSIDERATION

<b>Y46</b>	Wastes collected from households
<b>Y47</b>	Residues arising from the incineration of household wastes

## HAZARDOUS CHARACTERISTICS

<u>UN Class<sup>1</sup></u>	<u>Code</u>	<u>Characteristics</u>
1	H1	Explosive An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.
3	H3	Flammable liquids The word “flammable” has the same meaning as “inflammable”. Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.)
4.1	H4.1	Flammable solids Solids, or waste solids, other than those classed as

<sup>1</sup> Corresponds to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1Rev.5, United Nations, New York, 1988).



		explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2	Substances or wastes liable to spontaneous combustion Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.
4.3	H4.3	Substances or wastes which, in contact with water emit flammable gases Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
5.1	H5.1	Oxidizing Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.
5.2	H5.2	Organic Peroxides Organic substances or wastes which contain the bivalent-o-o-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
6.1	H6.1	Poisonous (Acute) Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
6.2	H6.2	Infectious substances Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8	Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
9	H10	Liberation of toxic gases in contact with air or water Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic (Delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve

9	H12	delayed or chronic effects, including carcinogenicity. Ecotoxic Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

## TESTS

The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterise potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in the Annex, in order to decide if these materials exhibit any of the characteristics listed in this Annex.

## ANNEX 2

### INFORMATION TO BE PROVIDED ON THE MANIFEST DOCUMENT

1. Exporter of the waste <sup>2</sup>
2. Generator(s) of the waste and site of generation <sup>1</sup>
3. Disposer of the waste and actual site of disposal <sup>1</sup>
4. Carrier(s) of the waste<sup>1</sup> /or his agent(s)
5. Subject of general or single notification

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The information required on the movement document shall where possible be integrated in one document with that required under transport rules. Where this is not possible the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

<sup>2</sup> Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.

6. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste
7. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated
8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)
9. Information on special handling requirements including emergency provision in case of accidents
10. Type and number of packages
11. Quantity in weight/volume
12. Declaration by the generator or exporter that the information is correct
13. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties
14. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal

### **ANNEX 3**

#### **EXPORTER NOTIFICATION REQUIREMENTS**

1. Reason for waste export <sup>1</sup>
2. Exporter of the waste <sup>1</sup>
3. Generator(s) of the waste and site of generation <sup>1</sup>
4. Disposer of the waste and actual site of disposal <sup>1</sup>
5. Intended carrier(s) of the waste or their agents, if known <sup>1</sup>
6. Country of export of the waste, Competent Authority <sup>3</sup>
7. Expected countries of transit, Competent Authority <sup>2</sup>

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<sup>1</sup> Full name and address, telephone, telex or telefax number, the name, address, telephone, telex or telefax number of the person to be contacted.

8. Country of import of the waste, Competent Authority <sup>2</sup>
9. General or single notification
10. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit) <sup>4</sup>
11. Means of transport envisaged (road, rail, sea, air, inland waters)
12. Information relating to insurance<sup>5</sup>
13. Designation and physical description of the waste and information on any special handling requirements including emergency provisions in case of accidents
14. Type of packaging envisaged (e.g. bulk, drummed, tanker)
15. Estimated quantity in weight/volume <sup>6</sup>

## **TITLE 5        SOLID WASTE MANAGEMENT**

### **CHAPTER 1 GENERAL PROVISIONS**

#### **ARTICLE 1**

The goal of this Title is to enhance the management of garbage and solid waste with effectiveness, transparency and accountability, to ensure aesthetics, public health and environmental protection.

#### **ARTICLE 2**

Followings are objectives of this Title:

- Strengthen responsibilities of ministry, institution, skilled unit, sub-national administration and other relevant stakeholders for the management of garbage and solid waste.

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<sup>2</sup> Full name and address, telephone, telex or telefax number.

<sup>3</sup> In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.

<sup>5</sup> Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.

<sup>6</sup> In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.

- Entrust function of the management of garbage and solid waste to municipal, city and district administrations and delegate function of the management of garbage and solid waste from municipal administration to khan administration.
- Determine necessary measures to improve efficiency and safety in the management of garbage and solid waste.
- Promote public education and citizens 'participation in preparing and implementing measures relating to the management of garbage and solid waste.

### **ARTICLE 3**

This Title covers separating, storing, cleaning, collecting, transporting, recycling and management of landfills of garbage and solid waste in the Kingdom of Cambodia.

This Title does not cover industrial solid waste and hazardous waste management.

### **ARTICLE 4**

Vocabulary used in this Title is defined as in Definitions section of this Title.

## **CHAPTER 2 RESPONSIBLE INSTITUTIONS**

### **ARTICLE 5**

Ministry of Environment has roles in leading and pushing operation of the management of garbage and solid waste and duties as follows:

- In cooperation with relevant ministries, institutions and stakeholders, prepare policies, national strategic plans, legal instruments and technical guidelines relating to the management of garbage and solid waste;
- Provide technical advice and capacity building to sub-national administration on the management of garbage and solid waste;
- Take lead in coordinating with development partners, private or public sector to gather financial resources, means and materials supporting sub-national administration in the management of garbage and solid waste;
- Support and cooperate with relevant ministries and institutions and sub-national administration to promote formal and informal education and dissemination of environmentally safe the management of garbage and solid waste, program to reduce,

reuse and recycle (3R) and promotion of use of products from recycling garbage and solid waste; and

- Monitor, check and evaluate environmental work relating to garbage and solid waste.

## ARTICLE 6

Ministry of Interior has roles in leading and pushing operation of the management of garbage and solid waste and duties as follows:

- Support and cooperate with ministry of environment and relevant stakeholders in capacity building and experience sharing with sub-national administration about the management of garbage and solid waste;
- Coordinate and seek any support for sub-national administration in effective promotion of the management of garbage and solid waste; and
- Intervene in monitoring, checking and evaluating the implementation of the management of garbage and solid waste.

## ARTICLE 7

Provincial Administration shall provide support and facilitation as well as urge operation work regarding the management of garbage and solid waste has roles in leading and pushing operation of the management of garbage and solid waste implementing by municipal and district administration and has duties as follows:

- Prepare legal instruments necessary for advising and urging the implementation of legal measures and other relevant legal instruments regarding the management of garbage and solid waste;
- Advise municipal and district administration to prepare management plans and yearly action and budget plans for the management of garbage and solid waste;
- Urge and support the creation of cleaning, collecting and transporting services and service of garbage and solid waste;
- Collect resources, means and materials supporting municipal and district administration in the management of garbage and solid waste work;
- Support and push education and information dissemination in all kind of means to the public about importance of garbage and solid waste separation, program to reduce, reuse and recycle and promoting the usage of products from recycling garbage and solid waste;

- Coordinate preparation and joint use of the management of garbage and solid waste services for municipal and district administration;
- Monitor, check and assess the implementation of municipal and district administration pertaining to the management of garbage and solid waste work.

## ARTICLE 8

Capital and Provincial Department of Environment shall play its role as the lead for capital and provincial administration regarding the management of garbage and solid waste work and have duties as follows:

- Promote citizens' education on environmental hygiene through education and information dissemination about storage, cleaning, separation, reduction, reuse and recycling and participation in using the management of garbage and solid waste services;
- Participate in preparing the management of garbage and solid waste plans of the sub-national administration;
- Participate in providing technical advice on proposals or projects of the management of garbage and solid waste services;
- Monitor, check and evaluate environmental work relating to the process of the management of garbage and solid waste services and garbage and solid waste recycling activities;
- Push the implementation of measures of laws and legal instruments that are in force and participate in the implementation fine measure on offenses relating to the management of garbage and solid waste; and
- Prepare semester and yearly reports on situation and process of the management of garbage and solid waste.

## ARTICLE 9

Capital, municipal and district Administration have roles in the management of garbage and solid waste, within their territorial jurisdictions and duties as follows:

- Prepare management plans and yearly action and budget plans for the management of garbage and solid waste within its territorial jurisdiction;
- Prepare and implement any measure for the management of garbage and solid waste through issuing an order (Deika) or other legal instruments;

- Establish, control and manage cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction;
- Advice citizens relating to environmental hygiene cleaning and local cleaning, collecting and transporting services and garbage and solid waste services prepared; and
- Educate and disseminate information on garbage and solid waste separation with environmental safety, program to reduce, reuse and recycle and promoting the usage of products from recycling garbage and solid waste.

#### **ARTICLE 10**

Each capital, municipal and district administration may propose to establish a specific unit or office under control of its administration responsible for this task in compliance with principles and procedures that are in force to ensure effectiveness and precise responsibilities on the management of garbage and solid waste.

#### **ARTICLE 11**

Capital administration shall transfer one or whole part of its functions on the management of garbage and solid waste to khan or/and sangkat administration.

Municipal and district administration may delegate one or whole part of its functions on the management of garbage and solid waste to commune and sangkat administration within its territorial jurisdiction.

#### **ARTICLE 12**

Khan administration shall be responsible for implementing granted functions and fulfilling roles to support and coordinate the process of cleaning, collecting and transporting services and garbage and solid waste services at the capital and has duties as follows:

- Manage and implement the granted functions for the management of garbage and solid waste;
- Participate and cooperate in implementing programs of the management of garbage and solid waste; and
- Participate in monitoring the implementation of cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction.

#### **ARTICLE 13**



Commune administration shall be responsible for implementing delegated functions and fulfilling roles to support and coordinate the process of cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction and has duties as follows:

- Manage and implement the management of garbage and solid waste based upon delegation;
- Participate in broader education and information dissemination with regards to the use of cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction;
- Participate in providing advises on programs to cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction;
- Participate in resolving problems relating to cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction; and
- Participate in cooperating to enforce the implementation of legal measures and legal instruments regarding to the management of garbage and solid waste.

#### **ARTICLE 14**

In necessary case, the minister of Ministry of Interior, the minister of Ministry of Environment and the minister of Ministry of Economy and Finance may issue legal instruments advising to the implementation of the management of garbage and solid waste.

#### **Chapter 3 Separation, Packaging, Storage and Disposal of Garbage and Solid waste**

#### **ARTICLE 15**

Owners of garbage and solid waste shall practice separating and packaging reusable and recyclable solid waste from garbage and solid waste which is to be disposed, consistent with guidance of capital, municipal, district and khan administration.

#### **ARTICLE 16**

Owners of garbage and solid waste shall be responsible for waste packaging by a plastic bag or keeping their waste in a private bin, without releases of wastewater or emission of stink within the period of storage awaiting discharge consistent with guidance of capital, municipal, district and khan administration.

#### **ARTICLE 17**

Owners of garbage and solid waste shall be responsible for maintaining waste packages and their rubbish bins inside their gates or premises of their houses, buildings or sites and shall discharge at the time determined by capital, municipal, district and khan administration.

Capital, municipal, district and khan administration shall take action to strictly check practices of packages discharge or rubbish bins on streets or in the public awaiting collection and transport at the time determined.

#### **ARTICLE 18**

Owners of garbage and solid waste using services of garbage and solid waste management shall pay for cleaning, collecting and transporting services and services of garbage and solid waste landfills determined by capital, municipal, district and khan administration.

#### **ARTICLE 19**

Capital, municipal, district and khan administration shall prepare orders (Deika) or other legal instruments to recommend the implementation of cleaning, separating, packaging, storing and discharging garbage and solid waste within its territorial jurisdiction in response to actual situation of each jurisdiction and shall ensure high efficiency of garbage and solid waste management and promote aesthetics, hygiene and the environment.

Above orders or legal instruments shall be prepared consistent with policies, national strategic plans, legal instruments and technical guidelines that are in force.

Capital, municipal, district and khan administration shall widely disseminate information regarding those orders or other legal instruments, as stipulated in the above paragraph, to citizens to ensure participation in responsible implementation.

### **CHAPTER 4 GENERAL MEASURES ON THE MANAGEMENT OF GARBAGE AND SOLID WASTE**

#### **ARTICLE 20**

Any disposal or burning of garbage and solid waste on public streets, fields, in sewage system or public water sources or on privately-owned land is prohibited.

Capital, municipal, district and khan administration shall take measures to prevent any disposal or burning of garbage and solid waste on public streets, fields, in sewage system or public water sources or on privately-owned land.

## **ARTICLE 21**

Any natural person and legal entity using a public site for celebrating or processing his or her ceremony shall be required to pay for fee of cleaning, collecting and transporting service of garbage and solid waste generated from the ceremony to the local service provider consistent with cost determined by capital, municipal, district and khan administration.

## **ARTICLE 22**

Capital, municipal, district and khan administration shall manage to place public rubbish bins and prepare to have cleaning, collecting and transporting service of garbage and solid waste generated from selling on streets and public sites within its territorial jurisdiction.

Owners of managers of markets, business sites, service sites, companies, factories, enterprises, handicrafts, entertainment centres shall equip rubbish bins at their sites or premises for disposal of garbage and solid waste of their customers or staff.

## **ARTICLE 23**

Owners or contractors for demolishing, repairing or constructing houses or buildings shall be responsible for garbage and solid waste from their constructing sites as follows:

- Keep their garbage and solid waste properly without causing impact to public order and the environment; and
- Clean, collect and transport their garbage and solid waste by their own to local landfills and shall a pay fee as determined by capital, municipal, district and khan administration.

## **ARTICLE 24**

Capital, municipal, district and khan administration shall determine appropriate places for temporarily storing garbage and solid waste when necessary to ensure the effectiveness in collecting and transporting.

Capital, municipal, district and khan administration shall determine time allowed for disposal of garbage and solid waste to temporary storage places and shall take action to prevent any disposal of garbage and solid waste to temporary storage places at the wrong time.

## **ARTICLE 25**

Owners and managers of sites and housing gate community shall prepare appropriate places within

their own management premises for storing garbage and solid waste waiting for being transported, which does not affect aesthetics, public order, safety and public health.

#### **ARTICLE 26**

Capital, municipal, district and khan administration shall take immediate action on cases of garbage and solid waste accumulation caused by inactiveness of cleaning, collecting and transporting service providers through all means possible to clean, collect and transport garbage and solid waste in order to deal with that accumulation.

Providers of cleaning, collecting and transporting service of garbage and solid waste are in charge of cost of the above operation in their jurisdiction.

#### **ARTICLE 27**

Pumping business, transport and disposal of sludge from septic tanks shall be permitted by capital, municipal, district and khan administration after receiving technical advice from capital and provincial Department of Environment.

#### **ARTICLE 28**

Ministry of Environment shall provide specific guidance on technical management for types of special classes of solid waste generated in houses, institutions or public buildings, commercial centres and tourism services, in consultation with national administration.

List of solid waste generated in houses, institutions or public buildings, commercial centres and tourism services has been determined as in annex 2 of this Title.

#### **ARTICLE 29**

Industrial solid waste and hazardous waste generated from production activities of business, commercial activities, factories, mineral exploitations and from other sources besides the sites or sources as stated in Article 28 of this Title shall be controlled by Ministry of Environment which is determined by Title [X] of this Code.

### **CHAPTER 5 SERVICES OF GARBAGE AND SOLID WASTE MANAGEMENT**

#### **ARTICLE 30**

Within its territorial jurisdiction, Capital, municipal, district and khan shall be responsible for work regarding cleaning, collecting and transporting services and service of garbage and solid waste

landfills with effectiveness, transparency, accountability and environmental safety.

### **ARTICLE 31**

Regarding management of garbage and solid waste, capital, municipal and district administration may:

- a) Prepare and operate by its administration one part of or whole functions on cleaning, collecting and transporting services and service of garbage and solid waste landfills, within its territorial jurisdiction.
- b) Cooperate with other sub-national administration, boundary of which is next to each other, to provide joint services.
- c) Entitle rights to private sectors as responsible entities to provide cleaning or/and collecting or/and transporting services or/and service of garbage and solid waste landfills.
- d) Transfer one part of or whole functions on management of garbage and solid waste to khan, commune and sangkat administration or entitle rights to communities to implement any sub-function or some of functions on management of garbage and solid waste.

### **ARTICLE 32**

Contract Rights established for cleaning or/and collecting or/and transporting services or/and service of garbage and solid waste landfills shall not longer than 10 years period for each contract and shall carried out in accordance with methods and procedure of procurement that are in force.

### **ARTICLE 33**

Based upon maximum service fee determined by inter-ministerial prakas of Ministry of Interior, Ministry of Environment and Ministry of Economy and Finance, capital, municipal and district administration shall determine fee for cleaning, collecting and transporting services and service of garbage and solid waste landfills to be carried out locally, compliance with following principles:

- Shall consult with citizens and relevant stakeholders within its territorial jurisdiction;
- Ensure effectiveness and quality of management of garbage and solid waste;
- Determine fee based on types of businesses, sites, income levels, quantity of garbage and solid waste to be discharged; and
- Shall seek for check and approval from its councils.

## **ARTICLE 34**

Capital, municipal and district administration shall determine appropriate measures and procedure with transparency and effectiveness for collecting, managing and charging fee for management of garbage and solid waste within its territorial jurisdiction by consulting with khan, commune, sangkat administration, institution and relevant stakeholders.

Income generated from service of management of garbage and solid waste is personal income of capital, municipal and district administration per se.

Capital, municipal and district administration may utilize its budget or budget from other sources to additionally support expense on providing service of management of garbage and solid waste.

## **ARTICLE 35**

In a case that there is a proposal from any community, organization or citizen to request a permit of collecting garbage and solid waste for any interest, capital, municipal and district administration, in cooperation with capital and provincial Department of Environment, may:

- a) Check permit of collecting garbage and solid waste for producing compost fertilizer and gas if activities of collecting those garbage and solid waste do not affect the management plans of garbage and solid waste and do have negative impacts to the living of surroundings and the Environment.
- b) Provide permit of collecting and transporting garbage,

## **CHAPTER 6 MEASURES ON MANAGEMENT OF GARBAGE AND SOLID WASTE LANDFILLS**

## **ARTICLE 36**

Within its territorial jurisdiction and consistent with actual geographical situational location, capital, municipal and district administration shall determine and choose places for garbage and solid waste landfill management plan. Municipal and district administration shall seek approval from provincial administration for the determination and selection of places for garbage and solid waste landfill management plan.

Every proposed project for installation of garbage and solid waste landfill shall be checked and approved by Ministry of Environment regarding techniques in preparing the landfill, measures to protect the Environment during operation and when that landfill is closed and duration of garbage and solid waste landfill use.

## **ARTICLE 37**

Owners or operators of garbage and solid waste landfill shall operate their landfill in compliance with technical conditions and environmental protection measures determined by Ministry of Environment.

In a case that there is an environmental pollution incident caused by landfill operation the owner or operator of such a landfill shall take immediate action to prevent and provide information about this incident immediately to capital, municipal, district, khan administration and capital and provincial Department of Environment.

## **ARTICLE 38**

Ministry of Environment and capital and provincial administration shall regularly monitor practices of owners of garbage and solid waste landfills with regards to prevention and reduction of environmental impact from landfill operation.

## **CHAPTER 7 PENALTIES**

## **ARTICLE 39**

Incompliance with what determined by capital, municipal, district and khan administration in terms of separating and packaging of reusable and recyclable solid waste as stipulated in Article 15 of this Title, owners of garbage and solid waste shall be subject to transactional fines in a certain amount of money as follows:

- 10,000 (ten thousand) riels for housing
- 100,000 (one hundred thousand) riels for business sites, service sites, handicraft sites, condominiums, apartments and gate communities
- 200,000 (two hundred thousand) riels for industries, enterprises and companies.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

## **ARTICLE 40**

Any person who brings a package or bin of garbage and solid waste of jurisdiction to the street or public site not at permitted time to be discharged determined by capital, municipal, district and

khan administration as stipulated in Article 17 of shall be subject to transactional fines as follows:

- 20,000 (twenty thousand) riels for housing
- 150,000 (one hundred and fifty thousand) riels for business sites, service sites, handicraft sites, condominiums, apartments and gate communities
- 400,000 (four hundred thousand) riels for industries, enterprises and companies.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

#### **ARTICLE 41**

Any person who use services of management of garbage and solid waste and is not willing to pay for fee for cleaning, collecting and transporting services and services of garbage and solid waste landfills prepared or determined by capital, municipal, district and khan administration as stipulated in Article 18 of this Title shall be responsible for a transactional fine in double amount of fee to be paid per month.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

#### **ARTICLE 42**

Any person who disposes garbage and solid waste at public sites, on streets, fields, possessed lands, or places prohibited for waste disposal by capital, municipal, district and khan administration as stipulated in Article 20 of this Title shall be subject to transactional fines and penalties as follows:

- 20,000 (twenty thousand) riels for passengers, tourists and shall collect, clean and bring their waste to the public rubbish bins
- 50,000 (fifty thousand) riels for sellers on streets or public sites and shall collect, package and bring their waste to sites determined by the authority
- 200,000 (two hundred thousand) riels for sellers at homes, restaurants, entertainment sites and shall collect, package and bring their waste to sites determined by the authority
- 400,000 (four hundred thousand) riels for industries, enterprise, companies and shall be responsible for collecting, cleaning and transport their waste to the landfills.



In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

#### **ARTICLE 43**

Any person who burn garbage and solid waste at public sites, on streets, fields, possessed lands, or places prohibited by capital or municipal and district administration as stipulated in Article 20 of this Title shall be subject to transactional fines and penalties as follows:

- 50,000 (fifty thousand) riels for passengers, tourists and shall collect and clean their waste
- 100,000 (one hundred thousand) riels for housing owners, sellers on streets or public sites and shall collect and clean their waste
- 200,000 (two hundred thousand) riels for sellers at homes, restaurants, entertainment sites and shall collect, package and bring their waste to sites determined by the authority
- 1,000,000 (one million) riels for industries, enterprise, companies and shall be responsible for collecting, cleaning and transport their waste to the landfills.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

#### **ARTICLE 44**

Any person getting away from being responsible for garbage and solid waste generated from his or her ceremony conducted on street or public site as stipulated in Article 21 of this Title shall be subject to transactional fines, in addition to service fee of cleaning, collecting and transporting, as follows:

- 200,000 (two hundred thousand) riels for weddings, grand openings, and ceremonies except for funerals
- 600,000 (six hundred thousand) riels for forums
- 2,000,000 (two million) riels for public concerts

In case of recidivism, the transactional fine shall be in a double amount of the previous

transactional fine.

#### **ARTICLE 45**

Any person who is the owner or manager of a market, business site, company, enterprise, handicraft, entertainment centre which is not equipped with rubbish bins at their sites or premises for disposal of garbage and solid waste of their customers or staff as stipulated in paragraph 2 of Article 22 of this Title shall be subject to a transactional fine in the amount of 400,000 (four hundred thousand) riels.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

#### **ARTICLE 46**

Owners of construction sites who improperly keep garbage and solid waste from constructing work or materials as determined by capital, municipal, district and khan administration or their storage causing impact to public order, aesthetics or the environment as stipulated in Article 23 of this Title shall be subject to transactional fines and penalties as follows:

- 400,000 (four hundred thousand) riels for construction sites of housing and shall be responsible for collecting, cleaning and transporting to landfills
- 800,000 (eight hundred thousand) riels for big construction sites of building, gate communities and shall be responsible for collecting, cleaning and transporting to landfills.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

#### **ARTICLE 47**

Any person who conducts pumping business of sludge from sewage system or septic tanks without a permit from capital, municipal, district and khan administration or transport and discharge that sludge outside places determined by the competent authority as stipulated in Article 17 of this Title shall be permitted shall be subject to transactional fines as follows:

- 400,000 (four hundred thousand) riels for family businesses
- 800,000 (eight hundred thousand) riels for company businesses.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

#### **ARTICLE 48**

Any person who stores, packages or collects and transports garbage and solid waste mixed with industrial solid waste, medical waste or hazardous waste shall be subject to transactional fine as follows:

- 500,000 (five hundred thousand) riels for businesses, handicrafts and maternity hospitals
- 800,000 (eight hundred thousand) riels for factories, enterprises and companies
- 1000,000 (one million) riels for service companies for collecting and transporting garbage and solid waste.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

#### **ARTICLE 49**

If any person who does not pay for transactional fine within 30 (thirty) days from a day when he or she receives the fine receipt, he or she shall pay for a double amount of fine. If within 60 (sixty) days, he or she shall pay for fine thrice. If period of 90 (ninety) days is over, capital, municipal, district and khan administration shall prepare documents and file a complaint to capital and provincial court of first instance.

#### **ARTICLE 50**

Any person who is not satisfied with decision on a transactional fine by any competent official of capital, municipal, district or khan administration has rights to file a complaint to capital, municipal, district or khan governor itself.

Capital, municipal, district or khan governor shall make a decision on the complaint within 15 (fifteen) days, the longest after receiving the complaint.

Any person who is not satisfied with the decision made by capital, municipal, district or khan governor has rights to sue to the court based on procedure that is in force.

## **ARTICLE 51**

Capital, municipal, district and khan administration shall be responsible for preparing mechanisms for carrying out measures on transactional fines effectively.

Procedure of managing, allocating, and using income from transactional fines will be determined by inter-ministerial prakas of Ministry of Interior, Ministry of Environment and Ministry of Economy and Finance.

## **CHAPTER 8: TRANSITIONAL PROVISIONS**

## **ARTICLE 52**

Capital, provincial, municipal and district administration shall check the past contract implementation and consult with relevant ministries, institutions and service providers, as well as relevant stakeholders, for checking and revising contracts of providing garbage and solid waste services implemented under its territorial jurisdiction within 12 (twelve) months after this Title enters into force.

## **ARTICLE 53**

Ministry of Interior, Ministry of Environment and Ministry of Economy and Finance shall establish an inter-ministerial working group for discussion and coordination with sub-national administrations concerning transfer of the management of garbage and solid waste implementation and responsibilities to municipal and district administration and delegation of the management of garbage and solid waste implementation and responsibilities from capital administration to khan administration.

## **TITLE 6 WATER POLLUTION CONTROL**

### **CHAPTER # RESPONSIBLE INSTITUTIONS**

*[The precise jurisdictional arrangements as between the MOE and other institutions, particularly sub-national institutions shall be determined and inserted here.]*

### **CHAPTER # MEASURES TO PREVENT WATER POLLUTION**

## **ARTICLE #**

The discharge of any pollutant by any point source into any surface water, ground water, or water

collection system is prohibited except in compliance with this Title.

**ARTICLE #**

The discharge of any pollutant by any nonpoint source into any surface water, ground water, or water collection system is prohibited except in compliance with this Title.

**ARTICLE #**

The owner or operator of the point source is responsible for the discharge of pollutants and any treatment operation to control the discharge of pollutants from the point source to a surface water, ground water, or water collection system, as well as any obligations that the Ministry of Environment may determine in the future in sub-decree, prakas, or other document.

**CHAPTER # PERMISSION OF POLLUTANT DISCHARGE**

**ARTICLE #**

A point source may discharge one or more pollutants into a surface water, ground water, or water collection system in compliance with a discharge permit issued by the Ministry of Environment for that point source.

**ARTICLE #**

A nonpoint source may discharge one or more pollutants into a surface water, ground water, or water collection system without a permit but only after implementation of applicable best management practices, as prescribed and updated over time by the Ministry of Environment.

**CHAPTER # WATER POLLUTION POINT SOURCE CONTROL**

**ARTICLE #**

The Ministry of Environment may issue a permit to any point source for the discharge of one or more pollutants into a surface water, ground water, or water collection system.

**ARTICLE #**

Such permit must contain requirements consistent with this Title and any applicable sub-decrees and/or prakas that are in force.

**ARTICLE #**

Such permits generally expire after one year. The Ministry of Environment may issue permits for

a longer period of time on a case-by-case basis.

#### **ARTICLE #**

The Ministry of Environment may revise or revoke a permit for any point source at any time. The Ministry must provide its reasons to the point source in writing.

#### **ARTICLE #**

The Ministry of Environment, in consultation with relevant ministries, may require point sources to pay a reasonable fee for each permit and/or permit renewal.

#### **ARTICLE #**

The Ministry of Environment shall establish reasonable and effective procedures for point sources to follow in applying or re-applying for a permit.

#### **ARTICLE #**

Such permit must contain limits or requirements to control the discharge, both concentration and load based, of any pollutant into a surface water, ground water, or water collection system based on the best available technology and best environmental management practices that is economically feasible, as determined by the Ministry of Environment.

#### **ARTICLE #**

Where the Ministry of Environment has previously developed limits or requirements based on the best available technology and best environmental management practices economically feasible for a point source in a certain sector, the Ministry must include limits and/or requirements as least as stringent as those in the earlier permit into such permit.

#### **ARTICLE #**

Where the Ministry of Environment has not previously developed limits or requirements based on the best available technology and best environmental management practices economically feasible for a point source in a certain sector, the Ministry must calculate such limits and/or requirements using the best professional judgment of competent experts.

#### **ARTICLE #**

Such permit must also contain, as deemed appropriate by the Ministry of Environment, additional limits and/or requirements to control the discharge of any pollutant into a surface water, ground

water, or water collection system to protect the quality of the receiving water and/or ecosystem and any other downstream water that may be affected by the discharge, including marine waters.

#### **ARTICLE #**

Such permit must also contain, as deemed appropriate by the Ministry of Environment, requirements related to monitoring of the discharge, monitoring of the receiving water and any other affected downstream waters, including marine waters and/or transboundary waters, reporting, recordkeeping, as well as time frames for responses from the Ministry.

### **CHAPTER # WATER POLLUTION NONPOINT SOURCE CONTROL**

#### **ARTICLE #**

Nonpoint sources do not need a permit from the Ministry of Environment to discharge a pollutant into any surface water, ground water, or water collection system, but they must implement applicable best management practices, as prescribed and updated over time by the Ministry of Environment.

#### **ARTICLE #**

The Ministry of Environment shall prescribe, and update as appropriate over time, categories of nonpoint sources and best management practices to reduce water pollution that apply to each category.

### **CHAPTER # MONITORING**

#### **ARTICLE #**

The monitoring of the permit and compliance with the permit is the responsibility of the holder of the permit.

#### **ARTICLE #**

The permit holder shall certify that the sampling and monitoring are done in accordance with the requirements of the permit and any conditions of the Ministry of the Environment.

#### **ARTICLE #**

The permit holder shall immediately inform the Ministry of the Environment if there is a breach of the permit, if there is a problem with the sampling, or if there is a failure in any pollution control equipment.

**ARTICLE #**

The Ministry of Environment may, upon appropriate notice given to the point source, monitor and/or order an appropriate entity to monitor the discharge of any pollutant from any point source to any surface water, ground water, or water collection system.

**ARTICLE #**

The Ministry of Environment may also monitor the water quality of any surface water, ground water, or water collection system.

**ARTICLE #**

The Ministry of Environment may also receive and consider any monitoring samples taken by any person of any surface water, ground water, or water collection system.

**ARTICLE #**

All monitoring samples, regardless of who collected them, must be analysed by a Ministry of Environment laboratory or other laboratory that has been approved by the Ministry of Environment.

**CHAPTER # INSPECTIONS**

**ARTICLE #**

The Ministry of Environment may inspect any point source or nonpoint source with respect to the discharge of any pollutant from such source to a surface water, ground water, or water collection system. Such inspection need not be based on any report or evidence of any permit violation.

**CHAPTER # SEWAGE SLUDGE OR BIO-SOLIDS**

**ARTICLE #**

The Ministry of Environment may encourage the responsible, safe, and effective use of sewage sludge or bio-solids, which are the solid remains after treatment of wastewater by a sewage treatment plant, including but not limited to agricultural applications and energy generation.

**ARTICLE #**

The Ministry of Environment may establish requirements and/or guidelines related to sewage sludge or bio-solids, including but not limited to guidelines to encourage re-use.



## **CHAPTER # EDUCATION AND OUTREACH**

### **ARTICLE #**

The Ministry of Environment may conduct education and outreach efforts to increase the understanding and participation of the public and private sectors regarding water pollution requirements.

## **CHAPTER # WETLANDS**

### **ARTICLE #**

In addition to requirements applicable to the discharge of a pollutant from a point sources and or nonpoint source that could affect wetlands, the Ministry of Environment may establish requirements or guidelines to limit or avoid the loss, destruction, or degradation of wetlands.

### **ARTICLE #**

The Ministry of Environment may also develop and/or implement educational outreach programs to help the public and/or private sectors identify and understand the value of wetlands.

## **CHAPTER # OPERATOR CERTIFICATION**

### **ARTICLE #**

The Ministry of Environment may establish criteria and/or levels of certification for operators of point sources.

### **ARTICLE #**

Such criteria and/or levels could include requirements for education, training, experience, and/or proficiency.

## **CHAPTER # VIOLATIONS AND PENALTIES**

### **ARTICLE #**

Any point source that discharges any pollutant into any surface water, ground water, or water collection system without a permit from the Ministry of Environment is in violation of this Title and commits a Class X Offence and a Category X Incarceratable Offence.

### **ARTICLE #**

Any point source that obtains a permit from the Ministry of Environment but does not comply with any requirement of that permit is in violation of this Title and the permit and commits a Class X Offence and a Category X Incarceratable Offence.

**ARTICLE #**

Making false samples or providing false information to the Ministry of the Environment is a violation of this Title and is a Class X Offence and a Category X Incarceratable Offence.

**ARTICLE #**

Failing to report a discharge in excess of a permit or failing to provide monitoring information in accordance with a permit and by the due date is a violation of this Title and is a Class X Offence and a Category X Incarceratable Offence.

**ARTICLE #**

Any nonpoint source that discharges any pollutant into any surface water, ground water, or water collection system without implementing any applicable best management practices prescribed by the Ministry of Environment is in violation of this Title and commits a Class X Offence and a Category X Incarceratable Offence.

**ARTICLE #**

In cooperation with other relevant government institutions, the Ministry of Environment may issue a warning or an order (with or without penalty fines) to any point source that is in violation of this Title and/or its permit, consistent with any guidelines that the Ministry may follow or develop in the future.

**ARTICLE #**

The Ministry of Environment may issue a warning or an order (with or without penalty fines) to any nonpoint source that is in violation of this Title as it deems appropriate, consistent with any guidelines that the Ministry may follow or develop in the future.

**ARTICLE #**

Such guidelines may address:

- a) the seriousness of the violation;
- b) the conduct of the offender;

- c) the attitude of the offender regarding the harm caused;
- d) the nature of the violation;
- e) any economic benefit incurred by the offender; and
- f) discouraging the violator from repeat violation and/or others from taking similar actions.

## **CHAPTER # MARINE POLLUTION CONTROL**

### **ARTICLE #**

Regarding sources of pollution that discharge to or may affect marine waters within Cambodia's territorial sea as defined under UNCLOS or the 1958 Convention on the Territorial Sea and the Contiguous Zone which ever Cambodia is a party to. Title 5, entitled "Water Pollution Control," applies and is hereby incorporated by reference.

### **ARTICLE #**

Regarding marine water-based sources of pollution within Cambodia's territorial sea as defined under UNCLOS or the 1958 Convention on the Territorial Sea and the Contiguous Zone which ever Cambodia is a party to, this Title applies.

### **ARTICLE #**

The Ministry of Environment, in coordination with other relevant ministries, shall carry out its responsibilities, such as monitoring, evaluating, reporting, and taking other reasonable actions, consistent with any and all international conventions that deal with marine water pollution control that the Kingdom of Cambodia has ratified.

## **TITLE 7      AIR POLLUTION**

The Law on Environmental Protection and Natural Resource Management 1996, the Law on Administration of Factory and Handicraft 2006, and the Law on Land Management, Urban Planning and Constructions 1994 are hereby amended as follows:

*[Penalties under this chapter shall be reviewed and updated. Air pollution considerations shall be included in the administration of factories. Prakas should be introduced to replace annexes of the sub-decree, which are referred to as "relevant sub-legislation" in the articles. Prakas should also be introduced to set the penalties. Environmental considerations shall be included into urbanism policies.]*

## **CHAPTER 1 GENERAL PROVISIONS**

### **ARTICLE 1**

The purpose of this title is to protect the quality of the environment and public health from air pollutants noise disturbance through emission standards, permitting, monitoring and inspection activities.

### **ARTICLE 2**

This title applies to all mobile sources and immobile (stationary) sources of air pollution. It shall be the duty of all private entities and public authorities to cooperate fully with the Ministry of Environment in satisfying the provisions of this title.

Chapter # Responsible institutions

[The precise jurisdictional arrangements as between the MOE and other institutions, including but not limited to the Ministry of Transportation, shall be determined and inserted here.]

## **CHAPTER 2 INDOOR AIR POLLUTION**

The emission of any pollutant inside a building is prohibited except in compliance with this Title.

## **CHAPTER 3 THE FLOW OF TOXIC AIR FROM MOBILE SOURCES**

### **ARTICLE 3**

The emission of any pollutant by any mobile source into the atmosphere is prohibited except in compliance with this Title.

Air quality standard shall be specified in the relevant sub-legislation.

The standard of maximum quality of toxic air pollution permitted in the air shall be specified in the relevant sub-legislation.

### **ARTICLE 4**

This standard of smoke emission from any class or classes of movable sources shall be specified in the relevant sub-legislation.

### **ARTICLE 5**

The standards as stipulated in the relevant sub-legislation shall be reviewed every five (5) years and changed in necessary cases, based on a proposal of the Ministry of Environment.

#### **ARTICLE 6**

The emission of pollutants into the atmosphere, which exceeds the standard as stipulated in the relevant sub-legislation, shall be strictly prohibited.

#### **ARTICLE 7**

The importation, utilization, production of vehicle and all kinds of machinery in Cambodia, which emit pollutants exceeding the standard as stipulated in the relevant sub-legislation, shall be strictly prohibited.

#### **ARTICLE #**

The Ministry of Environment shall specify in the relevant sub-legislation any fuel or fuel additive (including any fuel or fuel additive used in nonroad movable sources) that manufacturers or processors of such fuel or fuel additives may sell, offer for sale, or introduce into commerce.

#### **ARTICLE #**

The MoE shall require in the relevant sub-legislation that fuels and fuel additives be registered with the MoE for purposes of determining which fuels and fuel additives will not produce emissions that will endanger the public health or welfare or environment.

The MoE shall require the following for purposes of registration of fuels and fuel additives:

- 1) The manufacturer of any fuel to notify the MoE as to the commercial identifying name and manufacturer of any additive contained in such fuel; the range of concentration of any additive in the fuel; and the purpose-in-use of any such additive,
- 2) The manufacturer of any fuel additive to notify the MoE as to the chemical composition of such additive,
- 3) For the purpose of registration of fuels and fuel additives, the MoE shall, on a regular basis require the manufacturer of any fuel or fuel additive to conduct tests to determine the public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects).
- 4) For the purpose of registration of fuels and fuel additives, the MoE shall, on a regular basis require the manufacturer to furnish information as is reasonable and necessary to determine the effect of such fuel or additive on the emission control performance of any vehicle, vehicle engine, nonroad vehicle or engine, or to the extent to which emissions affect the

public health or welfare or environment.

The MoE may impose a user fee to recover the costs of testing by the MoE of any fuel additive. The fee shall be paid by the person proposing to register the fuel additive concerned. Such fee shall not exceed -insert amount, US Clean Air Act has a limit of \$20,000-.

#### **ARTICLE #**

The Ministry of Environment shall specify in the relevant sub-legislation any offending fuel or fuel additive (including any fuel or fuel additive used in nonroad movable sources) that manufacturers or processors of such fuel or fuel additives are strictly prohibited from selling, offering for sale, or introducing into commerce. Such fuels or fuel additives may be determined to be offending if the Ministry of Environment determines, based on scientific data or other available information, that they will produce emissions that are reasonably anticipated to endanger the public health or welfare or environment, or they will impair to a significant degree the performance of a movable source's emission control device or system which is in general use.

The MoE may temporarily waive a prohibition regarding the use of fuel or fuel additive if the - Ministry of Energy if there is one, or whoever the appropriate body is making decisions about the country's energy needs- determines that extreme and unusual circumstances exist in a province or region in the country which prevent adequate supply of fuel or fuel additives to consumers. Such extreme and unusual circumstances are the result of a natural disaster, a pipeline or refinery equipment failure, or another event that could not have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers of fuel or fuel additive to the province or region.

#### **ARTICLE #**

The MoE shall specify in the relevant sub-legislation any toxic air pollutants that gasoline is strictly prohibited from containing.

#### **ARTICLE #**

The MoE shall specify in the relevant sub-legislation any standards such as maximum concentration or percentage of pollutants or toxic air pollutants that gasoline may contain.

#### **ARTICLE #**

The MoE may specify in the relevant sub-legislation any standards such as maximum concentration or rate that movable sources may emit, in aggregate, of NO<sub>x</sub> emissions and VOC emissions.

## **ARTICLE #**

The MoE shall specify in the relevant sub-legislation sulfur content requirements for diesel fuel.

## **ARTICLE #**

The MoE shall specify in the relevant sub-legislation that motor vehicles powered by gasoline or diesel are not allowed to idle for more than three minutes while the vehicle is parked, stopped or standing. Any person or organization owning or operating a vehicle seen violating this regulation will be issued a civil infraction ticket for \$1000 for a first-time violation.

The only exceptions are as follows:

Private non-commercial passenger vehicles are exempt.

When temperatures are below 32 degrees Fahrenheit, vehicles may idle for no more than five minutes.

Engines may idle when they are necessary for the operation of power takeoff equipment such as dumping beds, cement mixers, refrigeration systems, content delivery equipment, winches, or shredders.

## **ARTICLE #**

The MoE shall develop through sub-legislation a voluntary program to promote clean air by purchasing older vehicles from citizens. This program will provide a cash incentive to retire older polluting cars. The cash incentive will not exceed \$xxx. The cash incentive is not based on the true market value of the vehicle, but is based on whether the vehicle is running and driveable, the number of kilometres the vehicle has recorded, and whether there is any major damage to the vehicle.

## **CHAPTER 4 THE FLOW OF TOXIC AIR FROM FIXED SOURCES (AIR POLLUTION FROM IMMOBILE SOURCE)**

### **ARTICLE 8**

The emission of any pollutant by any immobile (stationary) source into the atmosphere is prohibited except in compliance with this Title, including prakas, permits, enforcement orders, or other document issued by the Ministry of Environment under this Title.

The owner or operator of an immobile (stationary) source is responsible for toxic air pollution emitted into the atmosphere and compliance with emission standards established in relevant sub-legislation or in permits, as well as compliance with any other obligations that the Ministry of

Environment may determine in the future in sub-decree, prakas, permits, or other document under this Title.

The emission of pollutants into the atmosphere, which exceeds the standard as stipulated in the relevant sub-legislation, shall be strictly prohibited except where a permit authorizes a variance.

#### **ARTICLE #**

Standards for categories of immobile (stationary) sources shall be specified in the relevant sub-legislation.

Categories shall be specified by the Ministry of Environment in the relevant sub-legislation, and shall be based on the following: whether the source is a new source or an existing source, the types of products a source creates, the types of processes and or/fuels used by the source, the types of toxic air pollution emitted by the source, the location of the source, or other factors the Ministry of Environment finds relevant.

Standards shall be based on the best available technology that is economically feasible for the category of immobile sources, as determined by the Ministry of Environment using its best professional judgment.

The relevant sub-legislation for such standards shall also include requirements that owners or operators of immobile sources monitor emissions from the sources, keep records of such emissions and other information relevant to compliance with the standard, and reporting of such information to the Ministry of Environment. Requirements for monitoring, recordkeeping, and reporting that the Ministry establishes in relevant sub-legislation must be adequate to ensure compliance with the standard.

#### **ARTICLE #**

An immobile (stationary) source may emit one or more pollutants in compliance with a permit issued by the Ministry of Environment for that source. The Ministry may establish in relevant sub-legislation exemptions from the requirement to obtain a permit for categories of immobile sources, if the Ministry of Environment determines that exempting such category will have a minimal adverse impact on air quality. In making this determination, the Ministry may take into account the applicability of standards that have been established under the previous Article and the adequacy of such standards to protect air quality.

Such permit must contain requirements consistent with this Title and any applicable sub-decrees and/or prakas that are in force.



**ARTICLE #**

Such permits generally expire after one year. The Ministry of Environment may issue permits for a longer period of time on a case-by-case basis.

**ARTICLE #**

The Ministry of Environment may revise or revoke a permit for any immobile (stationary) source at any time. The Ministry must provide its reasons to the immobile (stationary) source in writing.

**ARTICLE #**

The Ministry of Environment, in consultation with relevant ministries, may require immobile (stationary) sources to pay a reasonable fee for each permit and/or permit renewal.

**ARTICLE #**

The Ministry of Environment shall establish reasonable and effective procedures for immobile (stationary) sources to follow in applying or re-applying for a permit.

**ARTICLE #**

Such permit must contain limits or requirements to control the emission of any pollutant into the atmosphere based on the best available technology that is economically feasible, as determined by the Ministry of Environment

**ARTICLE #**

Where the owner or operator of a new source has applied for a permit, and the Ministry of Environment has previously established an applicable category-wide standard for new sources, the Ministry must include a standard in the permit at least as stringent as the category-wide standard. Where a category-wide standard is not applicable, but the Ministry has previously issued a permit containing a standard based on the best available technology economically feasible for a new immobile (stationary) source in the same category, the Ministry must include a standard as least as stringent as that in the earlier permit into such permit.

Where the owner or operator of an existing source has applied for a permit, and the Ministry of Environment has previously established an applicable category-wide standard for existing sources, the Ministry must include a standard in the permit at least as stringent as the category-wide standard, except as provided in the next paragraph. Where a category-wide standard is not applicable, but the Ministry has previously issued a permit containing a standard based on the best

available technology economically feasible for an existing immobile (stationary) source in the same category, the Ministry must include a standard as least as stringent as that in the earlier permit into such permit, except as provided in the next paragraph.

The owner or operator of an existing source may apply for a variance from an otherwise applicable category-wide standard or preceding permit determination of best available technology economically feasible. The owner or operator must demonstrate through specific information that a less stringent standard is warranted because the best available technology economically feasible is either not available for the particular existing source or is not economically feasible for the particular existing source. If the Ministry determines that a less stringent standard is warranted, the Ministry shall determine the standard based on the best technology that is available and economically feasible for the particular existing source.

#### **ARTICLE #**

Where the Ministry of Environment has not previously developed limits or requirements based on the best available technology economically feasible for a immobile (stationary) source in a certain sector, the Ministry must calculate such limits and/or requirements using its best professional judgment.

#### **ARTICLE #**

Such permit must also contain, as deemed appropriate by the Ministry of Environment, requirements related to monitoring of the emissions, reporting, recordkeeping sufficient to ensure compliance with the terms and conditions of the permit, as well as time frames for responses from the Ministry.

#### **ARTICLE 10**

The standards as stipulated in the relevant sub-legislation shall be reviewed every five (5) years and changed in necessary cases, based on a proposal of the Ministry of Environment.

#### **ARTICLE #**

The Ministry of Environment shall publish, through the Internet or other means reasonably available to the public, the individual information reported to the Ministry by each immobile source, including emissions, that is required under standards for immobile sources or permits. The Ministry of Environment shall also publish summaries of the aggregate emission from each category of immobile source.

### **CHAPTER 5 THE AIR POLLUTION IN BUILDINGS**

## **CHAPTER 6 HAZARDOUS MATERIALS**

### **ARTICLE 12**

The importation and production of flammable substances containing sulphur, lead, benzene and hydrocarbon shall be complied with as stipulated in the relevant sub-legislation. The requirements in the relevant sub-legislation shall minimize emissions of toxic air pollution to the extent economically feasible, as determined by the Ministry of Environment.

No person may import or produce such flammable substances without a permit as provided in Article 15.

### **ARTICLE 13**

The discharge or leakage of various flammable substances, fuel-oil, radioactive or chemical substances into the atmosphere, water and land shall be strictly prohibited. The Ministry of Environment shall establish in relevant sub-legislation a comprehensive list of specific substances covered by this Article. The Ministry of Environment may establish requirements in relevant sub-legislation that are designed to minimize the risk of such discharge or leakage by categories of sources or activities to the extent economically feasible, as determined by the Ministry.

## **CHAPTER 7 THE TECHNOLOGY TO REDUCE AND PREVENT AIR POLLUTION**

## **CHAPTER 8 THE REQUEST FOR APPROVAL OF A PERMIT**

### **ARTICLE 14**

The emission of any pollutant by any immobile (stationary) source into the atmosphere is prohibited except in compliance with this Title.

The owner or operator of an immovable source must apply to the Ministry of Environment for permission to emit pollutants into the atmosphere. A copy of such application shall be sent to the relevant ministries and institutions.

Upon receipt of an application, the Ministry shall issue a permit in accordance with the schedule set forth in Article 17. The permit shall contain terms and conditions in accordance with Title 4 of this Chapter. The Ministry shall send a copy of the permit to the relevant ministries and institutions.

### **ARTICLE 15**

The application for importation of flammable substances shall have attached analytic results indicating the quantity of pollutants, such as sulphur, lead, benzene, or hydrocarbon from the original source of importation or production. The Ministry of Environment shall issue a permit containing the applicable requirements for importation as set forth in the relevant sub-legislation under Article 12, and any other requirements the Ministry determines are necessary to minimize emissions of toxic air pollution to the extent economically feasible.

## **ARTICLE 16**

The application for authorization to discharge pollutant substances and noise as stipulated in Article 14 of this title shall be applicable to both new pollutant sources and existing and on-going activities, provided that there is an evaluation report of environmental impacts.

## **ARTICLE 17**

The owner or person who is responsible for pollution sources as stipulated in the Article 14 of this title shall applied for authorization from the Ministry of Environment:

- 40 days before the project commencement in Phnom Penh;
- 60 days before the project commencement in the province or municipality.

If the Ministry does not issue the permit or deny the application before the scheduled project commencement, the owner or responsible person may proceed with the project at their own risk. If the owner or responsible person proceeds with the project and the Ministry later issues a permit containing standards and other requirements, the owner or responsible person must comply with the permit terms and conditions regardless of the status of the project. If the Ministry later denies the permit, the owner or responsible person may not complete or operate the project regardless of the status of the project.

## **CHAPTER 9 THE CONTROL AND MONITORING OF ATMOSPHERE QUALITY**

## **ARTICLE 18**

The monitoring of the quantity of flammable substances, air pollutant emissions caused by immobile (stationary) sources shall be the responsibility of the Ministry of Environment in conjunction with the owner and/or operator of any immobile (stationary) source.

The monitoring of a permit issued by the MOE and compliance with the permit is the responsibility of the holder of the permit.

**ARTICLE #**

The permit holder shall certify that the sampling and monitoring are done in accordance with the requirements of the permit and any conditions of the Ministry of the Environment.

**ARTICLE #**

The permit holder shall immediately inform the Ministry of the Environment if there is a breach of the permit, if there is a problem with the sampling, or if there is a failure in any pollution control equipment.

**ARTICLE #**

The Ministry of Environment may, upon appropriate notice given to the immobile (stationary) source, monitor and/or order an appropriate entity to monitor the emissions of any pollutant from any immobile (stationary) source into the atmosphere.

**ARTICLE #**

All monitoring samples, regardless of who collected them, must be analysed by a Ministry of Environment laboratory or other laboratory that has been approved by the Ministry of Environment.

**ARTICLE 19**

The monitoring of gas emissions from movable source is the responsibility of the Ministry of Environment with the cooperation of relevant ministries and institutions. The monitoring procedure shall be determined by a joint declaration among relevant ministries.

**ARTICLE 20**

The Ministry of Environment shall prepare technical guidelines on the method for monitoring pollution sources, sampling locations, and air quality analysis.

**ARTICLE 21**

The Ministry of Environment shall take a sample at all emission points of pollution sources. The owner or person who is responsible for a pollution source shall cooperate with and facilitate the work of environmental officials who conduct testing to fulfil their technical duty.

**ARTICLE 22**

During an environmental inspection or activity aimed at controlling at pollution sources, the Ministry of Environment inspectors shall analyse the sample at such place or take them to an environmental laboratory for analysis.

#### **ARTICLE 23**

The owner or person who is responsible for pollution sources shall bear the cost of analysis of his/her own sample following the tariff determined by the Ministry of Environment and the Ministry of Economy and Finance. This income shall be transferred to the national budget in order to be allocated to the Environmental Endowment Fund Account.

#### **ARTICLE 24**

The owner or person who is responsible for pollution sources may ask to have his/her pollution sample tested at other public or private laboratories that are formally recognized when such laboratories carry out the same analytical method as those used in the Ministry of Environment's laboratory.

#### **ARTICLE 25**

The owner or person who is responsible for a pollution source shall:

- Be responsible for procurement and installation of any equipment to purify toxic substances in order to respond to air pollution standard;
- Be responsible for installing the equipment for measurement of the amount of pollutants contained in his/her pollution sources and maintain the result in its record, a report of which shall be sent to the Ministry of Environment every 3 months;
- Choose one environmental expert to be responsible for managing environmental affairs and preparing environmental protection plans for their institution for which the ministry of environment provides training at the request of the owner.

#### **ARTICLE 26**

If it is found that the discharge of toxic substances and noise from any pollution source fails to meet the standard as stipulated in the Articles 3 of this title, the Ministry of Environment shall:

1. Issue a written order requiring the owner or responsible person of such pollution source to correct the violation activities immediately within a specified period of time not exceeding [X] months;
2. Issue a written order requiring the owner or responsible person of such pollution source to

stop his/her activities temporarily until the violation is corrected if the violation activities cause any harm to public health and environment quality.

#### **ARTICLE 27**

The Ministry of Environment shall regularly control and monitor the situation of the air quality within the in order to take measures to prevent and reduce air pollution.

#### **ARTICLE 28**

The Ministry of Environment shall maintain data relating to the result of air quality testing and to assess the status of air quality and shall publicly disseminate the status of air quality and the situation concerning air pollution within the Kingdom of Cambodia.

#### **ARTICLE 29**

If it is found that any area is affected by air pollution which may threaten human life or environmental quality, the Ministry of Environment shall immediately notify the public about such danger and investigate to find out the sources of pollution and shall take measure to prevent air pollution and to restore the air quality.

### **CHAPTER 10 THE PROCEDURE OF INSPECTIONS AND INFORMATION COLLECTION**

#### **ARTICLE #**

The Ministry of Environment may inspect any immovable (stationary) source or mobile source?? with respect to the emission of any pollutant from such source. Such inspection need not be based on any report or evidence of any permit violation.

#### **ARTICLE #**

The Ministry of Environment may require owners or operators of any emission source, who the MOE believes may have information necessary to implement this Title on a one-time, periodic or continuous basis to:

1. establish and maintain such records;
2. make such reports;
3. install, use, and maintain such monitoring equipment;
4. sample such emissions;

5. keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical;
6. submit compliance certifications as set forth in sub-legislation; and
7. provide such other information as the Administrator may reasonably require.

#### **ARTICLE #**

During the course of inspection of pollution sources, the Ministry of Environment's inspector shall apply the following procedures:

- To present his/her identity card and mission letter when entering into the premise or any site of pollution for conducting inspection or sampling or checking records;
- Primary minutes and report of inspection or sampling shall be done at the site of inspection with the participation of a witness if necessary;
- The inspectors may ask questions and require the owner or responsible person of the source of pollution to provide information and other relevant documents which are useful for report making and minutes as evidence;

One copy of the minutes or report shall be given to the owner or the responsible person of the source of pollution and one copy to the representative of concerned ministries and another copy shall be kept at the Ministry of Environment and be available to the public on demand.

#### **ARTICLE 31**

Where there is a complaint or report that any source of pollution discharges, air pollutant, which cause any harm to human health or public property, the Ministry of Environment, in collaboration with concerned ministries, is entitled to conduct inspection at such source of pollution and take samples for testing.

#### **ARTICLE 32**

In the case of serious incident or imminent danger resulting from air pollution, the Ministry of Environment shall make an urgent inspection of the above incident or serious danger and shall inform the concerned ministries and local authority of such problem.

#### **ARTICLE 33**

When a violation of this title occurs that causes air pollution, the inspector of the Ministry of Environment shall:



- Take minutes, collect and withhold evidence of such offense and impose transitional fine if such offense does not cause any serious contamination or affect human health, public properties and environment quality.
- Collect and withhold evidence of such offense for making statement and forward the case to the competent agency, if this offense causes serious pollution or affect to human health or public properties and environment quality.

#### **ARTICLE 34**

Data and information collected under article 33 shall be made available to the public on demand.

### **CHAPTER # OPERATOR CERTIFICATION**

#### **ARTICLE #**

The Ministry of Environment may establish criteria and/or levels of certification for operators of point sources.

#### **ARTICLE #**

Such criteria and/or levels could include requirements for education, training, experience, and/or proficiency.

### **CHAPTER 11 TRANSBOUNDARY AIR POLLUTION**

#### **ARTICLE #**

The MoE will develop sub-legislation requiring provinces to prohibit any immovable source or group of sources from emitting any pollutant in amounts within each province which may significantly contribute, or are significantly contributing, to the detriment of the public health and welfare of citizens living in another province.

#### **ARTICLE #**

Such sub-legislation shall provide the ability for a province or its citizens to directly petition the MoE/courts/arbitration panel to prevent an immovable source located within another province from emitting a pollutant in amounts that may significantly contribute, or are significantly contributing, to the detriment of the public health and welfare. Upon receipt of such petition, the MoE/courts/arbitration panel will review (if the MoE reviews the petition consider requiring them to hold a public hearing on the petition) and either take further action to ensure the source is

compliant with the requirements of the relevant sub-legislation upon granting the petition, or deny the petition upon finding the source is not emitting in violation of the requirements of the relevant sub-legislation. The relevant sub-legislation will include the types of action the MoE may take upon granting a petition, such as requiring the source to adopt emission controls, halt construction, or other appropriate actions.

#### **ARTICLE #**

When the MoE upon receipt of reports, surveys or studies from any duly constituted international agency has reason to believe that pollutants emitted in a foreign country are endangering the public health and welfare of citizens in Cambodia, the MoE will work with the -insert appropriate government ministry or officials here- to undertake the appropriate diplomatic processes to inform and consult with the foreign country with the goal of reducing the impact of such pollutants. The MoE will also work with foreign countries who based on reports, surveys, or studies from any duly constituted international agency have reason to believe pollutants originating in Cambodia are endangering the public health and welfare of citizens in another country.

The MoE will grant the same rights only to foreign countries under this article regarding pollutants originating in Cambodia and impacting another country as the rights given by those countries to Cambodia.

### **CHAPTER 12 MEASURES TO PREVENT AND REDUCE AIR POLLUTION**

#### **ARTICLE 35**

MoE, in cooperation with Ministry of Economy and Finance, shall facilitate development of beneficial tax policies towards environmentally friendly vehicles and facilities.

#### **ARTICLE 36**

MoE, in cooperation with the relevant ministries, and taking into consideration the economic circumstances, shall develop policies facilitating import of environmentally friendly vehicles and preventing import of vehicles that have a high environmental impact.

#### **ARTICLE 37**

MoE, in cooperation with the relevant ministries, shall develop environmentally friendly urbanism policies.

#### **ARTICLE 38**

MoE, in cooperation with the relevant ministries, shall facilitate development of public transportation.

## **CHAPTER 13 VIOLATIONS AND PENALTIES**

### **ARTICLE #**

Any source, mobile or immobile, that emits any pollutant into the atmosphere without a permit from the Ministry of Environment is in violation of this Title.

### **ARTICLE #**

Any source, mobile or immobile, that obtains a permit from the Ministry of Environment but does not comply with any requirement of that permit is in violation of this Title and the permit.

### **ARTICLE #**

Making false samples or providing false information to the Ministry of the Environment is a violation of this Title.

### **ARTICLE #**

Failing to report a discharge in excess of a permit or failing to provide monitoring information in accordance with a permit and by the due date is a violation of this Title.

### **ARTICLE #**

In cooperation with other relevant government institutions, the Ministry of Environment may issue a warning or an order (with or without penalty fines) to any source that is in violation of this Title and/or its permit, consistent with any guidelines that the Ministry may follow or develop in the future.

### **ARTICLE #**

Such guidelines may address:

- a) the seriousness of the violation;
- b) the conduct of the offender;
- c) the attitude of the offender regarding the harm caused;
- d) the nature of the violation;

- e) any economic benefit incurred by the offender; and
- f) discouraging the violator from repeat violation and/or others from taking similar actions.

#### **ARTICLE #**

It shall be a civil offense to obstruct or otherwise hinder an officer of the Ministry of Environment in the performance of his or her duties including inspections or to fail to comply with a duly issued request for information or permit.

#### **ARTICLE #**

Criteria for a criminal offense.

The Ministry of Environment's official is responsible for making a report of prosecution for any person who violates any article of this title. The Ministry of Environment shall take legal action against any offense of this title.

#### **ARTICLE 41**

Any environmental inspection official or agent who is negligent, fails to pay attention to, fails to comply with the Ministry's regulations, or conspires with a violator or facilitates the commission of a violation, shall be subject to administrative sanction or face prosecution before the court.

### **CHAPTER 14 PUBLIC PARTICIPATION AND CITIZEN SUITS**

#### **ARTICLE #**

Any person may submit comments on any proposed air pollution rule that is created through sub-decree or praka. The Ministry of Environment shall take comments into consideration and respond to any comments received for a new air pollution rule before finalizing such rule.

#### **ARTICLE #**

Any person may submit comments on a proposed permit for any source issued by the Ministry of Environment. MOE shall take comments into consideration and respond to any comments received prior to issuance of a permit.

#### **ARTICLE #**

Comments may be in writing and submitted to the MOE. The MOE may decide to hold a hearing to receive oral comments at its discretion.

**ARTICLE #**

Any person may commence a civil action on his or her own behalf against the Ministry of Environment where there is an alleged failure of the MOE to perform any act or duty under this Title that is not discretionary.

**ARTICLE #**

Any person may commence a civil action on his or her own behalf against the Ministry of Environment to challenge a sub-decree or other implementing decision by the MOE as unlawful or without scientific basis.

**ARTICLE #**

Any person may commence a civil action on his or her own behalf against any person who is alleged to be in violation of this Title, or any sub-legislation.

**CHAPTER # OZONE LAYER PROTECTION**

**SECTION # GENERAL PROVISIONS**

**ARTICLE #**

Statements included in the most recent relevant sub-legislation will serve as a source of interpretation of the provisions of this Title.

**ARTICLE #**

Nothing in this Title shall restrict the authority of subordinate levels of government to require more stringent greenhouse gas reductions or additional adaptation activities.  
This Title shall be effective as of the date of enactment of the sub-legislation.

**SECTION # AUTHORITIES**

**ARTICLE #**

The specific duties of the MoE shall include, but are not limited to the following:

1. Coordinating the research, completion, and submittal of the reports listed in Section # (Reporting);

2. Communicating with other countries on scientific, administrative, enforcement, and other issues related to implementation of this Title;
3. Coordinating the national implementation and enforcement of this Title, and cooperating with other relevant authorities in this regard;
4. Representing Cambodia at national and international meetings related to the Paris Agreement;
5. Providing training, education, and information related to this Title;
6. Advising the Minister on action to be taken for the implementation and enforcement of this Title;
7. Intervening in litigation before a court in any matter under this Title.

**ARTICLE #**

The Minister shall issue such orders, protocols, and regulations as necessary to enable implementation of the provisions of this Title.

**ARTICLE #**

The MoE is authorized to gather information from the private and public entities to comply with its obligations under this Title, and to verify information in its possession through any reasonable means.

**ARTICLE #**

It shall be the duty of all private entities and public authorities to cooperate fully with the MoE in satisfying the provisions of this Title.

**SECTION # REPORTING**

**ARTICLE #**

The MoE shall annually calculate anthropogenic GHG emissions and carbons sinks, and publish a report on the calculations. The MoE shall promulgate regulations to implement this requirement, which shall ensure that the emissions from all sectors of the economy are accurately captured and reported.

**ARTICLE #**

The MoE shall annually publish a report describing the progress made towards implementing the Nationally Determined Contribution.

**ARTICLE #**

The MoE shall annually prepare an Adaptation Communication describing Cambodia's adaptation priorities, implementation and support needs, plans, and actions.

**ARTICLE #**

The MoE shall annually publish a report describing the financial, technology transfer, and capacity-building support that Cambodia has received in the preceding year, and the support of that nature that will be needed in the future.

**ARTICLE #**

The MoE may exercise its discretion in combining any of the required reports, as long as sufficient information about each issue is contained in the combined report.

**ARTICLE #**

When the Kingdom of Cambodia becomes a party to the Paris Agreement, the MoE shall report to the United Nations Framework Convention on Climate Change Secretariat.

**SECTION # MITIGATION**

**ARTICLE #**

Cambodia shall, at a minimum, achieve the emissions targets listed in the relevant sub-legislation.

**ARTICLE #**

The relevant sub-legislation shall be considered automatically amended upon submission of a revised sub-legislation. The amendments shall be published in the [NAME OF PREFERRED PUBLICATION OR PREFERRED MODE OF PUBLICATION] as soon as possible after the legislating process.

**ARTICLE #**

Within [XX] days of the effective date of this Title, the MoE shall promulgate regulations ensuring that Cambodia will achieve the emissions in the sub-legislation as expeditiously as practicable.

These regulations may include Internationally Transferred Mitigation Outcomes.

## **SECTION # ADAPTATION**

### **ARTICLE #**

Cambodia shall conduct the adaptation measures listed in the relevant sub-legislation to this Title.

### **ARTICLE #**

Within [XX] days of the effective date of this Title, the MoE shall promulgate regulations ensuring that Cambodia will complete the adaptation measures listed in the relevant sub-legislation as expeditiously as practicable.

## **SECTION # MANAGEMENT AND OVERSIGHT**

### **ARTICLE #**

The MoE shall develop and propose an annual budget sufficient to satisfy the obligations set out in this Title.

### **ARTICLE #**

Within two years of the effective date of this Title, and every two years thereafter, the MoE shall submit a report to the [LEGISLATIVE BODY] describing Cambodia's compliance with this Title, and providing recommendations for any changes to this Title that the MoE has determined will further the goals of this Title. Upon receipt of such report(s), the [LEGISLATIVE BODY] shall take such action as may be appropriate in response to recommended changes to this Title.

## **SECTION # ACCOUNTABILITY AND ENFORCEMENT**

### **ARTICLE #**

Failure of the MoE to perform any act or duty under this Title that is not discretionary is a Class X Offence.

### **ARTICLE #**

Promulgation of any regulation or other implementing decision by the MoE that is unlawful or without scientific basis is a Class X Offence.

### **ARTICLE #**



Obstruction or hindrance of an officer of the MoE in the performance of his or her duties or failure to comply with a duly issued request for information is a Class X Offence.

**ARTICLE #**

Failure to comply with any regulations promulgated under the authority of this Title is a Class X offence.

**ARTICLE #**

Any person or legal entity making or attempting to make either oral or written false or misleading statements in, or in connection with, any reporting or other activities conducted pursuant to this Title commits a Class X Offence and a category X Incarceratable Offence.

**ARTICLE #**

Any wilful violation of this Title is a class X Offence and a Category X Incarceratable Offence.

**TITLE 8        NOISE AND VIBRATION CONTROL**

**CHAPTER # REGULATION OF NOISE LEVELS**

**ARTICLE #**

Standards for noise emissions shall be determined by new legal instrument.

**CHAPTER # SALE OF ARTICLES EMITTING MORE THAN PRESCRIBED NOISE**

**ARTICLE #**

A natural person or legal entity who, whether on the person's own behalf or on behalf of another person, manufactures, distributes, or sells any article of a class prescribed by the relevant legal instrument for the purposes of this Chapter is guilty of an offence if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the relevant sub-legislation, is in excess of the standard.

**ARTICLE #**

The articles that may be prescribed for the purposes of this Chapter extend to factories, motor or other vehicles, vessels or other things of any description.

## **CHAPTER # SALE OF ARTICLES REQUIRED TO BE FITTED WITH NOISE CONTROL EQUIPMENT**

### **ARTICLE #**

A person who, whether on the person's own behalf or on behalf of another person, manufactures, distributes, or sells any article of a class prescribed by the relevant sub-legislation for the purposes of this article is guilty of an offence if the article is not fitted in the prescribed manner with noise control equipment of a prescribed class.

### **ARTICLE #**

A person who, whether on the person's own behalf or on behalf of another person, manufactures, distributes, or sells any article of a class prescribed by the relevant sub-legislation for the purposes of this article is guilty of an offence if the noise control equipment with which it is fitted has not been maintained in accordance with the relevant sub-legislation.

### **ARTICLE #**

It is a defence to a prosecution for an offence against article # (previous one) if the defendant proves that the defendant took all reasonable steps to ensure that the equipment was maintained as required by the relevant legal instrument.

### **ARTICLE #**

The articles that may be prescribed for the purposes of this Chapter extend to factories, motor or other vehicles, vessels or other things of any description.

## **CHAPTER # WORKPLACE**

### **ARTICLE #**

The Ministry of Environment shall develop a legal instrument categorizing industries and setting noise standards.

### **ARTICLE #**

The Ministry of Environment shall review the legal instrument on noise standards annually

### **ARTICLE #**

The manager or owner of a workplace shall abide by the relevant noise standard set in the relevant legal instrument.

#### **ARTICLE #**

The manager or owner of a workplace shall take all necessary and economically feasible steps to reduce noise in the workplace to a minimum level,

#### **ARTICLE #**

The occupier of any premises who operates any equipment (other than control equipment) at those premises in such a manner as to cause the emission of noise from those premises is guilty of an offence if the noise so caused, or any part of it, is caused by the occupier's failure:

- a) to maintain the plant in an efficient condition, or
- b) to operate the plant in a proper and efficient manner.
- c) To replace equipment not complying with the obligations of the relevant sub-legislation in [TIMEFRAME]

### **CHAPTER # DEALING WITH MATERIALS**

#### **ARTICLE #**

The occupier of any premises who deals with materials in or on premises in such a manner as to cause the emission of noise from those premises is guilty of an offence if the noise so caused, or any part of it, is caused by the occupier's failure to deal with those materials in a proper and efficient manner.

#### **ARTICLE #**

In this Chapter, "deal with materials" means process, handle, move, store or dispose of the materials. materials includes raw materials, materials in the process of manufacture, manufactured materials, by-products, or waste materials.

### **CHAPTER # MAXIMUM PENALTY FOR NOISE OFFENCES**

#### **ARTICLE #**

A person who is guilty of an offence under this Part is liable, on conviction:

- a) in the case of a corporation—to a penalty not exceeding [NUMBER] and, in the case of a continuing offence, to a further penalty not exceeding [NUMBER] for each day the offence continues, or
- b) in the case of an individual—to a penalty not exceeding [NUMBER] and, in the case of a continuing offence, to a further penalty not exceeding [NUMBER] for each day the offence continues.

## **TITLE 9 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.

# **TITLE 10 RESTORATION OF CONTAMINATED SITES**

## **CHAPTER 1 RESTORATION PURPOSE AND APPLICABILITY**

### **ARTICLE 1**

The purpose of conducting Restoration of a Contaminated Site shall be to reduce or eliminate Significant Environmental Impacts to the Environment through utilization of a Risk Assessment or Risk Reduction approach, which may vary depending on the Site. A Risk Assessment process may be utilized under Chapter 1 of Title 1 Risk Assessment to achieve the appropriate Restoration for a Contaminated Site.

## **ARTICLE 2**

This Title applies to the Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site whether the Discharge causing or contributing to the Contamination occurred prior to, on, or after the effective date of the Environment and Natural Resources Code. The Ministry of Environment shall develop a general list or categories of potential Contaminated Sites that could be subject to this Title. A Contaminated Site may include property or an area either privately or publicly owned or operated.

## **ARTICLE 3**

The Person or Persons responsible for Restoration of a Contaminated Site shall be identified under Book [XX] Title [XX] of the Environment and Natural Resources Code and shall be any Person who has legal responsibility for Restoration. The real property owner, the business or facility owner, the business or facility operator, the discharger, or other Person or governmental entity responsible for Significant Environmental Impacts to the Environment at a Contaminated Site may also be liable for Restoration.

## **ARTICLE 4**

The scope and extent of a Contaminated Site shall be determined depending on the specific site. The size and land or water (including surface water and groundwater) area coverage of a Contaminated Site may not initially be known. The Site Investigation conducted under Chapter 7 of this Title is intended to enable the scope and extent of the Contaminated Site to be determined.

## **CHAPTER 2 REPORTING OF SIGNIFICANT ENVIRONMENTAL IMPACTS TO THE ENVIRONMENT**

## **ARTICLE 5**

The discovery of a Discharge, a Contaminated Site, or a Significant Environmental Impact to the Environment shall be reported by any Responsible Person or Persons to the Ministry of Environment, or any governmental entity designated by the Ministry of Environment.

## **ARTICLE 6**

The discovery of a Discharge, a Contaminated Site, or a Significant Environmental Impact to the Environment may be reported by any member of the general public in keeping with the principle of public participation established under the Environment and Natural Resources Code.

## **ARTICLE 7**



Reporting of a Discharge, a Contaminated Site, or a Significant Environmental Impact to the environment may also be the result of an investigation or inspection by the Ministry of Environment, any representative of the Ministry of Environment, any other ministries or governmental entities, or any consultant conducting an investigation or inspection under the authority of the Ministry of Environment.

## **ARTICLE 8**

The Ministry of Environment may establish more specific requirements for the process and schedule on such reporting under Chapter 2.

## **CHAPTER 3 NOTICES AND PUBLIC PARTICIPATION**

## **ARTICLE 9**

Within 72-hours of the Ministry of Environment receiving any report under Chapter 2, the appropriate Ministry of Environment representative shall provide notice and a brief summary of such report to any other ministries and other governmental entities whose jurisdiction could extend over the environmental impacts that are the subject to the report. Such notice shall be provided in writing or through electronic communication. Other ministries and governmental entities receiving a Notice as specified from the Ministry of Environment shall have the opportunity to request periodic status updates from the Ministry of Environment on any subsequent work being conducted by any Responsible Person or Persons related to Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site following the Notice provided by the Ministry of Environment.

## **ARTICLE 10**

Ministry of Environment is required to establish a process and schedule for providing Notice to the general public, including any non-governmental organizations (NGOs) in the area of the property for which any reporting under Chapter 2 has occurred.

## **ARTICLE 11**

The Ministry of Environment is required to establish a process and schedule for satisfying the notice and public participation requirements for Chapter 3. Such process and schedule to be developed by the Ministry of Environment shall incorporate the principles of public participation and access to information as set forth in the Environment and Natural Resources Code

## **CHAPTER 4 RESTORATION RELATED TECHNICAL DOCUMENTS, STANDARDS,**

## **AND REPORTS**

### **ARTICLE 12**

Work undertaken under authority of the Ministry of Environment or by any Responsible Person or Persons on Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site may often be technically and scientifically detailed or complex. Accordingly, technical and scientific guidelines and information sources may be utilized and relied upon during the performance of Restoration work under this Title. The Ministry of Environment shall develop and maintain a list of technical and scientific guidelines and information sources that may pertain to and be utilized to conduct the work of Restoration of Significant Environmental Impacts to the Environment at any Contaminated Site.

### **ARTICLE 13**

The reference list maintained by MOE under Article 12, may be utilized by Ministry of Environment, other ministries and governmental entities, any Responsible Person or Persons for Restoration of a Contaminated Site, and any authorized consultants, as well as any member of the general public or NGOs for purposes of either conducting the Restoration referenced or otherwise monitoring any work or actions undertaken for the Restoration of a Contaminated Site.

## **CHAPTER 5 RESTORATION AGREEMENT WITH RESPONSIBLE OR LIABLE PERSON**

### **ARTICLE 14**

Ministry of Environment may require any Responsible Person or Persons to enter into a written Restoration Agreement in order to provide the framework and specific requirements for the conduct of Restoration of Significant Environmental Impacts at a Contaminated Site. The purpose of any such Restoration Agreement shall be as specified in Chapter 1, of this Title and the goal shall be to establish a framework for ultimately obtaining a final determination of Contaminated Site Restoration completion from the Ministry of Environment under Chapter 9 of this Title.

### **ARTICLE 15**

Ministry of Environment is authorized to establish a general procedure and schedule for negotiating and finalizing Restoration Agreements with a Responsible Person or Persons to conduct Restoration of a Contaminated Site.

### **ARTICLE 16**

As part of a Restoration Agreement, Ministry of Environment may require an optional development of a Conceptual Restoration Plan for the purpose of establishing the extent of Restoration work under this Title, including the use and implementation of any Risk Assessment under Chapter 1 of Book 2 Title 1 in support of a goal of Risk Reduction at a Contaminated Site.

#### **ARTICLE 17**

Upon finalization of any Restoration Agreement, Ministry of Environment shall provide Notices of such finalization to those Notice recipients identified under Chapter 3 of this Title, in accordance with the process and schedule to be developed. Ministry of Environment shall also maintain a list of all final Restoration Agreements as a reference source and public participation repository for future review and use by any person, other ministries and governmental entities, and the general public, including NGOs.

#### **ARTICLE 18**

Ministry of Environment shall establish requirements for the establishment of appropriate and necessary funding for the completion of any Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site as set forth in this Title. These requirements may include the necessary provision of sufficient funding to be provided by any Responsible Person or Persons for completion of Restoration under Chapter 9 below. Restoration work funding and financial assurance may be established as a component of any Restoration Agreement or separately if a Restoration Agreement is not required to be developed and finalized.

#### **ARTICLE 19**

As part of the Ministry of Environment establishment of funding and financial assurance requirements for Restoration of a Contaminated Site, Ministry of Environment may also require, on a Site determined basis, that funding to any other appropriate ministry or governmental entity, or a qualified NGO, as appropriate or necessary, shall be provided in order to monitor work associated with the Restoration of a Contaminated Site or to otherwise facilitate and foster the principles of public participation and access to information as set forth under the Environment and Natural Resources Code.

### **CHAPTER 6 INITIAL RESTORATION ACTIVITIES**

#### **ARTICLE 20**

Whether or not a Restoration Agreement has been developed and finalized under Chapter 5 above, the Ministry of Environment shall establish a process, procedures, and schedule for coordinating

any participation or involvement by Ministry of Environment and any other appropriate ministries and governmental entities for purposes of fostering, facilitating, and monitoring the Restoration of a Contaminated Site in order to address Significant Environmental Impacts to the Environment being undertaken by any Responsible Person or Persons.

## **ARTICLE 21**

Ministry of Environment is authorized to establish a process and procedures for requiring immediate activities to be initiated by the ministry, other ministries or governmental entities, and any Responsible Person or Persons for the purpose of implementing any Emergency Response Action under an expedited schedule to be established by Ministry of Environment, whether at any Contaminated Site potentially or actually affecting adjacent or nearby areas.

## **ARTICLE 22**

The source of Significant Environmental Impacts to the Environment may present an adverse continuing impact that could be lessened or alleviated if Source Removal actions are promptly implemented by a Responsible Person or Persons. Ministry of Environment is authorized to establish a process, procedures and schedule for conducting Source Removal of the Contamination, as necessary or appropriate, at a Contaminated Site.

# **CHAPTER 7 CONTAMINATED SITE INVESTIGATION**

## **ARTICLE 23**

The Responsible Person or Persons shall conduct an assessment and investigation of a Contaminated Site as part of the Restoration of Significant Environmental Impacts to the Environment. The site assessment and investigation shall be undertaken in accordance with specific requirements and timeframes to be established by the Ministry of Environment. To facilitate the site assessment process, the Responsible Person or Persons may have discussions with the appropriate Ministry of Environment personnel at various decision points to establish the scope and methodology of the site assessment and the possible utilization of a Risk Assessment under Chapter 1 of Book 2 Title 1 Risk Assessment in order to identify Risk Reduction options for the Restoration of a Contaminated Site. These discussions may include the development of a Conceptual Restoration Plan, whether or not as part of a Restoration Agreement under Chapter 5 above, to help make decisions with regard to site assessment, remedial strategy evaluation, risk management, and the completion of Contaminated Site Restoration. The site assessment and investigation shall be performed by an environmental consultant approved by Ministry of Environment.

## **ARTICLE 24**

If a Restoration Agreement has been finalized with a Responsible Person or Persons under Chapter 5, a site assessment and investigation shall be completed in accordance with the timeframes for such work set forth in the Restoration Agreement. Otherwise, site assessment and investigation tasks shall be completed pursuant to any specific requirements and timeframes established by the Ministry of Environment pursuant to Article 23.

## **ARTICLE 25**

As a component of any site investigation undertaken at a Contaminated Site, a Risk Assessment pursuant to Chapter 1 of Title 12 may be undertaken by the Responsible Person or Persons or may be required by Ministry of Environment as part of a final Restoration Agreement. Alternatively, a Risk Assessment may be conducted by a Responsible Person or Persons or may be directed to be undertaken by the Ministry of Environment after completion of a Contaminated Site investigation. The results of any such Risk Assessment may be utilized for determining the appropriate Restoration alternative to be conducted under Chapter 8, below, for the Contaminated Site.

## **ARTICLE 26**

A written site assessment report shall be prepared by the Responsible Person or Persons at the conclusion of the site assessment and investigation. The Ministry of Environment is authorized to establish guidelines or requirements for the specific content and goals of a site assessment report for a Contaminated Site. The site assessment report shall also include recommendations to Ministry of Environment for one or more Restoration alternatives to be performed by the Responsible Person or Persons at the Contaminated Site as follow-up work. The recommendations shall be based upon the findings and conclusions of the site assessment and investigation, including the results of any Risk Assessment, if performed.

## **ARTICLE 27**

If a Restoration Agreement has been finalized with a Responsible Person or Persons under Chapter 5, a site assessment and investigation shall be completed in accordance with the timeframes for such work set forth in the Restoration Agreement. Otherwise, site assessment and investigation tasks shall be completed pursuant to any specific guidelines or requirements established by the Ministry of Environment pursuant to Article 23.

# **CHAPTER 8 RESTORATION ALTERNATIVES**

## **ARTICLE 28**

The Responsible Person or Persons may propose and recommend that no further action should be required if the results of Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site confirm that remaining environmental impacts are in compliance with the obligations for pollution control established in Title 1 of this Book 6 and any applicable Environmental Quality Standards established under Title 2] of this Book 6 of the Environment and Natural Resources Code. The Ministry of Environment shall be responsible for either rejecting or approving any such no further action proposal and recommendation.

## **ARTICLE 29**

Even if Restoration work at a Contaminated Site has not achieved the general obligations or standards for pollution control and Environmental Quality Standards, as necessary and appropriate, as referenced in Article 28, a no further action proposal or recommendation may still be offered for Ministry of Environment consideration in conjunction with the utilization of Institutional Controls and/or Engineering Controls if the results of a Risk Assessment demonstrate that such Institutional Controls and/or Engineering Controls demonstrate sufficient Risk Reduction to the environment, public safety and human health at the Contaminated Site. The Ministry of Environment shall be responsible for either rejecting or approving any such no further action proposal and recommendation which may be offered in conjunction with proposed Institutional Controls and/or Engineering Controls.

## **ARTICLE 30**

Ministry of Environment is authorized to establish specific examples and a list of Engineering Controls and Institutional Controls that may be offered for consideration as part of a no further action proposal or recommendation.

## **ARTICLE 31**

If the conditions at a Contaminated Site which are identified after the site assessment and investigation actions and a site assessment report are completed as specified under Chapter 7 above do not support a no further action proposal or recommendation, with or without the use of Institutional Controls or Engineering Controls, the Responsible Person or Persons shall prepare and submit to Ministry of Environment for review a remedial action plan for active Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site. The remedial action plan shall be prepared and undertaken in accordance with specific requirements and timeframes to be established by the Ministry of Environment.

## **ARTICLE 32**

If a Restoration Agreement has been finalized with a Responsible Person or Persons under Chapter 5; active Restoration shall be completed in accordance with the timeframes for such work in the Restoration Agreement. Otherwise, active Restoration shall be completed pursuant to any specific requirements and timeframes established by the Ministry of Environment.

### **ARTICLE 33**

Restoration of a Contaminated Site may require long term care and maintenance actions before a final determination of restoration completion is made by the Ministry of Environment under Chapter 9. Ministry of Environment is authorized to establish representative examples and a list of long term care and maintenance actions which may include, but are not limited to, erosion control, general maintenance, groundwater protection, leachate control, storm water or other surface water management, and public access restrictions.

### **ARTICLE 34**

Restoration of a Contaminated Site may require environmental monitoring requirements before a final determination of restoration completion is made by the Ministry of Environment under Chapter 9. Ministry of Environment is authorized to establish representative examples and a list of environmental monitoring requirements.

## **CHAPTER 9 DETERMINATION OF RESTORATION COMPLETION**

### **ARTICLE 35**

The Ministry of Environment shall provide the Responsible Person or Persons with a determination that Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site has been completed when it has been satisfactorily demonstrated that Restoration work has met the general obligations for pollution control set forth in Title 1 of this Book 6 and also any applicable Environmental Quality Standards which have been established under Title 2 in this Book 6 as necessary.

### **ARTICLE 36**

The Ministry of Environment shall provide the Responsible Person or Persons with a determination that Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site has been completed when it has been satisfactorily determined that Restoration work has met the no further action proposal or recommendation in conjunction with the utilization of Institutional Controls and/or Engineering Controls referenced in Chapter 8, Article 29.

## **ARTICLE 37**

Contaminated Site Restoration shall not be considered complete until such time as the Ministry of Environment finalizes a determination under either Article 35 or 36 above. If Ministry of Environment proposes to finalize such a determination, the ministry shall first provide a proposed draft of the determination, with the supporting rationale and relevant information, to other appropriate ministries and governmental entities, as well as the general public and any appropriate NGOs for review and input before the ministry issues its final determination. After the receipt of any timely response, Ministry of Environment shall either finalize its Contamination Site Restoration completeness determination or shall notify the Responsible Person or Persons that additional Restoration work must be accomplished before a final completeness determination shall be issued by Ministry of Environment.

## **ARTICLE 38**

Ministry of Environment is authorized to establish the necessary notice and public participation process and procedures in accordance with Chapter 37 above, including an appropriate schedule for responses to such notice to be made to the ministry, on a proposed Contaminated Site Restoration completeness determination. Ministry of Environment shall also include, if necessary, the timeframe for completing the issuance of a final completeness determination or for additional Restoration work to be accomplished by the Responsible Person or Persons.

## **ARTICLE 39**

Upon finalization of any determination of Contamination Site Restoration, Ministry of Environment shall provide Notices of such finalization to those Notice recipients identified under Chapter 3 of this Title, in accordance with the process and schedule to be developed. Additionally, Ministry of Environment shall maintain a list of all final Contamination Site Restoration determinations as a reference source and public participation repository for future review and use by any person, other ministries and governmental entities, and the general public, including NGOs.

## **ARTICLE 40**

Funding and financial assurance for Contaminated Site Restoration may have been provided as part of a finalized Restoration Agreement under Chapter 5, Article 18, or under authority of other applicable provisions of the Environment and Natural Resources Code. When the Ministry of Environment makes a final determination of Contaminated Site Restoration completion pursuant to this Chapter 9, any such funding and financial assurance amounts established by the Responsible Person or Persons and which have not been expended on Restoration work shall be reimbursed to the Responsible Person or Persons. An exception to this fund reimbursement provision shall be if



Ministry of Environment, as part of its Restoration completeness determination review requires that applicable long-term maintenance and/or environmental monitoring requirements for the Contaminated Site shall also be conducted in the future before finalization of the ministry's Contamination Site Restoration completion determination.

## **TITLE 11      DIRECTIVE FOR POLLUTANT RELEASE TRANSFER REGISTRY (PRTR)**

The Law on the Establishment of the Ministry of Environment 1996 is hereby amended and clarified as follows:

*[Prerogatives of MoE shall be expanded to be able to follow the procedures set in this Chapter.]*

### **SECTION 1 BASIC REQUIREMENTS**

#### **ARTICLE 1**

The owner or operator of a facility subject to the requirements of this section shall complete a toxic chemical release form as published under section 7 of this chapter for each toxic chemical listed under the section 3 that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity established by section 6 of this chapter during the preceding calendar year at such facility. Such form shall be submitted to the MoE on or before [DATE], and annually thereafter and shall contain data reflecting releases during the preceding calendar year

### **SECTION 2 COVERED OWNERS AND OPERATORS OF FACILITIES**

#### **ARTICLE 2**

The requirements of this chapter shall apply to owners and operators of facilities that have 10 or more employees and that are in [the relevant published list] and that manufactured, processed, or otherwise used a toxic chemical listed under section 3 of this chapter in excess of the quantity of that toxic chemical established under section 6 of this chapter during the calendar year for which a release form is required under this chapter.

#### **ARTICLE 3**

The MoE may add or delete International Standard Industrial Classification of All Economic Activities (ISIC) codes for purposes of article 2 of this title, but only to the extent necessary to provide that each International Standard Industrial Classification of All Economic Activities (ISIC) codes to which this chapter applies is relevant to the purposes of this chapter.

## **ARTICLE 4**

The MoE, on his own motion or at the request of a stakeholder may apply the requirements of this chapter to the owners and operators of any particular facility that manufactures, processes, or otherwise uses a toxic chemical listed under section 3 of this chapter if the MoE determines that such action is warranted on the basis of toxicity of the toxic chemical, proximity to other facilities that release the toxic chemical or to population centres, the history of releases of such chemical at such facility, or such other factors as the MoE deems appropriate.

## **SECTION 3 TOXIC CHEMICALS COVERED**

## **ARTICLE 5**

The toxic chemicals subject to the requirements of this chapter are those chemicals listed in the relevant sub-legislation.

## **SECTION 4 REVISIONS BY THE MOE**

## **ARTICLE 6**

The MoE may by rule add or delete a chemical from the list described in section 3 of this chapter at any time.

## **ARTICLE 7**

A chemical may be added if the MoE determines, in his judgment, that there is sufficient evidence to establish that the chemical is known to cause or can reasonably be anticipated to cause significant adverse human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or recurring, releases.

## **ARTICLE 8**

A chemical may be added if the MoE determines, in his judgment, that there is sufficient evidence to establish that the chemical is known to cause or can reasonably be anticipated to cause in humans

- cancer or teratogenic effects, or
- serious or irreversible—
  - reproductive dysfunctions,
  - neurological disorders,

- heritable genetic mutations, or
- other chronic health effects.

## **ARTICLE 9**

A chemical may be added if the MoE determines, in his judgment, that there is sufficient evidence to establish that the chemical is known to cause or can reasonably be anticipated to cause, because of:

- its toxicity,
- its toxicity and persistence in the environment, or
- its toxicity and tendency to bio-accumulate in the environment,

a significant adverse effect on the environment of sufficient seriousness, in the judgment of the MoE, to warrant reporting under this chapter. The number of chemicals included on the list described under section 3 of this chapter on the basis of the preceding sentence may constitute in the aggregate no more than 25 percent of the total number of chemicals on the list.

## **ARTICLE 10**

A determination under articles 7 to 9 shall be based on generally accepted scientific principles or laboratory tests, or appropriately designed and conducted epidemiological or other population studies, available to the MoE.

## **ARTICLE 11**

A chemical may be deleted if the MoE determines there is not sufficient evidence to establish any of the criteria described in articles 7 to 9.

## **ARTICLE 12**

Any revision made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any revision made on or after December 1 of any calendar year and before January 1 of the next calendar 1 year shall take effect beginning with the calendar year following such next calendar year.

## **SECTION 5 PETITIONS**

## **ARTICLE 13**

Any person may petition the MoE to add or delete a chemical from the list described under section 3 of this chapter on the basis of the criteria in articles 7 and 8 of this title. Within 180 days after receipt of a petition, the MoE shall take one of the following actions:

- Initiate a rulemaking to add or delete the chemical to the list, in accordance with articles 7 to 11 of this title.
- Publish an explanation of why the petition is denied.

#### **ARTICLE 14**

A stakeholder may petition the MoE to add or delete a chemical from the list described under section 3 of this chapter on the basis of the criteria in articles 7 to 10 of this title. In the case of such a petition from a stakeholder to delete a chemical, the petition shall be treated in the same manner as a petition received under article 13 of this title to delete a chemical.

#### **ARTICLE 15**

In the case of such a petition under article 14 of this chapter to add a chemical, the chemical will be added to the list within 180 days after receipt of the petition, unless the MoE—

- initiates a rulemaking to add the chemical to the list, in accordance with articles 7 to 10 of this title, or
- publishes an explanation of why the MoE believes the petition does not meet the requirements of the articles 7 to 10 of this title for adding a chemical to the list.

### **SECTION 6 THRESHOLD FOR REPORTING**

#### **ARTICLE 16**

The threshold amounts for purposes of reporting toxic chemicals under this chapter with respect to a toxic chemical used at a facility are as follows, [NUMBER] of the toxic chemical per year.

#### **ARTICLE 17**

The threshold amounts for purposes of reporting toxic chemicals under this chapter with respect to a toxic chemical manufactured or processed at a facility are as follows:

- For the toxic chemical release form required to be submitted under this article on or before [DATE], [NUMBER] of the toxic chemical per year.

- For the form required to be submitted on or before [DATE], [NUMBER] of the toxic chemical per year.
- For the form required to be submitted on or before [DATE], and for each form thereafter, [NUMBER] of the toxic chemical per year.

## **ARTICLE 18**

The MoE may establish a threshold amount for a toxic chemical different from the amount established by articles 16 and 17 of this title. Such revised threshold shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this chapter. The amounts established under this paragraph may, at the MoE's discretion, be based on classes of chemicals or categories of facilities.

## **SECTION 7 FORM**

## **ARTICLE 19**

Not later than [DATE], the MoE shall publish a uniform toxic chemical release form for facilities covered by this chapter. Such form shall:

- provide for the name and location of, and principal business activities at, the facility;
- include an appropriate certification, signed by a senior official with management responsibility for the person or persons completing the report, regarding the accuracy and completeness of the report; and
- provide for submission of each of the following items of information for each listed toxic chemical known to be present at the facility:
  - Whether the toxic chemical at the facility is manufactured, processed, or otherwise used, and the general category or categories of use of the chemical.
  - An estimate of the maximum amounts (in ranges) of the toxic chemical present at the facility at any time during the preceding calendar year.
  - For each waste stream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved by such methods for that waste stream.
  - The annual quantity of the toxic chemical entering each environmental medium.

## **ARTICLE 20**

In order to provide the information required under this chapter, the owner or operator of a facility shall use readily available data (including monitoring data) collected pursuant to other provisions of law. In order to assure consistency, the MoE shall require that data be expressed in common units.

## **SECTION 8 USE OF RELEASE FORM**

### **ARTICLE 21**

The release forms required under this chapter are intended to provide information to the government and the public, including citizens of communities surrounding covered facilities. The release form shall be available, to inform persons about releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards; and for other similar purposes.

## **SECTION 9 MODIFICATIONS IN REPORTING FREQUENCY**

### **ARTICLE 22**

The MoE may modify the frequency of submitting a report under this chapter, but the MoE may not modify the frequency to be any more often than annually. A modification may apply, either nationally or in a specific geographic area, to the following:

- All toxic chemical release forms required under this chapter.
- A class of toxic chemicals or a category of facilities.
- A specific toxic chemical.
- A specific facility.

### **ARTICLE 23**

A modification may be made under article 22 of this title only if the MoE makes a finding that the modification is consistent with the provisions under article 21 of this title, based on:

- experience from previously submitted toxic chemical release forms, and
- determinations made under article 24 of this title.

### **ARTICLE 24**

The MoE shall make the following determinations with respect to a proposed modification before making a modification under the relevant article:

- The extent to which information relating to the proposed modification provided on the toxic chemical release forms has been used by the MoE or other agencies of the government, health professionals, and the public.
- The extent to which the information is readily available to potential users from other sources, such as reporting programmes.
- The extent to which the modification would impose additional and unreasonable burdens on facilities subject to the reporting requirements under this chapter.

## **ARTICLE 25**

Any modification made under this chapter shall be reviewed at least once every 5 years. Such review shall examine the modification and ensure that the requirements of articles 22 to 24 of this title still justify continuation of the modification. Any change to a modification reviewed under this article shall be made in accordance with this chapter.

## **ARTICLE 26**

Any modification made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any modification made on or after December 1 of any calendar year and before January 1 of the next calendar year shall take effect beginning with the calendar year following such next calendar year.

## **SECTION 10 MOE MANAGEMENT OF DATA**

## **ARTICLE 27**

The MoE shall establish and maintain in a computer data base a national toxic chemical inventory based on data submitted to the MoE under this chapter. In accordance with Book 1 access to information The MoE shall make these data accessible to any person on a cost reimbursable basis.

## **SECTION 11 REPORT**

## **ARTICLE 28**

Not later [DATE], MoE shall publish a report including each of the following:

- A description of the steps taken by the MoE and the States to implement the requirements of this chapter, including steps taken to make information collected under this chapter available to and accessible by the public.
- A description of the extent to which the information collected under this chapter has been used by the Environmental Protection Agency, the government, and the public, and the purposes for which the information has been used.
- An identification and evaluation of options for modifications to the requirements of this chapter for the purpose of making information collected under this chapter more useful.

## SECTION 12 EXEMPTION

### ARTICLE 29

This chapter does not apply to the transportation, including the storage incident to such transportation, of any substance or chemical subject to the requirements of this chapter, including the transportation and distribution of natural gas.

## SECTION 13 REGULATIONS

### ARTICLE 30

The MoE may prescribe such regulations as may be necessary to carry out this chapter.

## BOOK 7 ENVIRONMENTAL EDUCATION AND AWARENESS

The Law on Education 2007 and the Law on Curriculum are hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management.]*

## TITLE 1 GENERAL PROVISIONS

### ARTICLE 1

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]*.



## ARTICLE 2

Further, the Kingdom of Cambodia considers that education, public awareness and access to information are critical for achieving all objectives of the Environment and Natural Resources Code.

## ARTICLE 3

The Kingdom of Cambodia considers EE as a mechanism for implementing the Principle of Intergenerational Equity.

## ARTICLE 4

The appropriate Ministries and authorities shall have the authority to design, implementation and enforcement of curricula.

## ARTICLE 5

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 and ESD into education at all levels.

## **ARTICLE 6**

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**

### **ARTICLE 1**

Any policy relating to the environment or 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);

### **ARTICLE 2**

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**

### **ARTICLE 1**

Relevant Ministries should include knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into professional qualifications and certificates.

### **ARTICLE 2**

Relevant Ministries create provisions to include relevant EE content, appropriate methods and materials are provided for the trainings and other learning processes.

### **ARTICLE 3**

Training should be provided to include environmental topics.

#### **ARTICLE 4**

Relevant Ministries are responsible for creating training materials supporting educational processes aiming at addressing environmental challenges.

#### **ARTICLE 5**

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**

#### **ARTICLE 1**

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.

#### **ARTICLE #**

Relevant ministries and authorities shall promote sustainable living through public awareness campaign.

#### **ARTICLE #**

### **PUBLIC AND PRIVATES ORGANISATIONS SHALL BE ENCOURAGED TO FOLLOW GREEN PRACTICES WITHIN THEIR OWN INSTITUTIONS. ARTICLE 2**

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**

#### **ARTICLE 1**

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) Develop and keep up to date educational materials – pedagogic, didactic, methodological publications as well as textbooks and other relevant resources –to support teaching and learning processes related to environment and other associated aspects of sustainable development, that:
  - 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**

### **ARTICLE 1**

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.

### **ARTICLE 2**

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**

### **ARTICLE 1**

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.

## **ARTICLE 2**

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**

### **ARTICLE 1**

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.

## **ARTICLE 2**

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 draft content is currently being analysed and reviewed in collaboration with MEF. The content is subject to revision.]

### **TITLE 1 INCENTIVES AND TAXATION**

#### **CHAPTER 1 ECONOMIC INCENTIVES**

The Law on Concessions 2007, the Kram on the General Statute of Public Enterprises 1996 is hereby amended and clarified as follows:

#### **ARTICLE 1 ASSESSMENT OF FINANCING MECHANISMS**

To support implementation of national strategic development policies, the MoE with the cooperation of the MEF and other relevant line ministries shall prepare an annual assessment of opportunities and mechanisms for incentivising investment in the protection, restoration, and

enhancement of the Environment and Natural Resources. The analysis shall include a consideration of the priorities for mobilization, determination of an effective management framework, and a 3-5 year business plan to promote diversification and sustainability of financing.

## **ARTICLE 2 DEVELOPMENT OF ECONOMIC INCENTIVES**

The MoE and other appropriate line Ministries shall collaborate with the MEF to develop economic incentives in support of the relevant government policies for strategic development; biodiversity; conservation; climate change; sustainable development; and environmental and natural resource protection, restoration and enhancement. Such incentives shall be issued by the MEF in Financial Law or other relevant legislation. Such incentives shall be based on best available evidence and international standards, and shall at a minimum establish economic incentives, including taxation, subsidies and other appropriate fiscal measures, relating to:

- (a) Incorporation of standards, concerning environmental and social performance and risk management, into decision-making by entities from the business and finance sectors;
- (b) Private sector investment;
- (c) Reduction of deforestation and promotion of biodiversity and natural resource conservation;
- (d) Sustainable forestry and sustainable fisheries;
- (e) Community-based natural resource management;
- (f) Development of and investment in renewable energy infrastructure.
- (g) Efficient use of Natural Resources by industry, including the use of resource efficient and low-carbon modes of production and the reduction of pollution from industrial sources.
- (h) Equitable allocation of revenue from carbon-offset mechanisms in a list to be determined by the NCSD and approved by the MEF. This list will be updated and reapproved every three years, based on the strength of the respective measuring, reporting and verification for the claimed emission reductions and Sustainable Development deliverables
- (i) Payments to individuals and communities in collaboration with local authorities, for Natural Resource Goods and Services including those provided by ecosystems, in accordance with the Law on Public Finance.

## **ARTICLE 3 PUBLIC PRIVATE PARTNERSHIPS**

The Ministry of Environment may, on its own or in cooperation with a relevant Ministry, issue requests for proposals for potential Public Private Partnerships for developing infrastructure in support of a sustainability or environmental purpose in accordance with the Law on Concessions. The MoE shall follow the procurement process as defined in the relevant policy guidelines. The



MoE may require the proposal to include proof of financial resources and health; market study; use of sustainable sourcing plans; demonstration of the project's contribution to low-carbon resilient sustainable development; and capacity for providing ongoing technical support. Part of the Procurement Committee must include Cambodian citizens residing in the community most affected by the infrastructure and related services to be developed through the PPP. All documents must be prepared pursuant to the LoC and the relevant policy guidelines.

The ultimate responsibility for the management of forests, natural resources, mineral resources, marine resources and other sectoral resources shall be under the control of a Cambodian-held entity or relevant Cambodian Ministries.

## **TITLE 2 (OPTION 1) VALUATION OF RESOURCES AND ECOSYSTEMS SERVICES**

Title currently being reviewed. The content is subject to revision. References to environmental valuation will potentially be removed; and in this section provisions being developed establishing in very general terms a legislative framework for the development of environmental statistics and accounts.

### **CHAPTER 1 SCOPE AND PROCEDURES FOR VALUATION OF RESOURCES AND ECOSYSTEM SERVICES, INCLUDING NATURAL CAPITAL ASSESSMENT**

#### **ARTICLE 1 CO-OPERATION WITH LOCAL AUTHORITIES**

Local authorities shall cooperate with MoE and MEF in developing locally-relevant streams of revenue derived from Environmental Services to complement current revenue streams in compliance with the Law on Public Finance and relevant laws on finance for sub-national authorities.

#### **ARTICLE 2 VALUATIONS**

The MoE and the MEF shall, with the assistance of the relevant experts, conduct valuations on the most readily assessed ecosystem services, including but not restricted to the provision of watershed services from protected areas adjacent to urban centers; and the role of wetlands in water purification.

### **CHAPTER 2 PAYMENT FOR ECOSYSTEM SERVICES**

#### **ARTICLE 3 DEFINITION OF ECOSYSTEM SERVICES**

Ecosystem Services for the purposes of this Book has the same definition as in Book 4, Title 2.

#### **ARTICLE 4 USE OF UP-TO-DATE MARKET RESEARCH**

The Ministry of Environment shall ensure that charges for ecosystem services shall be based on up to date market research in order to accurately reflect market value and fully recover costs.

#### **ARTICLE 5 ENSURING COLLECTION AND DISTRIBUTION OF PAYMENTS**

The Ministry of Environment shall ensure that payments are collected and distributed following valuations by the MEF and MOE.

#### **ARTICLE 6 ESTABLISHMENT OF BENEFIT SHARING SYSTEM**

The implementing institution for PES will establish Benefit Sharing System for the operation of PES schemes in Cambodia, in support of strategies for emission reduction, conservation, and sustainable natural resource management.

#### **ARTICLE 7 PROCEDURE FOR DEVELOPING A PAYMENT FOR ECOSYSTEM SERVICES PROJECT**

As part of the process of developing a payment for ecosystem services project, the relevant Ministry shall complete key steps required to develop a PES project including: 1) identifying and defining the ecosystem services, their beneficiaries and providers; 2) conducting a valuation of the services; 3) creating a marketing scheme for the services, and 4) establishing a Benefit Sharing System. The relevant Ministry shall use this information to make a determination on appropriate mechanisms for Payment for Ecosystem Services in LCAs including Collaboratively Managed Areas.

#### **ARTICLE 8 PAYMENT FOR ECOSYSTEM SERVICES IN BIODIVERSITY CONSERVATION CORRIDORS INCLUDING COLLABORATIVELY MANAGED AREAS**

The Ministry of Environment shall cooperate with the relevant Ministries and collaborative management administrative bodies to develop a mechanism for managing and administering payment for ecosystem services in Biodiversity Conservation Corridors, other protected areas, and all Collaboratively Managed areas. This mechanism shall establish principles, conditions and formats of payment; accounting and reporting requirements; audits, inspection, supervision, and disclosure requirements; regular capacity building trainings; and guidelines per sector.

#### **ARTICLE 9 CONTROL OF ENTERPRISES CONCERNED WITH MATTERS OF CAMBODIAN NATIONAL SECURITY**

Enterprises concerned with matters of Cambodian national security shall be controlled by a state-owned entity, the request for which shall be forwarded by the MEF and the MoE or other relevant line ministries in accordance with the Kram dated June 17, 1996 on the General Statute of Public Enterprises.

## **ARTICLE 10 STATE-OWNED ENTERPRISES**

The MoE may propose to the General Department of Non-Tax and State Properties of MEF the creation of state-owned enterprises, including those with power delegated to an appropriate and competent sub-national authority, for the purposes of supporting the RGC's goals of sustainability, environmental protection, biodiversity protection, and waste management. Such enterprise shall be under the control of the MoE through its representative sitting at the Council of Administration, in accordance with the Kram on the General Statute of Public Enterprises 960617

## **ARTICLE 11 CONSERVATION AND MITIGATION BANKS**

The MoE, in cooperation with the NBC and the MEF, may sponsor development of a conservation or mitigation bank. The MoE may enter into a joint venture, pursuant to requirements of the Kram on the General Statute of Public Enterprises 960617, with the MoE retaining majority control. All conservation or mitigation banks must have majority Cambodian Ministry or State control.

# **TITLE 2 (OPTION 2) ENVIRONMENTAL STATISTICS AND ACCOUNTS**

## **ARTICLE 1 DEVELOPMENT OF ENVIRONMENTAL STATISTICS AND ACCOUNTS**

The appropriate Ministries shall collaborate with relevant stakeholders to develop a national coordination framework for data and statistics concerning the Environment and Natural Resources. This framework shall include a system of accounts that record assessed Values of Cambodia's Environment and Natural Resources, and are linked with relevant economic accounting systems in accordance with international best practice and standards.

## **ARTICLE 2 PUBLICATION OF DATA AND STATISTICS**

The appropriate Ministries shall publish reports on a regular basis that present data and statistics concerning the status and Values of Cambodia's Environment and Natural Resources.

# **TITLE 3 ENVIRONMENTAL FEES, FUNDS AND FUND MANAGEMENT**

Revisions are being made to conform all sections to existing legislation on financial mechanisms.  
Draft provisions may change in this regard.

## **CHAPTER 1 ENVIRONMENTAL FEES**

### **ARTICLE 1 ENVIRONMENTAL PROTECTION FEE**

Any Project Proponent requiring an EIA shall pay an Environmental Protection Fee calculated to be 1% of the total project costs. The Environmental Protection Fee shall be paid to the Environmental and Social Fund.

The MoE shall define the method of calculation of total project costs by legal instrument.

### **ARTICLE 2 EXEMPTIONS FROM THE ENVIRONMENTAL PROTECTION FEE**

To assist with the promotion of sustainable energy in accordance with the relevant government policies, any company developing renewable alternative energy sources in the form of wind, solar and sustainable biomass may apply for exemption of payment of the environment protection fee.

To assist with the promotion of national sustainable strategies Project Proponents able to prove that they have invested in climate proofing and/or resource efficiency measures may apply for exemption of payment of the environmental protection fee. Procedures for such application shall be determined by joint prakas of the MEF and MOE.

### **ARTICLE 3 SUSTAINABLE CONSUMPTION SCHEMES**

The Ministry of Environment shall develop and support schemes for sustainable consumption, including conducting research and development, publishing research results, developing appropriate incentives and subsidies, requiring standards and labelling, and other relevant activities. The MoE may engage in education and awareness campaigns to promote public awareness and participation in such schemes in the Kingdom of Cambodia.

### **ARTICLE 4 OTHER FEES**

The Project Proponent shall be responsible for any other fees required by legislation other than the Environment and Natural Resources Code.

## **CHAPTER 2 ENVIRONMENTAL FUNDS AND FUND MANAGEMENT**

### **SECTION 1 ENVIRONMENTAL AND SOCIAL FUND**

## **ARTICLE 5 ESTABLISHMENT OF ENVIRONMENTAL AND SOCIAL FUND**

A special account, the Environmental and Social Fund, shall be established for the purpose of collecting, managing, organizing and using financial resources effectively to restore environment, protect the environment, conserve bio-diversity, use natural resources properly and sustainably, and promote sustainable living for the long-lasting benefit of all Cambodian people and all generations. The Fund and its management shall be established by sub-decree.

## **ARTICLE 6 SOURCES OF INCOME**

Sources of income for the Environmental and Social Fund shall include government sources; private and public development project proponents, including those requiring EIA; international donor organizations; donations from national and international non-governmental organizations; income from environmental protection, ecosystem services and biodiversity conservation; fees, fines and penalties set by the MOE; and any other relevant sources. Any civil remedy arising out of a citizen's public interest complaint may also be deposited into this fund. This fund shall not be liable to taxes and duties.

## **ARTICLE 7 ENVIRONMENTAL AND SOCIAL FUND COMMITTEE**

The Environmental and Social Fund Committee shall be responsible for the management and functioning of the Environmental and Social Fund. The Committee shall be comprised of 5 members, including the Minister of the Ministry of Environment as Committee Chief; a Secretary of State of the Ministry of Economy and Finance as Vice-Chief; a representative of the Ministry of Environment; a representative of the Ministry of Economy and Finance; and 1 representative of the Environmental Protection Department.

## **ARTICLE 8 RESPONSIBILITIES OF THE ENVIRONMENTAL AND SOCIAL FUND COMMITTEE**

The duties and responsibilities of the Environmental and Social Fund Committee shall be determined by legal instrument.

The Environmental and Social Fund Committee shall take into account relevant national policy and environmental, social and corporate governance criteria in managing the Environmental and Social Fund.

## **ARTICLE 9 TRANSPARENCY AND MANAGEMENT OF THE FUND**

The Environmental and Social Fund Committee shall govern the fund in a transparent and accountable manner. The Committee shall provide quarterly financial and progress reports to the Royal Government. The Committee shall conduct audits on an annual basis and provide annual reports to the Royal Government.

## **ARTICLE 10 OPERATIONS OF THE ENVIRONMENTAL AND SOCIAL FUND COMMITTEE**

The Environmental and Social Fund Committee shall have its own permanent secretariat at the Environmental Protection Department.

The Environmental and Social Fund Committee may appoint a director to manage the day to day functioning of the Environmental and Social Fund. The Environmental and Social Fund Committee shall establish the duties and powers of the Director. The Director shall be responsible to the Environmental and Social Fund Committee.

The organization and functioning of the secretariat shall be determined by Prakas of the Ministry of Environment.

## **ARTICLE 11 CRITERIA FOR GRANT-MAKING AND DISBURSEMENT FROM THE ENVIRONMENTAL AND SOCIAL FUND**

The Environmental and Social Fund shall disburse its funds with the objectives to support local community activities to implement Collaborative Management, livelihood enhancement to communities affected by efforts to restore environment, protect the environment, conserve biodiversity, use natural resources properly and sustainably, and promote sustainable living. Procedures and priorities for disbursement from the Environmental and Social Fund shall be determined by an appropriate legal instrument of the MOE and the MEF

The Environmental and Social Fund Committee shall develop a policy regarding strategy for procurement methods; management of the fund including capitalization and investment; administrative and legal measures to collect amounts determined by the EMP of EIA and EPA; and any other necessary policies to ensure the long-term health of the fund. The Environmental and Social Fund Committee may commission a study to support the drafting of this policy.

## **SECTION 2 THE ENVIRONMENT ENDOWMENT FUND**

### **ARTICLE 12 CONTINUANCE OF THE ENVIRONMENT ENDOWMENT FUND**

The Environment Endowment Fund as established by the 1996 Environmental Protection and Natural Resource Management Law shall continue to be administered by the Ministry of Environment in accordance with the Finance Law.

The Environment Endowment Fund, which is funded by 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.

### **SECTION 3 SITE-SPECIFIC ACCOUNTS**

#### **ARTICLE 13 ESTABLISHMENT OF SITE-SPECIFIC ACCOUNTS**

The MoE may request to the MEF for the creation of accounts on a site-specific basis to fund projects or activities aimed at capacity development, institutional strengthening, conservation and environmental protection, and social responsibility in support of a community directly affected by development, and in support of the priorities and actions identified in national and local level environmental protection, collaborative management, sustainability and conservation plans. The accounts may be as special accounts or as commercial bank accounts at a local or international financial institution. The accounts shall be created in accordance with the relevant laws. The management of such fund shall be enacted by a Joint Prakas of the MEF and the Ministry of Environment.

#### **ARTICLE 14: SOURCES OF FUNDS FOR SITE-SPECIFIC ACCOUNTS**

The Site-Specific Accounts may be constituted from voluntary payments from private sector actors, grants from international organizations, donations from charitable individuals, and donations from non-governmental organizations.

#### **ARTICLE 15 AUDITING AND REPORTING OF SITE-SPECIFIC ACCOUNTS**

The Site-Specific Accounts shall follow the accounting and auditing requirements pursuant to the Accounting and Auditing Law 2016.

#### **ARTICLE 16 TRANSPARENCY AND GOVERNANCE PROCEDURES FOR SITE SPECIFIC ACCOUNTS**

The organization and functioning of these Site-Specific Accounts shall be determined by the MoE and the MEF in collaboration with the relevant Account Manager, and shall meet the following minimum requirements:

The MoE shall host the secretariat;

The Board shall be made up of government, donor, and community members if there is an affected community;

The chair of the Board shall be selected by consensus of the members;

The manager of the account may be an independent foundation created by the MOE or an independent third party with responsibilities delegated from the MOE.

Financial and progress reports shall be provided by the account manager to the Board quarterly.

The account manager shall conduct audits on an annual basis and provide to the Board an annual report.

Any entity acting as account manager of a Site Specific Account shall be accountable to its Board for the performance of its management responsibilities. The Account Manager shall take the same care in its activities as Account Manager as it would in conducting its own affairs.

## **SECTION 4 TRUST FUNDS**

### **ARTICLE 17 ESTABLISHMENT OF ENVIRONMENTAL TRUST FUNDS**

The Royal Government of Cambodia may establish a revocable trust with a set term, on its own or in collaboration with any Domestic Association or Foreign Association as defined by the Law on Associations and NGOs with environmental protection as their purpose (Environmental Trust Fund). Such Environmental Trust Fund must be for the purpose of restoration and rehabilitation of the environment; protection of cultural heritage or biodiversity; promoting sustainable management of natural resources, research, or environmental education; or any other purpose in the public interest and for the benefit of the environment that the Minister of the Ministry of Environment determines is appropriate.

A duly constituted Environmental Trust Fund must have a written trust instrument, approved by the MEF and registered with the MOE.

The details of the establishment of an Environmental Trust Fund shall be determined by legal instrument of the MoE and MEF.

### **ARTICLE 18 DEFINITION**

An Environmental Trust Fund for the purposes of the Natural Resource and Environment Code is an obligation which binds the Trustee to administer property for the benefit of a stated



environmental purpose. Revocable means that the provisions of an Environmental Trust Fund may be altered or cancelled with the permission of the Royal Government of Cambodia.

## **ARTICLE 19 ENVIRONMENTAL TRUST FUND ASSETS AND ACCOUNTS**

The assets of an Environmental Trust Fund may be constituted from the National Budget; official development aid; payments for ecosystem services; and/or direct donations. All interest arising from the Environmental Trust Fund shall be paid into and form part of the Environmental Trust Fund.

The details of the establishment and functioning of an Environmental Trust Fund and its accounts shall be determined by sub-decree of the MEF and the MOE.

## **ARTICLE 20 RESPONSIBILITIES OF TRUSTEES**

A Trustee of an Environmental Trust Fund is responsible for the assets of the Environmental Trust Fund and must administer the Fund in furtherance of the objectives of Environmental Trust Funds stated in this Code. The Trustee must act to the standard of care, diligence and professionalism that it has when dealing with or managing its own funds and accounts when carrying out the following responsibilities:

1. Receiving funds
2. Administering accounts
3. Investing funds in the Trust Fund

A Trustee is entitled to receive reasonable remuneration for its services, and reimbursement of reasonable, documented, out-of-pocket costs. A Trustee must maintain Trust Fund assets separate from its own assets and any other assets it may be administering. The Trustee must be covered by Professional Liability Insurance.

The responsibilities of a Trustee in regard to an Environmental Trust Fund shall be determined by sub-decree of the MoE and MEF.

## **ARTICLE 21 REPORTING**

The Trustee shall keep a regular accounting of the Trust Fund's financial books and records. Upon request by the MEF, the Trustee shall provide unaudited or audited financial statements. All records shall be kept and maintained in the Kingdom of Cambodia.

## **ARTICLE 22 IDENTITY OF TRUSTEES**

A Trustee must be a Domestic Association or Foreign Association as defined by the Law on Associations and NGOs, with environmental protection as their purpose. A Trustee shall be accountable to the MoE.

## **ARTICLE 23 CONFLICTS**

If during the course of its duties a Trustee has reason to believe that it may be acting in conflict of interest to the Environmental Trust Fund, the Trustee must report this conflict to the MoE. If, on the evidence, the MoE has reason to believe that the Trustee is acting in conflict of interest to the Environmental Trust Fund, or is acting contrary to the benefit of the environment and/or the public, the MoE may initiate an investigation on the issue. The MoE may suspend the responsibilities of the Trustee for the duration of the investigation. If the MoE suspends the responsibilities of the Environmental Fund Trustee, the MoE must appoint an interim Trustee that meets the requirements of the NR&E Code.

The MoE and MEF shall determine the rules and procedures for suspension, removal, and replacement of a Trustee.

## **ARTICLE 24 VALIDITY OF ENVIRONMENTAL TRUST FUND**

An Environmental Trust Fund must be the subject of a written trust instrument, approved by the MEF and registered with the MoE to be valid and effective. The MoE and MEF shall determine in sub-decree the requirements for the content of the written trust instrument and the process of registration and approval.

## **ARTICLE 25 REGISTER**

The MoE shall maintain a publicly accessible register of Environmental Fund Trustees and reports of the Environmental Trust Funds

## **ARTICLE 26 USE OF ENVIRONMENTAL TRUST FUND ASSETS**

The Trustee may use the assets of the Environmental Trust Fund to:

1. Fund projects that meet the purpose of the Trust Fund as stated in this Code;
2. Pay for operational costs of the Trust Fund, including reasonable remuneration of the Trustee and the costs of administering the Fund;
3. Invest in environmentally and socially responsible investments and/or securities

Environmental Trust Funds may include conservation trust funds, wildlife trusts, climate and forest funds, rehabilitation and restoration funds, or other forms of delivery of environmental, social and economic benefits. The MoE shall establish by legal instrument the funding categories and priorities for the use of Environmental Trust Fund assets.

## **ARTICLE 27 TERMINATION**

Upon termination of the Trust Fund the Trustee shall discharge any remaining debts. On completion of this the Trustee shall render a final accounting and provide a report to the MEF and MOE. Any remaining Trust Fund Assets shall be distributed in accordance with the Trust Fund documents. Termination of the Trust Fund prior to term requires consent from the MEF. The MEF shall be informed of all steps of the termination process.

Details of the termination rules and procedures, and any relevant conflict resolution mechanisms, shall be established by sub-decree of the MoE and the MEF

## **ARTICLE 28 EARLY TERMINATION**

If the MoE determines that the primary purpose of the Trust Fund has been frustrated or becomes unreasonable, burdensome, or otherwise unable to be reasonably accomplished, the Trust will terminate.

If the MoE is satisfied that the Trust Fund should be terminated, the MoE will notify the Trustee in writing informing the Trustee about the termination, and the Trustee shall start the termination process in the manner as stated by this law and any relevant subordinate legislation.

## **ARTICLE 29 COMPLETION OF TERMINATION**

The Trust shall be terminated once the Trustee has discharged the debts, if any, of the Trust; the funds remaining in the Trust Accounts and all Trust Assets have been transferred pursuant to the procedures in the Code and other relevant subordinate legislation; and all disputes related to the final accounting are settled. The Trustee remains liable after the termination of the trust for any losses or damages caused, or resulting from, the willful default, gross negligence, fraud, or dishonesty of the Trustee

The MEF and MoE shall specify by sub-decree the appropriate dispute resolution and enforcement mechanisms for any claims, disputes or differences arising in connection with the Trust. The outcome of all dispute resolution processes must be made publicly available.

The MoE and the MEF will develop an sub-decree on the rules and procedures to establish, register, manage and control the Environmental Trust Funds.

## **ARTICLE 30 TRANSITIONAL PROVISIONS**

Transitional provisions for existing Environmental Trust Funds shall be determined by sub-decree of the MEF and MoE.

## **CHAPTER 3 BENEFIT SHARING AGREEMENTS**

### **ARTICLE 31 RULES FOR BENEFIT SHARING AGREEMENTS**

The Royal Government of Cambodia, through the relevant institutions, shall create regulations establishing rules governing compliance with access and benefit sharing for genetic resources and traditional knowledge associated with genetic resources in accordance with the provisions in the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization.

Suggestions include including provisions to:

1. implement the Kingdom of Cambodia's obligations under the Convention on Biological Diversity
2. provide key incentives for local communities to support REDD+ implementation
3. clarify entitlements of communities and mechanisms through which such entitlements will be distributed in a fair and equitable way
4. confirm that payments from REDD+ projects will consist of compensation for opportunity costs of land-use changes plus a "REDD rent"

## **CHAPTER 4 FINANCING FOR CLOSURE, REHABILITATION, REMEDIATION AND RESTORATION OF ACTIVITIES AFFECTING THE ENVIRONMENT**

### **ARTICLE 32 FUND FOR CLOSURE, REHABILITATION, REMEDIATION AND RESTORATION**

Any company required to provide a financial surety for closure, rehabilitation, remediation and restoration shall do so in the format and using the method prescribed by the relevant law or sub-decree. If no procedures are specified the procedures pursuant to this Code shall apply.

Any project proponent required to conduct an Environmental Impact Assessment and file an Environmental Management Plan shall include in the Environmental Management Plan an estimate of the cost of closure, to be approved by the Ministry of Environment. The estimated cost of closure shall form the basis of the amount required to be provided as financial surety.

The Financial Surety must produce enough income to meet the following closure requirements:

1. Decommissioning costs
2. Clean-up costs
3. Rehabilitation costs
4. Maintenance, monitoring and perpetual care costs
5. Administrative costs
6. 15% contingency on total costs

The amounts shall be calculated based on third party costs of restoring affected areas to the most appropriate economic and social value, taking into account inflation.

The full amount of the required financial surety must be lodged prior to the commencement of work on a project for projects with lifespans of 5 years or less or in exploration phase. Incremental payment may be arranged for projects with a lifespan of over five years or in exploitation phase such that the full amount of the required financial surety is lodged by the end of the fifth year of operation.

### **ARTICLE 33 FORM OF FINANCIAL SURETY**

The financial surety may take the form of a letter of credit, a surety bond, a trust fund, or a cash fund.

The project proponent may request to provide a corporate guarantee in lieu of a financial guarantee. At minimum the Project Proponent should be able to show that it has sufficient funds to cover at minimum the costs of complying with the applicable closure requirements. In determining whether a corporate guarantee is appropriate the Ministry of Environment may take into account the financial history of the Project Proponent, evidence of current financial status of the Project Proponent, and any other factors the Ministry of Environment deems applicable.

### **ARTICLE 34 MANAGEMENT AND USE OF FUNDS FOR CLOSURE, REHABILITATION, REMEDIATION AND RESTORATION – TRUST FUND OR CASH FUND**

If the financial surety is provided in the form of a trust fund or cash fund, the money shall be deposited into an interest-bearing account to be held by an entity independent of the Project Proponent. Following successful closure, the funds shall be returned to the Project Proponent.

The Project Proponent shall designate a qualified investment professional as fund manager to be responsible for maintaining the Closure, Rehabilitation, Remediation and Restoration Fund and ensuring that all transactions are properly recorded and made available for viewing online or in person.

### **ARTICLE 35 AUDIT AND REPORTING REQUIREMENTS**

Any Project Proponent required to provide financial surety to cover costs of closure, rehabilitation, remediation and restoration shall comply with auditing and reporting requirements pursuant to the Law on Accounting and Auditing 2016.

In addition, the Project Proponent shall annually conduct and file a review of closure cost estimates with the Ministry of Environment. The estimates must be completed by a certified engineer. Failure to report is a violation with a fine of Riel [to be determined].

If the annual audit report indicates that the requirements for financial surety are no longer met, the project proponent must file a notification to the MOE and any other relevant Ministry. The project proponent shall meet their updated requirements for financial guarantee within 30 days of the filing of this notification. The MoE may require additional reports or documentation.

If the annual audit report indicates that there is a surplus in a financial surety required by the MoE, the MoE may request to the MEF the authorization of excess funds upon request by the Project Proponent.

### **ARTICLE 36 GUIDANCE ON THE ESTABLISHMENT AND MANAGEMENT OF FUNDS FOR CLOSURE, REHABILITATION, REMEDIATION AND RESTORATION**

The Ministry of Environment shall develop guidance on the calculation of closure costs, form of application and approval, requirements for review, procedures for return, and any reductions or exemptions in the form of a prakas.

### **ARTICLE 37 AUTHORITY OF THE MINISTER OF THE ENVIRONMENT TO RECOVER COSTS OF RESTORATION AND CLOSURE**

Notwithstanding any other provision of the Code, the Minister of the Environment may undertake the necessary restoration of injuries to resources of Cambodia and may recover those costs and expenses according to the provisions of this Code and the Civil Code of Cambodia.

## **CHAPTER 5 CORPORATE SOCIAL RESPONSIBILITY**

### **ARTICLE 38 DEVELOPMENT OF CSR STRATEGY**

The relevant institutions of the RGC shall develop Guidelines for Corporate Social Responsibility to strengthen support and develop guidance in accordance with international guiding principles and best practices for CSR initiatives in Cambodia.

## **BOOK 9 ENVIRONMENTAL OFFENSES, ENFORCEMENT AND REMEDIES**

### **TITLE 1 ENVIRONMENTAL OFFENCES AND 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 ENVIRONMENT AND NATURAL RESOURCES 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 INVESTIGATION, ENFORCEMENT AND REMEDIES**

**CHAPTER 1 ENVIRONMENTAL DISPUTE RESOLUTION**

**SECTION 1 GENERAL PROVISIONS**

**ARTICLE 1 PURPOSE AND SCOPE**

This Chapter establishes mechanisms for the resolution of environmental complaints arising from violations of the National Resource and Environment Code and relevant legal instruments.

**ARTICLE 2 STANDING**

Any person or group of persons, by themselves or through authorized representatives, or in representation of others in a class or group suit, may file a claim for a violation of the Natural Resource and Environment Code and relevant legal instruments. Persons with the right to file a claim include:

- (a) Any person, including individuals, citizens, community groups, businesses and legal entities, and representatives of the government;
- (b) Minors with the assistance of their parents;
- (c) Non-governmental organizations, law firms, associations and community groups;
- (d) Indigenous peoples and local communities.

The principle of intergenerational equity shall be included to allow claims on behalf of generations yet unborn.

Authorized Representatives shall provide written proof of the right of representation.

**ARTICLE 3 INDEPENDENCE AND IMPARTIALITY**

All dispute resolution mechanisms pursuant to this Code shall operate in an independent and impartial manner.

**ARTICLE 4 PUBLIC ACCESS TO INFORMATION**



All decisions, conciliation, and mediation outcomes from the mechanisms described in this chapter shall be made publicly accessible by the relevant institutions.

## **SECTION 2 MINISTRY OF ENVIRONMENT**

### **ARTICLE 5 AUTHORITY**

The Ministry of Environment shall coordinate with the Court of Appeal, the Ministry of Interior and provincial and commune governments to ensure the impartial resolution of environmental disputes through consideration of the best available data, scientific and technical information, and by providing environmental training and technical expertise for mediators and judges.

Consistent with this responsibility, **within two years** of the enactment of this Code, the Ministry of Environment shall:

- (a) Develop a policy for building technical and scientific capacity at all levels of the Ministry of Environment and its relevant institutions, and also at the commune level to ensure full and complete resolution of environmental disputes;
- (b) Develop a policy for developing consistency and proper coordination across all levels of the Ministry of Environment and its relevant institutions, with reference to the Commune Council's Annual Evaluation Reports and other relevant data;
- (c) Develop a plan for the convening of the Environmental Dispute Resolution Panel, including the phasing in of a roster of panel participants, initiating pilot proceedings, and providing training in environmental law and mediation and conciliation techniques to roster members; and
- (d) Develop a publicly accessible registry for all environmental laws, policies, Final Decisions of the Environmental Dispute Resolution Panel, and Records of Consensus Points for all environmental mediations.

### **ARTICLE 7 PRAKAS AND OTHER RELATED LAWS**

The Ministry of the Environment shall issue a relevant legal instrument for the establishment of rules, procedures and guidelines for the implementation and enforcement of this Code.

## **SECTION 3 ENVIRONMENTAL DISPUTE RESOLUTION PANEL**

### **ARTICLE 8 ESTABLISHMENT OF THE PANEL**

The Ministry of Environment shall establish an Environmental Dispute Resolution Panel conducting conciliation and hearings on complaints for violations of the Natural Resource and Environment Code and related law.

#### **ARTICLE 9 MEMBERSHIP OF THE PANEL**

Members of the Environmental Dispute Resolution Panel shall be chosen from a nomination list compiled by the Ministry of Environment. The list shall be created according to clear selection criteria to ensure impartiality and inclusivity, and to accommodate for the interests of all potential stakeholders. This list shall be updated every five years.

Members shall be known for qualities of integrity, knowledge, and impartiality and their competence and experience in environmental issues. The terms of appointment, removal, and any prohibitions or disqualifications, including procedures and consequences in circumstances of conflicts of interest, shall be determined by legal instrument of the Ministry of Environment.

The Ministry of Environment shall establish by legal instrument any additional procedures and requirements of the appointment of Dispute Resolution Panel members.

#### **ARTICLE 10 JURISDICTION**

The Environmental Dispute Resolution Panel may hear environmental complaints for violations of the Natural Resource and Environment Code and relevant legal instruments.

The Environmental Dispute Resolution Panel may review:

- a) Terminated or otherwise unresolved environmental mediations originating at the Commune level. In its review the Panel shall only examine issues specified in the Record of Consensus Points, matters that are specified by the parties in the request for Dispute Resolution, and matters arising subsequently and directly connected to the dispute. All other consultations during mediation shall remain confidential.
- b) Unresolved environmental disputes using a customary dispute resolution procedure, provided the customary law outcome is consistent with the purposes of the Code. If inconsistent with the Code, the Panel shall provide opportunity for review.
- c) EIA approvals or rejections, filed within 30 days of public disclosure that the Ministry has approved or rejected an EIA Report, provided that
- d) a review of a decision by the Ministry to reject an EIA Report shall only be allowed where the complainant has specifically alleged that such rejection was not made in accordance with the procedure set out in this Environment and Natural Resources Code or that such rejection was based upon an unsubstantiated or unjustified decision by the Ministry;

- e) only one (1) appeal on the same case shall be allowed with respect to a decision by the Ministry; and
- f) no condition prescribed by the Ministry shall be subject to appeal by a Project Proponent.
- g) Counter-suits, where such suit is filed at the Court of First Instance against a natural or legal person who has filed an action or given notice under this Section, the Court of First Instance must make a determination within ten working days from the commencement of the counter-suit on whether said counter-suit or action is intended to harass, vex, exert undue pressure, or stifle the resources of the entity filing under this Section. If the Environmental Dispute Resolution Panel makes such a determination supported by evidence, the Court of First Instance shall dismiss the counter-action and award attorney's fees and double damages to the defendant.
- h) Disputes concerning the interpretation, failure to implement, or violation of an environmental law or regulation.

All disputes under (e) shall go directly to the Environmental Dispute Resolution Panel.

The Environmental Dispute Resolution Panel has the power to investigate and make inquiries into matters that would facilitate the determination of the dispute before them. The Environmental Dispute Resolution Panel has the power to require the parties to present any document, information or evidence that would be useful in determining the dispute before them. The Environmental Dispute Resolution Panel may solicit the assistance of independent and neutral technical experts.

#### **ARTICLE 11 STANDARD OF REVIEW**

The Panel shall review the evidence on a standard of more likely than not to be true.

#### **ARTICLE 12 *PRO SE* LITIGANTS**

*Pro Se* litigants shall be accorded special consideration by the Panel.

#### **ARTICLE 13 PUBLIC NATURE OF DISPUTE RESOLUTION PROCEEDINGS**

Hearings of the Environmental Dispute Resolution Panel proceedings shall be public.

#### **ARTICLE 14 INDEPENDENCE AND IMPARTIALITY OF MEMBERS OF THE ENVIRONMENTAL DISPUTE RESOLUTION PANEL**

Individuals on the list of members of the Panel shall function in complete independence and within the scope of their authority as established in this Code. No one shall give any instructions to the Panel or its members with regard to the settlement of disputes. Members of the Panel shall be impartial. Members shall receive fair remuneration for their work on the Panel by means of an

independent mechanism in the form of stipends per case. If any member of a Panel identifies a conflict of interest at any point during a dispute resolution proceeding, the Panel member shall immediately disclose this conflict to the parties to the proceeding in accordance with procedures the Ministry of Environment shall establish in Prakas.

Decisions of the Environmental Dispute Resolution Panel shall not be considered decisions of the Ministry of Environment.

#### **ARTICLE 15 CONVENING AND CONCLUSION OF DISPUTE RESOLUTION PANEL**

Within three days of the receipt of a complaint or a request, the Ministry of Environment shall convene a three person Dispute Resolution Panel.

Within 30 working days of the convening of the Dispute Resolution Panel, the Dispute Resolution Panel shall communicate its decision to the parties to the dispute and to the Minister of the Environment.

#### **ARTICLE 16 DISPUTE RESOLUTION PANEL DECISIONS**

Panel Decisions are non-binding unless

- (a) both parties consent to a binding decision prior to the hearing; or
- (b) no appeal is filed within 20 days of receipt of the Panel Decision.

All Dispute Resolution Panel decisions shall be in the form of a written report clearly stating the law violated in the Code with appropriate citation and its application to the facts of the case, with a clear rationale and analysis of relevant factors for the outcome of the Panel decision. The Panel shall make all efforts to come to a consensus.

All Final Decisions of the Dispute Resolution Panel shall be published on a central online repository of decisions to be developed by the Commission. A Final Decision of the Panel shall not in any case affect the right of any complainant to pursue appropriate criminal sanctions for any violations of law.

The Ministry of Environment shall issue a legal instrument determining the proper format of Final Decisions of the Dispute Resolution Panel.

#### **ARTICLE 17 APPEAL OF PANEL DECISION**

Parties dissatisfied with a Panel decision shall have 20 working days from receipt of notice of the

Dispute Resolution Panel's Decision to appeal to the Court of Appeals. If after this time period no appeal has been filed, the Dispute Resolution Panel decision shall become a Final Decision with the force of law. A binding Panel decision is a Final Decision with the force of law.

## **ARTICLE 18 REMEDIES**

The Environmental Dispute Resolution Panel may issue remedies in accordance with this Code. The Panel may consider remedies to promote education of violators by requiring pro-active actions serving the community in an environmental capacity.

## **ARTICLE 19 ENFORCEMENT OF DISPUTE RESOLUTION PANEL DECISION**

If a party refuses to abide by a Final Decision, the other party can request the competent court to recognize and enforce the decision.

## **ARTICLE 20 REVIEW**

Final Decisions are subject to review by the Court of Appeal.

# **SECTION 4 ENVIRONMENTAL APPEALS AT THE COURT OF APPEALS**

## **ARTICLE 21 PROCEDURE**

Appeals at the Court of Appeal on environmental issues pursuant to the Code shall follow the procedures in the Civil Procedure Code.

## **ARTICLE 22 MEMBERSHIP ON BENCH**

Environmental issues at the Court of Appeal shall be reviewed by at least one judge who has been assigned to environmental issues by the President of the Court of Appeal and who has completed training in environmental law.

## **ARTICLE 23 SCOPE AND STANDARD OF REVIEW**

The Court of Appeal may adjudicate only on questions of law. The findings of fact of the Environmental Dispute Resolution Panel shall be assumed to be correct. No independent determination of the facts shall be made. The right of appeal is limited to the correct application of the law and only for those issues raised during the course of Panel proceedings.

If the court does not initiate review of an appealed Panel Decision within 30 days, the Panel Decision becomes final with no right of appeal.

## **ARTICLE 24 TIMING OF REVIEW**

The Court of Appeal shall have 20 days to review and issue its decision. The twenty (20) days start from the time the Court initiates its review of the Environmental Dispute Resolution Panel Decision.

## **ARTICLE 25 ARGUMENT BEFORE THE REVIEWING COURT**

The Court of Appeal may, at its discretion, order oral argument on any or all issues in a proceeding.

## **ARTICLE 26 OTHER PROCEDURE AND PROCESS OF REVIEWING COURT**

Other procedures of the Court of Appeal shall be in compliance with the Code of Civil Procedures.

## **SECTION 5 ENVIRONMENTAL AND PUBLIC HEALTH EMERGENCIES**

### **ARTICLE 27 PROCEDURE IN CASE OF PUBLIC HEALTH OR ENVIRONMENTAL EMERGENCY**

If there is a concern that the enforcement of a claim pursuant to the Code will become impossible or extremely difficult by reason of alteration of the state of the environment, or significant damage or imminent risk will arise, in addition to the right of the public to bring an environmental claim pursuant to this Code the complainant may also file at the Court of First Instance a request for preservative relief in accordance with Book Seven of the Code of Civil Procedures 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.

Upon receipt of a request pursuant to this Article, the Court of First Instance must make a determination within 48 hours.

## **SECTION 6 COMPLAINANT COSTS**

### **ARTICLE 28 COSTS**

The Environmental Dispute Resolution Panel shall exempt an action under this Section from the payment of filing fees until either the complaint is proven to be without merit or a Final Decision is issued, in which case such fees shall be included as part of a successful complainant's costs of complaint.

## **SECTION 7 COMMUNE/SANGKAT COUNCILS**

### **ARTICLE 29 JURISDICTION OF THE COMMUNE/SANGKAT COUNCILS**

The dispute resolution powers of the Commune/Sangkat Councils as described in the Law on Commune/Sangkat Administrative Management and other relevant legal instruments shall include the mediation of environmental complaints under the Code or other related law occurring within the geographic area of the Commune/Sangkat. Commune/Sangkat Councils may not mediate issues under Article 10(e) of this Book 9.

The Commune Council shall follow the procedures described in the Environment and Natural Resources Code and existing procedure guidelines.

### **ARTICLE 30 DUTIES OF THE COMMUNE/SANGKAT COUNCILS**

In addition to any existing duties, the duties of the Commune/Sangkat Councils shall include

- (a) Referring environmental disputes within their jurisdiction to environmental mediators or committees of environmental mediators with training and competence in environmental matters;
- (b) Referring environmental disputes outside of its jurisdiction to the Ministry of Environment;
- (c) Maintaining a central repository of environmental cases, laws, and information;
- (d) Maintaining records of Consensus Points from mediations;
- (e) Creating and submitting to the Ministry of Environment an Annual Statistical Report on dispute resolutions; and
- (f) Cooperating with and accommodating the needs of any Environmental Dispute Resolution Panel or sub-national environmental authority as required.

### **ARTICLE 31 RECORD OF CONSENSUS POINTS**

Upon referral by the Commune Council, environmental mediators shall provide voluntary, confidential, consultative environmental mediation for environmental disputes within Commune areas. The final outcome is a publicly accessible Record of Consensus Points, or points of agreement, which shall form the basis of an implementable agreement between the parties.

### **ARTICLE 32 REFERRAL PROCEDURES**

The Commune Council shall refer disputes involving national issues outside of the geographic boundary of the commune to the Ministry of Environment for resolution by the Environmental Dispute Resolution Panel within fifteen days of receipt.

Parties may agree to resolve their dispute using a customary dispute resolution procedure. The mediator shall not mediate on an issue after it enters into dispute resolution using a customary dispute resolution procedure even if it may otherwise be within its jurisdiction.

If a dispute is unable to be resolved using a customary dispute resolution procedure it shall be referred by the parties to the Ministry of Environment. The resolution of the customary dispute shall be consistent with the aim and purpose of the Natural Resource and Environment Code in protecting the public health and environment of Cambodia.

If the Commune Council receives a request for mediation on an issue under Article 10(e) of this Book 9, the Commune Council shall refer the issue to the Ministry of Environment for resolution by the Environmental Dispute Resolution Panel within fifteen days of receipt.

### **ARTICLE 33 DURATION OF ENVIRONMENTAL MEDIATION**

Each stage of the environmental mediation processes shall have specified timelines. The duration of the mediation process shall be a maximum of ninety working days but may be extended by consensus of the parties. If no Record of Consensus Points has been filed after this time period, the Commune Council shall refer the matter to the Ministry of Environment for action by the Environmental Dispute Resolution Panel.

### **ARTICLE 34 PROCEDURES OF ENVIRONMENTAL MEDIATION**

Each Commune Council shall follow existing procedures and rules, as well as any special procedures for environmental mediation that may be developed by the Ministry of Environment.

### **ARTICLE 35 TERMINATION OF ENVIRONMENTAL MEDIATION**

Mediation may be terminated at any time by 1) the parties prior to filing a Record of Consensus Points, or 2) the environmental mediator if it is determined that either party is unable to maintain appropriate levels of cooperation, and 3) the environmental mediator if no Record of Consensus Points has been filed after thirty days or other mutually agreed upon timeframe. Terminated Mediations still requiring resolution shall be referred to the national Environmental Dispute Resolution Panel.

### **ARTICLE 36 CONFIDENTIALITY OF MEDIATION AND RECORD OF CONSENSUS POINTS**

All notes, communications, and consultations related to an environmental mediation are confidential, with the exception of the Record of Consensus Points. Any restrictions on the content of a Record of Consensus Points to be filed with the Commune Council, in the interest of confidentiality requirements, shall be determined by cooperation between the Ministry of Interior and Ministry of Environment.



## **ARTICLE 37 PUBLIC NATURE OF RECORDS OF CONSENSUS POINTS**

Each Environmental Mediator or committee of Environmental Mediators shall keep a publicly available record of all Records of Consensus Points for environmental mediation.

## **ARTICLE 38 ENFORCEMENT OF OUTCOMES OF ENVIRONMENTAL MEDIATION COMMITTEE PROCEEDING**

If a party refuses to abide by an outcome of an environmental mediation, the other party can initiate a Civil Complaint to require performance of agreed actions.

## **CHAPTER 2 ENVIRONMENTAL JUDICIARY POLICE**

### **ARTICLE 39 GENERAL PROVISIONS**

The Ministry of Environment shall appoint civil servants to act as Environmental Judiciary Police for the purposes of

- a) Providing case-management assistance on criminal offenses, including receiving submitted complaints, fact-finding, preparing cases to be filed, and conducting inspections; and
- b) Monitoring, investigating, and gathering evidence on potential or actual environmental criminal offenses.
- c) Environmental Judiciary Police may not be a member of the Environmental Dispute Resolution Commission.

### **ARTICLE 40 COMPETENCE OF ENVIRONMENTAL JUDICIARY POLICE**

A public civil servant shall fulfil the following requirements to be environmental judiciary police officers

- a) A staff member of Ministry of Environment who has been given the competence to be an environmental judiciary police officer in the sector of environmental protection and natural resource management.
- b) Other public civil servants determined by a separate law to be environmental judiciary police officer.

### **ARTICLE 40 PROCEDURES OF APPOINTMENT TO BE AN ENVIRONMENTAL JUDICIARY POLICE OFFICER**

To receive the competence, the environmental judiciary police officers shall give an oath before the appeal court. The oath shall not be made again once a person has received the competence to be environmental judiciary police officers.

Forms and procedures of appointment to be an environmental judiciary police officer shall be made by an inter-ministerial prakas issued by the Ministry of Environment and other relevant institutions to environmental protection and natural resource management.

#### **ARTICLE 41 RESPONSIBILITIES OF THE ENVIRONMENTAL JUDICIARY POLICE OFFICERS**

Environmental judiciary police officers shall have the following responsibilities

- a) Receiving submitted environmental complaints;
- b) Monitoring environmental criminal offenses;
- c) Making requests for relevant information to investigating operation on environmental criminal offenses;
- d) Providing inspection on suspected sites of environmental criminal offenses;
- e) Confiscating all related materials to the allegation of environmental criminal offenses;
- f) Making requests for support from parties involved with the investigation of the potential environmental criminal offenses;
- g) Investigating all environmental criminal offenses; and
- h) Assisting with preparing environmental offense cases to be filed with the competent court.

Environmental judiciary police officers shall comply with the relevant requirements in the Criminal Procedure Code of Cambodia.

#### **ARTICLE 42 INVESTIGATION PROCEDURES FOR ENVIRONMENTAL OFFENSES OF ENVIRONMENTAL JUDICIARY POLICE OFFICERS**

Procedures for case preparation by Environmental Judiciary Police Officers shall follow the Criminal Procedures of Cambodia. Forms and requirements for evidence shall be determined by an inter-ministerial prakas of the Ministry of Environment and other relevant institutions to environmental protection and natural resource management.

## **ARTICLE 43 OBLIGATION OF CONCERNED AUTHORITIES TO COOPERATE IN INVESTIGATIVE OPERATION AGAINST ENVIRONMENTAL OFFENSES**

When requested by the Environmental Judiciary Police Officer(s), all levels of authorities, armed-force authorities, and all concerned ministries shall contribute to the smooth operation, coordination and support for upholding the provisions of the Environment and Natural Resources Code.

## **ARTICLE 44 USE OF UNIFORM FOR THE INVESTIGATIVE OPERATION IN ENVIRONMENTAL OFFENSES**

Public civil servants acting as Environmental Judiciary Police Officers shall wear a complete uniform when they are acting as a judicial police officer as proof of identity when participating in an official mission.

## **CHAPTER 3 LOCAL COMMUNITY MONITORING RIGHTS**

The Law on the Functioning of Prosecutors is hereby amended and clarified as follows:

*[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization / deconcentration, land management / collaborative management]*

### **ARTICLE #**

Upon enactment of this Code, local community groups and citizens shall have the following rights in protecting forests, fisheries and other natural resources:

1. Conduct patrols in collaboration with local authorities, police, rangers or military units.
2. Temporarily detain, and assist local authorities, police, rangers or military units to confiscate and destroy any material or equipment used in the illegal harvesting of forest, fisheries or other natural resources.
3. Temporarily detain, and assist local authorities, police, rangers or military units to confiscate and destroy any illegally harvested forest, fisheries or other natural resource products.
4. Provide evidence, reports and other information about forest, fisheries, or natural resources crimes to the Ministry of Environment and local authorities, and make such information publicly available.

5. Provide information and evidence to prosecutors. Upon receipt of such information or evidence, prosecutors shall be required to provide within 30 days of receipt to the local community group or citizens their proposed actions on the matter.

#### **ARTICLE #**

The community monitoring and rights set forth in Article \_\_ pertain to all public lands and waterways of the Kingdom of Cambodia, regardless of designation or jurisdictional arrangements.

#### **ARTICLE #**

Upon designation of a Collaborative Management Protection Zone, the Collaborative Management Committee may select community members to attend the National Environmental and Natural Resources Training Academy.

### **CHAPTER 4 NATIONAL ENVIRONMENTAL AND NATURAL RESOURCES TRAINING ACADEMY**

#### **ARTICLE #**

Within 18 months of the enactment of this Code, the Royal Government of Cambodia shall establish a National Environmental and Natural Resources Training Academy.

#### **ARTICLE #**

The Academy shall provide professional training and certification for all field based Directors, other staff, and rangers in Biodiversity Conservation Corridors, other protected areas and any provincial, municipal, or local protected areas.

The Academy shall provide professional capacity building for staff from the Ministry of Environment, other institutions, and local government officials on a range of subject areas.

The Academy shall also provide professional training and certification programs in a range of subject areas for government officials, Biodiversity Conservation Corridor staff, Collaborative Management committee and community members, and the general public.

The Academy may develop other programs in research, policy, education and awareness as appropriate.

## **TITLE 3      RESTORATION AND COMPENSATION FOR HARM TO**

## THE ENVIRONMENT

### CHAPTER 1 GENERAL PROVISIONS AND OBJECTIVES

#### ARTICLE 1

The Kingdom of Cambodia finds that there is a national interest in restoring and compensating for harm to the resources of Cambodia.

#### ARTICLE 2

In accordance with the polluter pays principle any person, found liable for any harm to any resources of Cambodia shall be required to restore all such harm, and or otherwise compensate for all losses resulting therefrom.

#### ARTICLE 3

All affected ministries, sub-national administration districts, indigenous groups, civil society organization, and individuals shall share relevant technical information, knowledge, interests and concerns to facilitate full, prompt and effective restoration of harm to resources of Cambodia. To achieve this, each of these parties must be appropriately involved in restoration and compensation decision-making and restoration implementation.

### CHAPTER 2 LIABILITY

#### ARTICLE 4

Liability for environmental compensation shall not require proof of *mens rea* and shall apply to:

- a) any person or legal entity whose actions or failures to act are more likely than not to result in harm to any resource of Cambodia and
- b) any government official at any level of government who acts beyond his/her authority or in contravention of any law, sub-decree, prakas, or other requirement of Cambodian law which action is more likely than not to result in harm to any resource of Cambodia.

#### ARTICLE 5

Any instrumentality, including but not limited to a vessel, vehicle, aircraft, or other equipment that is more likely than not to have used in an activity may be seized and sold, with the proceeds used towards restoration of the harm (*liability in rem*).

## **ARTICLE 6**

Officials of legal entities, such as directors and officers of corporations, shall be liable for environmental compensation in the same manner and to the same extent as their corporations are liable under Article 4.

## **ARTICLE 7**

In the event there is or may be more than one person liable under this Chapter 2, each such person shall be jointly and severally liable for all resulting environmental compensation.

## **CHAPTER 3 DEFENCES AND EXCEPTIONS TO DEFENCES.**

## **ARTICLE 9**

A person is not liable under this Title if such person can establish that:

- a) the harm to the resource of Cambodia was caused solely by an act of nature or an act of war;
- b) the harm to the resource of Cambodia was caused solely by an act or omission of a third party, other than an employee or agent of such person;
- c) the harm to the resource of Cambodia was solely caused by an activity explicitly authorized by law; or
- d) the harm to the resource of Cambodia was solely caused by activity specifically authorized, and described with specificity as to both the types and quantum of harm, in an Environmental Management Plan, EIA, and/ or EIA Approval Certificate.

## **ARTICLE 10**

The defences set forth in Article 9 shall be inapplicable and may not be raised if:

- a) the actions resulting in harm were, in whole or in part, undertaken in violation of any provision of the Environment and Natural Resources Code or any other law, sub-decree or prakas;
- b) the actions resulting in harm were undertaken pursuant to a concession, license, or other apparent authorization granted not in accordance with law, sub-decree or prakas, including authorizations by officials not empowered to provide said authorization;

- c) the action in question resulted in harm to the resource of Cambodia greater in quantity, magnitude, or different in type than were specifically identified, quantified, and authorized in an Environmental Management Plan, EIA, or EIA Approval Certificate;
- d) the harm resulted from negligence, malfeasance or illegal actions in the implementation, execution, or performance of an otherwise authorized activity; and
- e) activities in violation of any of the terms and conditions of a permit, concession, authorization or other such documents, including but not limited to failures to undertake specific actions required under the permit.

## **CHAPTER 4 ENVIRONMENTAL COMPENSATION**

### **ARTICLE 11**

The environmental compensation referred to in Chapter 3 consists of the following:

- a) the full cost to restore the resource of Cambodia to the condition existing prior to harm , or successful completion by the liable party of actions approved by the Restoration Planning Council achieving restoration to the condition existing prior to harm, to the extent such restoration is feasible to achieve; and
- b) the full cost to undertake additional restoration sufficient to offset fully harm not compensated by the restoration in (a) above, or successful completion by the liable party of actions approved by the Restoration Planning Council sufficient to offset fully said harm; and
- c) where restoration will be undertaken, but some portion or aspect of the harmed resources of Cambodia are not amenable to restoration, the value of said un-restorable resources, or
- d) the ecological and human value of any losses resulting from harm to the resources of Cambodia not otherwise fully compensated by (a), (b), and (c) above, including but not limited to total economic value, direct and indirect use values, and non-use values such as existence, option, altruistic, and bequest values, and
- e) all costs incurred by claimants acting under the authority of Book 10, Title 2 in the development and pursuit of claims for environmental compensation including but not limited to the actual costs and expenses of the Restoration Planning Council, costs of restoration compensation evaluation such as personnel costs, travel, contracted services be they technical, legal or otherwise, and further including all costs incurred by parties to the Restoration Planning Council and consultation process, and

- f) the costs to monitor, and insure the success of the restoration activities identified hereinbefore; and
- g) the cost to compensate for business and economic losses resulting from harm to the resources of Cambodia; and
- h) the cost to compensate for loss of subsistence use of any resource of Cambodia; and
- i) the net loss of , royalties, rents, fees, or net profit shares due to the harm; and
- j) the loss of profits or impairment of earning capacity due to the harm , and
- k) net costs of providing increased or additional public services in response to the harm to the resources of Cambodia; and
- l) all court costs, fees, and expenses incurred towards and in litigation, including but not limited to salaries and expenses of plaintiffs, their staff, witness fees and expenses, costs of lawyers, experts, consultants, and technical studies; and
- m) the net loss of taxes or other revenues to any unit of the Government of Cambodia.

## **CHAPTER 5 EXPEDITED RESTORATION REQUIREMENTS FOR ENVIRONMENTAL COMPENSATION**

### **ARTICLE 12**

Under the authority of the Environment and Natural Resources Code of Cambodia there shall be developed expedited restoration requirements and procedures which shall identify with specificity the type and quantity of restoration required to compensate for specified harm.

## **CHAPTER 6 PARTIES CLAIMANT**

### **ARTICLE 13**

Parties who can make claims for environmental compensation:

- a) The Minister of the Environment, through his/her authorized designee, in conjunction with representatives of other directly affected or impacted ministries, and in collaboration with the parties to the restoration Council as set forth in Article 13 shall have the right to seek the restoration compensation.
- b) Subsistence users of natural resources who have been harm shall have the right to seek the



costs set forth in Article 11, at (i) and (m) without regard to the ownership or management of said resources at their election either using the dispute resolution procedures set forth at [add reference to the relevant portion(s) of the Environment and Natural Resources Code’s dispute resolution procedures], or other avenues of legal redress under the Civil Code of Cambodia.

## **CHAPTER 7 RESTORATION PLANNING COUNCIL AND COMPENSATION EVALUATION PROCESS**

### **ARTICLE 14**

In the event of possible claims for restoration compensation as set forth in Article 11, subsections (a), (b), (c), (d), (e), (f), (j), (l), and (m), the parties identified in Article 12 as authorized to make claims, together with representatives of each level of sub-national administration whose lands or interests are directly impacted, representatives of civil society organizations whose geographic area of engagement, species, ecosystem, or focus of activity have been directly affected, or whose work or programmatic responsibilities have been directly impacted, or who possess technical skills and knowledge significant to the restoration compensation evaluation process, may request that the Minister of the Environment establish a Restoration Planning Council for the incident in question (“Council”). The Minister of the Environment or his/her authorized designee shall lead the Council, which shall endeavour to work through consensus.

### **ARTICLE 15**

The duties and authorities of the Council are included below.

- a) The Council shall evaluate the probable nature and scope of harm using existing and, when appropriate, additional readily available data. Based on its evaluation, the Council shall determine whether to proceed with a claim for environmental compensation. The Council may choose to utilize expedited restoration requirements procedures, undertake a restoration compensation evaluation, or at the option of the Council apply that which is deemed most appropriate to each specific element of the harm.
- b) After a decision to proceed with a claim for environmental compensation, the Council shall:
  - i) develop a statement of intention to pursue a claim for environmental compensation that shall provide summary information about the incident and anticipated / potential harm, and

- ii) determine whether to invoke the order authority of Article 21 in regard to the incident.
- c) The Council shall utilize the skills and expertise of Council members, and outside expertise and technical support as deemed necessary and appropriate, to evaluate harm and restoration compensation.
- d) The Council shall utilize the public participation procedures of [*add reference to the relevant portion(s) of the Environment and Natural Resources Code's public participation procedures*] to invite public input and involvement to receive relevant local knowledge, and insure that local concerns are acknowledged and addressed.
- e) The Council shall identify and evaluate restoration options and alternatives.
- f) The Council shall determine the appropriate scale of restoration and / or payment of compensation.
- g) The Council shall determine the appropriateness of potentially responsible party implementation of approved restoration.
- h) The Council shall notify potentially responsible parties if a restoration compensation evaluation is initiated.
- i) The Council shall invite the potentially responsible parties to enter into a restoration consultation process or other mutually agreeable extra judicial process towards resolution of their liability through restoration work or payment of compensation.
- j) The Council shall commence the collection of data likely to be relevant to the potential claim.

## ARTICLE 16

In the event a decision is reached not to utilize expedited restoration requirements procedures, there shall be undertaken a restoration compensation evaluation, which shall:

- a) identify and quantify harm,
- b) identify restoration and /or monetary compensation alternatives constituting potential restoration compensation,
- c) establish a preferred alternative,

- d) demonstrate the nexus between the preferred alternative and the harm,
- e) establish the scaling of the restoration, the cost to implement the restoration if preferred, and/or calculation of monetary compensation to the harm, and
- f) provide appropriate support for the conclusions reached and decisions made.

## **CHAPTER 8 RESTORATION CONSULTATION AND RESOLUTION**

### **ARTICLE 17**

The Council and potentially responsible parties shall enter into a restoration consultation process directed at expeditiously achieving full and fair restoration compensation, which process should include, but is not limited to the following elements:

- a) meeting regularly to endeavour to come to agreement regarding appropriate restoration and/or compensation;
- b) utilize the dispute resolution procedures set forth at [*add reference to the relevant portions of the Environment and Natural Resources Code's dispute resolution procedures*], including the use of mediation and or facilitation as the parties deem appropriate;
- c) exchanging technical information and endeavour in good faith to resolve differences consistent with the Principles of this Environment and Natural Resources Code;
- d) in the event that the parties reach agreement resolving some but not all restoration compensation, the parties to any such partial resolution may settle those claim elements to permit timely restoration and /or compensation to occur;
- e) where a potentially responsible party has declined an invitation pursuant to Article 15 (i), or fails to participate in good faith in the restoration consultation process or other mutually agreeable extra judicial process towards resolution of its liability, parties claimant shall proceed utilizing expedited compensation determination and or restoration compensation evaluation as they deem appropriate.

## **CHAPTER 10 SETTLEMENT REQUIREMENTS AND JUDICIAL STANDARD OF REVIEW**

### **ARTICLE 19**

All settlement agreements must comply with the following substantive and procedural

requirements to be binding and have any force and effect.

- a) Proposed settlement agreement shall be made available to the public for review and comment for a period of not less than 60 days, and furthermore shall comply with the public participation requirements of the Environment and Natural Resources Code.
- b) All persons, parties or groups which had participated in any public meeting, provided any input or comment to the Restoration Council, or expressed a desire to participate and/or receive information related to the matter shall receive a copy of any proposed settlement via both regular mail and email, if known.
- c) Notice of the proposed settlement agreement shall be provided to the general public in any affected areas in a manner otherwise in accordance with law.
- d) Settlement agreements shall include the following provision explicitly reserving to plaintiffs the following rights, “plaintiff(s) reserve, and this settlement is without prejudice to plaintiff(s)’ right to institute proceedings against defendant at any time seeking restoration compensation if conditions are discovered or information is received relating to this matter which were not known at the time of resolution that indicate that there is harm of a type that is different or a magnitude greater than was known at the time of resolution.”
- e) Settlement agreements shall include appropriate and technically and ecologically sound monitoring and performance standards in any agreement in which settling responsible parties agree to undertake restoration. Such standards shall, absent specific findings establishing the appropriateness of lesser standards, require the use of appropriate native plants for revegetation, performance monitoring for a period of not less than 5 years, and include an obligation on the part of the responsible party to continue to undertake restoration activities until performance standards have been met. Agreements shall include such further monitoring and performance requirements as determined to be appropriate through the restoration compensation evaluation process. All monitoring data generated shall be made available to any members of the public requesting same.
- f) Settlement agreements shall include in any agreement a requirement that potentially responsible parties undertake or fund environmental education and awareness throughout the area of harm in a manner and of a type deemed reasonable in light of the harm.
- g) Settlement agreements may also include additional provisions as may be deemed necessary to effectuate full restoration.

## **CHAPTER 11 ADMINISTRATIVE ORDER AUTHORITY**

## **ARTICLE 21**

Upon a finding of a likelihood of significant harm to a resource of Cambodia, the Minister of Environment shall have the authority to order potentially responsible parties to provide immediate financial support for the work of the Restoration Planning Council, and the development of a restoration compensation evaluation.

## **ARTICLE 22**

Upon a finding of urgent need to act to prevent further significant harm to a resource of Cambodia or to avoid losing the opportunity to undertake significant restoration, the Minister of Environment shall have the authority order potentially responsible parties to undertake emergency restoration actions under the direction of the Ministry.

## **CHAPTER 12 AUTHORITY OF THE MINISTER OF THE ENVIRONMENT TO RECOVER COSTS OF RESTORATION**

## **ARTICLE 23**

Notwithstanding any other provision of this Environment and Natural Resources Code, the Minister of the Environment may undertake the necessary restoration of harm to resources of Cambodia and may recover those costs and expenses in the manner provided under the Civil Code of Cambodia.

## **ARTICLE 24**

Monies recovered under the authority of this Title 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 25**

Monies recovered by the Government of Cambodia under the authority of this Title for the implementation of restoration shall be held in a special account to be named the Restoration Implementation Fund, established pursuant to the authority of this Article, to be used only to undertake restoration and restoration planning and oversight, including public outreach and participation, monitoring, and environmental education. Additional funds recovered by the Government of Cambodia as compensation for harm shall be held in the Restoration Implementation Fund and used only to restore injures to natural, cultural, archaeological and spiritual resources of Cambodia. The Restoration Implementation Fund shall separately track

funds received from each restoration compensation case or matter.

#### **ARTICLE 26**

Monies recovered by non-governmental claimants under the authority of this Title for the implementation of restoration shall be held by claimants and expended solely to undertake the implementation of the restoration.

#### **ARTICLE 27**

Monies recovered by non-governmental claimants under the authority of this Title for claims for other than restoration shall be held and expended by claimants.

#### **ARTICLE 28**

Funds in the Restoration Implementation Fund may be released only upon written authorization of the Restoration Council. A complete record of monies deposited and expended, including case, amount recovered disbursements by date, amount and recipient, shall be kept and shall be made available to be viewed online in real time.

#### **ARTICLE 29**

There shall be identified a fund manager, who shall be personally responsible for maintaining the Restoration Implementation Fund and insuring that all transactions are properly recorded and made available for viewing online. The fund manager shall be personally liable for any shortfall, missing funds, or disbursements not in accordance with Article 24.

### **CHAPTER 15 SCOPE OF TITLE AND RELATIONSHIP TO OTHER ACTIONS**

#### **ARTICLE 30**

The provisions of this Title shall be separate and apart from any other liability which may arise under this Environment and Natural Resources Code or other laws of Cambodia. Monies paid or actions undertaken pursuant to this Title may not be credited against any such fines, penalties, or obligations and may not be considered during any other such administrative or judicial proceeding involving fines or penalties. However, good faith efforts to fully restore Cambodia's resources in a timely and proactive manner may be considered in subsequent judicial proceedings when considering punitive consequences.

### **CHAPTER 16 STATUTE OF LIMITATIONS**

## ARTICLE 31

An action under this Title may be commenced at any time up until the latter of

- a) five (5) years from the date a party with a right to claim for environmental compensation receives actual knowledge of the event resulting in the harm and has obtained all information necessary to establish the environmental compensation due therefrom, or
- b) if a restoration compensation evaluation is undertaken, five (5) years from the date of completion of the restoration compensation evaluation, or

where there are multiple or continuing events causing harm, the time periods identified in (a) and (b) above shall begin to run after the cessation of further harm events.

## 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 Environment and Natural Resources Code, until they have been reviewed and assessed in accordance with the provisions of the Code.
- The development of the Environment and Natural Resources 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 Environment and Natural Resources Code will amend the various existing natural resources laws and laws relating to environmental protection and natural resource management.

## BOOK 11            FINAL PROVISIONS

### CHAPTER # SUBORDINATE LEGAL INSTRUMENTS FOR THE ENVIRONMENT AND NATURAL RESOURCES CODE

## ARTICLE #

Where any provision of this Code requires the issuance of a further legal instrument, the

substantive rights, requirements and duties of that section shall be immediately and fully effective upon enactment of this Code, without respect to whether or not the subordinate legal instrument has or has not been enacted.