

**Kingdom of Cambodia  
Nation Religion King**



# **National Biosafety Framework**

Funded by : UNEP/GEF  
Prepared by : Cambodia's DNBF Project,  
Ministry of Environment

**Phnom Penh June 2004**

## ABBREVIATIONS

AFTA	ASEAN Free Trade Agreement
AIA	Advance Informed Agreement
CARDI	Cambodian Agricultural Research and Development Institute
CBD	Convention on Biological Diversity
CITES	Convention on Int'l Trade in Endangered Species of Wild Fauna and Flora
DANIDA	Danish International Development Agency
DAHP	Department of Animal Health and Production
DAI	Department of Agro-Industry.
DAALI	Department of Agronomy and Agricultural Land Improvement.
DOE	Department of Environmental Education.
Camcontrol	Cambodia Import-Export Inspection and Frail Repression
EIA	Environmental Impact Assessment
FAO	United Nations Food & Agriculture Organization
IPM	Integrated Pest Management
IRRI	International Rice Research Institute
Lab	Laboratory
LMO	Living Modified Organism
GMO	Genetic Modified Organism
NCC	National Codex Committee
MAFF	Ministry of Agriculture Forestry and Fisheries
MOEF	Ministry of Economy and Finance
MIME	Ministry of Industry Mine and Energy
MOC	Ministry of Commerce
MOE	Ministry of Environment
MEYS	Ministry of Education Youth and Sports
MOH	Ministry of Health
MOP	Ministry of Planning
MWRM	Ministry of Water Resource and Metrology
MPWT	Ministry of Public Works and Transport
MRD	Ministry of Rural Development
NCDP	National Capacity Development Project (DANIDA)
NCSA	National Capacity Self-Assessment
NBSAP	National Biodiversity Strategy and Action Plan
NBSC	National Biodiversity Steering Committee
NIDQC	National Institute for Drug Quality Control
RRSI	Rubber Research Institute
RUPP	Royal University of Phnom Penh
RGC	Royal Government of Cambodia
SARS	Serious Acute Respiratory Symptoms
WTO	World Trade Organization



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## **PREFACE**

The National Biosafety Framework (NBF) is the product arising out of the UNEP/GEF funded Project to Cambodia on the Development of the National Biosafety Framework with the Ministry of Environment (MOE), as the National Executing Agency. Being the National Focal Point for the Cartagena Protocol to the Convention on Biological Diversity, MOE bears obligations to ensure that the country fulfills its obligations, such as the practice of the Advance Informed Agreement Procedures, under the Protocol. The NBF is developed specifically to establish mechanisms to prevent any intentional release of LMOs into the environment without conducting proper risk assessment prior to the release and that approval for import of LMOs into the country must be obtained before the importation takes place. Therefore, the NBF Development project provides Cambodia with the impetus to develop environmental policies which are consistent with global and regional trends.

As the project approaches its end in June 2004, major outputs from the project will be included in the NBF report. The NBF comprises mainly the Royal Government of Cambodia's policy on biosafety, the establishment of a regulatory regime for biosafety, a system to handle notification or requests for authorizations, a system for the enforcement and monitoring for environmental effects and mechanisms for public awareness, education and participation.

The NBF contains details of the draft law on biosafety and the sub-decree on LMO management even though these have yet to be ratified. Major aims of the NBF are to legally protect the public from possible adverse risks caused by LMOs, when they are allowed to be released into the environment, and also to provide a clear procedure for submission of an application for release of LMOs, so that companies and countries that wish to apply can do so expediently.

The NBF also addresses some domestic laws which are relevant to biosafety, but yet are different in many aspects. These include their scope, implementation and their responsible ministries and departments. More importantly, the NBF identifies which areas it does and which areas it does not regulate, so the public is clear about the roles and responsibilities of the NBF.





## MINISTER'S MESSAGE

Cambodia became the second country, after Malaysia, in South East Asia to be a Party to the Cartagena Protocol on Biosafety. The Protocol entered into force in Cambodia on December 16, 2003. We are proud to be developing the national law on biosafety and the sub-decree on LMOs management. Both these legal instruments will help Cambodia to prevent and/or reduce possible risk from the release into the environment of living modified organisms (LMOs) in Cambodia.

This National Biosafety Framework (NBF) marks the significant progress in the development of a biosafety policy to ensure the safety of biological resources and human beings associated with the application of biotechnology. It is a pro-active step for Cambodia to have this law before we are fully admitted as a member of the World Trade Organization (WTO). This membership would bring with it another set of responsibilities and consequences. The scope of NBF does not cover products of modern biotechnology including products derived from LMOs. Recognizing that society including Cambodia will enjoy tremendous benefits especially in the fields of bio-pharmacy and agricultural biotechnology, it is important that these products are used safely. Precaution must be applied in the handling, transfer, and use of these products. Since our expertise at present is limited to the prevention of such risks from occurring, the implementation of the Advance Informed Agreement Procedure under the Cartagena Protocol on Biosafety will assist us in decision making. Additionally, the law on biosafety is the key to achieve the national and global objective in the conservation and use of genetic resources in a sustainable manner.

The success that we will obtain from the NBF is dependent on our capacity to implement the NBF and our success in achieving public acceptance of the biotechnology, raising public awareness and increasing public participation. Capacity building should be provided to all levels of personnel prior to the full implementation of the framework to ensure its effective implementation.

My short message to our people, particularly, to those who care for biological diversity and the environment, and those who produce living modified organisms, is that the key to protecting biodiversity is based on the practice of the AIA procedure together with the exercise of caution in the handling, transfer and use of LMOs. More importantly, public participation, capacity to carry out risk assessment, promoting ownership of decisions, availability of sufficient expertise and political will and commitment from the Government in protection of the environment and biodiversity will all contribute to the success of the NBF.

Phnom Penh June 30, 2004  
Minister



**DR MOK MARETH**



## ACKNOWLEDGEMENT

On behalf of the UNDP/GEF funded *Cambodia's Development of the National Biosafety Framework Project* (GFL27/16-02-4548), I would like to express my deep thanks to all involved stakeholders, line ministries, NGOs, private sectors and resource persons that have contributed to the development of the national biosafety framework (NBF). This development is an essential step towards fulfilling the international and national obligations under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity.

My deep gratitude to **Samdech Hun Sen**, Prime Minister, Royal Government of Cambodia who provides the committed leadership and continued policy guidance to ensure prosperous national growth. Under his national policy, environment sustainability is integrated into the national development agenda, which encompasses the protection and conservation of biodiversity, reduction of poverty, enhancement of livelihood, and ensuring equity and access to resources.

My deep thanks go to **H.E. Dr. Mok Mareth**, Minister for Environment for his able and strategic leadership in advocating and promoting the integration of environmental issues into the broader policy and programme agenda. I also thank him in his capacity as Chairman of the National Biodiversity Steering Committee (NBSC), for guiding the development of NBF including the national law on biosafety and sub-decree and for his support to use the NBSC to deal with biosafety issues.

I thank all the members of the NBSC for their active participation, inputs and suggestions in finalizing the national law on biosafety, and providing a forum for smooth cooperation among involved line ministries in protecting the biodiversity and natural resources of Cambodia. Thanks are also due to the involved line ministries that provided technical staff to the project and cooperated towards the successful development of the NBF.

My thanks also go to **H.E. Mr. Khieu Muth**, Director General and the GEF Operational Focal Point, the Ministry of Environment, and Director of the project who provided technical inputs and facilitation in the process of the NBF development. His leadership and guidance during the consultative process for the development of the national law on biosafety are especially acknowledged.

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Mr. Ung Sam Oeun, Project Assistant

Mr. Yi Bun Hak, Biosafety Sectoral Planner from MAFF

Ms. Mam Sotheary, Biosafety Sectoral Planner from MOE

Mr. Ngang Eng, Biosafety Sectoral Planner from MOC

Mr. Chan Sitha, Biosafety Sectoral Planner from MAFF

Phnom Penh June 30, 2004

**Oum Pisey**

National Project Coordinator

### **Cambodia Biosafety Facts 2004**

Economic growth (2003)	: 6.1 %
Income per capita (2003)	: US\$317.
The agriculture sector (2003)	: 32% of the GDP.
Growth in industry (2003)	: 12%.
Population in million (2003)	: 12.94
Population below poverty line (1998):	36%
LMOs Existence	: No reports
LMOs Food Ingredients Existence	: Possible but data N/A
Biosafety Law	: Final Draft
Biosafety Sub-Decree	: First Draft
Party to	: CBD and Cartagena Protocol on Biosafety, CITES, IPPC, and Ramsar Convention.

### **Introduction**

Cambodia is the 100<sup>th</sup> country to receive financial support from UNEP/GEF in the development of its National Biosafety Framework. The Project officially started in October 2002 and will end in March 2004. However, the actual starting date of the project was January 2003 and its ending date will be June 2004.

The National Executing Agency for the UNEP-GEF funded project on Development of the National Biosafety Framework (Cambodia's DNBf Project) is the Ministry of Environment (MOE).

Minister for Environment	: HE. Dr. Mok Mareth,
Director General	: HE. Mr. Khieu Muth
Emails	: <a href="mailto:moe@online.com.kh">moe@online.com.kh</a>
Tel	: 855-23-213908
Fax	: 855-23-215925 or 855-23-219287
Address	: Ministry of Environment, #48, Samdech Preah Sihanouk Ave., Khan Chamkarmon, Phnom Penh, Cambodia.

National Project Coordinator	: Oum Pisey
Tel and Fax	: 855-23-217560
Email	: <a href="mailto:cambio_coor@online.com.kh">cambio_coor@online.com.kh</a> or <a href="mailto:piseyoum@hotmail.com">piseyoum@hotmail.com</a>
Address	: Ministry of Environment, #48, Samdech Preah Sihanouk Ave., Khan Chamkarmon, Phnom Penh, Cambodia. Attn: UNEP/GEF-Cambodia's DNBf Project.

National Coordinating Committee : The NCC is not established to solely serve the project. The National Biodiversity Steering Committee on the other hand, was used for biosafety framework development and related issues. A National Biosafety Committee

will be established when the national law on biosafety is enacted. The following is a list of NBSC members who will be responsible for biosafety and biosafety framework development. The government has approved two more members from the Min. of Commerce and Min. of Health respectively to be members of the steering committee.

#### **List of NSBC Members**

<b>No.</b>	<b>Name</b>	<b>Position and Institute</b>	<b>Telephone</b>
1	Dr. Mok Mareth	Minister, MOE	012 812 874
2	H.E. May Sam Oeun	Secretary of State, MAFF	012 724 369
3	H.E. Kim Soy Samalen	Under Secretary of State, MOP	012 707 010 023 212 052
4	H.E. Oeur Hunly	Under Secretary of State, MOWRAM	012 852 367
5	H.E. Leng Tek Seng	Under Secretary of State, MRD	016 920 619 023 883 259
6	H.E. Hul Lim	Under Secretary of State, MINE	012 848 235
7	H.E. Kep Thorn	Under Secretary of State, MPWT	012 900 256
8	Mr. Lak Sam Art	Acting Director-General, MOEYS	012 871 191
9	H.E. Hou Tang Eng	General Secretary, Cambodian MRC	012 610 326 016 881 173
10	H.R.H. Sisowath Chivannariddh	Under Secretary of State, MOT	015 912 818
11	H.E. Leap Vann Den	Deputy General Secretary, Council for the Development of Cambodia	012 895 909
12	Mr. Suy San	2nd Deputy of Governor of Seim Reap Province	012 568 358
13	Mrs. Pheng Kim	2nd Deputy of Governor of Stoeng Treng Province	011 743 819 016 820 367
14	Mr. Pich Horm	3rd Deputy of Governor of Koh Kong Province	011 350 367
15	Mr. Chhorm Bunkhorn	1 <sup>st</sup> Deputy of Governor of Ratanakiri Province	012 916 946

Source: *Prakas of Council of Minister No. 16 dated April 03, 2001*. The New Prakas was signed by the Prime Minister on March 25, 2004 to include three more members from Min. Economy and Finance, Min. Commerce and Min. Health (Annex 1).

The NBSC plays a crucial role on biodiversity planning and policy development to ensure Cambodia has fulfilled the obligations under the CBD. The role of the NBSC covers biosafety, including the following areas to be focused:

- Developing a common understanding of what is needed to expedite the preparation of a National Biosafety Framework;
- Overseeing the preparation of the National Biosafety Framework
- Approving the detailed work plan and budget produced by the NPC;
- Mobilising necessary expertise, as needed for the proper execution of the National Project outputs;
- Providing overall policy advice on the implementation of the National Project;
- Reviewing and advising on the main outputs of the National Project;
- Ensuring that information on the implementation of the National Project as well as the National Project outputs are brought to the attention of local and national authorities for follow up;
- Assisting in mobilising available data and ensure a constant information flow between all concerned parties;
- Allowing for effective communication and decision-making between the National Project Coordinator and other actors;
- Ensuring that the environmental policy of the Government is fully reflected in the National Project documentation;
- Reviewing and approving the Biosafety Assessment, National Project Outputs and Framework Documents.

During the consultation process on NBF, MOE and Cambodia's DNBF project has involved the sectoral biosafety planners (or counterparts) and biosafety planning unit (BPU). The PBU has not been established yet and whose members are director and deputy-director level including NGOs participation. This unit participated in the consultation process on the national law on biosafety. (Annex 2).

### **Biotechnology Development in Cambodia**

In the last thirty years, new and more powerful techniques have emerged to supplement the traditional techniques. Some of these new techniques -tissue culture, cell fusion, embryo transfer, recombinant DNA technology and novel bioprocessing techniques- have enabled scientists to grow whole organisms from single cells, fuse different cell types to create hybrids with the qualities of both parent cells, impregnate animals with embryos from other valuable animals, isolate genes from one organism to insert them into another and process things such as food and waste, more efficiently. Some modern biotechnological techniques are presently being used to help conserve biological diversity and sustainable use of its components, in particular, genetic resources.

But to many people, genetic engineering is biotechnology. With genetic engineering techniques, a gene for a particular trait from one organism can be directly inserted into another, even if the two organisms are not from the same species. The potential power of genetic engineering has captured the imagination of many, and heightened concern over the ethics of its use, safety for humans and the environment and the socio-economic impact of its product.

Biotechnology potentially offers benefits for human welfare, but many people are concerned that greater use of the products of biotechnology is not without risks to biological diversity and human health. Such risks will have to be identified and appropriately managed or controlled before new product enters the environment (Adapted from IUCN, 1997. Guide to the Convention on Biological Diversity).

The Convention on Biological Diversity and the newly adopted protocol on Biosafety in January 29, 2000 require each contracting party to take steps Each Party shall take necessary and appropriate legal, administrative and other measures to implement its obligations under this Protocol. Article 2 (1 & 5) under the Protocol requires each Party to:

1. Ensure that the development, handling, transport, use, transfer and release of any living modified organisms (LMOs) are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health.
2. The Parties are encouraged to take into account, as appropriate, available expertise, instruments and work undertaken in international forum with competence in the area of risks to human health.

Biosafety and Biotechnology are new issues for Cambodia, even though traditional biotechnology has been in use for hundreds of years in plant and animal selection, beer, soy products and rice and palm wine production. The government has been trying hard to put biosafety into a formal framework for implementation through the National Biodiversity Strategy and Action Plan, which consists of 98 priority actions and 17 thematic areas. One of the 98 priority actions deals with a strategy for development and implementation of a biosafety framework.

As a Party to the Cartagena Protocol, Cambodia may implement a program to address the risks identified with biotechnology through a hierarchy of measures - regulation, management or other means of control (Cambodia NBSAP, 2002).

Capacity in Cambodia for biosafety and biotechnology is limited. Similar limited capacity is also seen in the implementation of the NBSAP, where capacity at the individual, institutional and systemic levels is lacking. The most severe problem lies within the institutional capacity to implement the NBSAP including the biosafety thematic area. Any capacity development should be supported by a commitment for a policy change by the government so as to ensure the effective development of the national biosafety framework. External assistance on capacity building in biotechnology and biosafety is needed to help promote effective implementation of the national biosafety framework.

### **Cambodia's Policy on Biotechnology and Biosafety**

The Biosafety and biotechnology policy lies within the biodiversity policy as outlined in the national biodiversity strategy and action plan. The policy is a part of the strategic triangle in developing the country, i.e. economic growth, social development and sustainability. Moreover, the government recognized that biosafety is a key factor to promote agriculture and a cross-cutting issue that might not only affect the national food



safety but the national security. With the limited application of biotechnology, the government of Cambodia has instead focused on promoting natural breeding for plants, crops and animals, with emphasis on selection for resistance to diseases, pests, and drought to boost agriculture. Cambodia is aware that it is not capable of developing any living modified organisms (LMOs) in the near future. It is more likely to be a user of LMOs instead of a producer of LMOs. Therefore, the government approved on September 09, 2002 the accessing to the Cartagena Protocol on Biosafety. As a Party to Protocol on Biosafety, Cambodia can use the protocol as a basis to develop its own laws on biosafety so as to reduce risks from LMOs on the conservation and sustainable uses of its biological resources and human health. On December 16, 2003, the Protocol entered into force in Cambodia.

### **Biotechnology and Biosafety Policy Goals**

The goal for Cambodia toward biosafety and biotechnology development is highlighted as follows:

- *Develop biotechnology education while preventing or minimizing environmental and health hazards associated with the use and release of living modified organisms.*
- *Protect indigenous biodiversity from adverse impact resulting from the introduction and use of living modified organisms.*

Through this goal, Cambodia is expected to develop its national strategy and framework on biosafety and build national capacity in modern biotechnology. This will enable Cambodia to meet its challenges in agricultural biotechnology as well as address gaps in technical, infrastructure, and institutional capacities.

Priorities for biosafety and biotechnology development in Cambodia include:

- Research in microbial biodiversity.
- Use of biotechnology to reduce the use of chemicals.
- Use of biotechnology to control pollution and to improve environmental health and other aspects of environment.
- Provide capacity for monitoring and enforcement to concerned ministries, NGOs and universities.
- Build capacity in appropriate labs in Cambodia to be able to identify LMOs.
- Utilize biotechnology to produce protein rich products that could be used as animal feed, organic fertilizers, soil conditioners and soil stabilizers.
- Promote sound genetic manipulation to increase fish and crop production.
- Promote the production of biogas, bio-fertilizers, and energy as a by-product of fermentation processes.
- Establish a national directory of human resources working on subjects concerned with biotechnology and biosafety.
- Develop a biotechnology training program including risk assessment and risk management of LMOs.
- Increase university resources in biotechnology research and development.
- Include in the educational curricula the concept of genetic diversity, its importance and application in genetic engineering and technology.

- Develop a National Code of Ethics and Guidelines for the use of biotechnologies, LMOs and GMOs.
- Develop a biotechnology research centre for long-term resource development

### Regulatory Regime for Biosafety

Under the UNEP/GEF funded project, Cambodia produced a draft national law on biosafety and is drafting a Sub-decree on biosafety. The draft law would consist of 40 articles dealing with the trans-boundary movement of LMOs and risk assessment and management mechanism for the release of LMOs into the environment. The Sub-decree will be a complement to the draft law to ensure the completeness as outlined in the protocol. Further discussion will be needed to ensure stakeholder acceptability and active participation in the implementation of the law, when it is enacted in the parliament.

#### 1. Relevant Existing Laws

Other existing relevant sectoral laws are listed in the table below. Their objectives, responsible institutions, the status of the laws, and the decree of laws are described.

Title of Laws	Scope of regulation	Responsible Institutions	Status
<u>Draft National Law on Biosafety</u> (Annex 3)	The objectives of the law are to: 1. prevent adverse impact on the conservation of biodiversity and natural resources in the Kingdom of Cambodia caused by the transboundary movement, development, handling, transfer, use, storage, and release of living modified organisms resulting from modern biotechnology; 2. Ensure effective conservation of biodiversity and sustainable use of biological resources, taking also into account risks to human health; 3. provide a transparent process for making and reviewing decisions on living modified organisms and related activities and operations; 4. Develop biotechnology education while preventing environmental and health hazards associated with the use and release of living modified organisms; 5. Implement the Cartagena Protocol on Biosafety to the Convention on Biological Diversity to which the Kingdom of Cambodia is a Party.	Ministry of Environment	In draft for consultations-2004.
Fishery Law	The objectives of the law are aimed at ensuring the sustainable management of fishery for the economic, social and environment benefit including biodiversity conservation and cultural heritage. The law gives a chance for Ministry of Environment to manage its wetland biodiversity inside protected areas and Ramsar sites. Article 65, 66, 67, and 68 are related to import and export of fisheries and fishery products. This indicated that it is involved with the import of fish-based products but not really fish-based LMOs. However, the jurisdiction is	Dept. Fisheries/MAFF	Draft-2003-2004. It is at the Council of Minister

	not clear.		
Forestry Law	The law regulates forest management framework, harvesting, use, development and forest conservation in Cambodia. The objective of the law is to ensure forest is managed in a sustainable manner for social, economical, and environmental benefits including biodiversity conservation and natural heritage. Its scope applies to all aspects of forest including natural species and plantation. Article 34 focused on export and import of wild seeds or plant, which shall have an assessment from forest administration before issuing a permit from the Minister for MAFF. A certification from the scientific authority of the exporter country is also required. Although, this is quite related to the import and export of LMOs, no clear jurisdiction for LMOs release is observed.	Dept. Forestry and Wildlife/MAFF	Adopted in July 30, 2002
Natural Resource and Environment Law (Annex 4)	The law is aimed at (1) protecting and upgrading the environmental quality and public health by means of prevention, reduction and control of pollution; (2) assessing the environmental impacts of all proposed projects; (3) ensuring rational and sustainable preservation, development and management and the use of natural resources; (4) encouraging public participation in the protection of natural resources and the environment and (5) including any acts which may affect the environment. Articles 2,3,4,5,6,7,8,9,10 and 11 are related to Biosafety and biodiversity conservation.	Dept. Nature Conservation and Protection/MOE	Adopted in December 24, 1996
Phyto-Sanitary Inspection Sub-Decree (Annex 5)	The sub-decree is to identify and inspect phyto-sanitary measures to prevent the spread of diseases and dangerous pests, from one area to another in Cambodia. This could be brought about by all articles, which are imported into or in transit in Cambodia. The Sub-decree is necessary to protect agricultural production and biological resources. The most relevant articles to biodiversity conservation and Biosafety are 1, 2, 5, 6, 7, 8, 9, 10, 20, 21, 22, 23, 27, 28, and 29.	Dept. Agronomy and Land Improvement/MAFF	Adopted in March 2003.
Protected Areas Management Law (Annex 6)	The law aims at managing public domains in protected areas (PA) designated as attached in the annex I and new designated protected areas under MOE's jurisdiction. The objectives are to (1) identify competence and administrative responsibility of the protected area of MOE in PA management; (2) manage and effectively implement the PA conservation of biodiversity and natural resources and their use in a sustainable manner; (3) set standard and procedure for PA management; (4) provide mechanisms and procedures for PA establishment or change the name of PA; (5) identify responsibility and public participation in PA protection; (6) implement international	Dept. Nature Conservation and Protection/MOE	In draft 2003. It is at the Council of Ministers.

	conventions, protocols and agreements on biodiversity and ecology protection in PA; and (7) define liability and punitive measures for criminals who destroy resources and public properties in the PA. Articles 5, 6, 7, 20, 21, 23, 38, 46, and 48 are related to the protection of biodiversity and biosafety.		
Sub-Decree on LMOs Management and Control (Annex 7)	The objectives of this sub decree are to implement the Law on Biosafety and to provide a transparent process for review and decision-making on LMOs and related activities. The sub-decree will regulate risk that might occur from handling, transfer, transport and use of LMOs in Cambodia.	Ministry of Environment	Drafting, 2004
Public Health Law (decision) (Annex 8)	The objectives of this are to: (1) Establish a basis for preparing the pharmacological procedure; (2) Choose the appropriate pharmacy to fulfill the important and needed health service; (3) Improve the management system and appropriate pharmacy supply. (4) Promote the local production of pharmaceutical products in order to improve the supply of pharmaceuticals so as to reduce imports; (5) Create a control system in order to guarantee the quality of pharmaceuticals including shelf-life dates for patents; (6) Determine the policy on costs of pharmaceuticals; (7) Introduce a system of use of pharmaceuticals according to shelf-life or expiry dates so as to avoid waste and risk of using medicines which have expired and with reduced efficacy and (8) Promote the consumption of the national traditional medicines including improving the quality of local pharmaceuticals medicines. The law deals with policy issues in general but not on biosafety issues such as risk assessment and management from LMOs, which could produce medicines.	MOH	Approved in June 1998
Sub-Decree on Production of Import, Export and Commerce of Traditional Medicine in Public Sector.	The objective of this sub-decree is to manage the import and export production and commerce of traditional medicines in Cambodia. The sub-decree covers the right to run traditional medicine business, traditional medicine production, import-export, and commerce. This is related to plants and animals, but may include the uses of LMO-based products because the sub-decree does specify the nature of the traditional medicines.	MOH	Approved in April 1998
Environmental Impact Assessment (EIA) Sub-decree (Annex 9)	The sub-decree has the following objectives, which are: (1) identify and carry out EIA on all private and public projects which are under the responsibility of MOE, before these are submitted to the Government; (2) define types, scale of the project proposed and existing activities in both private and public sectors that need to be assessed for environmental impacts; and (3) encourage public participation in the	Dept. EIA/MOE	Approved in August 1999

	process of EIA as well as collecting comments and feedbacks for consideration in the adoption process. Articles 4, 5, 6, 7, 8, 9, 14, 15 and 22 are related to the assessment of development projects that include the field trial and field release of LMOs.		
Law on the Management of Quality and Safety of Products and Services (Annex 10)	The aims of the law were not specified. But the scope was focused on all commercial enterprises, all manufacturing for commercial purposes, importers, exporters and merchants, service providers, advertisers of products, goods, and services and civic association and non-governmental agencies engaged in manufacturing, commerce or humanitarian relief activities. The law is related to biodiversity and biosafety in articles 8, 10, 12, 13, and 21. Any import of GM foods might be subject to inspection for quality and safety control (i.e. expiry date).	Dept. Camcontrol/MOC	Adopted in June 2000
Food Sanitary for Humans Sub-Decree	The sub-decree aims at identifying hygienic measures for products to be used as human food including production facilities, employees, micro-organisms and the cleanliness of the product. Article 2 covers the scope of the sub-decree which addresses the need for inspection during handling, transport, distribution, harvesting, fishing and so forth. Other articles seemed irrelevant. However, the main objective of the sub-degree is to ensure safety of foods and products for humans.	Dept. Camcontrol/MOC	Approved in June 2003
Law on Marks, Trade Names and Acts of Unfair Competitions.	The law has objectives to protect the mark and trade names, duly registered in the register of marks in the Kingdom of Cambodia and prevents acts of unfair competition on the creation, the utilization of marks and trade names. The law could be related to the protection of intellectual property rights (IPR) related to discoveries and innovations in biotechnology. It is however, not directly related to biodiversity and biosafety except in the trade of fauna and flora such as in marks and trade names. However, GM food might be subject to inspection for the appropriation of marks and trade names.	MOC/Dept.of CAMCONTROL	February 2002
Law on Copy Right and Related Rights	The law is aimed at providing the rights of the author and the right of related persons thereon with respect to works and the protection of cultural products, performance, phonogram and the transmission of broadcasting organization in order to secure a just and legitimate exploitation of those cultural products and thereby continue with the development of culture.	Ministry of Culture and Fine Arts	May 2002.

## 2. Scope of Relevant Laws

a. According to the draft National Law on Biosafety, Articles 11 to 13, stipulate that LMOs that are required to be regulated when imported into Cambodia, are:

- LMOs imported for contained use.
- LMOs imported for intentional introduction into the environment.
- LMOs imported for direct use as food or feed or for processing.

All of these are subject to risk assessment prior to approval to entry into the environment of Cambodia. This also applies to the export of LMOs from Cambodia to overseas, even though, Cambodia at the moment, has limited capacity in genetic engineering to produce LMOs and biotech-products. However, the Cambodian Biosafety Law will not regulate:

- LMOs that are pharmaceuticals for human use that are addressed by relevant international agreements and/or organization;
- LMOs in transit through but not destined for use in the Kingdom of Cambodia;
- Any other categories of living modified organisms that may be exempted by the Competent National Authority; and
- Any processed products containing dead modified organisms or non-living components of genetically modified organisms.

In collaboration with other concerned ministries, the Ministry of Environment shall manage and control all activities and operations involving LMOs covered by this law. The Ministry of Environment is the National Focal Point and Competent National Authority for implementing the provisions of this law and those of the Cartagena Protocol.

b. The Phyto-sanitary sub-decree will regulate all plant quarantine materials brought or transported into, exit from, or transit in the territory of the Kingdom of Cambodia. All plant quarantine materials shall be inspected and shall comply with Phyto-sanitary Treatment. This will be handled by the Department of Agronomy and Land Improvement, which acts as the Plant Quarantine Authority under MAFF.

Plant quarantine materials are defined as:

- Plants, parts of plant, plant products, and agricultural products that are not certified free of pests;
- Packaging material or wooden boxes, pallets or any means of transport and storage;
- Soil or soil attached to roots or parts of plant;
- Live or dead pests or beneficial organisms;
- Any other items that may not be of plant origin but yet may provide a habitat for pests.

The list of plant quarantine materials will be defined by a joint-Prakas of Minister of Agriculture Forestry and Fisheries, Minister of Commerce, Minister of Industry Mine and Energy, and Minister of Health.

c. Law on the Management of Quality and Safety of Products and Services will regulate manufacturing products, goods, and services in Khmer language the ingredients, compositions, users' guidelines, manufacturing date, and expiry date along with other requirements which guarantee the safety and health of consumers prior to their commercialization. MOC and the Department of Camcontrol will be responsible for the implementation of the Law.

### **3. Documentation requirement for LMOs**

It is essential for those who import or export any LMOs or its products to submit accompanying relevant documents to the national competent authority in Cambodia prior to the import or export of that LMO. Consistent with the decisions of the First Meeting of the Parties (MOP1) to the Cartagena Protocol on Biosafety in Kuala Lumpur in February 2004, all bulk shipments of LMOs intended for food, feed or processing are to be identified as "may contain LMOs". The accompanying documentation should also indicate contact details of the exporters, importers or other appropriate authority. Under the new system agreed at MOP1, all shipments of LMOs such as seeds and fish that are meant to be introduced directly into the environment must be clearly identified as "destined for contained uses". The common, specific and commercial names of the LMOs, along with the "transformation event code" or unique identifier code must be documented. Contact details of the traders and any handling and storage requirements are to be clearly indicated. Documentation must also provide contact details, in the case of an emergency, identify the risk class of the LMOs and specifying how the LMO is to be used. This would allow the authority to identify LMOs and non-LMOs and specify any requirement for safe handling, transport, use and storage. The competent national authority, i.e. Ministry of Environment, may request for additional information or identification requirements applicable to the import or export of LMOs according to the charter under the Cartagena Protocol, the law and the sub-decree. The requirements of information on LMOs will not prejudice the law on the management of quality and safety of products and services and to the provisions of the sub-decree on phyto-sanitary inspection, standards and agricultural materials, and quarantine of animals and products of animal origin and food sanitation for human.

### **The System to Handle Application or Requests for Authorizations**

The system to handle application or request is specified in articles 11-18 of the draft law. These articles cover LMOs destined for intentional introduction into the environment and contained used activities. The structure as outlined below is the proposed decision-making system for release of LMOs, in which relevant agencies will take part in the process, according to the nature of LMOs. It will not only require risk assessment from appropriate agencies, i.e. competent national authority, but also have relevant stakeholders including NGOs and consumer associations to participate in the process of risk assessment. The first structure is addressing the hierarchical release of LMOs into the environment, where the National Biodiversity Steering Committee is the highest body to make a decision to allow LMOs to enter Cambodia. Further information would be addressed in the law and its sub-decree.

The requirement of information related to the release of LMOs whether for intentional use, direct uses as food, feed or processing will be posted in the national BCH ([www.cambodiabiosafety.org](http://www.cambodiabiosafety.org)).

Based on the draft flow-chart for the release of LMOs into the environment (that will be included in the Sub-Decree on Biosafety for further discussion), the system of handling requests for authorizations in Cambodia is clearly outlined. These include the procedure for granting permit and risk assessment for importing LMOs.

### ***Step 1: Submission of Application***

Firstly, applicants are required to submit an application with a complete set of information on the LMOs that are intended to be imported into Cambodia to the National Biodiversity Steering Committee Secretariat (NBSC) located inside the Ministry of Environment (MOE). The NBSC Secretariat will check the document for completeness before submitting it to MOE for further processing. The document of application may be returned to the applicant if it is found to be incomplete.

### ***Step 2: Process of Application***

After the National Biosafety Secretariat has confirmed that the application is complete, the Ministry of Environment will send the document of application to relevant line ministries and departments according to the nature of LMOs for risk assessment including MAFF and its appropriate departments, MOE and its appropriate departments, MOC, MOH, MIME, NGOs, universities and SAC.

### ***Step 3: Risk Assessment and Advice***

The SAC and involved line ministries, departments, universities and NGOs will provide additional advice and comments for MOE to make a decision. They will send back the report of risk assessment and any impact which are of concern to MOE. When risk assessment reports from all concerned ministries, departments, universities and NGOs, MOE have been received, MOE will make a decision on whether to allow the importation of that particular LMO into Cambodia. This process will also seek the collective advice from the NBSC/Biosafety before making a decision. All costs involved in risk assessment and administration will be borne by the applicant.

### ***Step 4: Approval Letter***

The approval letter from MOE or a letter of authorization to allow for import of LMOs into Cambodia will be issued by the Minister for Environment. This letter does not mean that an applicant can automatically start importing LMOs into Cambodia. On the contrary, he/she has to apply for an import permit or trade permit from MOC and the appropriate department under the MAFF. The process would ensure transparency and accountability in the release of LMOs into the environment of Cambodia.

When MOE agrees to issue a letter of approval to the applicant for the release of LMOs into the environment for direct use as food, feed or processing, MOE will at the same



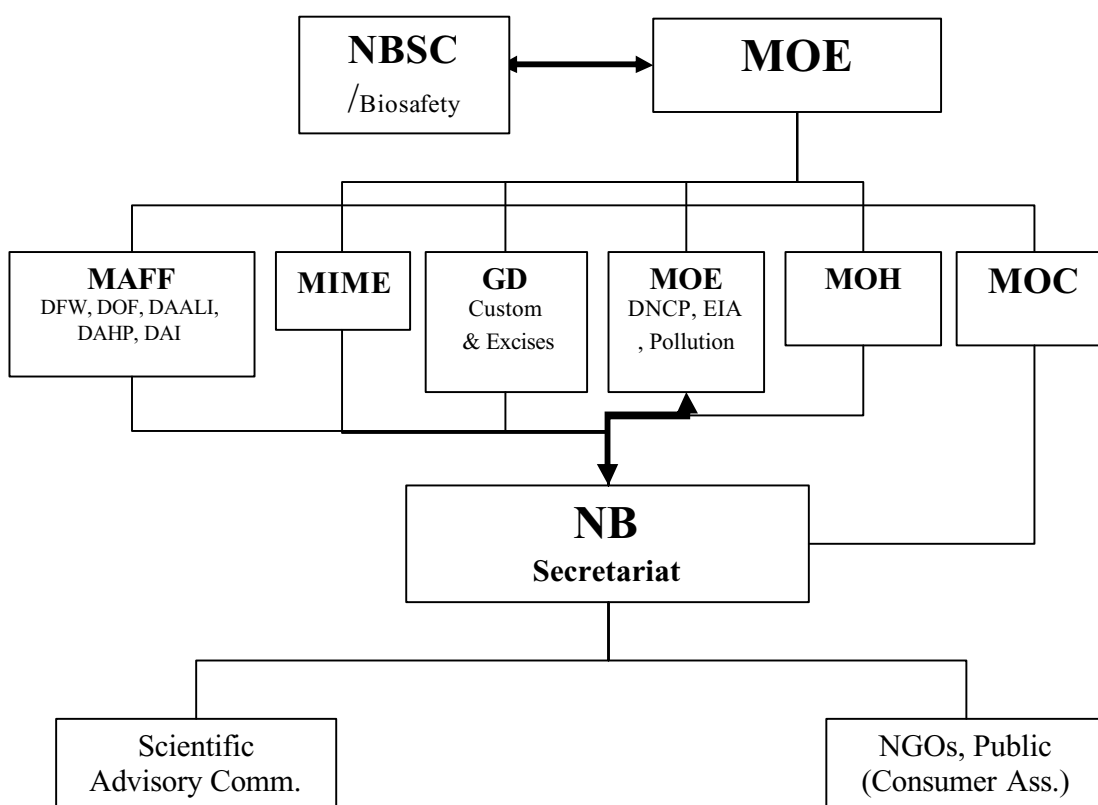
time also notify Parties to the Cartagena Protocol on Biosafety through the Biosafety Clearing House (BCH) within 15 days of that decision.

The General Department (GD) of Custom and Excise will not be involved in risk assessment of LMOs but will be involved in regulating taxable goods and services and checking for proper permit. MOC would also be responsible for checking for proper labeling of products and commodities and issuing trade permit for the purpose of import and export (Structure of Releasing LMOs into the environment of Cambodia).

Acknowledgement of receipt of application can take up to 90 days from receipt of the application (article 13). However, the whole process for decision-making can take up to 270 days from the date of receiving the application (article 14).

### *Step 5: Appeal*

In the event that an application is refused by MOE because of predicted severe adverse risk from LMOs, the applicant may appeal to the court if he/she can prove that the risk to biological diversity and human health is minimal. This is subject to judiciary review.



Hierarchal Structure of Releasing LMOs into the environment of Cambodia  
(Draft)

## List of Acronyms

Camcontrol- Cambodia Import-Export Inspection and Frail Repression  
 DNCP-Department of Nature Conservation and Protection  
 DEIA-Department of Environmental Impact Assessment  
 DEPC-Department of Environmental Pollution Control  
 DAALI-Department of Agronomy, and Land Improvement  
 DOF-Department of Fisheries  
 DAHP-Department of Animal Health and Production  
 DAI-Department of Agro-Industry  
 DWF-Department of Forestry and Wildlife  
 GD- General Department of Custom and Excise  
 MAFF-Min. of Agriculture, Forestry and Fisheries  
 MIME-Min. of Industry, Mine and Energy  
 MOC-Min. of Commerce  
 MOE- Ministry of Environment  
 MOH- Min. of Health  
 NBF-National Biosafety Framework  
 NBSC-National Biodiversity Steering Committee.

## The Systems of Enforcement and Monitoring for Environmental Effects

The law on biosafety will not require environmental officers/agents to be stationed at the main ports of entry to check for LMOs import or export or inspect field trials. However, custom officers and Camcontrol officers from the General Department of Custom and Excise and Ministry of Commerce, respectively, would play an important role in checking for certificates of LMO import. Such checks will include quality of other goods and commodities. Cooperation is important between line ministries such as Custom and Excise General Department, MOE, MAFF, MOC, MOH, and MIME in terms of LMOs identification and risk assessment. When the national law on biosafety is ratified, their joint efforts would be essential for the effective implementation of the law.

According to article 7 of the National Law on Biosafety, the Ministry of Environment is the national focal point to the Cartagena Protocol on Biosafety and is responsible for the administrative functions required to implement this law. The functions include timely notification to other States, the BCH and relevant international organizations of any event in Cambodia that may result from an unintentional transboundary movement of an LMO. The Law will allow MOE to set up a National Scientific Advisory Committee (SAC). The SAC will provide scientific and other technical assessment and advice, approve standards for R&D facilities, operations and activities involving LMOs subject to the biosafety Law. The SAC will comprise professionals from relevant ministries, NGOs, civil groups, universities and private sector to work on the basis of their professional expertise in risk assessment of LMOs.

Any illegal release of LMOs into the environment would be subject to penalty as stipulated in the draft law. The details of the procedure for the release of LMOs will be stipulated in the Sub-Decree.

The actual monitoring of impacts to the environment and humans is conducted by the Department of Environmental Impact Assessment (DEIA) that is responsible for any development projects (ref. Sub-decree on EIA). This includes any LMO field trial projects intended for planting and commercial use in Cambodia.

Enforcement is normally done by the Custom and Excise Officers (CEO) and Camcontrol Agents (CA). The CEO will check for certificates, permits of import or export of goods and commodities or tax certificates, while CA will check for the quality of goods and commodities including labeling. If any of these prove to contravene the laws, these goods and commodities will be sent to the relevant departments such DAHP, DAALI, DEIA, MOH and so forth for further inspection. For any environment impacts exposed to the environment, DEIA/MOE would play an important role in enforcing the company to compensate for the damaged socio-economic environment as stipulated under the environmental and natural resource management law and relevant legislation. However, the past practice has been that when any environmental effects on a large scale are discovered, a technical committee would be set up to further investigate and assess the impacts. The committee would compose of representatives from relevant ministries and departments but giving the leading role to MOE.

With regards to monitoring, according to article 3 of the Sub-decree on EIA, "MOE will monitor and take measures in order to ensure the project owner abides by the environmental management plan during the project construction, operation, and closure, as mentioned in the approved EIA report". However, in practice, monitoring would have to be based on inter-ministerial coordination and reporting system on any environmental effects and the nature of LMOs that are involved with the appropriate line ministries. MOE, however, cannot check for any impacts on any field trials unless it receives an actual report exposing the adverse effects to the environment. This will require committed cooperation from relevant line ministries, NGOs, universities, media and private sector.

### **Future Plan for Monitoring and Enforcement Systems**

To effectively monitor and enforce the law, a system for monitoring and enforcement should pay attention to certain areas as stipulate in the law.

### **Monitoring**

Monitoring will be conducted at priority areas to ensure risks can be contained immediately as soon as an unintended release occurs. The principle agency for monitoring is MOE. Other agencies also play an important role in monitoring because of the location and facilities within such agencies like MAFF, MOH, MOC, and relevant NGOs. These relevant ministries and groups should immediately report to competent national authority/MOE for joint urgent action such as risk management and operation of an emergency response plan. Media often provides a fast track for information to the public. In this respect, their role in monitoring any outbreak of risks from LMOs is considerable. The areas to be focused are:

- Field trial of LMOs if they are allowed into the environment in Cambodia (MOE, MAFF and concerned ministries).

- Illegal trans-boundary movement of LMOs and report risks to appropriate ministries (concerned ministries and public).
- Contained uses and report to appropriate ministries for actions.(MOE)
- Direct use LMOs intended for food, feed or processing (MOE, concerned ministries and NGOs).
- Impact of LMOs on biological diversity (MOE and MAFF).

## **Enforcement**

Enforcement varies on the nature and intended use of the LMO and is subject to different laws other than the national law on biosafety. Because the import or export of LMOs can be in different forms of products or living organisms, these are subject to the requirement of different laws such as the Law on the Management of Quality and Safety of Products and Services, Law on Marks, Trade Names and Acts of Unfair Competitions, biosafety law and sub-decree. However, for the biosafety law, different agencies have different components of responsibilities to shoulder to ensure effective enforcement. This is explained as follows:

- Check for labeling of LMOs based products or LMOs (MOC and concerned ministries).
- Check for certificates or permits or letters of approval (Custom and Excise General Department, MOE, MOC, and concerned ministries).
- Enforce fine or penalty for any illegal trans-boundary movement of LMOs into Cambodia (MOE, Custom and Excise General Department).
- Ensure safe transfer, handling, transport and use of LMOs in Cambodia in the case of release into the environment (Custom and Excise General Department, and concerned ministries). and
- Enforce advance informed agreement procedure with parties and non-parties to the Cartagena Protocol on Biosafety (MOE).

## **Mechanisms for Public Awareness, Education and Participation**

Environmental education in Cambodia has had a relatively short history, and in the past conducted mainly by the NGOs. The most notable government activities of relevance began with the establishment of the Ministry of Environment and the Inter-ministerial Steering Committee for Environmental Education (IMSCEE) in 1993. In MOE, the Department of Education and Communication is chair to the IMSCEE. The Steering Committee is responsible for all environmental education programs for primary, secondary and tertiary education - the formal education sector. Technical and financial assistance has been provided for environmental education since 1993 by the United Nations and other international organizations. Activities directly or indirectly related to biodiversity include: training seminars and capacity building workshops, production of a manual on environmental education for primary school teachers, TV spots, posters, conducting a national environment day, etc. At the moment however, the Steering Committee is not effective due to lack of funding.

In addition to the initiatives in the formal education sector, different ministries, international organizations, international and local NGOs have carried out environmental

activities in the non-formal education sector. One example is the Integrated Pest Management program that has been conducted at the community level with assistance from the Food and Agriculture Organization (FAO). Also a program for monks was initiated in 1998 by an NGO working group under the leadership of Ven. Nhem Kim Teng, one of Cambodia's leading ecologist monks. The program aims to promote community-based environmental learning and activities through the Buddhist Wat communities in the country. Other community-based management pilot projects have developed educational tools promoting better forestry and agriculture practices.

The responsibility of increasing public awareness, education and participation is not the sole duty for MOE. It is also for relevant line ministries including NGOs and the private sector to undertake so that Cambodia's biodiversity and human health can be protected from the use of LMOs and their potential adverse impacts. The key issues in public awareness, education and participation on biosafety in Cambodia are:

- Lack of awareness and understanding of biosafety issues among local people
- Limited extension services and facilities devoted to environmental awareness
- Weak integration of environmental concepts in educational curricula.
- Shortage of manpower and expertise in the field of biotechnology and biosafety.
- The infancy of basic research in all fields of natural resources protection and sustainable use
- The terms “biosafety” and “living modified organisms” are very new to many Cambodians.
- Lack of funding for genetic engineering education and research in general
- Lack of biosafety and biotechnology training and education materials in Khmer

Public awareness, education and participation have also been addressed in the National Law on Biosafety. As stated in article 34, “The Ministry of Environment and other concerned competent ministries shall promote awareness and education of the general public and particularly those conducting activities and operations concerning biosafety matters which are subject to this law through, among other things, the publication of this law and Sub-decrees implementing it. The procedures for public participation and access to information on LMO-related issues shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.” Article 35 further said that “Information related to LMOs shall be mutually disseminated among the Ministry of Environment and other concerned competent authorities.” This is essential to allow public to be aware of risk from LMOs and participate in risk assessment since they are users. This would also be transparent and able to implement easily. However, the draft law would need to further specify the role of public participation in risk assessment and management of LMOs.

Current means for public awareness have been used such as materials, newsletters, posters and calendar distributions. TV and quiz shows have touched on biodiversity only but not yet on biosafety. In the past years, MOE has used quiz shows on TV and TV spots for university students to take part in the public awareness process on biodiversity. This has been successful. Increasing public awareness on LMOs in Cambodia will require additional resources. This will not only promote further understanding on LMOs but also other possible adverse risks to human and the environment.

The country's BCH is now posted at: [www.cambodiabiosafety.org](http://www.cambodiabiosafety.org). This website is also linked to the Cambodia's biodiversity Clearing-House Mechanism (CHM) website, which is [www.biodiversity-kh.org](http://www.biodiversity-kh.org). The Ministry of Environment, which is the focal point for the Cartagena Protocol on Biosafety is responsible for maintaining and updating the website including future development and public participation. However, due to constraint in budget, the Cambodia DNBF Project is maintaining and updating information in the website for the present. In the national BCH, it contains the database on the survey report on capacity building on R&D, biotechnology and existing legislation, first national workshop on NBF report, NBF project brochure, the draft National Law on Biosafety, quarterly biosafety newsletters and Cambodia's DNBF project.

### **Future Plan for Public Awareness, Education and Participation in Biosafety**

In the near future, Cambodia should focus its attention on public awareness, education and participation so as to make public become more familiar with biosafety, biotechnology, risks from LMOs and approaches to minimize risks or contain risks that might have adverse effects to biodiversity and human health. MOE alone cannot play this role in public educating, awareness, and participating in biosafety and this requires a cross-agency involvement such as MDEYS, NGOs, media, and public campaigns to make public understanding, aware and participating in the biosafety. Therefore, policy options should give priority to the following areas:

- Biosafety Awareness Program including updating national BCH web site, national biodiversity day, publications, posters, TV and radio spots, in collaboration with national NGOs, university and private sector.
- Establishing a National Biosafety/Biotechnology Research, Training and Information Center and Library.
- Integrating biosafety issues with biodiversity in school curriculum as it has been done.
- Government staff capacity-building program for implementation of the NBF and relevant agencies.
- Biotechnology research and development program at some key universities.

### **Use of Terms in the NBF**

Technical terms used in this national biosafety framework are addressed as follows:

-**“Applicant”** means a legal or natural person that notifies its intent and/or applies for prior approval to import into or export from the Kingdom of Cambodia any living modified organism for any purpose;

-**“Contained use”** means any operation, undertaken within a facility, installation or other physical structure, which involves living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment;

-**“Intentional introduction of LMOs into the environment”** means the deliberate use of LMOs subject to this act that is not contained use, including field release and planting,

release into water and/or air but not including LMOs imported for direct use as food or feed, or for processing;

-**“Living modified organism (LMO)”** means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

-**“Living organism”** means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids;

-**“Modern biotechnology”** means the application of:

- a. *In vitro* nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or
- b. Fusion of cells beyond the taxonomic family, that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection.

- **"Export"** means intentional transboundary movement from one Party to another Party;

- **"Exporter"** means any legal or natural person, under the jurisdiction of the Party of export, who arranges for a living modified organism to be exported;

- **"Import"** means intentional transboundary movement into one Party from another Party;

- **"Importer"** means any legal or natural person, under the jurisdiction of the Party of import, who arranges for a living modified organism to be imported;

- **“Transboundary movement”** means the movement of a living modified organism from one Party to another Party, save that for the purposes of Articles 17 and 24 transboundary movement extends to movement between Parties and non-Parties.

- **“Phytosanitary Inspection”** includes researching, investigating, observing, checking and sampling, analyzing and identifying plant quarantine materials to determine its infection status.

- **“Dangerous Pest”** (DP) is pest causing or being able to cause large economical damage or seriously destroy plant resource and environment.

- **“Transit transport”** means transit of goods and means of transport across the territory of the Kingdom of Cambodia when the passage is only a portion of a complete journey beginning and terminating beyond the frontier of the Kingdom of Cambodia across whose territory the traffic passes; transit transport may or may not include transshipment, warehousing, breaking bulk or change in the mode of transport.

- **“Plant products”** mean unprocessed, semi-processed or processed material of plant origin that, by their nature or that of their processing, may create a risk for the introduction and spread of pests.

- **“Phytosanitary”** of or for plant or plant-product health especially the prevention, treatment or removal of pests.

- **“Plant”** means all members of the plant kingdom, whether living or dead, at any stage of growth or development, any part or parts of such, but not preserved fruits or vegetables imported in hermetically sealed cans, tins, bottles or other containers. Such an expression also included, but is not restricted to, seed, grain, tuber, corm, bulb, root, stem, branch, stock, bud wood, cutting, layer, slip, sucker, rhizome, leaf, flower and fruits of plants.

- **“Phytosanitary Requirement”** means the requirement of plant quarantine authority of any country to prevent against the spread of pest into the country by means of importing activities. This requirement is in accordance with the International Plant Protection Convention – 1951.



## References

1. CBD Secretariat, 2000. Cartagena Protocol on Biosafety.
2. Department of Science and Technology Bicutan, Tagic, Metro, 1991. Philippines Biosafety Guidelines.
3. DFID et. UNEP/GEF, 2003. Public Participation and the Cartagena Protocol on Biosafety. A review for DFID and UNEP/GEF. Part III: A Practical Guide.
4. Gurdial Singh Nijar, 1999. Model National Biosafety Law. A law to provide for the regulation of the import, deliberate release into the environment, placing on the market, and the contained use of genetically modified organisms and products thereof. Third World Network. Penang, Malaysia.
5. IUCN, 2003. An Explanatory Guide to the Cartagena Protocol on Biosafety. IUCN Environmental Law Center, paper No. 46.
6. MOE, 2004. Draft Sub-Decree on LMOs Management. Cambodia's Ministry of Environment.
7. MOE, 2004. Draft National Law on Biosafety. Cambodia's Ministry of Environment.
8. NBSAP, 2002. National Biodiversity Strategy and Action Plan. Ministry of Environment, Cambodia.
9. Oum Pisey et. al., 2003. The survey report on national capacity resources, uses of biotechnologies, and existing national bilateral and multilateral cooperative programs on capacity building and R&D in biotechnology. Ministry of Environment.
10. UNEP, 2003. Biosafety and the Environment. An introduction to the Cartagena Protocol on Biosafety. CBD Secretariat, Montreal, Quebec, Canada H2Y 1N9.



# ANNEXES

**Kingdom of Cambodia**  
Nation Religious King

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**Royal Government of Cambodia**

**No-14 SSR**

**Decision**

On

Amending of the article1 and article2 of the decision on  
Creating the national Biodiversity Steering Committee

**5**

Royal Government

- Have seen constitution of Kingdom of Cambodia
- Have seen Royal decree No. NS / rkt /1198 /72 dated on 30 November 1998 for the establishing of Royal Government of Kingdom of Cambodia.
- Have seen Royal proclamation No.02 / NS / 94 dated on 20 July 1994 for implementation of council of ministers
- Have seen Royal decree dated on 01 November 1993 for establishing and boundaries for the protected areas
- Have seen Royal proclamation No. NS / rkm / 1296/36 dated on 24 December 1996 for the establishing environmental law and natural resource management
- Have seen proclamation No. NS / rkm / 0196/21 dated on 24 January 1996 for the establishing of the Ministry of Environment.
- Have seen sub-decree No.57 GnRKS-bk dated on 25 September 1993 for the preparation and implementation of the Ministry of Environment.
- Have seen decision No.16 SSR-bk dated on 30 april 1991 on the developing the National Biodiversity steering committee.
- Have seen the proclamation No.01 Rbk dated on 25 January 1999 for the Royal Government to manage and stop anarchy on forestry
- Have seen the proclamation No.06 Rbk dated on 27 September 1999 for the Royal Government to stop anarchy of land clearance
- According to the necessary situation of the Royal Government in order to use, protect and manage biodiversity and environment for sustainable development in Cambodia.

**Article 1.**

Amending an article1 of decision No.16-SSR dated on 30 April 2001 on the Developing National Biodiversity Steering Committee which consist of the composition as follows:

- |  |        |
|--|--------|
| 1. H.E Minister, Ministry of Environment                                   | Chair  |
| 2. H.E Secretary of State, Ministry of Agriculture, Forestry and Fisheries | Deputy |

3. H.E Under Secretary of State, Ministry of Rural Development	Member
4. H.E Under Secretary of State, Ministry of Planning	Member
5. H.E Under Secretary of State, Ministry of Water Resources and Meteor.	Member
6. H.E Under Secretary of State, Ministry of Tourism	Member
7. H.E Under Secretary of State, Ministry of Mine & Energy	Member
8. H.E Under Secretary of State, Ministry of Public work and Transport	Member
9. H.E Under Secretary of State, Ministry of Education Youth and Sport	Member
10. H.E Secretary General, National Mekong Committee	Member
11. H.E Deputy Secretary General, CDC	Member
12. H.E Under Secretary of State, Ministry of Commerce	Member
13. H.E Under Secretary of State, Ministry of Health	Member
14. H.E Under Secretary of State, Ministry of Finance and Economic	Member
15. Representative of relevant Governor,	Member

## Article 2:

Amending the role and responsibility in article 2 of decision No. 16-SS dated on 30

April 2001 on the developing National Biodiversity Steering Committee as follows:

- Propose biodiversity policy to the government for checking and approval
- Official contact between the Royal Government of Cambodia and the Convention on Biological Diversity and to support the roles and responsibilities of the secretariat of the convention.
- Select or nominate representatives from Cambodia to join in biodiversity workshops and any other meetings of the Convention on Biological Diversity.
- Promote and support the publication of the Convention of Biological Diversity in the country.
- Advise the government of the convention and draft memorandums related to the implementation of the convention on biological diversity.
- Oversee and promote the cooperation between the relevant institutions on biodiversity.
- Oversee and approval of the development of biodiversity strategy and action plan.
- Promote implementation, control and evaluation of the biodiversity strategy and action plan.
- Ensure that the biodiversity strategy and action plan are integrated into the action plans of relevant ministries, institutions and the 5 year socio-economic development plan of Cambodia
- Oversee and promote the development of biodiversity policies for relevant ministries and institutions
- Review and prioritize the biodiversity strategy and action plan every 2 years by integrated actions to use, protect and manage biodiversity and environment for sustainable development in Cambodia.
- Oversee and clearly define donor funding relevant to biodiversity projects within the biodiversity strategy and action plan
- Monitor the implementation of the biodiversity strategy and action plan and other biodiversity matters.
- Report to the Royal Government and copy to the Human Rights Committee of the implementation of the biodiversity strategy and action plan and other biodiversity matters.

- *Observe and evaluate an implementation of obligation and cartagena protocol on Biosafety.*
- Promote the public awareness of the need in fast development of national biosafety framework.
- Review approval and evaluate the development of national biosafety framework and ensure the implementation of high effective framework.
- Provide general policy guidance on the implementation of national project.
- Evaluate and advise on the main result of national project.
- Provide coordination and make an effective achievement between the national project and other relevant institutions.
- Ensure that the national biosafety framework consistent with Government's environmental policy.

### **Article 3.**

Other article of decision No.16-SSJ dated on 30 April 2001 on the developing National Biodiversity Steering Committee was kept into force.

### **Article 4.**

The National Biodiversity Steering Committee shall establish a secretariat within the Ministry of Environment, which has the right to use the stamp of the Ministry of Environment.

### **Article 5.**

The Minister of the Council of Ministers, Minister of Ministry of Interior, Minister of Ministry of Environment, Minister of Ministry of Agriculture, Forestry and Fisheries, Minister of Ministry of Rural Development, Minister of Ministry of Planning, Minister of Ministry of Water Resources and Meteorology, Minister of Ministry of Tourism, Minister of Ministry Public Work and Transportation, Minister of Ministry of Education Youth and Sports, Minister of Ministry Industry Mine and Energy, Ministry of Commerce, Ministry of Health, Ministry of Finance and Economic, the Director of the Council for the Development of Cambodia, Secretary General of the National Mekong Committee and all relevant ministries and institutions and governors of cities and provinces should implement this decision effectively from the date signed.

Phnom Penh, 25 March 2004

Prime Minister

**Hun Sen**

### **CC:**

- Cabinet of the King
- Secretariat of Senate
- Secretariat of National Assembly
- Cabinet of the Prime minister
- All in article 5
- File



Annex 2

**List of Participants of First Draft National Law on Biosafety Meeting  
On the Discussion of the First Draft National Law on Biosafety  
on March 26, 2004**

No	Name	Sex	Position	Institute	Phone /Fax/ Email	Signature	Other
1	H.E Chhan Saphan	M	Secretary of state	Ministry of Environment			
2	H.E Khieu Muth	M	Director General	Ministry of Environment			
3	Sokkheng Novin	M	Staff	Dept. protection and conservation natural resources of Ministry of Environment	012 949 175		
4	Te Rithy	M	Deputy director	Dept. E of MoE	012 758 003		
5	Lieng Mengleap	M	Officer Director	Dept. EIA of MoE	012 399 196		
6	Ouk Siphon	M	Deputy Director	Dept.Forestry Administration, MAFF	012 810 223		
7	Chouk Borin	M	Dean	Royal University of Agriculture, MAFF	012 898 095		
8	Kong Pheach	M	Deputy Director	Dept. Agro-Industry, MAFF	011 815 597		
9	Nut Sambath	M	Director	RAC	012 851 423		
10	Chum Samnang	M	Staff	MAFF	012 556 164		
11	Sen Sovann	M	Deputy Director	DAHP, MAFF	011 880 047		
12	Chea Chanveasna	M	Officer Director	MAFF	012 841 867		
13	Pen Vuth	M	Acting director	DAALI, MAFF	012 835 151		
14	San Sokhorn	M	Deputy Director	Ministry of Planning	012 863 844		
15	Chim Khieundareth	M	Deputy Director	Ministry of Rural Development	012 828 493		
16	Born Sothy	M	Deputy Director	Ministry of Industry Mine and Energy	012 581 144		
17	Ghet Vibol	M	Deputy Director	Ministry of Industry Mine and Energy	012 812 444		
18	Ly Vuthy	M	Deputy Director	Tonle Mekong Committee	012 967 865		
19	Tim Sipa	M	Director	Tonle Mekong Committee	012 967 890		
20	Yies Therianlt	M	National Research Mgt Officer	FAO	012 195 513		
21	Chan Dara	M	National Research Mgt Officer	FAO	012 966 157		

Annex 2

22	May Vannak	M	Staff	Dept. Environment of Phnom Penh	012 973 047		
23	Mao Kosal	M	Liaison Officer	IUCN	012 757 519		
24	Ouk Siphon	M	Deputy Director General	Ministry of Tourism	012 897 806		
25	Heng Sokom	M	Deputy Director	Dept of Camcontrol of Ministry of Commerce	012393 939		
26	Oum Pisey	M	Coordinator	DNBF Project	012 702 239		
27	Sam Chamroeun	M	National Legal Consultant	DNBF Project	012 864 903		
28	Ung SamOeun	M	Technical Assistant	DNBF Project	012 830 093		
29	Yi Bunhak	M	Technical Assistant	DNBF Project	011858 183		



## **Second Draft Law on Biosafety**

### **CHAPTER I General Provisions**

#### **Article 1.-**

This law shall apply to the import and export, contained use, intentional introduction into the environment, and direct use as food or feed or for processing of living modified organisms that may have an adverse effect on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

This law shall not apply to:

- Living modified organisms that are pharmaceuticals for human use that are addressed by relevant international agreements and/or organizations;
- Living modified organisms in transit through but not destined for use in the Kingdom of Cambodia;
- Any other categories of living modified organisms that may be exempted by the National Competent Authority; and
- Any processed products containing dead modified organisms or non-living components of genetically modified organisms.

#### **Article 2.-**

The objectives of this law are to:

- Prevent adverse impact on the conservation of biodiversity and natural resources in the Kingdom of Cambodia caused by the transboundary movement, development, handling, transfer, use, storage, and release of living modified organisms resulting from modern biotechnology;
- Ensure effective conservation of biodiversity and sustainable use of biological resources, taking also into account risks to human health;
- Provide a transparent process for making and reviewing decisions on living modified organisms and related activities and operations;
- Develop biotechnology education while preventing environmental and health hazards associated with the use and release of living modified organisms;
- Implement the Cartagena Protocol on Biosafety to the Convention on Biological Diversity to which the Kingdom of Cambodia is a Party.

#### **Article 3.-**

Technical terms used in this law shall have the following meaning:

-“**Applicant**” means a legal or natural person that notifies its intent to use living modified organisms and/or applies for prior approval to import into or export from the Kingdom of Cambodia any living modified organism for any purpose;

-“**Biosafety**” is a word to describe efforts to reduce and eliminate the potential risks resulting from biotechnology and its products.

-“**Contained use**” means any operation, undertaken within a facility, installation or other physical structure, which involves living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment;

-“**Intentional introduction of LMOs into the environment**” means the deliberate use of LMOs subject to this act that is not contained use, including field release and planting, release into water and/or air, placing on the market for sale, free gifts/samples and donations but not including LMOs imported for direct use as food or feed, or for processing;

-“**Living modified organism (LMO)**” means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

-“**Living organism**” means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids;

-“**Modern biotechnology**” means the application of:

a. *In vitro* nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or

b. Fusion of cells beyond the taxonomic family, that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection.

#### **Article 4.-**

Any legal or natural person who wants to conduct any activity or operation involving contained use, intentional introduction into the environment, and/or direct use as food or feed or for processing of LMOs in the Kingdom of Cambodia shall be subject to approval by the Ministry of Environment prior to authorization by the concerned competent authority.

Any activity or operation involving LMOs covered by this law shall comply with the standards and measures for managing and controlling the risks identified in the risk assessment process established under Chapter IV, that are stipulated by the Prakas issued by the Ministry of Environment after consultation with the concerned competent authority.

#### **Article 5.-**

Any legal or natural person responsible for any activity or operation involving LMOs covered by this law shall ensure that contained use, intentional introduction into the environment, direct use as food, feed or for processing, import, and export of LMOs is carried out in conformity with this law and all Sub-decrees implementing this law by, among other things:

- Developing a risk management strategy
- Providing an emergency response plan for accidental release
- Establishing mechanisms for internal monitoring of safety;

- Reporting immediately to the Ministry of Environment when the operator becomes aware of new scientific information indicating that these activities or operations and/or the LMOs involved may adversely affect the conservation and sustainable use of biodiversity, taking into account risks to human health;
- Taking measures to prevent an unintentional introduction of LMOs into the environment and to respond to and mitigate any harm to biodiversity and human health when unintentional introduction into the environment occurs.

## **CHAPTER II**

### **Institutional Arrangements**

#### **Article 6.-**

In collaboration with other concerned ministries, the Ministry of Environment shall manage and control all activities and operations involving LMOs covered by this law.

The Ministry of Environment shall be the National Focal Point and National Competent Authority for implementing the provisions of this law and those of the Cartagena Protocol.

#### **Article 7.-**

The Ministry of Environment, as the National Focal Point stated in Article 6 above, shall be the primary contact between the Royal Government of Cambodia and the Secretariat of the Cartagena Protocol.

As the National Competent Authority, the Ministry of Environment shall be responsible for the administrative functions required to implement this law. These functions shall include timely application of other States, the Biosafety Clearing-House, and relevant international organizations of any event in the Kingdom of Cambodia that may result in the unintentional transboundary movement of a LMO.

An authorized official of the Ministry of Environment may enter and inspect the premises where any activities or operations involving LMOs covered by this law are being, or have been, carried out, take samples and/or confiscate LMOs to facilitate further investigation.

The powers and functions of the Ministry of Environment as the National Focal Point and National Competent Authority shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

#### **Article 8.-**

The Royal Government shall establish, following proposal of the Ministry of Environment, a Scientific Advisory Committee (SAC) to provide scientific and other technical advice to the Ministry of Environment in reviewing the applications, applications, risk assessments and

approvals, and in setting standards for facilities, operations and activities involving LMOs subject to this law.

**Article 9.-**

The composition, detailed duties, and internal procedures of the SAC shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

**Article 10.-**

The Royal Government shall establish a National Steering Committee for [Biosafety]/[Biodiversity] chaired by the Minister of Environment to serve as the leading body [among other things] in the development of a biosafety policy and strategic planning. Its membership, functions and internal procedures shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

### **CHAPTER III**

#### **Import of LMOs**

**Article 11.-**

The first import of a LMO into the Kingdom of Cambodia for contained use shall be subject to risk assessment and approval by the Ministry of Environment prior to application to the concerned competent authority for the import permit.

**Article 12.-**

All imports of LMOs into the Kingdom of Cambodia for intentional introduction into the environment shall be subject to risk assessment and approval by the Ministry of Environment prior to application to the concerned competent authority for the import permit.  
The applicant shall notify the Ministry of Environment of the intent to import.

**Article 13.-**

Within ninety (90) days, the Ministry of Environment shall acknowledge the receipt of the application and advise the applicant whether it may proceed to the prior approval process.

**Article 14.-**

Within two hundred and seventy days (270 days) after the receiving the application as stipulated in articles 12 and 13, the Ministry of Environment shall notify the applicant in writing and the national Biosafety Clearing-House on its decision.

**Article 15.-**

The first import into the Kingdom of Cambodia of a LMO for direct use as food or feed or for processing shall be subject to risk assessment and approval by the Ministry of Environment, in consultation with the concerned competent authority, prior to application for the import permit.

Any legal or natural person who wants to import a LMO for direct use as food or feed or for processing shall submit to the Ministry of Environment written certification issued by the Competent National Authority of the State of export that attests to the accuracy of the information provided concerning the LMO to be imported.

#### **Article 16.-**

When the Ministry of Environment approves any LMO for direct use as food or feed or for processing, it shall inform other Parties to the Cartagena Protocol through the Biosafety Clearing-House within fifteen (15) days. The information to be provided to the Biosafety Clearing-House shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

#### **Article 17.-**

The letter of approval of the Ministry of Environment must be attached to the import permit for any LMO.

#### **Article 18.-**

Requirements and procedures for applying to the Ministry of Environment for prior approval of import of LMOs shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

### **CHAPTER IV Risk Assessment**

#### **Article 19.-**

The Ministry of Environment shall ensure that appropriate risk assessments are carried out for all actions related to LMOs that require prior approval under this law.

The exporter/applicant shall carry out the risk assessment and shall bear all related costs. Upon receipt of the results of the risk assessment and other documentation required under this law, the Ministry of Environment may grant approval with or without conditions, request additional information, or deny approval.

#### **Article 20.-**

Procedures and requirements for risk assessment mentioned in the above paragraph shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

## **CHAPTER V**

### **Export of LMOs**

#### **Article 21.-**

Any legal or natural person who intends to export LMOs covered by this law from the Kingdom of Cambodia shall notify the national competent authority of the proposed importing State in writing prior to applying to the concerned competent authority of the Kingdom of Cambodia for an export permit.

The concerned competent authority of the Kingdom of Cambodia may issue a permit to export LMOs only after receipt of authorization in writing from the national competent authority of the proposed importing State. The authorization from the proposed importing party must be attached to the export permit and/or other documentation accompanying the consignment.

The exporter shall get from the Ministry of Environment written certification of the accuracy of all information provided about the LMO to be exported. Such certification shall be attached to the export permit and/or other documentation accompanying the consignment.

#### **Article 22.-**

Procedures and requirements for written prior application and export of LMOs to a proposed importing party shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

## **CHAPTER VI**

### **Documentation for LMOs**

#### **Article 23.-**

Any legal or natural person who imports LMOs into or exports LMOs from the Kingdom of Cambodia for any purpose shall provide accompanying documentation that clearly identifies them as LMOs and specifies any requirements for their safe handling, transport, use, and storage.

#### **Article 24.-**

Without prejudice to the Law on the Management of Quality and Safety of Products and Services and to the provisions of the Sub-decrees on Phytosanitary Inspection, Standards and Agricultural

Materials, Quarantine of Animals and Products of Animal Origin, and Food Sanitation for Humans, LMOs that are imported into or exported from the Kingdom of Cambodia shall be accompanied during transboundary movement and upon delivery to the port of entry by documentations that cover:

- 1- LMOs for direct use as food or feed or for processing, clearly identify that the goods may contain LMOs and are not intended for intentional introduction into the environment;
- 2- LMOs for intentional introduction into the environment, specify their identity and relevant characteristics and any requirements for their safe handling, transport, use, and storage, specifies the contact point for further information, and also states that the transboundary movement is in conformity with the requirements of Cartagena Protocol applicable to the exporter;
- 3- LMOs for contained use, clearly identify them as LMOs, specify any requirements for their safe handling, transport, use and storage, and specify the contact point for further information including the name and address of the individual and the institution to which the LMOs are consigned.

**Article 25.-**

Any additional information or identification requirements applicable to imports or exports of LMOs covered by this law and as may be agreed upon under the Cartagena Protocol shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

**Article 26:-**

Living modified organisms and items containing living modified organisms shall be clearly labeled.

## **CHAPTER VII**

### **Confidential Information**

**Article 27.-**

The Ministry of Environment shall permit an applicant to identify information provided in accordance with the requirements of this law and any Sub-decree issued pursuant to it that is to be treated as confidential to ensure commercial confidence.

In the above mentioned case, the Ministry of Environment may decide whether it accepts as confidential the information designated by the applicant.

**Article 28.-**

In the event that the Ministry of Environment rejects the claims of confidentiality of information and that such information may be disclosed to the public, the Ministry of Environment shall inform the applicant of its rejection, providing appropriate justification for its decision, prior to any disclosure of such information.

**Article 29.-**

The Ministry of Environment shall neither use or nor permit the use of information accepted as confidential under Article 27 for any purpose not specifically authorized under this law except with the written consent of the applicant and shall ensure that such information is protected by all persons involved in handling and reviewing applications.

**Article 30.-**

Any additional measures and/or requirements applicable confidential information shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

## **CHAPTER VIII**

### **Review of Decisions**

**Article 31.-**

The Ministry of Environment, in consultation with the SAC, may review any decision granting its prior approval for activities, operations, import or export at any time on obtaining significant new information indicating that the LMOs or the activities, operations, import or export involved may adversely affect the conservation and sustainable use of biodiversity, taking also into account risks to human health.

When the Ministry of Environment revises any decision on a LMO covered by this law it shall inform the Biosafety Clearing-House.

**Article 32.-**

If the Ministry of Environment changes a decision approving import of any LMO for any purpose, the Ministry of Environment shall, within thirty (30) days, inform the applicant that has previously applied for and/or received approval to import the LMO of the reasons for its revised decision.

**Article 33.-**

Any applicant whose request for approval of import of LMO has been denied may request the Ministry of Environment to review its decision when there is additional technical and scientific information available and/or when the applicant considers there has been a change of circumstances that may influence the outcome of the risk assessment.



After considering the new information and/or changed circumstances, the Ministry of Environment may revise or maintain its original decision and shall respond in writing within ninety (90) days, giving the reason for its decision.

## **CHAPTER IX**

### **Public Information, Awareness-raising and Public Participation**

#### **Article 34.-**

The Ministry of Environment and other concerned competent ministries shall promote awareness and education of the general public and particularly those conducting activities and operations concerning biosafety matters which are subject to this law through, among other things, the publication of this law and Sub-decrees implementing it.

The procedures for public participation and access to information on LMO-related issues shall be stipulated by Sub-decree implementing this law following proposal of the Ministry of Environment.

#### **Article 35.-**

Information related to LMOs shall be mutually disseminated among the Ministry of Environment and other concerned competent authorities.

## **CHAPTER X**

### **Penalties**

#### **Article 36.-**

Any violator of the provisions of Articles 4, 11, or 14 of this law shall be fined by the Ministry of Environment an amount between one million (1,000,000) Riel to five million (5,000,000) Riel.

In the event of repeated offenses, the fine shall be doubled without prejudice to other crimes resulting in adverse effects on the conservation and sustainable use of biodiversity and/or human health.

#### **Article 37.-**

Anyone who has given, by any mean, deliberately false, misleading or confusing written or verbal information required by the provisions of Articles 22 or 23 of this law shall be subject to imprisonment for one (1) year to five (5) years and/or a fine of four million (4,000,000) Riel to twenty million (20,000,000) Riel.

In the event of repeated offenses, the fine and criminal sanction shall be doubled without prejudice to other serious crimes resulting in adverse effects on the conservation and sustainable use of biodiversity and/ or human health.

**Article 38.-**

All evidence concerning LMO-related activities and equipment which is the subject of offenses committed under this law shall be confiscated. The act of confiscation shall be within the jurisdiction of the court.

**Article 39.-**

Any operator that becomes aware of any significant new scientific information indicating that his or her authorized activities involving LMOs may adversely affect the conservation and sustainable use of biodiversity and/or human health but fails to report to the Ministry of Environment or intentionally conceals this information shall be subject to a fine of ten million (10,000,000) Riel to fifty million (50,000,000) Riel or to imprisonment for one (1) year to five (5) years or both.

**Article 40.-**

Any operator who obstructs or causes the obstruction of an authorized official of the Ministry of Environment in the process of fulfilling his/her duties under paragraph 3 of article 7 of this law shall be fined by the Ministry of Environment an amount between five hundred thousand (500,000) Riel to one million (1,000,000) Riel.

In the event of repeated offenses, shall be fined from one million (1,000,000) Riel to five million (5,000,000) Riel or imprisoned from one (1) month to three months or both.

**Article 41.-**

Any environmental inspection official or agent who is negligent, fails to pay attention to, or fails to comply with rules and regulation of the Ministry of Environment or conspires with a violator or facilitates the commission of violation, shall be subject to administrative sanctions or faces prosecution before the court.

## **CHAPTER XI**

### **Transitional Provision**

**Article 42.-**

This law shall also apply to LMOs related activities or operations covered by this law, which have been undertaken prior to the date on which this act shall come into effect.

## **CHAPTER XII**

### **Final Provisions**

#### **Article 43.-**

The Ministry of Environment shall notify the Biosafety Clearing-House that this law shall apply with respect to any import of LMOs into the Kingdom of Cambodia.

#### **Article 44.-**

This law and Sub-decrees implementing it shall, every three (3) years, be reviewed in light of technical and scientific advances and for the purpose of improving the effectiveness of their implementation.

#### **Article 45.-**

Any provisions that are contrary to this law shall be considered as null.

#### **Article 46.-**

This law shall be promulgated immediately.

# **LAW ON ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT**

## **CHAPTER I GENERAL PROVISIONS**

### **Article I -**

The purposes of this law are;

- to protect [and] promote environmental quality and public health through the prevention, reduction, and control of pollution
- to assess the environmental impact of all proposed projects prior to the issuance of a decision by the Royal Government
- to ensure the rational and sustainable conservation, development, management, and use of the natural resources of the Kingdom of Cambodia
- to encourage and enable the public to participate in environmental protection and natural resource management
- to suppress any acts that cause harm to the environment.

## **CHAPTER 2 NATIONAL AND REGIONAL ENVIRONMENTAL PLANS**

### **Article 2 -**

A National Environmental Plan [and] Regional Environmental Plans shall be decided by the Royal Government following a proposal of the Ministry of Environment in collaboration with concerned ministries.

### **Article 3 -**

The National Environmental Plan is a plan for environmental protection and sustainable natural resource management for implementation throughout the Kingdom of Cambodia.

The National Environmental Plan shall:

- identify important environmental issues and important natural resource management issues that are related to socio-economic development
- set forth measures for ensuring environmental management.

**Article 4 -**

Regional Environmental Plans shall be consistent with the National Environmental Plan. Regional Environmental Plans shall:

- identify important environmental issues and important natural resource management issues that are related to socio-economic development of the respective regions
- set forth measures for ensuring environmental management in the said region.

**Article 5 -**

The National and Regional Environmental Plans shall be reviewed and revised at least once every five years.

### **CHAPTER 3 ENVIRONMENTAL IMPACT ASSESSMENT**

**Article 6 -**

An environmental impact assessment shall be done on every project and activity, private or public, and shall be reviewed and evaluated by the Ministry of Environment before being submitted to the Royal Government for decision.

This assessment shall also be done for existing and in-process activities that have not yet been assessed for environmental impact.

The procedures of the environmental impact assessment process shall be determined by Sub-decree following a proposal of the Ministry of Environment.

The nature and size of the proposed projects and activities and existing and in-process activities, both private and public that shall be subject to that environmental impact assessment shall be determined by Sub-decree following a proposal of the Ministry of Environment.

**Article 7 -**

All Investment Project Applications and all projects proposed by the State shall have an initial Environmental Impact Assessment or an Environmental Impact Assessment as specified in article 6 of this law. The Ministry of Environment shall review and provide recommendations on the initial Environmental Impact Assessment or the Environmental Impact Assessment to the competent organization within the period determined in the Law on Investment of the Kingdom of Cambodia.

## **CHAPTER 4 NATURAL RESOURCE MANAGEMENT**

### **Article 8 -**

The natural resources of the Kingdom of Cambodia, which include land, water, airspace, air, geology, ecological systems, mines, energy, petroleum and gas, rocks and sand, precious stones, forests and forest products, wildlife, fish, [ aquatic resources, shall be conserved, developed, and managed [and] used in a rational and sustainable manner.

Natural resource protected areas, which include national parks, wildlife sanctuaries, protected landscape areas, [and] multiple use areas, shall be determined by Royal Decree.

### **Article 9 -**

The Ministry of Environment, in collaboration with concerned ministries, shall conduct research, assess the environmental impacts on natural resources, and provide the concerned ministries with recommendations to ensure that the natural resources as specified in article 8 are conserved, developed, and managed [and] used in a rational and sustainable manner.

### **Article 10-**

Before issuing any decisions or undertaking activities related to the conservation, development, or management [or] use of natural resources, the concerned ministries shall consult with the Ministry of Environment on the sustainability of natural resources.

### **Article 11-**

The Ministry of Environment shall immediately inform concerned ministries whenever the Ministry of Environment finds that natural resources are not being conserved, developed, or managed [or] used in a rational and sustainable manner.

## **CHAPTER 5 ENVIRONMENTAL PROTECTION**

### **Article 12-**

The Ministry of Environment shall collaborate with concerned ministries to develop an inventory that indicates:

- the sources, types, and quantities of pollutants and wastes being imported, generated, transported, recycled, treated, stored, disposed, or released into the airspace, water, land, or on land
- the sources, types, and quantities of toxic substances and hazardous substances being imported, manufactured, transported, stored, used, generated, treated, recycled, disposed, or released into the airspace, water, or into land or on land

-- the sources, types, and extent of noise and vibration disturbances.

**Article 13 -**

The prevention, reduction, and control of airspace, water [ land pollution, noise and vibration disturbances, as well as waste, toxic substances, and hazardous substances, shall be determined by Sub-decree following a proposal of the Ministry of Environment.

**CHAPTER 6  
MONITORING, RECORD-KEEPING, AND INSPECTIONS**

**Article 14 -**

The Ministry of Environment shall collaborate with concerned ministries to require the owners or responsible persons of factories, pollution sources, industrial sites, or sites of natural resource development activity:

- to install or use monitoring equipment
- to provide samples
- to prepare or maintain and submit [ review records and reports.

**Article 15 -**

In order to carry out its responsibilities and in its responsibilities on Natural Protected Areas, the Ministry of Environment, in collaboration with concerned ministries, may enter [and] conduct an inspection in an area, premises, building, on or in a means of transportation or any place, etc., in cases when the Ministry of Environment finds that the source is causing harm to environmental quality.

The Ministry of Environment inspector and official of the concerned ministry that is collaborating shall present their identity cards and mission authorization letters before conducting the inspection.

During the inspection, whenever they find that there has been a criminal violation, the inspectors shall immediately report to the competent institution so that action can be taken under the law.

Procedures for the performance of inspections shall be determined by Sub-decree following a proposal of the Ministry of Environment.

**CHAPTER 7  
PUBLIC PARTICIPATION AND ACCESS TO INFORMATION**

**Article 16 -**

The Ministry of Environment, following a request from the public, shall provide information on its activities, and shall encourage public participation in environmental protection and natural resource management.

**Article 17-**

The procedures for public participation and access to information on environmental protection and natural resource management shall be determined by Sub-decree following a proposal of the Ministry of Environment.

**Article 18 -**

Information related to environmental protection or natural resource management shall be mutually disseminated between the Ministry of Environment and different ministries.

## **CHAPTER 8 ENVIRONMENT ENDOWMENT FUND**

**Article 19 -**

A special Treasury account, the Environment Endowment Fund, shall be created, and administered by the Ministry of Environment for environmental protection and natural resource conservation in the Kingdom of Cambodia in accordance with the Finance Law.

The Environment Endowment Fund, which comes from contributions from the Royal Government, grants from international organizations, donations from charitable individuals, donations from non-governmental organizations, and other lawful sums, shall be included in the National Budget in order to provide the above special account.

## **CHAPTER 9 PENALTIES**

**Article 20 -**

For any person who commits a violation of the Ministry of Environment's requirements as specified in article 14 of this law, the Ministry of Environment shall issue a written order requiring:

- correction of the violating activities immediately or within a specified time period; or
- cessation of his/her/its activities until the violation has been corrected; or
- clean-up of the pollution immediately.

**Article 21 -**

Any person who does not permit or refuses to allow an inspector to enter [and] conduct an examination or inspection on the premises as stated in paragraph 1, article 15 of this law shall be fined administratively from five hundred thousand Riel (500,000 Rid) to one million Riel (1,000,000 Rid).



In case of a repeat offense, shall be fined from one million Riel (1,000,000 Riel) to five million Riel (5,000,000 Riel) or imprisoned from 1 month to 3 months, or both. Any person who commits a violation of article 20 of this law shall be fined administratively from one million Riel (1,000,000 Riel) to ten million Riel (10,000,000 Riel).

In case of a repeat offense, shall be fined from twenty one million Riel (21,000,000 Riel) to thirty million Riel (30,000,000 Riel) or imprisoned from 1 month to 1 year, or both.

**Article 22 -**

If the violation causes danger to human bodies or lives, to private property, to public property, to the environment, [or] to natural resources, shall be fined from ten million Riel (10 million Riel) to fifty million Riel (50 million Riel) or imprisoned from 1 year to 5 years, or both.

A person who commits a violation shall also be responsible for repairing damage and for compensation.

**Article 23 -**

In case of a violation that causes serious disaster to society, the court may consider the gravity of the circumstances of the offense connected with any other offenses above in order to pronounce the punishment.

**Article 24 -**

Any environmental inspection official or agent who is negligent, fails to pay attention to, or 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 sanctions or face prosecution before the court.

**Article 25 -**

The Ministry of Environment shall apply the provisions of article 20 above for any person who commits a violation of a Sub-decree and other regulations related to the provisions of this law.

In case of recalcitrance, shall apply the provisions stated in article 21 of this law.

## **CHAPTER 10 INTERIM PROVISIONS**

**Article 26 -**

After this law takes effect and until 31 December 2001, the Royal Government may extend, for activities presently in process, the period to comply with a Sub-decree specified in article 13 of this law following a proposal of the Ministry of Environment.

In deciding on this extension, [the Royal Government] shall:

-- take into account the nature and extent of the danger to human health, to the environment, and to natural resources that may result from this extension

-- review the possibility, means, technicality, and finance of this existing activity.

## **CHAPTER 11 FINAL PROVISIONS**

### **Article 27 -**

Any provisions that are contrary to this law shall be considered null.

Done in Phnom Penh, 24 December 1996.

Norodom Sihanouk

Submitted to the First and Second  
Prime Ministers

Minister of Environment  
Mok Mareth

Submitted for the King's signature

First Prime Minister	Second Prime Minister
Norodom Ranariddh	Hun Sen

No.1  
Copied and distributed  
Phnom Penh, 9 January 1997  
Deputy Secretary-General of the Royal Government  
Sin Serey



**Kingdom of Cambodia**

Nation Religion King



Royal Government of Cambodia

No.: 15 *Gnrk>bk*

## Sub-Decree on PHYTOSANITARY INSPECTION

**Royal Government**

- Having seen Constitution of the Kingdom of Cambodia
- Having seen Royal Decree No. *ns/rkt* /1198/72 dated 30 November 1998 on the Formation of the Royal Government of the Kingdom of Cambodia
- Having seen the Royal Kram No. 02/ *ns* /94 dated on 20 July 1994 on the Promulgation the law for Organization and Function of the Council Ministries
- Having seen Royal Kram No. *ns/rkm* /0196/13 dated 24 January 1996 on the Promulgation the law for establishment of the Ministry of Agriculture, Forestry and Fisheries
- Having seen Royal Kram No. *ns/rkm* /0600/001 dated 21 June 2000 on the Promulgation the law on the Management of Quality and Safety of Products and Services.
- Having seen Sub-Decree No 17 *Gnrk* dated 07 April 2000 on the Organization and Function of Ministry of Agriculture, Forestry and Fisheries
- Pursuant to the meeting of the Council of Ministers dated 14 February 2003.

**Decided**

**Chapter I**

### GENERAL PROVISIONS

**Article 1. -**

This Sub-Decree aims to prevent the introduction of quarantine and dangerous pests into the territory, the spread from one to another within territory or to other

countries through any means of transportation in order to protect the agriculture production and bio-diversity.

**Article 2. -**

All plant quarantine materials bringing or transporting into, exit from or transit in the territory of the Kingdom of Cambodia shall be inspected and followed the Phytosanitary Treatment.

**Article 3. -**

Ministry of Agriculture, Forestry and Fisheries is responsible for implementation of plant quarantine which has Plant Quarantine Authority of Department of Agronomy and Agricultural Land Improvement is implementing agency.

**Article 4. -**

Under this Sub-Decree, the definition and interpretation of important glossaries are:

- a. **Pest** includes any member of the animal kingdom (other than *Homo sapiens*) or plant kingdom or pathogenic agent, whether dead or alive, which could in any stage of development injure, damage, destroy or be parasitic upon any plant or plant products. Such an expression also includes for the limited purposes of this Sub-decree, but is not restricted to, insects, arachnids, rats, moles, snails, birds, organisms causing plant diseases and weeds.
- b. **Plant Quarantine Pest (PQP)** means any pest of plants dangerous (potential economic importance) to plant but not yet in existence in the Kingdom of Cambodia, and even those in existence but not widely spread yet that need to be controlled.
- c. **Phytosanitary Inspection** includes researching, investigating, observing, checking and sampling, analyzing and identifying plant quarantine materials to determine its infection status.
- d. **Dangerous Pest (DP)** is pest causing or being able to cause large economical damage or seriously destroy plant resource and environment.
- e. **Infested** means bearing or containing any pest.
- f. **Transit transport** means transit of goods and means of transport across the territory of the Kingdom of Cambodia when the passage is only a portion of a complete journey beginning and terminating beyond the frontier of the Kingdom of Cambodia across whose territory the traffic passes; transit transport may or may not include transshipment, warehousing, breaking bulk or change in the mode of transport.
- g. **Soil** means any earth, ground or naturally occurring mixture of mineral and organic material in which plants may be grown.
- h. **Epidemic Area** is zone of existing one or several species of published plant quarantine (PQP) or dangerous pests (DP).
- i. **Goods** include plants or part of plant, plant products, seed or seed materials, which is being moved for commercial or other purposes.

- j. **Epidemic Nest** is place, where one or several species of published plant quarantine or dangerous pest are existed.
- k. **Plant products** mean unprocessed, semi-processed or processed material of plant origin that, by their nature or that of their processing, may create a risk for the introduction and spread of pests.
- l. **Manufactured materials of plant origin** means unprocessed, semi-processed or processed material of plant origin that, by their nature or that of their processing, may create a risk for the introduction and spread of pests. These products are not include the material, packaged in can or bottle and may be not created a risk for spreading the pests.
- m. **Phytosanitary** of or for plant or plant-product health esp. the prevention, treatment or removal of pests.
- n. **Phytosanitary Officer (PSO)** refers to any person appointed for phytosanitary inspection.
- o. **Plant** means all members of the plant kingdom, whether living or dead, at any stage of growth or development, any part or parts of such, but not preserved fruits or vegetables imported in hermetically sealed cans, tins, bottles or other containers. Such an expression also included, but is not restricted to, seed, grain, tuber, corm, bulb, root, stem, branch, stock, bud wood, cutting, layer, slip, sucker, rhizome, leaf, flower and fruits of plants.
- p. **Phytosanitary Requirement** means the requirement of plant quarantine authority of any country to prevent against the spread of pest into the country by means of importing activities. This requirement is in accordance with the International Plant Protection Convention– 1951.
- q. **Phytosanitary Certificate (PC)** refers to an internationally accepted certificate issued by the Plant Quarantine Authority after due phytosanitary inspection of goods prior to export from country origin in accordance with the model prescribed in the 1951 International Plant Protection Convention. A PC is required for importation, exportation and transit of all goods objected to plant quarantine.
- r. **Phytosanitary Certificate for Re-export (PCR)** refers to an internationally accepted certificate issued by the Plant Quarantine Authority after due phytosanitary inspection of goods not originally in that country prior to export to the third country. A PCR is in accordance with the model prescribed in the 1951 International Plant Protection Convention. A PCR is required for non-direct importation or exportation of or transit of all goods objected to plant quarantine which is not original, is being transshipped or warehoused or broken bulk or changed in the mode of transport or taken phytosanitary treatment in the second country.
- s. **Phytosanitary Treatment** includes selecting, eliminating, re-processing, and cleaning, decontaminating, retaining, returning back to the place of origin or destroying plant quarantine materials.

- t. Beneficial organism** means an organism which benefit plant growth and development by infecting, parasitizing or predating on plant pests. Such an expression includes, but is not restricted to, insects, arachnids, nematodes, fungi, bacteria, viruses and other microbial organisms. These beneficial organisms are known to carry on or in them other undesirable organisms (e.g. hyper parasitoids and entomopathogenic organisms) detrimental to plant growth and development.
- u. Plant Quarantine Authority (PQA)** means an authority in charged in phytosanitary inspection and has clearly organizational structure from the middle level to the plant quarantine stations. This authority refers to Plant Protection and Phytosanitary Inspection Office (PP&PSO) under supervise of Department of Agronomy and Agricultural Land Improvement (DAALI) of Ministry of Agriculture Forestry and Fisheries (MAFF).
- v. Infection Status** is level and character of plant quarantine materials bearing or containing with pests.

## Chapter II

### PHYTOSANITARY INSPECTION

#### Article 5. –

Ministry of Agriculture Forestry and Fisheries shall nominate Phytosanitary and animal- sanitary Officers to implement the inspection following their duties in international check points, international border-check points, bilateral border-check points, regional border-check points and sea border-check ports throughout the Kingdom of Cambodia, where are stated by the Royal Government Sub-Decree.

Ministry of Agriculture Forestry and Fisheries shall set up Phytosanitary and animal-sanitary inspection check points at train station, dry-port and domestic ports and airports, where permitted by the Royal Government.

In case epidemic of plant quarantine pest or dangerous pest in any area of the Kingdom of Cambodia, Ministry of Agriculture Forestry and Fisheries shall be setting up transitional phytosanitary inspection check points in the place is needed to control epidemic and apply plant quarantine treatment for eliminating the problem. When epidemic has been eliminated Ministry of Agriculture Forestry and Fisheries shall be breaking up all those transitional phytosanitary inspection check points.

Phytosanitary inspection check points shall be equipped with technical apparatus in order to insure the effectiveness of inspection.

Phytosanitary inspection check points shall be situated at the place, where are convenient for the transportation of material.

#### Article 6. -

Phytosanitary inspection shall be implemented following phytosanitary requirement of each country.

#### Article 7. -

Plant quarantine materials are:

- Plants, parts of plant, plant products, and agricultural products that are not certified free of pests;
- Packaging material or wooden boxes, pallets or any means of transport and storage;
- Soil or soil attached to root or part of plant;
- Live or dead pests or beneficial organisms;
- Any other items that may not be of plant origin but yet may provide a habitat for pests.

List of plant quarantine materials shall define by Pracas of Minister of Agriculture Forestry and Fisheries, Minister of Commerce, Minister of Industry Mine and Energy, and Minister of Health.

#### **Article 8. -**

Any person, who is transporting any plant quarantine material, shall carry out the following procedures:

- Proper declares the material;
- Obtains a phytosanitary certificate;
- Packs the materials in good package and tightly fasten to avoid leakage or spillage of materials while being transported;
- Stores or transports the materials in the place or through the way designated by the Plant Quarantine Authority.

In case of transport, store or load the materials in place or through the way other than designated, shall requests the permission from Plant Quarantine Authority.

#### **Article 9. –**

Before the arrival of goods to the points of entry to or exit from Cambodia, the owner shall announce to the nearest phytosanitary check point and shall make good convenient for phytosanitary inspection. The phytosanitary inspection shall be completed within 24 hours after receiving the notification.

Within 10 days prior the export of the materials, the owner shall apply to Plant Quarantine Authority and shall make good convenient for the phytosanitary inspection. Within this period of time the Plant Quarantine Authority shall complete phytosanitary inspection and treatment.

#### **Article 10. -**

For any plant quarantine materials, which are not complied with the phytosanitary requirement of importing country, the owner shall follows the phytosanitary treatment.

The expense for phytosanitary treatment shall be paid by the material owner.

#### **Article 11. -**

Any physical or juridical person shall inform to the nearest Plant Quarantine Authority, when he/she has seen:

- a. A sail boat, a motor-driven boat, a ship or any other sea-going vessel loading any plant quarantine materials, which has broken down and has drifted into the maritime territory of the Kingdom of Cambodia.
- b. A plane drops any material as described above into the territory of the Kingdom of Cambodia.

#### **Article 12. -**

The owner of plant quarantine materials shall immediately take measure to control, when he/she sees or knows that his or her material has damaged by plant quarantine pests. If owner has no ability to control them, he/ she shall requests to Plant Quarantine Authority to take phytosanitary treatment.

**Article 13. -**

If pests invade any check point, phytosanitary officer shall take adequate and appropriate measure to control and eliminate them immediately, in order to avoid the transportation stack.

If above measure is not effected, Plant Quarantine Authority shall stop transportation, loading or unloading materials until the pest have fully eliminated.

**Article 14. -**

Any physical or juridical person who requests a phytosanitary inspection shall pay a fee called a *phytosanitary inspection fee*. If requests for the treatment of the consignment to control pests - a *pest control fee*. These payments shall be deposited to the national budget through Plant Quarantine Authority.

Phytosanitary inspection fee and pest control fee shall be issue by PROKAS of Minister of Agriculture, Forestry and Fisheries and Minister of Economic and Finance.

**Article 15. -**

The cooperation between organizations dealing with import, export, Transit of plant quarantine materials in all check points is defined as follows:

1. The chief of check point, and other involved organization shall cooperate with plant quarantine officer to prevent and conduct phytosanitary treatment.
2. Phytosanitary inspection shall make at one time with Customs and Camcontrol.

**Article 16. -**

During operation the plant quarantine officer shall ware the uniform together with badges of Plant Quarantine Authority and accompanied by the mission order issued by MAFF.

The uniform, badges and stamp of plant quarantine authority will be determined by other Sub-Decree.

Ministry of Agriculture Forestry and Fisheries shall develop the PRACAS on procedure of plant quarantine inspection and other regulations for implementing this sub-decree effectively, transparently and with non-discrimination in whole country.

**Article 17. -**

All PRACAS or other regulations that concerned with plant quarantine inspection shall be published through National Information System.



### Chapter III

#### DOMESTIC PLANT QUARANTINE

**Article 18. -**

In the case of finding the Epidemic nest of plant quarantine pest or dangerous pest in any location in the Kingdom of Cambodia, the Ministry of Agriculture Forestry and Fisheries shall declare as an epidemic area and shall take measure to control them immediately.

The exportation, importation or transit of goods shall be prohibited until the new declaration issued by Minister of Agriculture Forestry and Fisheries.

**Article 19. -**

The bringing of plant quarantine pests or dangerous pest samples from epidemic area for research purpose shall be permitted by Plant Quarantine Authority.

### Chapter IV

#### PLANT QUARANTINE FOR IMPORT AND MONITORING

**Article 20. -**

The inspection of import of plant quarantine materials shall be conducted based on the list of plant quarantine and dangerous pests prohibited to entry into the Kingdom of Cambodia.

The list of plant quarantine and dangerous pests prohibited to entry into the Kingdom of Cambodia shall be determined by PRACAS issued by Minister of Agriculture Forestry and Fisheries. Minister of Agriculture Forestry and Fisheries shall be lawful to alter the list of plant quarantine and dangerous pests prohibited to entry into the Kingdom of Cambodia, if needed. This alteration shall be effected thirty days (30 days) after the date of publication. However, in an emergency when a very serious epidemic that could cause enormous damage to the agriculture and bio-diversity, such alteration shall take effect within twenty four hours (24 hours) after publication.

**Article 21. -**

The owner plant quarantine materials importing into the Kingdom of Cambodia shall respect to phytosanitary condition as follows:

1. The materials must be accompanied with a plant quarantine certificate issued by Plant Quarantine Authority of country-exporter in model stipulated in International Plant Protection Convention 1951.
2. The materials must be free from plant quarantine pests and other dangerous pests of the Kingdom of Cambodia. In case of materials has damaged by the above pests, the phytosanitary treatment shall be took place prior importing.

**Article 22. -**

Inspection formalities of imported plant quarantine materials are as follows:

1. Any physical or juridical person who import plant shall informs to the plant quarantine check point ten days (10day) before arrival of materials.

2. In arrival to the first point of border's entry, owner of plant quarantine materials must declare and apply for inspection. The plant quarantine check point shall indicate concretely the proper place for plant quarantine inspection.

The declaration, inspection, and phytosanitary treatment are carried out in compliance with Art. 9, 10, and 14 of this sub-decree. It shall be lawful procedure in case of sending back to exporting country or destroying the plant quarantine materials.

When mean of transport of plant quarantine materials arrives at Cambodia territorial water, the owner shall declare to the nearest plant quarantine check point for inspection. The mean of transport could ashore only after phytosanitary inspection and getting the permission from Plant Quarantine Authority.

**Article 23. -**

The plant quarantine authority is empowered to inspect advice and monitor the transportation, stock, distribution and use of plant quarantine materials since they are brought into the territory of the Kingdom of Cambodia. In case of plant quarantine or dangerous pests invade any places, plant quarantine authority shall take adequate and appropriate measure to control and eliminate them immediately.

## **Chapter V**

### **PLANT QUARANTINE FOR EXPORT**

**Article 24. -**

The inspection of exporting plant quarantine materials shall be conducted based on conditions prescribed in Commercial Contract, Agreement, Convention and other documents concerning phytosanitary conditions of country-importer.

**Article 25. -**

The condition for exporting plant quarantine material is as follows:

1. The owner of exported plant quarantine materials shall requests to Plant Quarantine Authority for inspection and issuing the phytosanitary certificate.
2. The Plant Quarantine materials must be in compliance with phytosanitary condition of country-importer which prescribed in commercial contract, agreement, convention and other concerned documents.

**Article 26. -**

The inspection formalities of exporting plant quarantine materials shall be conducted in compliance with condition prescribed in the Article 9 Paragraph 1, Article 10 and Article 14 of this sub-decree.

## **Chapter VI**

### **PLANT QUARANTINE FOR TRANSITS**

**Article 27. -**

Plant quarantine materials bringing in transits through territory of the kingdom of Cambodia must be:

- accompanied with a phytosafety certificate issued by country –exporter,
- Pack the materials in good package and load in container, which could avoid leakage or spillage the materials while being transported,
- The mean of transport must be free from plant quarantine or dangerous pests, which could be spread out along the way of transit.

**Article 28. -**

Phytosanitary inspection formalities for transit are as follows:

- Owner must inform to the nearest plant quarantine check point before their materials are reached to point of entry to and exit from.
- Plant Quarantine Authority must inspect the means of transport and observe outer of mass of materials, examine the phytosanitary certificate issued by country exporter and must facilitate the transportation to be continued respectively.

**Article 29. -**

The Plant Quarantine Authority shall conduct the phytosanitary treatment at point of entry before permitting the transportation to be continued; in case of the plant quarantine materials are not in compliance with the conditions prescribed in Article 27 of this Sub-Degree.

In case of accident while transporting and the packaging materials are broken that are likely to spread out the plant quarantine materials, the owner shall immediately declare to the nearest Plant Quarantine Authority or local Authority. The Plant Quarantine Authority shall immediately conduct Phytosanitary Treatment, issue the phytosanitary certificate for re-export and allow the transportation to be continued.

## **Charter VII**

### **AUTHORITY OF PLANT QUARANTINE OFFICER**

**Article 30. -**

The Plant Quarantine officer has authorized as follows:

- Conduct the phytosanitary inspection and treatment on mean of transport and plant quarantine materials in storage, factories, agricultural production area or farms.
- Prepare the record and report on violation for submitting to the court.

The owner of the above asset shall permit the plant quarantine officer to inspect their materials and shall cooperate in providing information.

**Article 31. -**

Local Governor or Authorities shall provide their forces to cooperate with Plant Quarantine Authority, according to their request.

## **Chapter VIII**

### **PENALTY PROVISION**

**Article 32. -**

It shall not allow to import, export or transit transport of plant quarantine materials which commits any of the following wrongful acts:

- Fails to plant quarantine procedure prescribed in Article 8, excluded point 4 or Article 30 paragraph 1 of this Sub-Decree,
- Not complied with the phytosanitary requirement of importing country or not follows the phytosanitary treatment, prescribed in Article 10 of this Sub-Decree
- Not follows the conditions prescribed in Article 21, 26 or 28 of this Sub-decree.

**Article 33. -**

It shall be fined assisting to Article 62 , charter 7 of Law on the Management of Quality and Safety of Products and Services to any person, who:

- Fails to plant quarantine procedure prescribed in Article 8, point 4 of this Sub-Decree,
- Violates to Article 13 paragraph2 or Article 18 paragraph 2 or Article 19 or Article 22 paragraph 2 or 3 of this Sub-Decree.

**Article 34. -**

Any person who repeats the same kind of wrongful act prescribed in Article 18 paragraph 2 or Article 19 or Article 22 paragraph 3 of this Sub-Decree, shall be fined in double, excluding the criminal fault.

In case of wrongful act were distributed the plant quarantine or dangerous pests, the failed person should paid for the elimination the above problems according to the estimation by Minister of Agriculture Forestry and Fisheries.

**Article 35. -**

It shall be fined assisting to Article 63 , charter 7 of Law on the Management of Quality and Safety of Products and Services to any person, who:

- a. Make any condition, that Phytosanitary officer as mentioned in Article 3 of this Sub-decree can not implement their duties.
- b. Denise to show related document or want to give not true information or to make confuse on transportation plant quarantine material;
- c. organize by not permission of plant quarantine material that has temporary confiscate by phytosanitary inspection;
- d. Transport plant quarantine material to escape from plant quarantine check points in purpose avoiding phytosanitary inspection.

**Article 36. -**

Any person who rules out the fine, his/ her fault shall be submitted to a competent court of law.

The rewarded to encourage the officer and the expenditure for this mission will be defined by PRACAS of Minister of Agriculture Forestry and Fisheries and Minister of Economic and Finance.

## **Chapter IX**

### **FINAL PROVISION**

#### **Article 37. -**

Sub-Decree 98 GnRk, dated 08 October 1983 on phytosanitary inspection on importing and exporting plant product and other previous provisions which are contradictory to this Sub-Decree shall be repealed.

#### **Article 38. -**

Minister of minister's council; Minister of Ministry of Agriculture Forestry and Fisheries; Ministers and Secretaries of State of all Ministries and Authorities concerned shall implements this Sub-Decree upon signing.

Phnom Penh, 13 March 2003

Prime Minister

**HUN SEN**

CC:

- Cabinet of the King
- General Secretariat of Senate
- General Secretariat of National Assembly
- General Secretariat of Royal Government
- Cabinet of Prime Minister
- All Ministries and Authorities
- All Provincial and Municipal Governors
- As mentioned in Article 38
- Documentation

**KINGDOM OF CAMBODIA**

**Nation Religion King**

**DRAFT**

**PROTECTED AREAS LAW**

## **CHAPTER I**

### **General Provisions**

#### **Article 1**

This Law shall apply to the management of State public land within the National Protected Area System (NPAS) that was either created as outlined in appendix 1 or may be established later under jurisdiction of the Ministry of Environment (MoE).

#### **Article 2**

The objectives of this Law are to:

- A. Define the jurisdiction and responsibilities of the MoE in the management of the NPAS;
- B. Manage and implement effectively the conservation of biodiversity and sustainable use of natural resources within the NPAS;
- C. Determine the standards and procedures for the management of the NPAS;
- D. Provide the mechanisms and procedures to establish protected areas or to modify their category;
- E. Define the responsibilities and involvement of protected area communities and public at large;
- F. Implement regional and international conventions, protocols and agreements pertaining to the protection of biodiversity and ecosystems inside the NPAS.

#### **Article 3**

- A. For purposes of this Law, the terminologies and vocabularies listed in this law shall be defined as provided in the appendix 2.

## **CHAPTER II**

### **Competent authorities**

#### **Article 4**

The Ministry of Environment shall have jurisdiction for the management of the NPAS.

A Protected Area Administration, hereinafter refer to as "*the Administration*", shall be established, under direct supervision of the MoE, for the management of the NPAS throughout the Kingdom of Cambodia.

The organisational structure of the Administration consists of central and cluster levels, provincial/municipal Department of Environment and field stations. The organisation and operation of the Administration shall be defined by Prakas issued by the MoE.

The Administration shall perform its duty to ensure public involvement in the decision-making process pertaining to sustainable management and conservation of biodiversity.

#### **Article 5**

The Administration has, but not limited to, the following duty:

1. Development of proposed strategic plan, programme planning, regulations and guidelines;
2. Survey and analyses of the conservation process of biological diversity, habitats and measures for prevention from loss of species within the NPAS;
3. Review and implementation of management, conservation and development plans based on results from scientific studies;
4. Recommend for establishment of new protected areas and modification of protected area boundary as nationally deemed necessary or in accordance with the regional and international conventions, protocols and agreements;
5. Implementation of international and regional conventions, protocols and agreements and programmes pertaining to the management of the NPAS;
6. Joint implementation with national and international agencies and with organisations involving the protected areas in order to strengthen the protection and conservation capacity for the NPAS;
7. Provide technical support for the development of protected area communities;
8. Investigate, prevent and control all aspects of offenses within the NPAS and file cases with the Court;
9. Educate and disseminate to people to promote their participation in the preservation and protection of natural resources within the NPAS.

#### **Article 6**

The authority, role and responsibilities of the Administration officers shall be defined by Prakas of the MoE.

#### **Article 7**

Ministries, competent agencies and local authorities within and near individual protected areas shall facilitate and coordinate closely with the Administration to ensure effective enforcement of this law.

### **CHAPTER III**



### **Categories of Protected Areas**

#### **Article 8**

The following Management Categories of protected areas are hereby established:

1. National Park
2. Wildlife Sanctuary
3. Protected Landscape
4. Multiple Use Area
5. Ramsar Site
6. Biosphere Reserve (Tonle Sap lake)
7. Natural Heritage Site
8. Marine Park
9. Wetlands, Protected Watershed and Coastal Areas designated specially for management and conservation and
10. Other protected areas established, upon request by the MoE, under regional or international conventions, protocols and agreements.
11. Provincial protected areas

The establishment or management objectives of the protected area categories are described in Appendix 3 and 4 of this Law.

#### **Article 9**

A protected area of national and international significance may be designated world or regional heritage site provided that the area responds to criteria set for by such international or regional conventions, protocols or agreements.

A protected area already designated world or regional heritage site shall require appropriate interventions by the royal government to ensure its management and conservation in accordance with legal procedure and relevant regulations prescribed in the world or regional conventions on natural heritage respectively.

### **CHAPTER IV**

#### **Establishing and Modifying Protected Areas**

#### **Article 10**

1. An establishment of a protected area shall be determined by Royal Decree.

2. Protected areas established under regional or international conventions, protocols or agreements shall be decided by Royal Decree.
3. The delineation and modification of boundaries, status or categories of a protected area shall be determined by Sub-decree.

#### **Article 11**

Provincial/municipal protected areas may be established by Sub-decree. Provincial/municipal Department of Environment shall conduct studies and consultations with provincial/Municipal authority, Department of Land Management, Urbanisation and Construction and with relevant Departments and agencies to develop proposal for establishment of provincial/municipal protected areas. The process of establishment of provincial/municipal protected areas shall evolve through the MoE.

#### **Article 12**

A National Protected Area Consultative and Advisory Committee (NPACAC), chaired by the Ministry of Environment and participated by representatives from agencies with jurisdiction relevant to protected areas, shall be established.

The NPACAC shall be established by *Sechkdey Samrech* of the government.

The central protected area Administration shall act as assistant Secretariat of the NPACAC and shall represent the MoE by using the MoE's official stamp on NPACAC documents.

The NPACAC shall meet at least once every six (6) months. The NPACA may also convene for meetings whenever necessary to fulfill its dispute resolution responsibilities as may be requested by the Administration.

#### **Article 13**

The NPACAC shall have the following roles and responsibilities:

1. Supervise the development of management policy for NPAS;
2. Participate in the discussion and determine solutions to issues relevant to protected area management;
3. Participate in the evaluation and make recommendations of a proposed PA for establishment as an NPAS protected area, as described in Article 8 of this Law;
4. Participate in the review or modification process of a protected area category as provided in Article 7 of this law.

**Article 14**

The NPACAC and agencies with responsibility relevant to protected area shall provide recommendations to MoE for assessing proposal for designation or modification of a protected area.

NGOs and civil society may submit proposal or assist the MoE in studying the feasibility for establishment or modification of a protected area category.

The feasibility study shall consist:

1. Boundary study and delineation;
2. Study and take into consideration the property, access rights and ownership within the proposed designated protected area;
3. Study the status of natural resources including relevant biological diversity and habitats;
4. Conduct economic valuation of conservation and of other activities within the area.

PA administration review the feasibility study report based on the principles and criteria, management objectives and other factors.

PA administration keeps the report documents and data/information of the feasibility study and disseminates to the public as request.

**Article 15**

The Administration shall develop proposal for designation or modification of a protected area based on results of research, established criteria, management objectives, access to utilisation of natural resources, land use rights and other relevant factors.

The proposal for designation or modification of a protected area shall include:

1. Description of the significance of biological, topographical, geological, historical, cultural and conservation values of the proposed area;
2. A legal description of the proposed area and an appropriate scaled map describing its location, boundary, and extent;
3. Management objectives of the proposed area;
4. Management category and zoning
5. Assessing natural resource and land use within the proposed area; and
6. Results from consultations with agencies, stakeholders and representatives of the local authority within and/or near the proposed or modified protected areas.

The management objectives and criteria for classification of the NPAS are illustrated in Appendix 3 of this law.

**Article 16**

Upon approval on the establishment or modification of a protected area, the Administration shall:

1. Demarcate, in consultation the Ministry of Land Management, Urbanisation and Construction (MLMUC) and with local authority, the boundaries of the approved protected area.
2. Provide technical description of the boundaries accompanied with appropriate scaled and clear maps.
3. Make public the newly established protected areas or modified boundaries.

**CHAPTER V****Zoning****Article 17**

Each protected area zoning system shall consist of:

1. **Core zone:** area(s) containing biodiversity, natural resources, ecosystem, genetic resources of high values for scientific research study on the nature and for sustaining the environment.
2. **Conservation zone:** area(s) adjacent to the core zone where access by local communities and people, living within and next to the PA, to resource utilisation is allowed in accordance with Prakas issued by the MoE.
3. **Buffer zone:** the zone may contain one or more areas as below:
  - a. conservation of national culture and heritage;
  - b. eco-tourism;
  - c. protection and rehabilitation of biodiversity;
  - d. establishment of PA community;
  - e. establishment of botanical garden; or
  - f. special protection and use: irrigation system, reservoir, hydro-station, electric network, public infrastructure and infrastructure for the management of the PA.

4. **Community zone:** area(s) for socio-economic development of the local communities and may contain residential land, rice field and field garden (*Chamkar*). The establishment of community zone shall be defined by Sub-decree.

Access to use and reside within the area shall be in conformity with the Land Law (Articles 138, 139, 140 and 141).

#### **Article 18**

The State public properties within the core zone, conservation zone and buffer zone shall not, at any time, be subject to procurement for private holding. They shall be used for the public interest and may not, at any time, be sold, exchanged, transferred or donated.

#### **Article 19**

The terms and conditions for zoning within a protected area should include:

- the area's management objectives;
- potential values of the area's resources;
- socio-economic and cultural implication of the area;
- carrying capacity of the area's resources; and
- location of the area.

The principles for zoning in any PA shall be prescribed in Prakas by the MoE.

#### **Article 20**

The Administration shall formalise the boundary demarcation and mapping for each protected area on an appropriate scaled map and with participation of the MLMUC and the local authority. The head of each participating agencies shall provide his/her signature on the map.

The Administration shall conduct management zoning following the provisions in article 15 of this Law and in accordance with geographical situation at place.

### **CHAPTER VI**

#### **Management Plan**

##### **Part I: The National Protected Area Management Strategic Plan**

#### **Article 21**

The MoE shall develop a National Protected Area Strategic Management Plan (NPAMSP) and ensure that the Plan is compatible and in consistent with national plans such as the National

Environment Action Plan, National Biodiversity Strategy and Action Plan and the National Wetland Action Plan. The NPAMSP should be adopted by the Council of Ministers upon request by the MoE.

#### **Article 22**

The NPASMP shall include, *inter alia*, the following:

1. Objectives of the conservation, rehabilitation, prevention, suppression of offenses and sustainable use of natural resources and ecosystem within individual protected areas;
2. Descriptive summary of current status of natural resources and ecosystems within each zone including species, genetic resources and socio-cultural aspects;
3. Assessment of the level of contribution of NPAS;
4. Recommendations for measures to successful achievement of the protected area objectives; and
5. Steps for implementation of management plan for priority protected areas.

#### **Article 23**

The Administration shall develop proposal for review and revision of the NPAMSP at least once in every five years. The NPAMSP may be revised, as necessary, to reflect the following:

1. Improved scientific information about and understanding of Cambodia's living resources and ecosystems, including communities of species of flora and fauna, biological and genetic diversity, and socio-cultural resources;
2. Unforeseen needs or emergencies arise that threaten the satisfactory functioning of the NPAS; and
3. To achieve the evolving policies of the government.

The NPAMSP shall be prepared and revised through a process involving public consultation, notice and comments.

### **Part 2: Site-Specific Management Plan**

#### **Article 24**

The Administration shall develop for individual protected area a site-specific management plan to be approved by the MoE and in accordance with the NPAMSP.

Process for the development of the Plan shall involve coordination and consultations with local authority, community and stakeholders.

**Article 25**

The MoE shall issue Prakas prescribing guidelines for a standardised process for the development of site-specific management plan for individual protected area. The content for each of the Plan shall include the following:

1. The objectives of the protected area management;
2. A detailed description on the activities allowed within each zones and accompanied by zoning category;
3. A description on the available natural resources, their uses and land use status within the protected area;
4. A description on activities that may not be allowed and that contradict the PA management objectives;
5. A model of permit or license;
6. A model of agreement on participatory PA management process between the Administration and the PA community and with physical person or legal entity;
7. The action plan and interventions required for forest fire management, protection and conservation of wildlife and their associated habitats;
8. A plan for the management of, for example, the protected area community and eco-tourism development programme;
9. An assessment of budget requirements and sources of funding;
10. A description of the name, role and structure of the protected area.

**Article 26**

The MoE may, upon request by the Administration, allow and provide service for eco-tourism development. The eco-tourism development shall emphasis biodiversity protection and conservation of biological resources and the environment.

The eco-tourism development may be undertaken through investment, issuance of permit or license and agreement for the provision of tourist service in any designated area by the MoE.

**CHAPTER VII****Public Involvement and Access and the Protected Area Community****Article 27**

Local community, public and civil society are encouraged to participate fully in the provision and accessing to information relevant to the protected area management.

**Article 28**

State recognises and secures access to traditional uses, local customs, beliefs, religions and livelihoods of the local communities and minority groups residing within and adjacent to the PAs.

Access to traditional uses of natural resources and customary practices of local community on family scale may be allowed within buffer zone and conservation zone and shall be prescribed in Prakas by the MoE.

**Article 29**

Collection of timber and non-timber forest products (NTFPs) and natural resources in accordance with articles of this law may be allowed in the areas designated for PA communities within the buffer zone.

The collection of timber and NTFPs and natural resources shall be in accordance with the Management Plan and technical guidelines to ensure sustainability of natural resources within community areas.

**Article 30**

Minority groups that practice traditional shifting cultivation may continue to do so on their lands provided that such lands have been registered with the State.

Local protected area Administration shall allow the management and containment of such farming practices as part of the management plan of the protected area community.

Shifting cultivation practices shall not be permitted in primary forest areas and areas of special conservation values as habitats for rare species, endemism and for critically endangered species.

**Article 31**

The Minister of Environment has the authority to allocate part or parts of buffer zone to communities residing within or adjacent to a protected area as the protected area community.

Failure by the protected area community to abide strictly by the agreement with the MoE and site-specific management plan will result in the MoE holding, for review and assessment of, the operation of the protected area community. Such agreement shall be valid for a period not exceeding fifteen (15) years period.

**Article 32**

The protected area community may not have rights to clear or work the earth within forestlands, allocated to it pursuant to the agreements with the MoE, to do agricultural farming or to claim title over the land, to sell, rent, donate, share, divide or transfer areas under its own management to any person or legal entity.



A protected area community statute may be established by community representatives and local authority and endorsed by the Administration.

#### **Article 33**

The Administration, upon consultations and coordination with local authority, has duty to conduct feasibility study on the establishment of protected area community in protected areas where there are community residing within or adjacent to and define clear location and appropriate size reflecting the need for customary use by the community.

National and International Non-governmental Organisations (NGOs) are encouraged to provide assistance and coordination for the establishment and implementation process of a protected area community.

#### **Article 34**

The guidelines on the establishment of a protected area community are prescribed by Prakas of the MoE.

The Administration shall disseminate and provide technical expertise for the establishment of protected area community and the operation thereof, upon request by the local community or authority.

#### **Article 35**

The protected area community shall develop natural resources management plan that shall be reviewed and approved by the Administration and the review process may be conducted regularly every five (5) years or earlier if necessary.

#### **Article 36**

Demarcation of protected area community boundary shall be defined by the Administration upon consultations with local authority and with concerned local community.

### **CHAPTER VIII**

#### **Education, Extension, Rehabilitation, Restoration and Funding for the National Protected Area System**

#### **Article 37**

Citizen, armed forces, government officials and local authorities shall have an obligation to participate in the protection, conservation and rehabilitation of living resources within the NPAS.

**Article 38**

Programmes for education and extension shall be developed for individual PA on the protection and conservation of natural resources, the rehabilitation and restoration of biodiversity and degraded and lost ecosystems.

The Administration shall, every year on June 5<sup>th</sup> - the National and World Environment Day, organise activities for rehabilitation of biological resources and ecosystem within the NPAS with focus to provide public education and awareness on the value of protected area and to promote participatory protection and conservation of living resources.

**Article 39**

The Administration shall, in collaboration with local communities and authorities, national and international NGOs, rehabilitate and restore in areas with degraded or lost living resources.

**Article 40**

The Royal Government of Cambodia shall commit sufficient funding for the protected area management process.

**Article 41**

To support programmes for rehabilitation and restoration of biodiversity and to promote livelihood of the PA communities, the following shall make up sources of funding for the management of NPAS:

1. Revenue from:
  - Entrance fees.
  - Transaction fines
  - Agreements and other services and transactions.
2. Donations
3. Assistance from various national and international organisations

**Article 42**

Fund from sources as in article 41 of this law may be used to support the following activities:

- The protection and conservation of biological resources and ecosystems in the NPAS;
- Rehabilitation and enhancement of biodiversity and ecosystems in the NPAS;
- Technical and scientific research study on the biological diversity and ecosystem;
- Maintenance and extension of eco-tourism services

- Training, human resource development and capacity building of the park rangers for effective protection and conservation of biodiversity and ecosystems in the NPAS;
- Programmes supporting the establishment of PA community;
- Extension and education on PA; and
- Rehabilitation and maintenance of infrastructure within the NPAS.

## **CHAPTER IX**

### **Permit and Prohibition**

#### **Article 43**

The Administration shall draft model of permits, agreements or contracts on access to using natural resources and development activities outside of core and conservation zones. The MoE shall issue Prakas governing the use of such documents.

The Minister of Environment shall have authority to issue permit, agreement or contract on access to using natural resources and development activities outside of core zone.

#### **Article 44**

The following shall be prescribed in the permit and licensing system:

1. Specific time period
2. Legal practices and in accordance with the objectives of the PAs (such as research study, recreation and tourism, education, conservation of natural resources and biodiversity).
3. Permitted customary uses in the locals and agreements with PA communities
4. Model written permit and license application forms; and
5. Guidelines on acceptance or denial of permit and license applications.

#### **Article 45**

Except otherwise authorised by the Royal Government and in consultation with the MoE, all clearances and earthworks within the forestlands for the purpose of building public roads across a protected area shall be prohibited.

Except otherwise authorised by the MoE following the proposal by the Administration, clearance and earthwork within the forestlands for building firebreaks or trails are prohibited.

All projects for building public roads, firebreaks or trails within PAs shall only be implemented following sufficient consultations with local authorities and communities and after environment impact assessment has been conducted.

New settlement along public roads, firebreaks or trails outside of the community areas within a protected area shall be prohibited.

#### **Article 46**

Processing of timber and Non-Timber Forest Products (NTFPs) and fishery products and the establishment and operation of sawmills and plants for processing of timber, NTFPs and fishery products, and of all types of burning kilns within protected area shall be prohibited.

#### **Article 47**

Each PA shall be protected against destructive practices or harms caused by illegal land claim, collection, pollution in the areas containing valuable biological resource, forest fire, shifting cultivation, introduction of diseases and pests including invasive plants and animals.

Prohibited practices considered destructive and harmful include:

1. Displacement, removal or destruction of protected area boundary markers or posts.
2. Collection of timber and NTFPs, fishery products and natural resources in a manner violating to the recognised and authorised access rights.
3. Felling, grid bark, clearance or poisoning plants, fishery resources or uproot of tree stumps for the purpose of soil, mine and stone quarry and living resources within the boundary of PAs.
4. Setting forest fire to collect and hunt for wildlife and NTFPs to clear areas from grass or vegetation or to build foot path;
5. Using various means, releasing or confining cattle or live stock within the restored biological resources areas; and
6. Establishment of base for processing Kem Chan, Preah Prov, Vor Romeat or other NTFPs and freshwater and marine aquaculture that may cause pollution or destructive effects to biota and ecosystem.

#### **Article 48**

Activities to take out of or introduce into protected area plant seeds, wild species or fish of all species shall subject to researches, diagnosis and evaluation by the Administration and shall receive permission from the MoE.

#### **Article 49**

No person or legal entity may have permission, either directly or indirectly, to fell trees, clear forestlands, hunt or trap for animals or to undertake activities to collect NTFPs, wildlife, to take into their ownership land or components of natural resources within a protected area in a manner contradicting the provisions of the Articles of this Law.

## **CHAPTER X**

### **Environmental and Social Impact Assessments**

#### **Article 50**

To minimise adverse impacts on the environment and to ensure that management objectives of protected areas are satisfied, an Environmental and Social Impact Assessment (ESIA) shall be required on all development proposals that are likely to cause significant adverse environmental or social impacts within or adjacent to protected area boundary. An ESIA is required on the following projects:

1. All projects as stated in the Appendix of the Sub-decree No. 72 dated 22 August 1999 on the Environmental Impact Assessment (EIA) Process.
2. Major projects proposed by the Administration, other government agencies, national and international organisations, financial institutions and private entities.

All applications for permits, agreements, contracts and adoption of any development plan within or adjacent to protected area boundary shall have contracts with MoE.

#### **Article 51**

The procedure for ESIA of any activity shall be in conformity with the Sub-decree on the EIA process.

#### **Article 52**

All activities pertaining to soil, stone, pebble and sand quarries, mining and extraction of living resources within PA shall be allowed only after gaining approval by the government upon evaluation of the EIA report by the MoE.

The approval for such activities shall be liable to conditions for protection and rehabilitation of the abandoned quarry pits or concession areas under the responsibility of the concession holders in order to:

1. Avoid or prevent aggravated erosion and landslide or harms to the growth of biological resources or impairment to the hydrological system and water quality.
2. Implement activities to restore the quarry pits and concession areas following termination of their extraction activities and within the allocated time line specified in the license or permit.

## **CHAPTER XI**

### **Natural Resource Offenses and Legal Penalties**

#### **Article 53**

Punishments for natural resource offense include, but not limited to: imprisonment, fines by court procedures, transaction fines, confiscation of evidence, payment of restoration damages, warning, termination or suspension of agreements or permits.

Decisions to impose transaction fines, pay restoration damages and issue warnings shall be the responsibility of the Administration. If the offender refuses to pay the fine or restoration damages, then the Administration may forward the documentation on the offense to the Court.

#### **Article 54**

In defining level of punishment, the following factors shall be considered:

1. the economic value of the biodiversity translated as gain, realized as a result of the offense;
2. the damage caused to the natural resources and environment;
3. how often the person charged has committed the offense;
4. how much of a fine required to deter future offenses from occurring; and
5. whether the offense was intentional.

#### **Article 55**

Fine is applied when the offender has confessed and agreed to pay the fine pursuant to the provisions of this Law, and it shall be paid no later than fifteen (15) days from the date of the notice of the fine.

Failure by the offender to deal with the issue within the period specified above may result in the Administration file the case with the Court.

#### **Article 56**

The fines imposed by court decision or revenue from selling of evidence shall go to the national budget. The government may decide to pay reward to citizen or officers who had been actively participating in controlling natural resource offenses within a particular PA.

#### **Article 57**

A person who commits the following activities that are deemed natural resource offenses shall receive a written warning:

1. Graze cattle in the areas designated for biodiversity protection, scientific research study and restored ecosystem;
2. Bring in flammable materials that may cause forest fire;
3. Collection on family base NTFPs and natural resources for stocking without permit;
4. Access into PA for the purpose of natural and scientific study without permit;

A person who commits offenses as specified in paragraph 1 of this article for a multiple time shall be penalised by transaction fines or pay restoration damage.

#### **Article 58**

Offenses of the following violations shall receive punishment by transaction fines equivalent to one to three times the market value of evidence or pay restoration damage:

1. Build or operate any burning kiln within the boundary of a protected area;
2. Cause injury or damage to plant and wildlife symbolic to the protected area or belong to local community;
3. Damage or alter original position of the boundary posts, markers, tourist facility such as trails, bridges and information board;
4. Cut, grid bark, uproot, fell, collect, destroy, encroach and stock plants and trees without authorisation;
5. Bring in chainsaw and machinery into a protected area;
6. Possess any type of timber and NTFPs different from items specified in the permit and found during transportation across protected area;
7. Collect timber products and natural resources without permit from the MoE;
8. Collection for raising in captivity of rare, vulnerable and critically endangered wildlife species;
9. Collect and take to ownership, process into specimen and stock rare, vulnerable and critically endangered wildlife species;
10. Hunting in a protected area;
11. Introduction of alien or exotic species of animals and plants into a protected area;
12. Bring into or across or use of machinery such as industrial construction equipment and heavy vehicles without permission;
13. Family scale fishing using illegal fishing gear or practices and in the closed season for fishing;
14. Leave remains that may cause forest fire.

A person who commits offenses as specified in paragraph 1 of this article shall be penalised double the value of transaction fines and to pay restoration damage.

#### Article 59

Penalties Class I Natural Resources Offenses – one (1) month to one (1) year imprisonment and/or fines from Riels 500,000 to Riels 1,000,000 and all evidences confiscated as State property – shall be applied to any person or legal entity that violates one or more of the provisions below:

1. Release of pollutants into a protected area;
2. Causing forest fire by mistake;
3. Destroy wildlife habitats, collect eggs, disturb, cause injury to offspring of regional flagship wildlife species or migratory species for feeding, reproduction and nurturing;
4. Destroy young trees planted in restored ecosystem;
5. Soil, stone or pebble quarry or removal from within protected area;
6. Operation of equipment that may disturb by sound and noise;
7. All forms of fishing using illegal fishing gears and practices and fishing in closed season for fishing;
8. Hide, steal, sell, destroy or damage evidences of offenses;

A person who commits offenses as specified in paragraph one of this article for a multiple time shall receive punishment double the value of natural resource offenses Class I of this Law.

#### Article 60

A person who commits offenses of one or more of the following violations shall be penalised the punishment stated for Class II natural resource offense and shall receive imprisonment between one to five years and/or fines from Riels 10,000,000 to Riels 50,000,000 and all evidences confiscated as State's property:

1. Establish plant for processing any types of NTFPs;
2. Establish any type of burning kiln that utilise forest or NTFPs from a protected area as raw materials;
3. Fell and collect Saddle woods, *Preah Prov*, *Vor Romiet*, luxurious quality wood and Black wood from within the boundary of a protected area;
4. Collection of wild fruits by means of tree felling (such as *Samrang*, *Kantout Prey*, *Sramor*, *Semeann*, *Kulen*, *Mean Prey*, ...);
5. Cause impacts, damage or destruction to the natural balance of ecosystem, reproduction and habitats, in particular, of any species of wild plant, wildlife or any aquatic animal;



6. Cut, bark grid, uproot, feel, collect, destroy, encroach and stock any vulnerable, rare or critically endangered species as specified in the joint Prakas by the MoE and Ministry of Agriculture, Forestry and Fishery (MAFF).
7. Catch, trap, hunt, cause injury, poison, kill, take out, collect eggs and offspring from their original habitats of any vulnerable, rare, or critically endangered wildlife species as specified in the joint Prakas by the MoE and MAFF.
8. Hunt for and kill wild animals for commercial purpose;
9. Establish, without permit, for tourism service on a private basis in any site within the boundary of a protected area;
10. Bring in or use of weapon, explosive device, chemical or poisonous substances, any equipment using electricity as a means for trapping animals, and any other type of illegal gears within a protected area;
11. Bring in or introduce into, store or discharge of any type of pollutant; and
12. Middle scale or commercial fishing without permit.

A person who commits offenses as specified in paragraph 1 of this article for a multiple time shall receive double the punishment of the natural resources offenses Class II of this Law.

#### Article 61

A person who commits one or more of the following violations shall be penalised the punishment stated for Class III natural resource offense and shall receive imprisonment between five (5) to ten (10) years and/or fines from Riels 50,000,000 to Riels 100,000,000 and all evidences confiscated as State property:

1. Cause obstruction, injury or interference to the Administration in performing its functions and duty effectively;
2. Unauthorized use of the uniform, insignia, hierarchical ranking badge of a protected area Administration or Environment Officer to commit offenses;
3. Falsify public documents and use of the Administration position for personal gain or to make personal possession of natural resources or property within a protected area;
4. Clear, set fire, encroach or earthwork forestlands to claim ownership, to gain title by illegal means over or to sell forestland;
5. Establish concession forests, sawmills, timber and *Vor Romiet* processing plant, processing of NTFPs that may cause damage to the natural resources and ecosystems;
6. Farming of all narcotic plants inside a protected area;
7. Alter, damage or destroy cultural artifacts or unique and natural features within protected area;
8. Set forest fires intentionally;

9. Displace, remove or destroy public infrastructure within a protected area such as boundary posts or markers, bridges, culverts, roads, buildings, stations, sub-stations, outposts, or other facility necessary for use in law enforcement.

A person who commits offense as specified in paragraph 1 of this article for a multiple time shall be penalised double the punishment stated for a Class III natural resources offense of this law.

#### **Article 62**

The following activities will be considered exceptional and may be undertaken with special permission:

1. Access into a protected area for the purpose of natural resources and scientific research study;
2. Scientific research study or act in zones identified to contain wild plants or animals or other biodiversity endemic to a protected area;
3. Undertake commercial and investment within the boundary of PA such as industry, agro-industry, handicraft, aquaculture, exploration or exploitation of natural resources or recreational and sport services;
4. Establish NTFP processing facility within protected area community areas;
5. Build or install boundary posts or markers, fences, roads, bridges, buildings or other physical infrastructure that do not serve the purpose of the NPAS;
6. Military exercise or training in the field.

A person who commits offense as specified in paragraph 1 of this article shall be penalised the punishment stated for a Class II natural resources offense - imprisonment from 1 year to 5 years and fines from Riels 10,000,000 to Riels 50,000,000 and terminate or suspend agreements or permit.

#### **Article 63**

Any activity carried out by local authority officials, police officers, royal armed forces or the officials of other authorities to directly or indirectly intervene to permit contrary to the provisions of this Law, or to threaten the Administration officers, or to obstruct the performance of duties and operation of the Administration officer, shall be considered as offenses subject to 1 to 5 years in prison and fine of Riels 10,000,000 to Riels 100,000,000.

#### **Article 64**

The Administration officer, an inspection or environment officer who for their negligence, carelessness or failure to abide by the order of the MoE, participate directly or indirectly, facilitate in the offenses shall receive administrative punishment or face court decision.

## **CHAPTER XII**

### **Enforcement and Procedures to resolve offenses**

#### **Article 65**

In relation to the Criminal law, the natural resource offenses defined under this Law are different in nature from those of criminal and are not prescribed in the Criminal law. The Administration officers having duty as judicial police officers shall have the authority to investigate, prevent and suppress natural resource offenses within their assigned territory and file such case with the Court.

#### **Article 66**

Local authorities, armed forces, other concerned authorities and public society shall facilitate and assist in the investigation, prevention and suppression of natural resource offenses and temporarily safeguard any seized evidence, upon request of the Administration officials.

If a person, legal entity or an officer of any above authority has probable cause or sufficient evidence of an actual natural resource offence, then he/she shall immediately inform the nearest official of the Administration, the protected area station or sub-station.

The Administration officer shall take prompt action to investigate any case of offenses upon complaint or report on natural resource offenses pursuant to article 57, 58 and 59 of this Law.

#### **Article 67**

During the operation of prevention and suppression of natural resources offenses within their responsible territory and when in court session, the Administration officer shall wear appropriate uniform, insignia and hierarchical ranking badge.

#### **Article 68**

The Administration officer, acting as judicial police, shall have authority and duty as follow:

- Regular patrol, inspection and prevention of all aspects of offenses within protected area including natural disasters.
- Inspect licenses, permits and associated documents required legitimate proof.
- Conduct study and inventory of biological diversity, wild animals and plants and restoration of ecosystems
- Have, during their operation, authority to temporary confiscate all evidences of offenses on the spot.
- Have authority to temporary detain offenders for a period not exceeding 48 hours in order to file court case.

- Have, during their operation, authority to self-protection against physical violence by offenders or aggressive wild animals.

**Article 69**

The filing of offenses inside protected area shall be in accordance with the Criminal Procedures in force.

The MoE and the Ministry of Justice shall make a joint Prakas on the procedure for recording offenses within a protected area.

**Article 70**

Any person disagrees with the decision made by the Administration as outlined in this law shall have rights to make written complain to the Head of the central PA Administration within 15 days from the date a decision by the local Administration is received.

After reviewing the complain, the head of the central protected area Administration shall issue another written decision and if it is still not acceptable by the plaintiff, he/she can file a complaint to court.

Any complain made under Article 70 shall not affect the authority of, or stay the process of enforcement by the Administrative officers under, this Law.

**CHAPTER XIII****Implementation Of Court Order****Article 71**

The Administration has a duty to implement the verdict or final order of the Court, except the punishment for prison term.

**Article 72**

A copy of the court verdict or final order of the forest offense inside PA shall be made available to the Administration.

**Article 73**

After the court verdict or final order has entered into force, the Administration shall follow its own procedure to arrange for the disposal of all confiscated evidence.

**CHAPTER XIV**

### **Final Provisions**

#### **Article 74**

Any provisions contradict to the articles of this Law shall be considered null and void.

#### **Article 75**

This Law shall be declared immediately effective upon signing.

This Law has been adopted by the National Assembly of the Kingdom of Cambodia on the day of \_\_\_\_\_, 200\_ during the \_\_\_\_\_ session of the Second Legislature.

Phnom Penh, \_\_\_\_\_, 2002

President of the National Assembly

**APPENDIX I**  
**OF THE PROTECTED AREAS LAW**  
**ROYAL DECREE ON THE ESTABLISHMENT AND DESIGNATION OF NATIONAL**  
**PROTECTED AREA SYSTEM of November 01, 1993**  
**and**  
**ROYAL DECREE ON THE ESTABLISHMENT AND MANAGEMENT OF TONLE SAP**  
**BIOSPHERE RESERVE No. នស/រកត/០៤០១/០៧០ of April 10, 2001**

Name of PA	Category	Location	Area (ha)
	<b>1. National Park</b>		
1. Kirirum (Preah Soramarith-Kossomak)		Kampong Speu and Koh Kong	35,000
2. Bokor (Preah Monivong)		Kampot, Kampong Speu, Koh Kong and Sihanoukville	140,000
3. Ream (Preah Sihanouk)		Sihanoukville	21,000
4. Phnom Kulen (Preah Cheyvaraman-Norodom)		Siemreap	37,500
5. Virachey		Ratanakiri and Stung Treng	332,500
6. Kep		Kep municipality	5,000
7. Botumsakor		Koh Kong	171,250
	<b>2. Wildlife Sanctuary</b>		
8. Phnom Oral		Kampong Speu, Posat and Kampong Chhnang	253,750
9. Phnom Samkos		Posat, Battambang and Koh Kong	333,750
10. Lumphat		Ratanakiri and Mondulhiri	250,000
11. Phnom Prech		Mondulhiri	222,500
12. Snuol		Kratie and Mondulhiri	75,000
13. Boeung Pe		Kampong Thom, Preah Vihear and Siemreap	242,500
14. Peam Krasaop		Koh Kong	23,750
15. Roneamdonsam		Battambang and Banteaymeanchey	178,750
16. Kulen-Prumtep		Preah Vihear, Siemreap and Uddomeanchey	402,500
17. Phnom Namlier		Mondulhiri	47,500

# **Draft Sub decree on the Management and Control of Living Modified Organism**

## **Chapter I General Provisions**

### **Article 1.-**

The objectives of this sub-decree are to implement the Law on Biosafety and to stipulate management procedures and control of trans-boundary movement, transport, handling, transfer, storage and use of living modified organisms as a result from the modern biotechnology.

### **Article 2:-**

For the purpose of this sub decree:

(a)“Use” means contained use for research and development, manufacturing as well as field release for experiments and commercial purpose.

(b) “risk assessment” means the identification of potential risk, estimate the likelihood of the risk to happen, and if the risk happens, how much damage would be caused.

(c) “risk management” means methods used to reduce identified potential risk to an acceptable level.

## **Chapter II Institutional Arrangements**

### **Article 3.-**

In accordance with articles 6 and 7 of the Law on Biosafety and in addition to its present functions and duties the Ministry of Environment shall serve as the National Focal Point and Competent National Authority for implementing the provisions of the Law on Biosafety and those of the Cartagena Protocol.

**Article 4.-**

The main functions and responsibilities of the Ministry of Environment for implementing the provisions of the Law on Biosafety as stated in the above Article 3 are:

- To receive and make decision on applications for the import and export of LMOs and LMOs related activities and operations and respond to applicants before they apply for permits from concerned competent Ministries pursuant to Articles 4,11, 12, 13, 14 and 20 of the Law on Biosafety.
- To review the result of risk assessment before making a decision
- To communicate with the Secretariat of the Convention on Biological Diversity.
- To facilitate international information sharing as set forth in Article 32 of this sub decree.
- To promote public awareness, education and participation concerning LMO- related activities and issues regulated under the Law on Biosafety through the publication of the law, sub decree or guidelines implementing the Law on Biosafety.

**Article 5:-**

A Scientific Advisory Committee (SAC) shall be established pursuant to Articles 8 and 9 of the Law on Biosafety. The responsibilities of the Scientific Advisory Committee in providing scientific and technical advice shall include:

- Conducting risk assessments;
- Reviewing risk assessment provided in application or notifications;
- Recommending to the Ministry of Environment on containment measures, monitoring procedures and other appropriate and scientifically sound conditions and risk management measures;
- Assisting the production of scientific information/material for public awareness activities

**Article 6:-**

The SAC shall consist of:

- One representative from the Ministry of Environment, Chair



- One representative from the Ministry of Agriculture, Forestry and Fishery, vice-Chair
- One representative from the Ministry of Commerce, member
- One representative from the Ministry of Industry, member
- One representative from the Ministry of Health, member
- One representative from the Royal Academy
- One representative from the university

An additional number of scientific experts can be included in SAC upon request, as necessary from other concerned ministries, by the Ministry of Environment.

If available, the group of experts requested should be from the following fields:

- Ecology
- Weed science
- Environmental toxicology
- Animal breeding and genetics
- Virology
- Microbiology
- Molecular biology
- Biotechnology
- Physiology
- Plant breeding

#### **Article 7:-**

The SAC shall ensure the protection of confidential information as required by Article 27 chapter VII of the Law on Biosafety. Disclosure of this information to others or its use for commercial purpose or research shall not be carried out without written authorization from the Applicant.

## **Chapter III**

### **Procedures for Prior Approval**

#### **Article 8:-**

Pursuant to Article 11 of the Law on Biosafety, the first import of LMOs into the Kingdom of Cambodia for contained use shall be subject to prior approval from the Ministry of Environment before applying for permit from concerned competent authorities.

All applications shall be in Khmer language.

**Article 9:-**

The Applicant shall apply for prior approval as stated in above Article 8 to the Ministry of Environment at least sixty (60) days before the import activity.

The application form shall include:

- (i) Name and contact information of the Applicant;
- (ii) The location where contained use activities will be undertaken
- (iii) The nature and identity of LMOs involved
- (iv) The nature and purpose of the activities, including such activities as storing, transporting, producing, culturing, processing, destroying, disposing or using LMOs in any other way;
- (v) Any potential risks associated with the LMOs and activities to be undertaken
- (vi) A description of remedial measures to be undertaken in the event of any unintentional introduction into the environment caused by his or her activities.

**Article 10:-**

If the Applicant receives no response from the Ministry of Environment within sixty (60) days of the submission of the application, the Applicant can begin the proposed activities as in accordance with the normal procedures applied in the Kingdom of Cambodia.

**Article 11:-**

In response to the submission of an application, the Ministry of Environment may, in consultation with the SAC; request the Applicant to provide additional information, such as risk assessment carried out in a scientifically sound manner, using recognized risk assessment techniques, in accordance with Annex III of this sub decree.

The Ministry of Environment shall inform the Applicant in writing of the additional information sought and the procedure which the Ministry of Environment will follow with regards to the application.

**Article 12:-**

Where additional information is sought by the Ministry of Environment under Article 11 a final written decision as to whether the proposed activities may proceed shall be provided by the Ministry of Environment no later than sixty (60) days following the receipt of the additional information.

In the event that the proposed activities are not permitted as requested in the application, the Ministry of Environment shall include in its final written decision the reasons for the prohibition or any limitations or conditions that may be placed on the proposed activities.

**Article 13:-**

In accordance with Article 12 of the Law on Biosafety, the import of LMOs into the Kingdom of Cambodia for intentional introduction into the environment shall be subject to risk assessment and prior approval by the Ministry of Environment before applying to the concerned competent ministry for the import permit.

**Article 14:-**

The Applicant shall include in the application:

- (i) Information specified in Annex I
- (ii) A risk assessment report in conformity with Annex III of this sub decree; and
- (iii) Any additional information which the Applicant deems relevant to an assessment of the potential risk and/or benefit of the requested activity.

**Article 15:-**

All applications shall include a declaration that the information contained therein is correct.

An Applicant may withdraw his/her application at any time prior to the issuance of a final decision by the Ministry of Environment.

**Article 16:-**

Upon receipt of an application submitted under Article 13, the Ministry of Environment shall refer the application to the Secretariat of National Biodiversity Steering Committee (NBSC) which was established by a decision number 16, dated April 2001 of the Prime Minister and amended by decision number 14, dated March 25 2004 of the Prime Minister to confirm that all required administrative information is provided.

Based on information provided by the, Secretariat of NBSC, the Ministry of Environment shall, within ninety (90) days, acknowledge receipt of the application and respond, in writing, to the Applicant.

The primary response shall include:

- (i) The date of receipt of the application
- (ii) Whether the application contains all the required information. If not, what additional information is required within the scope of Annexes I and III.

If the Applicant is required to provide additional information, the number of days taken before the required information is received by the Ministry of Environment must be added to the two hundred and seventy (270) days for making a final decision under article 17.

**Article 17:-**

Within two hundred and seventy (270) days of the date of receipt of an application, the Ministry of Environment shall communicate in writing, to the Applicant and to the Biosafety Clearing House its decision by indicating:

- Its prior approval, with or without conditions, including how the decision will apply to subsequent imports of the same living modified organism;
- Prohibiting the import;
- Informing the Applicant, in the event that the period specified in the above paragraph is extended by a defined period of time.

**Article 18:-**

Failure by the Ministry of Environment to communicate its decision within two hundred and seventy (270) days of the date of receipt of the application as mentioned in article 17 shall not mean the application is approved.

**Article 19:-**

Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity, taking also into account risks to human health, shall not prevent Cambodia from making a decision, as appropriate, with regard to the import of a living modified organism as referred to in article 17, in order to avoid or minimize such potential adverse effects.

**Article 20:-**

Pursuant to article 15 of the Law on Biosafety, the first import into the Kingdom of Cambodia, any LMO for direct use as food or feed or for processing shall be subject to risk assessment and approval by the Ministry of Environment prior to application to the concerned competent ministry for the import permit.

**Article 21:-**

The Applicant shall include in its application:

- (1) Information specified in Annex II;
- (2) A risk assessment report in conformity with Annex III of this sub decree; and
- (3) Any additional information which the Applicant deems relevant to an assessment of potential risks and/or benefit of the requested activity.

**Article 22:-**

When the Ministry of Environment approves a LMO for direct use as food or feed or for processing, it shall inform other parties to the Cartagena Protocol through the Biosafety Clearing-House within fifteen (15) days. This information shall contain at a minimum the information specified in Annex II of this sub decree.

The timeframe for the Ministry of Environment to make a decision shall not exceed two hundred and seventy (270) days.

## **Chapter IV**

### **Risk Assessment and Risk Management**

**Article 23:-**

Risk assessment shall be carried out in a scientifically sound manner, in accordance with Annex III using recognized risk assessment procedures.

Risk assessment shall be based on the information provided in the application and any other available scientific evidence.

**Article 24:-**

The SAC shall audit risk assessments submitted by the Applicant and shall conduct or cause to be conducted any additional risk assessments as required on a case by case basis.

In carrying out its risk assessment, the SAC shall take into account any risk management measures proposed by the Applicant and any risk management measures that may be necessary to minimize any identified risks.

**Article 25:-**

Where additional risk assessments are required, it may be undertaken by the Applicant, SAC or other experts at the discretion of the Ministry of Environment, with cost to be borne by the Applicant.

The quantum of the cost will be determined by the joint Prakas of the Ministry of Environment, Ministry of Economic Finance.

**Article 26:-**

Upon conclusion of the risk assessment process, the SAC shall provide to the Ministry of Environment a risk assessment report that gives its recommendation on the status of the

application, including any measures or actions that need be taken to ensure the safe use of the LMO.

The report should include a summary of risk assessment and risk management strategies and shall not include any confidential information subject to protection under articles 26 to 28 of the Law on Biosafety.

**Article 27:-**

The Ministry of Environment shall provide the risk assessment report described in article 26 to the Applicant within three (3) working days of receipt of the report from the SAC.

The Applicant may submit comments on the SAC report in writing within thirty (30) days of its receipt of the report.

Any comments shall be provided to the SAC and shall be considered by the Ministry of Environment, in consultation with the SAC, in decision-making under article 17 of this sub-decree.

## **Chapter V**

### **Payment of Fees**

**Article 28**

The Applicant shall pay an administrative fee for each application to the Ministry of Environment. The payment of such fee shall be exempted for state research institutions, universities, and public laboratories.

The amount of fee shall be determined by joint Prakas of the Ministry of Economy and Finance and the Ministry of Environment.

**Article 29:-**

Members of SAC shall be paid a sitting allowance for their work. The amount of this allowance shall be determined by joint Prakas of the Ministry of Economy and Finance and the Ministry of Environment.

## **Chapter VI**

### **Exports and Documentations for LMOs**

#### **Article 30:-**

All exports of LMOs from the Kingdom of Cambodia shall be undertaken in a manner which is consistent with Article 21 of the Law on Biosafety.

#### **Article 31:-**

Any legal or natural person who intends to export LMOs covered by the Law on Biosafety from the Kingdom of Cambodia shall apply to the competent national authority of the proposed importing country in writing, prior to applying to the concerned competent authority of the Kingdom of Cambodia for an export permit.

#### **Article 32:-**

Prior application to the competent national authority of the proposed country of import shall include information specified in Annex I of this sub decree.

The information described in the application as mentioned in the above paragraph shall be certified as correct by the Ministry of Environment.

#### **Article 33:-**

Prior to shipment, the person proposing to export shall provide a copy of the authorization granted by the importing country to the competent authority at the place of export.

## **Chapter VII**

### **Confidential Information**

#### **Article 34:-**

The Applicant shall separate all confidential information from the application and mark the information as “Confidential”. This confidential information shall then be sealed in a separate package to be opened only by the Head of Secretariat, who shall be responsible for maintaining its confidentiality.

**Article 35:-**

All confidential information shall be made available to the Scientific Advisory Committee for the review on risk assessment and risk management.

**Chapter VIII****Public Information, Awareness-raising and Public Participation****Article 36:-**

Pursuant to Articles 33 and 34 of the Law on Biosafety, the Ministry of Environment and other concerned competent ministries shall promote awareness of and education to the general public, with special attention to those conducting activities and operations concerning biosafety which is subject to this law, such as the publication of this law and Sub-decrees implementing it.

**Article 37:-**

The Ministry of Environment shall disseminate:

- (i) Notice regarding the import into the Kingdom of Cambodia of LMOs for contained use, intentional introduction into the environment and/or for direct use as food or feed or for processing.
- (ii) Upon request, the Ministry of Environment shall make available to the public any information that does not qualify as confidential under Article 26 of the Law on Biosafety.
- (iii) Any person may submit written comments on an application within sixty (60) days from the date the notice is published. Such comments shall be considered as part of the decision making process. Any comments received by the Ministry of Environment and response thereto shall also be made available to the public upon request.

**Chapter IX  
Penalty****Article 38:-**

Any person who violates any provision of this sub decree shall be subject to punishment according to chapter 10 of the Law on Biosafety.



In the event of an accidental release or unintentional release, the operator or user shall mitigate the damage immediately and pay for its full cost.

## **Chapter X Final Provisions**

### **Article 39:-**

Any previous provision contrary to this sub decree shall be considered null and void.

### **Article 40:-**

The Minister in charge of the office of the Council of Ministers, the Minister of Environment, the Minister of Agriculture, Fisheries and Forestry, the Minister of Commerce, the Minister of Health and all concerned ministries shall implement this sub decree from the date of its signature.

Phnom Penh, , 2004  
Prime Minister

## **Annex I**

### **Information Required in Applications**

- 1 Name, address and contact details of the exporter
- 2 Name, address and contact details of the importer,
- 3 Name and identity of the living modified organism, as well as the domestic classification, if any, of the biosafety level of the living modified organism in the State of export
- 4 Intended date or dates of the transboundary movement, if known
- 5 Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety
- 6 Centers of origin and centers of genetic diversity, if known., of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate
- 7 Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety
- 8 Description of the nucleic acid or the modification introduced, the technique used, and the resulting characteristics of the living modified organism
- 9 Intended use of the living modified organism or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combination of replicable genetic material obtained through the use of modern technology
- 10 Quantity or volume of the living modified organism to be transferred
- 11 A previous and existing risk assessment report consistent with Annex II
- 12 Suggested methods for the safe handling, storage, transport and use, including packaging, labeling, documentation, disposal and contingency procedures, where appropriate
- 13 Regulatory status of the living modified organism within the State of export ( for example, whether it is prohibited in the State of export, whether there are other restrictions or whether it has been approved for general release ) and, if the living modified organism is banned in the State of export, the reason or reasons for the ban
- 14 Result and purpose of any application by the exporter to other States regarding the living modified organism to be transferred
- 15 A declaration that the above mentioned information is factually correct.

## **Annex II**

### **Risk Assessment**

#### **Objective**

1. The objective of risk assessment, under the Cartagena Protocol, is to identify and evaluate the potential adverse effects of living modified organisms on the conservation and sustainable use of biological diversity in the likely potential receiving environment, taking also into account risks to human health.

#### **Use of risk assessment**

2. Risk assessment is, inter alia, used by the Ministry of Environment to make decisions regarding living modified organisms.

#### **General principles**

3. Risk assessment should be carried out in a scientifically sound and transparent manner, and can take into account expert advice of, and guidelines developed by, relevant international organizations.
4. Lack of scientific knowledge or scientific consensus should not necessarily be interpreted as indicating a particular level of risk, an absence of risk or an acceptable risk.
5. Risk associated with living modified organisms or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology, should be considered in the context of the risks posed by the non-modified recipients or parental organisms in the likely potential receiving environment.
6. Risk assessment should be carried out on a case-by- case basis. The required information may vary in nature and level of detail from case to case depending on the living modified organism concerned, its intended use and the likely potential receiving environment.

#### **Methodology**

7. The process of risk assessment may on the one hand give rise to a need for further information about scientific subjects, which may be identified and requested during the assessment process, while on the other hand information on other subjects may not be relevant in some instances.
8. To fulfill its objective, risk assessment entails, as appropriate, the following steps:

- (a) An identification of any novel genotypic and phenotypic characteristics associated with the living modified organism that may have adverse effects on biological diversity in the likely potential receiving environment, taking also into account risk to human health;
- (b) An evaluation of the likelihood of these adverse effects being realized, taking into account the level and kind of exposure of the likely potential receiving environment to the living modified organism;
- (c) An evaluation of the consequences should these adverse effects be realized
- (d) An estimation of the overall risk posed by the living modified organism based on the evaluation of the likelihood and consequences of the identified adverse effects being realized;
- (e) A recommendation as to whether or not the risk are acceptable or manageable, including, where necessary, identification of strategies to manage these risks; and
- (f) Where there is uncertainty regarding the level of risk, it may be addressed by requesting further information on the specific issues of concern or by implementing appropriate risk management strategies and/or monitoring the living modified organism in the receiving environment.

### Points to consider

9. Depending on the case, risk assessment takes into account the relevant technical and scientific details regarding the characteristic of the following subjects:
- (a) Recipient organism or parental organisms. The biological characteristics of the recipient organism or parental organisms, including information on taxonomic status, common name, origin, centers of origin and centers of genetic diversity, if known, and a description of the habitat where the organisms may persist or proliferate;
  - (b) Donor organism or organisms. Taxonomic status and common name, source, and the relevant biological characteristics of the donor organism;
  - (c) Vector. Characteristic of the vector, including its identity, if any, and its source or origin, and its host range;
  - (d) Insert or inserts and/or characteristic of modification. Genetic characteristics of the inserted nucleic acid and the function it specifies, and /or characteristics of the modification introduced;

- (e) Living modified organism. Identity of the living modified organism, and the differences between the biological characteristics of the living modified organism and those of the recipient organism or parental organisms
- ( f ) Detection and identification of the living modified organism. Suggested detection and identification methods and their specificity, sensitivity and reliability;
- (g) Information relating to the intended use. Information relating to the intended use of the living modified organism, including new or changed use compared to the recipient organism or parental organisms; and
- (h) Receiving environment. Information on the location, geographical, climatic and ecological characteristics, including relevant information on biological diversity and centers of origin of the likely potential receiving environment.



**Kingdom of Cambodia**  
**Nation Religion King**  
 ◎ ◎ ◎ ◎ ◎ ◎ ◎

**Royal Government of Cambodia**

**No: 15** *G-b>S>>G-b>S*

**Phnom Penh, June 17, 1998**

**Sub-decree**  
**on**  
**The National Policy on Drug**

**Minister for Health**

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Kram No. *NS / rkm* / dated on 24 January 1996 on the Promulgation the law for establishment of the Ministry of Health.
- Having seen Royal Kram No. *NS/ rkm* / 0696/02 dated 17 June 1996 on the Promulgation the law on the Management of Drug.
- In accordance with the needs of Ministry of Health.

**Decision**

\*\*\*\*\*

**Article 1. -**

This Sub-Decree aims to prevent the introduction of quarantine and dangerous pests into the territory, the spread from one to another within territory or to other countries through any means of transportation in order to protect the agriculture production and bio-diversity.

**Article 2. –**

***The national policies on the Drug have the main goal as follows:***

- 1-As base in preparing Drug standard and regulation
- 2-Select the main Drug so as to respond the requirements of Ministry of Health.
- 3-Improve the proper Drug supply and management system in order to make sure.
- 4-Promote the local manufactured production to aim at boosting the ownership in drug supply and reduce the import from outside country.
- 5-Enhance the control system to aim at ensuring the drugs that patient used are of good quality and proper effectiveness on dose.
- 6-Define the Drug price policy.
- 7-Advise a proper Drug use to aim at eliminating waste and other harms.
- 8-Promote and boost the traditional medicine.

**Article3** For each goal, Ministry of Health shall define the obligation as follows:

**1-Drug code work*****1.1 shall focus on the effective regulatory implementation as below***

- 1-Law on the pharmaceutical Management
- 2-Law on the Narcotic Control
- 3-Sub-decree on the Drug License and Registration
- 4-Sub-decree on the Management of Production, Export, Import and Trade.
- 5-Prakas on the Open or Close and Pharmacy Reposition
- 6-Prakas on the Open or Close and Import- Export Institute Reposition, Medical.
- 7-Prakas on the Medicine Trade Extension and Qualified Product in prevent or treatment.

***1.2-In the future will prepare the additional regulation such as***

- 1-Sub-decree on the Classification of Toxic Substance for health sector.
- 2-Sub-decree on the Management of Toxic Substance for health sector.
- 3-Sub-decree on the Technical Condition and Function of Drug Manufactured Institution.
- 4-Sub-decree on the Creation and Designation of Role and Responsibility in Control of Ministry of Health's Drug.
- 5-Sub-decree on the Food Management
- 6-Sub-decree on the Cosmetic Management
- 7- Pharmacist ethics.
- 8-Prakas on the Management of Blood and Blood Based Product.
- 9-Prakas on the Condition in the Importation and Export of Drug Product.
- 10-Prakas on the Procedure and Condition in applying for opening and closing or reposition of drug manufactured Institution.

**2-Drug Selection**

*-Develop the essential pharmaceutical list for using in public health sector to:*

- National hospital level
- District health center level
- Health center level

**3-Supply****3.1-Public Section**

- 3.1.1-Purchase order shall be followed up the essential pharmaceutical list using international name (DCI Denomination Commune International).
- 3.1.2-The drug imported shall last at least 18 days before due date come to Cambodia and have to describe on khmer language of medical identification
- 3.1.3-Provide priority for purchasing the local manufactured drug.

**3.2-Private Sector**

- 3.2.1-Medicine supply to pharmacy is a duty of medicine manufactured institution and import and export institution.
- Medicine supply to sub-pharmacy is a duty of pharmacy.
- 3.2.2-Imported medicine or manufactured all kind of local medicine could put into display in the Kingdom of Cambodia unless it had visa or medical announcement from Ministry of Health
- 3.2.3-Medicine manufacturing and import shall permit from Ministry of Health.
- 3.2.4-Medicine displayed for sale shall be packed properly by limited condition and attached with the medicine item in Khmer language.

**4-Domestic medicine manufacturing:**

- 4.1-Promote the technically national manufacturing system
- 4.2-Encourage domestic medicinal production

### **5-The drug distribution, storage and maintenance**

#### **5.1- Public Sector**

Preservation, storage, and distribution shall follow Ministry of Health's procedure.

5.1.1- At the national level, there are medicine warehouses for storing, preserving and distributing medicines including medicines for national programs.

5.1.2- At district level, there are medicine warehouses for storing, preserving and distributing medicines including medicines for Organizations.

5.1.3- Give direct medicine to National Health Hospital and local operation quarterly to provinces which smooth transportation every semester to other provinces.

5.1.4- Continue to distribute the medicine by limited and push to distribute the medicine by size limited.

5.1.5- Correct to controlling, training and medical ware-house management.

#### **5.2- Private Sector**

Strengthen control on storage, preservation and distribution of the private medicines.

### **6-The drug qualified warranty**

6.1- Medicines which Ministry of Health recognized its quality can be allowed to import and distribute.

6.2- Shall buy medicines from producer who has production system **B P F** in consistent with the standard of World Health Organization.

6.3- Shall control important document of medicine import such as certificate on the medical quality control, if needed; the medicines must be taken for analysis based on standard provided.

6.4- Shall strengthen control to prevent against on fake medicines.

6.5- Shall strengthen national drug quality control Lab to have standard as Bonne Practice de laboratoire.

6.6- Recognize famous medicinal rule in the world.

6-7- Ensure blood safety and products from blood.

### **7-The price policy and budget supply for drug bid :**

7.1-Should increase to budget government for medical as possible. Other sources such as: International funded which budget by loan even to suitable using and pay attention on fairness principal.

7.2-Submit to implementation of a price principle for private sector.

### **8-The proper drug use :**

8.1-Develop the treatment standard formula for a base in treatment promote the technically national manufacturing system

8.2-Education, extension and advice using the proper drug to the health technical workers thought workshop, the National Medical and Medicinal Day and the medical and medicinal newsletter and magazine.

8.3-Education, advice and using the proper drug to publics.

### **9-The traditional medicine :**

9.1-Encourage scientific researches and studies to apply on medicines.



9.2-Research on diseases that have effectiveness when using traditional medicines.

9.3-Find methods and technologies to develop traditional medicines.

9.4-Promote traditional medicines that have good quality as modern medicines.

9.5-Train medical staff on traditional medicines, and medicine

9.6-Encourage the use of traditional medicines in caring primary health.

**Article 4. –**

In case of the needs, the national policy on the drug shall review in according to the evolution of health sector and technical science.

**Article 5. –**

The Department of Drug, Food, medical materials and Cosmetics shall be responsible for monitoring, guiding, implementing and evaluating on the national policy implementation on the drug.

**Article 6. –**

This decision shall come into effect as of 17 June 1998

Minister of Health

**Dr. CHHEA THAING**

**CC:**

- General Secretariat of National Assembly
- Cabinet of Prime Minister
- Cabinet of Ministry of Health
- General Inspection
- Administrative and Financial General Direction
- All Provincial and Municipal Departments
- Royal Affairs
- Documentation

## KINGDOM OF CAMBODIA

National Religion King



**ROYAL GOVERNMENT  
COUNCIL OF MINISTERS**

**No: 72. ANRK.BK**

Phnom Penh, August 11, 1999

### **SUB-DECREE**

**On**

### **ENVIRONMENTAL IMPACT ASSESSMENT PROCESS**



#### **THE ROYAL GOVERNMENT OF CAMBODIA**

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Decree No. NS /RKT / 1198-72 dated 30 November, 1998 on the Formation of the Royal Government, Kingdom of Cambodia;
- Having seen the Preah Reach Kram No. 02 / NS / 94 dated 20 July, 1994 promulgating it on the Organization and Functioning of the Council of Ministers;
- Having seen the Preah Reach Kram No. NS/ RKM/ 0194/21 dated 24 January 1994 promulgating it on the Establishment of the Ministry of Environment;
- Having seen the Preah Reach Kram No. NS/ RKMI 1296/36 dated 24 December 1996; promulgating it on the Law on Environmental Protection and Natural Resource Management;
- Having received an approval from the meeting of the Council of Ministers on 23 July 1999.

#### **HEREBY DECIDES AND ORDERS**

#### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **ARTICLE 1:**

This Sub-decree has the objectives to:

- Define an ETA for all projects and activities of private or public sector and shall be examined and evaluated by the Ministry of Environment before submitting to the Royal Government for decision.

- Define a nature and size of the proposed activities together with the existing and on-going activities of both private and public sector to be assessed the environmental impact.
- Foster public participation in the ETA process in order to take their ideas and comment into consideration for project approbation.

#### **ARTICLE 2:**

This Sub-decree has an expanded implementation on the proposed project and the existing activities, under operation of the Private company, joint-venture or State owned company, Ministry-State Institution, as stated in annex of this sub-decree, except for some of the particular and emergency projects, which shall be decided by the Royal Government.

### **CHAPTER 2 INSTITUTION RESPONSIBILITIES**

#### **ARTICLE 3:**

The Ministry of Environment has the duties to:

- a/** Examine and evaluate the EIA report in collaboration with other lined Ministries-Institutions.
- b/** Monitor surveillance and take measure in order for the project's owner to abide by the Environmental Management Plan during the project construction, operation, and closure, as mentioned in the approved EIA report.

#### **ARTICLE 4:**

The approval Governmental Institutions and Ministries have duty to approve the proposed projects as ascribed in the annex of this Sub-decree in case of the EIA report is already reviewed and provided consent by Ministry of Environment.

#### **ARTICLE 5:**

The approval Provincial-Urban Authorities have duty to ÷

- a/** Submit the EIA report of the private company, joint-venture or state company to the Provincial-Urban Environmental Department.

### **CHAPTER 3 ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS FOR THE PROPOSED PROJECTS**

#### **ARTICLE 6:**

The Project's Owner shall provide the IEIA report for the project required EIA as it is mentioned in the Annex of this Sub-decree.

#### **ARTICLE 7:**

The project's owner shall apply for an examination of the IEIA reports and pre-feasibility study of the project to the MoE.

**ARTICLE 8:**

The Project's Owner shall apply for an examination of the Full EIA Report and the project feasibility study to the MoE for the projects which may cause adverse environmental impact on natural resources, ecosystem, human health and public welfare.

**ARTICLE 9:**

The Project's Owner shall apply for an examination on the EIA report, as ascribed in Article 7 and 8, to the Provincial-Urban Environmental Department for local projects.

**ARTICLE 10:**

The guidelines criteria on IEIA and Full ETA reports preparation shall be defined by the Prakas of the Ministry of Environment

**ARTICLE 11:**

The Project's Owner has to pay the service fee for the ETA report review and monitoring the project implementation. The service fee shall be defined by the Ministry of Economy and Finance, and transfer to the National budget, according to the proposal of the MoE.

**ARTICLE 12:**

The Project's Owner has to contribute money to the environmental endowment fund for Environmental Protection as it is mentioned in article 19, chapter 8 of the Law on Environmental Protection and National Resources Management.

**ARTICLE 13:**

The Environmental Examination Application form shall be provided by MoE and to be filled by the project's owner for the central project, and by the Provincial-Urban Environmental Department for the local project.

## **CHAPTER 4**

### **EIA EXAMINATION PROCEDURE FOR THE PROPOSED PROJECTS**

**ARTICLE 14:**

The Project's Owner shall prepare and submit the reports, as mentioned in Article 7, to the MoE and copy to the Approval Institutions.

**ARTICLE 15:**

The MoE has to review the EIA report as mentioned in Article 14, and has to provide recommendation to the Project's Owner and the approval institution within 30 working days, after having been received the project pre-feasibility study and IEIA reports from the Project's Owner.

**ARTICLE 16:**

In case that the MoE requires a full ETA report, The Project's Owner has to prepare and submit it as mentioned in Article 8, to the MoE with the submission of Investment Application to the Project Approval Institutions.

**ARTICLE 17:**

MoE has to review the report as mentioned in article 16, and provide recommendation to the project's owner and the approval institutions within 30 working days after having been received the project feasibility study and full EIA report from the project's owner

**ARTICLE 18:**

In case that the MoE fails to provide recommendation as mentioned in the article 15 and 17, the Project Approval Institutions can consider that the project is applicable to this sub-decree.

**ARTICLE 19:**

In capacity of Project approval Institutions as well as the Project's Owner, this institution has to follow the procedure as stated in Chapter 3 and 4 of this sub-decree.

**ARTICLE 20:**

Before starting the project operation, the Project's Owner should receive consent from the MoE in advance on the report of IEIA and full ETA.

**CHAPTER 5****ETA EXAMINATION PROCEDURE FOR EXISTING ACTIVITIES****ARTICLE 21:**

At least, in the period of 01 year after this sub-decree come into force, Proprietor or Responsible Owner has to prepare the IEIA report, and apply for the report examination to the MoE after having already been approved by concerned Ministry or Institution. Proprietor or Responsible Owner has to prepare a full EIA report not exceed 6 month according to the requirement in Chapter 3 and 4 of sub-decree, in case that the MoE has found that the full EIA of the existing and on-going activities is required.

**ARTICLE 23:**

Proprietor or Responsible Owner has to abide by the Environmental Management Plan mentioned in the EIA report within 6 months from the date of the announcement of the MoE, which notified that the EIA report is applicable to this sub-decree.

**ARTICLE 24:**

At least, in the period of 2 years after this sub-decree came into force, Proprietor or Responsible Owner has to prepare the IEIA report and apply for the report examination to the Provincial-Urban Environmental Department for the existing and on-going activities, which have already been approved by Provincial-Urban Authorities.

**ARTICLE 25:**

Proprietor or Responsible Owner has to prepare the full EIA report not exceed 6 months according to the requirement in Chapter 3 and 4 of this sub-decree, in case that the Provincial- Urban Environmental Department has found that the full ETA of the existing and on-going activities is required.

**ARTICLE 26:**

Proprietor or Responsible Owner has to abide by the Environmental Management Plan mentioned in the EIA report within 6 months from the date of announcement of the Provincial-Urban Environmental Department, which notified that EIA report is application to this sub-decree.

## **CHAPTER 6 CONDITION FOR APPROVING THE PROJECTS**

**ARTICLE 27:**

The Approval Institutions have to advise the Proprietor or Project's Owner to abide by the Environmental Management Plan of the project as described in EIA report, which has approved by the MoE.

**ARTICLE 28:**

The MoE has to cooperate with concerned Institutions to ban the activity of any Proprietor or Project's Owner v has not abided by Environmental Management Plan of the projects as described in the consented ETA report.

## **CHAPTER 7 PENALTIES**

**ARTICLE 29**

A Projects Owner or Proprietor who fails to provide or misinterpreted information or has not abided by the Environmental Management Plan of the project as described in the consented EIA report or violates any regulation of this sub-decree, must condemn according to in article 20/21/22/23 and 25 of Chapter 9 of the law on Environmental Protection and Natural Resources Management.

**ARTICLE 30:**

The minute and prosecution for individual who contradicts or not obeys to any article of this sub- decree is the competent of the MoE.

**ARTICLE 31:**

Any Environmental official or argent who is careless without paying attention on the Ministry's order or involve in offense or facilitate the violation must be administratively condemned or will be accused to the court.

**CHAPTER 8  
FINAL PROVISIONS**

**ARTICLE 32:**

Any command that contradict of this sub-decree shall be abolished.

**ARTICLE 33:**

Minister of the cabinet of the council of Ministers, Ministries, concerned Institutions have to cooperate with the MoE to implement this sub-decree.

**ARTICLE 34:**

This sub-decree came into force from signatory date.

Done in Phnom Penh on, 11 August, 1999  
Prime Minister

**HUN SEN**

# Law on the Management of Quality and Safety of Products and Services

## **PREAH REACH KRAM**

**No. NS/RKM/0600/001**

**WE**  
**PREAHBATH SAMDECH PREAH NORODOM**  
**SIHANOUK REACH HARIVONG UPHATOSUCHEAT**  
**VISOTHIPONG AKAMOHABORASRATANAK**  
**NIKARODOM THAMMIKMOHAREACHEATHIREACH**  
**BOROMANEAT**  
**BOROMABOPIT PREAH CHAU KRONG KAMPUCHEA THIPDEY**

- Referring to the 1993 Constitution of the Kingdom of Cambodia;
- Referring to Reach Kram No. NS/RKM/0399/01 of March 8, 1999 on the Amendment of the Articles 11, 12, 13, 18, 22, 24, 28, 30, 34, 51, 78, 90, 91, and 93 and Articles of Chapters VIII to XIV of the Constitution of the Kingdom of Cambodia,
- Referring to Reach Kret NS/RKT/1198/72 of November 30, 1998 on the formation of the Royal Government of Cambodia;
- Referring to Reach Kram 02/NS/94 of July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Referring to Reach Kram No. NS/RKM/0196/16 of January 24, 1996 promulgating the Law on the Establishment of Ministry of Commerce;
- Pursuant to the Proposal of the Prime Minister and the Minister of Commerce.

### **HEREBY PROMULGATE**

The Law on the Management of Quality and Safety of Products and Services as ratified by the National Assembly on 29 May 2000 at the third plenary session of the second legislature and as ratified by the Senate as to its entire form and legality on 02 June 2000 at the second plenary session of the first legislature and whose meaning are as follow:

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

**Article 1 :** The scope of this law shall govern the following:

- all commercial enterprises;
- all manufacturers for commercial ends;



- importers, exporters, and merchants;
- service providers of products and goods;
- advertisers of products, goods and services; and
- civic associations and non governmental agencies engaged in manufacturing, commerce, or humanitarian relief.

**Article 2 :**

"Production/manufacturing" within the meaning of this law shall be defined as including the following: animal husbandry, dairy production, agricultural crop harvesting, fruit collection, fisheries, animal slaughtering, and the production, processing, and packaging of products together with stocking during production and the first pre-commercialization services.

"Commercialization" within the meaning of this law shall be defined as including the following:

- all stocking operations, transport, custody for purpose of trade, sale display, and sales of products and goods;
- all gratuitous gifts of all products including importation and exportation as well as sales, provisions of services or the provisions of gratuitous services.

## CHAPTER 2 CONSUMERS' RIGHTS AND ECONOMIC OPERATORS' OBLIGATIONS

**Article 3 :**

Manufacturers and service providers shall be required to indicate on their products, goods, and services in Khmer language the ingredients, composition, users' guidelines, manufacturing date, and expiration date along with other requirements which guarantee the safety and health of consumers prior to their commercialization.

Manufacturers and services providers shall be liable for strictly complying with the provisions in the  
above mentioned paragraph.

**Article 4 :**

Manufacturers and services providers shall comply with the general requirements of providing accurate  
information of their composition or configuration of the products, goods, or services so as to prevent confusion by consumers or damage competition.

Manufacturers and traders shall comply with the provisions in the above mentioned paragraph for all commercialized products and services.

**Article 5:**

Merchants, traders and services providers responsible for products, goods, or services first placed in the stream of commerce in the Kingdom of Cambodia shall be required to ensure that their products or services are in compliance with the provisions of this law.

Upon request from the competent inspecting agents as stipulated under Article 27 of this law, local manufacturers, importers, and service providers responsible for the first commercialization of these products and services shall be required to provide proof of inspections or records of prior examinations.

**Article 6:**

When the products, goods, or services could harm the health or safety of consumers, their manufacturing and commercialization shall be subject to a prior submission of a declaration to the competent institutions and have a prior authorization by the competent institutions following an inspection and an indication of usage guidelines in Khmer language.

**Article 7:**

It shall be strictly prohibited to produce or place into the stream of commerce products, goods, or services above mentioned in Article 6 of this law when no prior disclosure has been made or no prior authorization has been issued by the competent institutions.

**Article 8:**

The following acts shall be strictly prohibited:

- evasion or attempt to evade inspections as stipulated under Article 6.
- commercialization of products, goods, or services which have not been inspected.

**Article 9:**

Importation of products or goods not found in compliance with this law can be authorized provided they are only transited for re-exportation.

**Article 10:**

Importation of products and goods which are of humanitarian status or non-commercialized purposes can be made provided there is a special prior authorization from the Ministry of Commerce subsequent to the approval of the Royal Government.

This special authorization can only be made provided that the products and goods concerned are in conformity with international trade fair practices or internationally recognized norms.

**Article 11:**

Manufacturing of products not in compliance with this law shall be allowed provided they are destined for export to other countries where their sales are legal and pursuant to a specific international contractual arrangement.

**Article 12:**

Presentation of proper compliance certificate, for exportation and importation, shall be required for certain products which:

- may be harmful to the health or safety of consumers;
- may affect fair commercial practices;
- may preserve and enhance the quality of locally manufactured products;
- are required by international trade or international conventions.

The inspection of the compliance certificate shall be the responsibility of the Ministry of Commerce and other concerned ministries.

**Article 13:**

The Ministry of Commerce shall be responsible for entering into international technical cooperation agreements governing inspections of exported and imported goods, except for gas and petroleum.

### **CHAPTER 3**

#### **QUALITY LABEL AND CREATION FORMALITIES**

**Article 14:**

A quality label is a separate mark to identify the quality of a product, good, or service that the manufacturers or service providers voluntarily affix to their products or services. The affixing of the quality label is done for the purpose of meeting the consumers' demand for information, to improve the manufacturer's and service provider's production performance, and to enhance the quality of domestic products.

Manufacturers and service providers shall affix the quality label in strict compliance with the conditions stipulated under Article 59 of this law.

The modalities for determining a quality label shall be determined by a sub-decree upon the proposal of the Ministry of Commerce and other concerned ministries.

**Article 15:**

A norm within the meaning of this law shall be defined as a technical specification accessible to the public which has been established with the cooperation and consensus of all parties concerned, based on scientific and technological outcomes and experiences, which is adopted by a national accrediting institution for repeated or permanent use and whose recognition is not compulsory.

A national standard system shall be established in order to provide norms and other reference documents to assist in the settlement of technical and commercial problems related to products, goods and services which can occur repeatedly in the relations between economic, scientific, technical, and social partners.

The organization and functioning of the National Standard Institute shall be defined in a sub-decree.

## **CHAPTER 4**

### **COMMERCIAL FRAUD REPRESSION**

**Article 16:**

Whether the party is privy or not to a contract, or a third party, it shall be prohibited to falsify or attempt to falsify products, goods, or services by any means on:

- identity, type, nature, place of origin, physical or nutritional quality, contents, and quantity;
- past inspections, usage guidelines, non conforming usage, risks associated with usage, precautionary measures for all products, goods, and services;
- manufacturing methods and date of production, use, or consumption of products.

**Article 17:**

It shall be prohibited to falsify products for, or kept for, commercialization by modifying the products through treatment or tampering by adding, subtracting, or substituting any part or the whole component which is prohibited by regulations or in the absence of which by customs, or which is not in compliance with the regulations.

It shall be strictly prohibited to put in the stream of commerce products which are known to be falsified.

**Article 18:**

It shall be prohibited to put in the stream of commerce food products which are known to be contaminated or toxic or do not meet bacteriological or sanitary requirement as stipulated by regulations of the ministries concerned.

**Article 19:**

It shall be prohibited to keep at all production, processing, and commercialization sites the following:

- products known to be falsified.
- food products known to be contaminated or toxic, or do not meet bacteriological or sanitary requirement as stipulated by regulations.
- products and instruments used for falsifying or counterfeiting all types of goods.
- tampered scales and measurement instruments used for producing or commercializing products.

**Article 20:**

It shall be prohibited to put into the stream of commerce products and instruments used for falsifying and counterfeiting products.

**Article 21:**

All forms of commercial advertising shall be prohibited if they are deceitful, misleading, false, or likely to cause confusion on the quality and safety of products, goods, and services when they pertain to the following:

- product expectation;
- identity, type, nature, place of origin, physical or nutritional quality, contents, quantity, manufacturing methods and date of production;
- expiry date, usage guidelines and terms;
- methods of sales, product availability, price;
- other warranties.

Advertisers placing commercial advertisements for their own account shall be held principally accountable in their capacity as an initiator.

Advertisers are required to provide information attesting to the quality and safety and other warranties of the advertisement to the inspecting institutions as stipulated under Article 27 of this law. When the substance of the advertisement is contrary to the provisions of the above mentioned paragraphs 1 and 2, the provisions of Article 26 of this law shall be enforced.

## **CHAPTER 5**

### **ACTIONS AGAINST PRODUCTS OR SERVICES WHICH ARE LIKELY TO INDUCE GRAVE OR IMMINENT DANGERS**

#### **Article 22:**

For manufacturing, processing, and commercialization of products, goods, and services which can cause grave or imminent danger to consumers' health or safety, the competent ministries can take the following actions:

- temporarily or permanently banning from sale;
- temporarily or permanently closing down the manufacturing facilities; or
- if necessary, withholding, confiscating, or destroying the products.

The destruction shall be carried out unless there is a prior written agreement between the competent authority and the products' owners.

Without such agreement, the owners of the confiscated products can file a complaint to the municipal and provincial court within the period allowed.

Manufacturing, processing, commercialization facilities and other establishments which have been temporarily or permanently closed can resume their business activities provided they have obtained authorization from the competent ministries.

#### **Article 23:**

The competent ministries can issue a Prakas ordering legal and physical entities stipulated under Article 1 of this law to make the necessary modification to meet the quality and safety requirements as stipulated under Article 3 of this law.

The expenses incurred in the publication of warning or precautionary usage measures as well as the recall of defective products for modification or the partial or total

refund of the purchase price shall be borne by the entities in the above mentioned paragraph.

**Article 24:**

Similar measures to those stipulated under Articles 22 and 23 of this law can be taken to ensure safety of the provisions of services.

**CHAPTER 6**  
**INSPECTION PROCEDURES FOR**  
**QUALITY AND SAFETY OF PRODUCTS, GOODS AND SERVICES**

**Article 25:**

Acts in violations of this law shall be thoroughly investigated and observed in accordance with the provisions stipulated under Articles 28 through 51 of this law. However, these provisions shall not prejudice other evidence obtained through other available means.

All safety measures shall be in compliance with, and implemented according to, the provisions stipulated under Articles 52 through 58 of this law.

**Article 26:**

The Ministry of Commerce and relevant ministries shall be responsible for the repression of commercial fraud in accordance with this law. These ministries shall establish a specialized institution to be in charge of fraud repression and inspections of exported and imported goods.

**Article 27:**

The inspection agents of the Ministry of Commerce shall be authorized to carry out inspection, investigation, and offenses recording activities, or to take other measures in cooperation with other relevant ministries.

**Article 28:**

Inspection agents specified under Article 27 of this law are authorized to conduct inspections, prepare official records, and audit relevant issues. Their official records shall remain valid until proven otherwise.

Individuals subject to inspections shall be required to cooperate with inspection agents so that they may carry out their tasks.

Inspection agents can request additional forces for protection and intervention.

**Article 29:**

Inspection agents specified under Article 27 are authorized to enter into and inspect the premises where the manufacturing, processing, commercialization, and services provisions take place, as well as inspect means of transportations, goods, warehouses, offices, and other related premises.

If these premises are used as residences, inspection agents can only enter during working hours. Outside working hours, permission from a prosecutor and the presence of local authority shall be required.

**Article 30:**

Inspection agents specified under Article 27 of this law can investigate, make a duplicate, or confiscate documents essential for their investigations.

In the event of confiscation, official minutes shall be made immediately on the spot.

All confiscated documents shall be sealed and stamped by the inspection agents. A receipt acknowledging the confiscation and a full list of inventory shall be provided by the inspection agents to the individuals whose goods are subject to the confiscation.

Official minutes which are made not in compliance with the above provisions shall be considered invalid

All confiscated documents shall be joined with the legal procedures as stipulated under Article 51 of this law or returned to the individuals if no charge is made against them. Official minutes for the surrender of these documents shall adhere to the same process as for confiscation.

When the confiscated documents are necessary for the functioning of the enterprise activities, the inspection agents can issue a duplicate upon request, the cost of which shall be borne by the requesting party.

**Article 31:**

Inspection agents specified under Article 27 of this law are authorized to confiscate all evidentiary documents, or product samples as evidence in accordance with the legal procedures to be specified under a sub-decree.

**Article 32:**

Inspection agents specified under Article 27 are authorized to collect testimony from individuals who can provide useful information for their investigation.

Records of these testimonies shall contain the following:

- sequential number provided by the recording agent;
- date, time, and place where testimony took place;
- identity, position, and address of the testimony provider;
- identity, position, and address of the recording agent;
- useful comments of the recording agent to ensure honest reporting of information given by the testimony provider; and
- signatures of the testimony provider and the recording agent.

If the testimony provider refuses or does not know how to sign or is illiterate, mention of the said fact shall be made in the records. Official (records) minutes which are made not in compliance with the above provisions shall be considered invalid.

**Article 33:**

Inspection agents specified under Article 27 of this law can conduct inspection of the products, goods, and services either by visual means, ordinary measurement instruments, or by documents verification aimed at determining the identities of the products, goods, and services, and detect their compliance with respect to their declaration, or to investigate whether or not the conditions for the manufacturing, processing, commercialization, and service provisions have been respected.

The agent shall record their inspection in their official (records) which shall comprise the following:

- sequential number provided by the recording agent;
- date, time, and place where the inspection was made;
- identity, profession, and address of the individual subject to the inspection;
- all elements which can provide details on the value of the findings;
- registration number with the institution of the recording agent; and
- signature of the recording agent.

Official (records) minutes of the inspection which are made not in compliance with the above provisions shall be considered as invalid.

Photos of observed irregularities can be attached by the inspecting agent for further consideration.

**Article 34:**

Except for the case specified under Article 40 of this law, the taking of goods samples shall be made in at least three units.

The first sample shall be for laboratory testing, the other two samples shall be kept for use in eventual counter-tests as specified under Articles 47 through 50 of this law.

**Article 35:**

Owner of products which have been removed for samples by the agent shall sign the minutes. He can mention in the minutes any remarks that he deems useful about the sources or characteristics of the products. If the individuals do not want to sign or do not know how to sign, or are illiterate, records of the situation must be written in the minutes.

Pursuant to the requests of the product owners, the agent who removes the samples shall issue a receipt which identifies the type, quantity, and value of the product samples in the eventuality that there is a refund in the future.



**Article 36:**

The modalities for the removal of product samples shall be the responsibility of the competent agent that requires that all three removed samples are similar and representative of the batch of the products to be inspected.

**Article 37:**

Each product sample shall be kept under seal. The seal shall be attached with a label which includes the following:

- designation of the goods which are kept for sale, place for sale, or sold;
- date, time, and place where the samples were removed;
- identity and address of the individual at whose location the samples were removed;
- sequential number for the procedure provided by the sample remover;
- registration number of the samples provided by the public institutions whose agents have performed the samples removal, and accurate identification of that institution;
- useful remarks which enable the laboratories to know the purpose of the test to be made along with relevant documents attached to the label; and
- signatures of the sample removers and the owners of the sampled products.

**Article 38:**

One sample out of the three shall be kept by the holder or the owner of the products. The inspection agent shall provide guidance on the proper manner in which the sample shall be preserved in good condition to ensure that future testing is legitimate.

If the holder or the owner of the products refuses to do so, mention shall be made in the minutes and the inspection agent shall store the sample with the other two samples.

**Article 39:**

The other two samples shall be forwarded with the attached minutes to the public competent institutions whose agents performed the sample removal.

These public institutions shall keep the samples, register them, and provide entry numbers on the label and the minutes. One sample shall be sent to the competent laboratory and the other preserved in proper condition.

If special storage conditions of the samples are required, then the two samples or all three samples as may be the case specified in the second paragraph of Article 38 of this law can be sent to the laboratory for taking the necessary measures.

**Article 40:**

When a product whose conditions or value do not allow the removal of three samples, only one sample shall be removed from the whole product or a portion of it.

The implementation of the above paragraph 1 shall be done for products or goods which for technical and scientific reasons the testing can be done only within a limited time frame failure of which future testing results can be invalid.

A minute of the taking of the sample shall be made and the product shall be sealed and attached with the label in the same conditions as specified under Articles 35 and 37 of this law. Samples shall be registered and forwarded or submitted to the laboratory according to the procedures stipulated under Article 39 of this law.

**Article 41:**

Samples identified for investigation can also be tested in laboratory or for preliminary findings of the product characteristics by the inspection institutions within the scope of their competence. The removal of the sample shall be made in only one unit.

The results of the investigative sample can be used only for information purposes, and cannot be used as evidence, or for judicial proceedings as stipulated under Article 51 of this law, or for safety measures stipulated under Articles 52 through 58 of this law, except for temporary consignment as stipulated under Article 53 of this law.

**Article 42:**

Government laboratories shall test product samples. Other public or private laboratories recognized by the competent ministries can also conduct product samples testing. The recognition process of these public or private laboratories shall be done by *Prakas* of competent ministries. The *Prakas* shall clearly define the scope of competence of these laboratories.

**Article 43:**

To conduct product samples testing, laboratories shall use testing methods as prescribed by *Prakas* of competent ministries.

In the event there are no above-prescribed testing methods, laboratories shall use internationally recognized testing methods. The testing methods shall be published in a testing bulletin.

**Article 44:**

Upon completing their work, laboratories shall prepare a testing bulletin that records the testing results. If the testing results can provide clarifications to the inspection institutions, the laboratories can issue their findings on the product non-compliance against this law or other specific regulations.

**Article 45:**

If the laboratories' testing bulletins indicate that the product samples meet the requirements as prescribed by law, and provided that the institutions which made the samples removal have no other indications of fraud, that institution shall notify the product owners about the compliance of their products.

**Article 46:**

If the results of the laboratory testing indicate that the product samples do not meet the requirements as prescribed by law, procedures stipulated under Articles 47 through 50 of this law shall be applied.

**Article 47:**

If the results of the laboratory testing indicate that the product samples do not meet the requirements as prescribed by law, or pursuant to further necessary investigations, the inspecting institutions shall inform the offenders of the legal court proceedings against them by providing the justifications for such actions.

The offenders shall have 15 working days to conduct a counter-test and select their own experts.

If the offenders do not exercise their rights as defined above, the testing results stipulated under the above mentioned paragraph 1, shall be uncontested, except for reason of force majeure.

**Article 48:**

The cost for hiring the expert shall be borne by the party requesting the counter-testing. The selection of the expert shall be drawn from a list of experts prepared by the municipal and provincial court.

In the event there are no experts qualified in the above-mentioned list or in the event an expert list is non-existent, the party can select another expert. This selection shall require the consent of the municipal and provincial court. Such consent shall be provided within seven working days.

**Article 49:**

The product samples preserved by the registering institution shall be provided to the expert as stipulated under Article 48 of this law. The expert shall have one month to give the inspecting institution his conclusions with regards to technical or scientific aspects only.

When his conclusion differs from the one of the first testing as stipulated under Article 47, the expert and the chief of the laboratory which conducted the first test shall meet to discuss the matter within a timeframe set by the inspecting institutions. When deemed necessary, the two parties can jointly conduct another test on the third sample. A joint report shall be prepared and sent to the institutions no later than one month from the meeting date.

The expert shall use one or more methods similarly employed by the laboratories and proceed as the first test.

**Article 50:**

In the event the party requested a counter-testing for a product which has only one sample as stipulated under Article 40 of this law, the procedures stipulated under Articles 47 and 48 of this law shall be applied. This immediate counter-test shall be done based on documents from the first test.

The expert selected by the party and the chief of the laboratory which conducted the first test shall meet to discuss their conclusions within a timeframe set by the inspecting institutions. A joint report shall be prepared and sent to the institutions no later than two days from the meeting date.

**Article 51:**

In the event of a court action, the inspecting agent shall prepare documents, reports of the testing, expert reports, and other evidence pursuant to the provisions of this law.

**Article 52:**

Inspecting agents specified under Article 27 of this law can temporarily detain, take measures to ensure compliance, redirect, confiscate, and destroy products and goods as well as require compliance of services in accordance with the procedures of this law.

Measures to ensure compliance, redirection, confiscation, and destruction of products can be effectuated by the inspecting agents only after authorization from their head of institutions and consent from the provincial/municipal prosecutor. These provisions shall not be applicable if the measures fall under the scope of Articles 22 to 24 of this law.

**Article 53:**

Temporary detentions are measures aimed at preventing on a temporary basis any distribution by the holders of the products and goods concerned of the following:

- a) suspected batches of products and goods.
- b) batches of products and goods which, based on actual inspection, do not possess the proper requisite characteristics as defined by law or batches products and goods whose ordinary use can harm the safety or health of consumers.
- c) instruments used for the commission of fraud as specified under Articles 19 and 20 of this law.

Suspected batches of products and goods as stipulated under the above mentioned paragraph a) are those which, after actual inspection and or after the samples testing as stipulated under Articles 34 to 41 of this law, are required to undergo further test to determine whether these products are in compliance or not in compliance with the characteristics as defined by law or whether their ordinary use can harm the safety or health of consumers.

Provided the results of the additional inspection, which shall be carried out within 15 working days, do not confirm the suspension as raised during the first inspection, the temporary detention shall be immediately withdrawn. When necessary, and pursuant to the request of the head of the inspecting institution, only the provincial/municipal prosecutor shall be authorized to extend the temporary detention period.

On the contrary, if the products do not meet the requisite characteristics as defined by law then one or more safety measures as stipulated under Articles 54 to 57 shall be applied.

In the cases a), b), and c) above, the temporary detention shall not exceed 15 days and shall be accompanied by one or more safety measures as stipulated under Articles 54 to 57 of this law.

When the temporary detention was initiated by the inspecting agents pursuant to paragraphs a), b), and c) above, product holders shall have three working days to appeal the measure to the chief of the inspecting agent. The chief shall have three working days to make his final decision. This appeal does not have the effect of lifting the temporary detention.

In all cases, products which are subject to temporary detention shall be placed under the custody of the product holders.

**Article 54:**

Compliance measures are those measures which require the holders or owners of products, goods, and services to end the cause of no compliance.

Those measures include the modification of products, goods, and services, particularly product reclassification, if there is more than one classification, and the recategorization of these products into another category where the sale of these products are allowed by law.

**Article 55:** Redirection of products and goods shall mean:

- the delivery of temporarily detained or confiscated products pursuant to Articles 53 and 56 of this law to enterprises that can directly utilize these products or modify them to meet the legal requirements at the cost of the product owners.
- the cost of the product returns to the enterprises which are responsible for packaging, manufacturing, or exporting these products shall be borne by the product owners.

**Article 56:**

Products and goods confiscation shall mean the complete removal of the ownership rights from the owners, and can be applied only in the following cases:

- for products and goods which are found to be in non-compliance with the laws and regulations after actual inspection and/or after the samples testing as stipulated under Articles 34 to 40 of this law.
- when the product managers or owners do not agree to modify or redirect or when these measures are not applicable.
- for instruments used for the commission of fraud as specified under Articles 19 and 20 of this law.
- for products and goods whose ordinary use can harm the safety or health of consumers.

Confiscated products are contained and sealed and kept under the custody of the holders, or in the event of refusal, the inspecting agents shall decide on the location of their storage.

**Article 57:**

Inspecting agents can destroy, modify, or cause to be destroyed or modified confiscated products under their supervision when no legitimate and economically beneficial use for the products can be found.

**Article 58:**

The measures as stipulated under Articles 53 to 57 of this law pertain only to products or goods that are unreasonably held at a place or places as specified under Article 29 of this law, or when these products are for sale, have been sold, or distributed gratis.

The inspecting agent shall make an official report on the spot. The report shall describe all the points mentioned in Article 33 of this law and an extract of the measures selected and their justifications. A copy of the report shall be provided to the product holders or owners.

**Article 59:**

The modalities that pertain to the manufacturing, processing, commercialization, servicing, and inspection of products, goods, and services as below mentioned shall be defined in sub-decrees or other implementation regulations:

**1. For products, goods, and services**

- definition, name, composition, criteria, and types of quality or hygiene, and quantity of products and goods.
- labeling, presentation, form of products sale and packaging, and quality label as affixed onto the products.
- use of language and description of commercial advertisement in order to avoid confusion, and if necessary, comparative commercial advertisements of all products and services.
- presentation mode, contents of receipts and delivery bills, and technical, commercial, and other advertisement documents.
- conditions regulating products and services not complying with general safety requirements as specified under Article 3 of this law.
- modalities for the issuance of authorizations and the submission of declarations for pre-production and commercialization of products and services, and modalities for professional self-inspection.
- regulations concerning measurement instruments and their certification.

- precautionary measures, treatments, and inspections and the use of materials in products and services to ensure environmental protection.

## **2. For food products**

- processing of food in conformity with the law, criteria of food purity, ingredients used in the food production, food casing and materials used to clean them.
- hygienic, sanitary, and nutritional characteristics, microbiological norms under which food is produced; hygienic requirement related to food products transport, production, processing, and commercialization facilities, and employees;
- health certificates, health labels or seals. Health status of individuals involved in the food preparation, if deemed necessary.

## **3. For inspection methods**

- modalities for implementing the provisions stipulated under Articles 9 to 12 of this law and the procedures for sample removals and testing to identify the products' composition, and their hygienic, sanitary, and microbiological characteristics, products fraud, or to indicate the usage.
- When deemed necessary, the modalities for implementing the safety measures stipulated under Articles 52 to 58 of this law.
- books, registers, and documents of individuals involved in the manufacturing, processing, or commercialization of products and services which can be made mandatory.

### **Article 60:**

National and international principles governing the guidelines for manufacturing products and goods and providing service shall be set in sub-decrees and regulations of the Royal Government of Cambodia.

## **CHAPTER 7 OFFENCES**

### **Article 61:**

Any manufacturer or service provider found in violation of the provisions of Article 14 of this law shall be fined by the inspecting agent an amount from R500, 000 to R1, 500,000.

### **Article 62:**

Any violator of the provisions of Articles 7, 8, 19, or 20 of this law shall be subject to imprisonment from 6 (six) days to one month and/or a fine from R1, 000,000 to R5, 000,000.

**Article 63:**

Any violator of the provisions of Articles 16, 17, 18, or 21 of this law shall be subject to imprisonment from 1 (one) month to 1 (one) year and/or a fine from R5, 000,000 to R10, 000,000.

In the event any manufacturer or service provider refuses to pay the fines, the inspecting agent shall bring a legal action in the provincial/municipal court.

**Article 64:**

In the event of repeated offenses under Articles 16, 17, 18, 19, 20 and 21 of this law, the fines and criminal sanctions shall be doubled without prejudice to other serious crimes resulting from the loss of life, health, and safety of consumers.

**Article 65:**

All products, goods, and equipment which are the subject of the offenses committed under Articles 16, 17, 18, 19, 20 or 21 of this law shall be confiscated as state assets. The act of confiscation shall be within the jurisdiction of the court.

All other losses resulting from the offenses committed under Articles 16, 17, 18, 19, 20 or 21 of this law shall result in civil liabilities for the offenders.

**Article 66:** The offenses stipulated under Article 63 shall be applied to those who have:

- a. regardless of any circumstances, obstructed inspecting agents, as mentioned under Article 27 of this law, from fulfilling their duties;
- b. refused to present, or concealed accounting, technical, or commercial documents in their possession as stipulated under Paragraph 1 of Article 30 of this law;
- c. refused to present advertised commercial texts or information justifying those advertisements;
- d. given, by any means, deliberately false, misleading or confusing written or verbal information in response to requests by inspecting agents as mentioned under Article 27 of this law;
- e. disposed without approval products which have been temporarily detained or confiscated by inspecting agents;
- f. refused to provide products which have been temporarily detained or confiscated by inspecting agents, to dispose the products and goods as instructed by the competent authorities, or to modify the products and goods to meet the compliance as required under Articles 53 to 56 of this law.

**Article 67:**

Inspecting agents as stipulated under Article 27 of this law shall be administratively accountable. They shall be held liable for negligence which resulted in wrongdoings and other consequences in violations of the provisions of this law and other regulations under this law.



**Article 68:**

Administrative sanctions under this law which shall be imposed on inspecting agents or competent officials shall include the following:

- a. administrative sanction of the first degree shall comprise of a warning and a reprimand from the head of the institution.
- b. administrative sanction of the second degree shall comprise of a suspension of salary and other benefits for 6 months or more.
- c. Administrative sanction of the highest degree shall comprise of the removal of duties or position or removal from the civil service.

The above enumerated administrative sanctions shall not exclude other criminal sanctions.

**Article 68:**

Inspecting agents or competent officials who conspire with offenders or abuse their duties under Article 14 shall have administrative sanctions imposed upon them and shall be fined in accordance with the provisions stipulated under paragraph 2 of Article 61 of this law.

Inspecting agents or competent officials who conspire with offenders or abuse their position under Articles 7, 8, 19, or 20 shall have administrative sanctions of highest degree imposed upon them and other sanctions shall be imposed under Article 62 without prejudice to other criminal sanctions.

**Article 70:**

Inspecting agents or competent officials who conspire with offenders or abuse their duties under Articles 16, 17, 18, or 21 of this law shall have administrative sanctions of highest degree imposed upon them and other sanctions shall be imposed under Article 62 of this law.

**Article 71:**

Manufacturing and commercialization facilities as specified in Article 6 which do not comply with the regulations shall have their license's withdrawn by the competent institutions.

**Article 72:**

Experts working in laboratories and individuals performing sample products testing as defined under Article 42 to 50 of this law shall be held legally liable for their test bulletins.

Any expert who conspires with offenders or abuses his/her position shall have sanctions imposed in accordance with the provisions stipulated under paragraph 2 of Articles 61, 62, and 63 of this law.

## **CHAPTER 8**

### **FINAL PROVISION**

**Article 73:**

Any provision contrary to this law shall be considered as null.

**Article 74:**

This law shall be declared as urgent.

Phnom Penh, 21 June 2000

**Royal Signature**

**Norodom Sihanouk**

Has informed to  
His Royal Highness for Signature

**Prime Minister**  
**Signature**  
**Hun Sen**

Has informed to the Prime Minister  
**Acting Minister of Commerce**

**Sok Siphana**

No. 126 CL  
for copy

Phnom Penh, 26 June 2000  
**Secretary General of the Royal Government**  
**Nady Tan**