

ENVIRONMENTAL CODE OF CAMBODIA

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BOOK 1 GENERAL PROVISIONS

TITLE 1 GENERAL PROVISIONS

Chapter 1 OBJECTIVE OF THE ENVIRONMENTAL CODE

ARTICLE 1: PURPOSES OF THE ENVIRONMENTAL CODE

The purposes of this Environmental Code are the protection of the environment, the conservation of natural resources, and the sustainable development of Cambodia.

Commented [M1]: Per M. Barash.

ARTICLE 2: OBJECTIVES OF THE ENVIRONMENTAL CODE

- (1) The Environmental Code includes the following objectives:
 - (a) Conserve Cambodia's biodiversity, ecosystems and ecosystem services;
 - (b) Protect the environment from harm and damage, and sustainably manage natural resources, in accordance with Article 59 of the Constitution of Cambodia;
 - (c) Preserve and promote national culture, preserve ancient monuments and artefacts, and restore historic sites, in accordance with Article 69 of the Constitution of Cambodia;
 - (d) Guarantee the health of the people, in accordance with Article 72 of the Constitution of Cambodia;
 - (e) Safeguard the individual and collective rights of indigenous people as postulated in Sub-decree No 83 (No 83 ANK.BK) and So Chor No 653 (653 So Chor No SR).
 - (f) Ensure that environmental protection and sustainable development objectives are fully integrated into national and regional economic planning and into natural resources planning and management;
 - (g) Implement the National Environmental Strategy and Action Plan;

(h) Promote a collaborative approach to the protection and management of the environment involving government, communities, land-holders, indigenous and other vulnerable people including minorities, women, youth, and disabled people, and business;

Commented [M2]: Per P. Karpe.

(i) Promote environmental awareness and support for environmental protection through transparency and public participation, especially by women, the poor, indigenous people, and other traditionally marginalized communities;

Commented [M3]: Per Mang M.

(j) Assist the implementation of Cambodia's international environmental responsibilities;

(k) Implement the key principles of environmental law and policy as described in Chapter 2;

ARTICLE 3: SCOPE OF THE ENVIRONMENTAL CODE

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

ARTICLE 4: APPLICABLE ENTITIES

This Code applies to Cambodian State bodies, organisations, family households and individuals; to Cambodians residing overseas and "foreign organisations" individuals with operations in the territory of Cambodia, and individuals or entities whose actions otherwise adversely impact or effect the Cambodian environment or its natural resources. Where an international treaty of which Cambodia is a member contains provisions, which are different from the provisions in this Code, the provisions of such international treaty shall prevail.

Commented [M4]: Per M. Barash.

ARTICLE 5: DEFINITION/GLOSSARY

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

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

Non-exhaustive list to be defined:

Sustainable development
Environmental protection
Environmental conservation
Environmental standards
Best practices
Natural resources
Environmental disputes
Environmental harm
Ecosystem services
Liability
Jurisdictional organisation
Forest
Climate change
REDD+
Ecotourism

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

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

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

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

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

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

EEZ – Exclusive Economic Zone (see definition above).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GIS – See Geographic Information System.

Harvest – See Fishing above

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

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

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

Mapping products – Maps in both electronic and printed formats.

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

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

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

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

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

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

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

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

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

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

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

Commented [M7]: A non-exhaustive but clear and thorough definition of "PUBLIC" will be developed.

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

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

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

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

SCUBA – Self-contained underwater breathing apparatus.

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

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

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

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

Chapter 2 **PRINCIPLES OF THE ENVIRONMENTAL CODE**

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

Commented [M10]: Incorporation of the additional eight principles for the guidance of the development and implementation of the Code per comments from experts and STWG members.

ARTICLE 1: THE PRINCIPLE OF PUBLIC PARTICIPATION

The principle of public participation, that those who may be affected by a decision shall be entitled to provide informed, timely and meaningful input prior to the decision being made. They shall also be able influence in a transparent, inclusive and accountable manner the decision-making process. Participatory decision-making leads to more well-informed decisions, enhances the ability of governments to respond to public concerns and demands and improves acceptance of and compliance with environmental decisions because stakeholders feel ownership over these decisions.

Commented [M11]: Per USEPA.

ARTICLE 2: THE PRINCIPLE OF ACCESS TO INFORMATION

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

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

Commented [M13]: Per NGO Forum.

Commented [M14]: Per NGO Forum.

Commented [M15]: Per USEPA.

ARTICLE 3: THE PRINCIPLE OF ACCESS TO EFFECTIVE REMEDIES

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

Commented [M16]: Per NGO Forum.

Commented [M17]: Per NGO Forum.

Commented [M18]: Per USEPA.

ARTICLE 4: THE POLLUTER PAYS PRINCIPLE

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

ARTICLE 5: THE PRECAUTIONARY PRINCIPLE

The precautionary principle, that in situations where the environment may be faced with threats of serious or irreversible damage, the lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

ARTICLE 6: THE PREVENTION PRINCIPLE

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

Commented [M19]: Per USEPA.

ARTICLE 7: THE PRINCIPLE OF INTERGENERATIONAL EQUITY

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

ARTICLE 8: THE PRINCIPLE OF ENVIRONMENTAL LIABILITY

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

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

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

ARTICLE 10: PRINCIPLE OF GENDER EQUALITY AND PARTICIPATION OF OTHER VULNERABLE PEOPLE IN ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT FOR NATURAL RESOURCES DECISIONS

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

Commented [M20]: Per P. Karpe and NGO Forum.

ARTICLE 11: THE PRINCIPLE OF INTEGRATION

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

ARTICLE 12: THE PRINCIPLE OF THE PUBLIC TRUST

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

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

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

Commented [M21]: Per USEPA.

ARTICLE 14: THE PRINCIPLE OF USER PAYS

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

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

States shall consult and cooperate in good faith with the indigenous peoples and local

communities concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization, or exploitation of mineral, water, or other resources.

ARTICLE 16: THE PRINCIPLE OF REJECT, REDUCE, REUSE RECYCLE

Chapter 3 GENERAL DUTY TO AVOID ENVIRONMENTAL HARM

ARTICLE 1

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

Chapter 4 INTERNATIONAL ENVIRONMENTAL AGREEMENTS

ARTICLE 1

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

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

- This Chapter will explain how the Environmental Code implements and is based upon existing international and regional agreements.
- It will also address future agreements and treaties and how these shall be integrated into the environmental responsibilities of the relevant Ministries.

TITLE 2 ORGANISATION OF JURISDICTIONAL INSTITUTIONS/JURISDICTIONAL ISSUES

- This Title will establish the objective of inter-ministerial cooperation and the requirement for consultation and discussion between relevant line Ministries in order to achieve the objectives of the Code. Jurisdictional organisation will examine the roles, duties and means of collaboration for the following institutions:

Commented [M22]: Per Z. Fadeeva, in collaboration with STWG 2.

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

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

The critical insight offered by SCP is that in order to facilitate sustainable development, integrative approach (also pointed out by the national documents such as Report to Rio+20 and GG Strategy), has to be employed. These approach touches the whole material and energy flow through the society including selection of resources (and their sources), their processing, distribution, efficiency and effectiveness of consumption and end-of-life.

- Ministry of Environment
- Ministry of Agriculture, Forests and Fisheries
- Ministry of Mines and Energy
- Ministry of Water Resources and Meteorology
- Ministry of Land Management, Urban Planning and Construction
- Ministry of Economics and Finance
- Ministry of Culture and Fine Arts
- Ministry of Tourism
- Council for the Development of Cambodia
- Provincial and Local Authorities

Commented [M23]: Per Mang. M.

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

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

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

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

**CHAPTER # CONFIRMING NATIONAL COUNCIL FOR SUSTAINABLE
DEVELOPMENT (NCSO) ROLES AND RESPONSIBILITIES**

**CHAPTER # CONFIRMING NATIONAL PROGRAMME FOR SUB-NATIONAL
DEMOCRATIC DEVELOPMENT (NCDD) ROLES AND RESPONSIBILITIES**

CHAPTER # ROLE OF AUTHORITIES SUCH AS APSARA AUTHORITY, PRAEH

**VIHEAR AUTHORITY, TONLE SAP AUTHORITY AND CAMBODIAN
NATIONAL MEKONG COMMITTEE**

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

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

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

ARTICLE 1

Assigning environmental monitoring and information gathering responsibilities among governmental institutions

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

CHAPTER # CAMBODIAN ENVIRONMENTAL MAPPING CENTRE

ARTICLE 1: GENERAL PROVISIONS

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

Pursuant to this, the appropriate government institution shall have the authority to establish a Cambodian Environmental Mapping Centre (CEMC). The purpose of this centre shall be to establish standards, compile, analyse, and distribute geospatial information. Information may include but is not limited to biodiversity, natural resources (e.g. lands, water and forests), the environment (e.g. water, soil and air qualities), and climate change, using modern, computerized Geographic Information Systems (GIS).

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

ARTICLE 2: CAMBODIAN ENVIRONMENTAL MAPPING CENTRE MANDATES

Pursuant to this authority, the appropriate government institution shall:

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

is not duplicated among government institutions, and that there is one specified official government institution source for data related to any given subject or sector.

**ARTICLE 3: CAMBODIAN ENVIRONMENTAL MAPPING CENTRE
DISCRETIONARY AUTHORITIES**

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

- 1) Obtain the necessary GIS computer software to effectively analyse, manipulate, and output geospatial data.
- 2) Obtain computer hardware of sufficient technical sophistication and power to run and utilize GIS computer software.
- 3) Accept geospatial data in the following formats:
 - a) point data
 - b) line data
 - c) shape files in raster format
 - d) shapefiles in vector format.
- 4) Produce maps and other data visualization products and provide these to other relevant ministries to assist such ministries in effectively carrying out their natural resource management authorities and obligations.
- 5) Produce maps and other data visualization products for public education and outreach, in order to improve awareness of biodiversity conservation and natural resource management in the Kingdom of Cambodia.
- 6) Establish quality assurance and quality control (QA/QC) procedures for all maps and data visualization products produced by the CEMC.
- 7) Provide for ongoing maintenance, curation, updates, and access to spatial databases hosted by the CEMC.
- 8) Adopt new methods and technologies, as they become available, which enhance the utility of GIS products and activities.

9) Promote, wherever possible, collaborative production, use, and analysis of geospatial datasets across ministries.

TITLE 3 PUBLIC PARTICIPATION

CHAPTER # PUBLIC CONSULTATION A FUNDAMENTAL REQUIREMENT FOR ENVIRONMENTAL DECISIONS

ARTICLE #

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

- a) are well informed about the project,
- b) have the opportunity to be involved in the discussion and decision-making process related to the project, and
- c) have the opportunity to participate in the project monitoring.

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

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

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

ARTICLE #

The EIA Report shall:

Commented [M24]: Comments from NGO Forum on EIA will be addressed during the final EIA review.

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

ARTICLE #

MoE shall ensure that IEE and EIA reports and related documents, including the EIA Approval Letter and Certificate and EMP, shall be made publically available, and that stakeholders and project-affected communities have access to clear and sufficient information.

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

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

CHAPTER # DUTY TO CONSULT WITH POTENTIAL AFFECTED PERSONS

CHAPTER # DUTY TO CONSIDER CONCERNS RAISED BY THE COMMUNITY

CHAPTER # IDENTIFICATION OF PROJECT AFFECTED PERSONS AND OTHER STAKEHOLDERS

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

CHAPTER # MINIMUM TIME ALLOWED FOR PUBLIC CONSULTATION IN EIA MATTERS

CHAPTER # MINIMUM TIME ALLOWED FOR INDIGENOUS PEOPLE TO PROVIDE COMMENTS

**CHAPTER # FREE, PRIOR AND INFORMED CONSENT FOR INDIGENOUS PEOPLE
AND LOCAL COMMUNITIES IN NATURAL RESOURCES AND
ENVIRONMENTAL IMPACT ASSESSMENT MATTERS**

ARTICLE #

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

In the mitigation measures, the Project Proponent shall:

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

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

Commented [M25]: Per NGO Forum. Text to be reviewed for consistency with FPIC.

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

Commented [M26]: Per NGO Forum. Procedure will be determined in Code.

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

CHAPTER # RESPONDING TO PUBLIC SUBMISSIONS

CHAPTER # TAKING INTO ACCOUNT PUBLIC SUBMISSIONS

TITLE 4 ACCESS TO ENVIRONMENTAL INFORMATION

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

CHAPTER 1 GENERAL PROVISIONS

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

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

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

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

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

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

In general:

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

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

CHAPTER 2 – ENVIRONMENTAL INFORMATION

Environmental information includes information on:

- a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements.

Commented [M27]: Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

Commented [M28]: Per NGO Forum.

Commented [M29]: Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

Formatted: Chapter Heading

Commented [M30]: Shall include all ecosystems data, all research and field data, all documents created within the EIA process, all project specific documentation and reporting.

- b) Factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment.
- c) Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to above as well as measures or activities designed to protect those elements.
- d) Instances of non-compliance with environmental laws, policies, regulations, agreements.
- e) Information about environmental risks that can affect the state of human health and safety, cultural sites and built structures.
- f) The analyses of costs and advantages as well as the economic hypotheses used in the framework of the decisions and activities described in (b) and (c) above.
- g) Reports on the implementation of the measures in the item (c) above and in implementation of MEAs.

Commented [M31]: Per M. Desrousseaux.

CHAPTER 3 – RELIABILITY OF INFORMATION

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

Commented [M32]: Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

CHAPTER 4 ENVIRONMENTAL COMPLIANCE RECORDS

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

CHAPTER 5 ACCESS TO INFORMATION

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

- Environmental Mapping Centre
- Pollutant Release and Transfer Register (PRTR)
- Biodiversity Clearinghouse

- Carbon Registry
- Database of EIA and SEA

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

CHAPTER 6 – PROVISION OF ENVIRONMENTAL INFORMATION

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

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

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

Commented [M33]: National and provincial level reporting.

Private and public organisations shall provide information on aspects related to the environment as required by law, including on aspects specified in Chapter 2.

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

CHAPTER 7 – MONITORING OF INFORMATION PROVISION

The government shall develop procedures that enable third party organisations to assess procedures of information provision mandated by law.

Commented [M34]: NGO Forum comments on responsibilities for monitoring and reporting and types of reporting will be addressed during final EIA review.

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

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

CHAPTER 8 – VIOLATIONS AND REMEDIES AND ENFORCEMENT

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

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

regulations.

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

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

**BOOK 2 ENVIRONMENTAL PLANNING,
ASSESSMENT AND MONITORING**

Commented [M35]: Per STWG 3/5. Revised Book name.

TITLE 1 MAKING OF NATIONAL, SUB-NATIONAL AND LOCAL ENVIRONMENTAL AND NATURAL RESOURCES PLANS

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

CHAPTER # PREPARATION OF MANAGEMENT PLANS IN ACCORDANCE WITH NATIONAL, REGIONAL OR LOCAL ENVIRONMENTAL AND NATURAL

RESOURCE MANAGEMENT PLANS

CHAPTER # CONSERVATION AND RATIONAL UTILIZATION OF NATURAL RESOURCES

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

CHAPTER # APPOINTMENT OF A COMMISSION TO PREPARE THE NEP

CHAPTER # DRAFT NEP TO BE PREPARED WITH PUBLIC PARTICIPATION

CHAPTER # APPROVAL OF NEP

CHAPTER # PREPARATION AND APPROVAL OF SUBNATIONAL AND LOCAL NEP

CHAPTER # ESTABLISHMENT OF A NATIONAL LAND AND RESOURCES INFORMATION DATABASE

CHAPTER # DATABASE TO BE PUBLICALLY AVAILABLE

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

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

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

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

Commented [M36]: Per STWG 3/5 Members.

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

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

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

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

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

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

TITLE 3 URBAN LAND USE PLANNING

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

referencing Book 1 Title 2.

- The Title will address the specific requirements for public participation, referencing Book 1 Title 3.
- This Title will address social housing.

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

ARTICLE #

Mitigating and compensating for risks of displacing residents or existing businesses through new zoning

CHAPTER # CLASSIFICATION OF URBAN LAND

ARTICLE #

Population threshold at which a zoning plan is required

CHAPTER # ZONING OF URBAN LAND

CHAPTER # MINIMUM STANDARDS OF URBAN ZONING PLANS

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

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

CHAPTER # URBAN INFRASTRUCTURE REQUIREMENTS

ARTICLE #

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

ARTICLE #

Facilitating public-private infrastructure financing

**CHAPTER # PUBLIC TRANSPORTATION, BICYCLE ACCESS, RECYCLING,
WASTE MANAGEMENT, MAINTENANCE OF URBAN GREEN SPACES,
ETC., INCLUDING CLARITY ON ROLES AND RESPONSIBILITIES OF
DIFFERENT LEVELS OF AUTHORITIES**

ARTICLE #

Incentivizing public transit ridership.

ARTICLE #

Promoting Walkability

CHAPTER # BUILDING, PARKING, OPEN SPACE REQUIREMENTS

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

CHAPTER # OTHER PRIVATE SECTOR PROVISIONS

CHAPTER # MOTOR VEHICLE EXHAUST STANDARDS

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

TITLE 4 EXTENDED PRODUCER RESPONSIBILITY

Commented [M37]: Per Z. Fadeeva. This concept will be more fully developed and will either be included as a Principle or a section in the Code (Title).

~~Title 4~~ TITLE 5 ENVIRONMENTAL QUALITY STANDARDS

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

Commented [MB38]: Per STWG 2 at 6 April Workshop. EQS will be developed in collaboration with international experts.

food safety principles and objectives.

CHAPTER # SETTING OF ENVIRONMENTAL QUALITY STANDARDS (EQS)

CHAPTER # SETTING OF AMBIENT STANDARDS

ARTICLE #

Air Quality Standards

ARTICLE #

Water Quality Standards

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

ARTICLE #

Individual pollutant discharge standards to be set in the code

ARTICLE #

Individual pollutant discharge standards to be set by the relevant ministry

ARTICLE #

Setting of polluting threshold for emission monitoring

ARTICLE #

Taking local ecological characteristics into account when setting emissions standards

ARTICLE #

Relationship to EIA law

ARTICLE #

Incorporating international standards

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

Motor Vehicle emissions standards

ARTICLE #

Setting of polluting threshold for emission monitoring

ARTICLE #

Taking local ecological characteristics into account when setting emissions standards

ARTICLE #

Relationship to EIA law

ARTICLE #

Incorporating international standards

CHAPTER # REVISION OF EQS

CHAPTER # APPLICATION OF EQS IN CAMBODIA

CHAPTER # PROVISIONAL ADOPTION OF INTERNATIONAL STANDARDS

CHAPTER # DEFINITION OF BEST AVAILABLE TECHNIQUES

CHAPTER # DEFINITION OF GOOD PRACTICES

~~Title 5~~ **TITLE 6 STRATEGIC ENVIRONMENTAL ASSESSMENT**

- This Title will outline the use of Strategic Environmental Assessment (SEA) for the assessment and development of plans and policies in Cambodia. The use of SEA can be

Commented [M39]: SEA is for PLANS and POLICIES. Not to be confused with EIA, which is for ACTIVITIES, such as development projects.

Commented [M40]: Per NGO Forum and other comments, content in this Title will be clarified, further developed, and made consistent with text regarding EIA as appropriate.

for all types of policies and plans, including decisions that may have impacts on natural resources management. **The relationship between SEA and EIA will be further considered.**

- **The threshold for trigger for SEA will be clearly defined.**
- This Title will also provide the link between National Environmental and Natural Resources Plans, SEA and also EIA for specific projects.

CHAPTER # OBJECTIVE OF SEA

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

CHAPTER # AIMS OF SEA

The key aims of SEA include:

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

Commented [M41]: Definitions for Environment and for Significant Environmental Impact will be developed that are clear and through, reflect Cambodian values, and include examples.

CHAPTER # IMPLEMENTATION OF SEA

ARTICLE #

The SEA procedure will include the following steps:

- 1) Screening
- 2) Scoping
- 3) Preparation of the Environmental Report

- 4) Consultation and Public Participation
- 5) Review and Decision
- 6) Information on Decision
- 7) Monitoring

ARTICLE #

Relevant Government institution

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

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

[Confirm institutional arrangements, including role of NCSD].

ARTICLE #

Screening

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

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

- a) agriculture,
- b) forestry,
- c) fisheries,
- d) energy,
- e) industry,

Commented [MB42]: Or this could be in accordance with the Appendix I. Based on the Vietnam Decree on SEA.

- f) mining,
- g) transport,
- g)h) infrastructure,
- h)i) regional development,
- i)j) water management,
- j)k) waste management,
- k)l) telecommunications,
- l)m) tourism,
- m)n) urban and regional planning or land use.

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

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

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

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

1. The relevance of the plan or programme to the integration of environmental, including health and social considerations, and in promoting sustainable development.
2. If the plan or programme will provide an overall framework for projects and other activities, including location, nature, size, operations or the allocation of natural resources.
3. Environmental, including health and social problems and impacts relevant to the plan or programme.
4. The nature of the environmental impacts, including health and social impacts such as

Commented [M43]: Per NGO Forum.

Commented [M44]: The Code will clarify who must determine what constitutes a Significant Environmental Impact and the definition for Environment and Significant Environmental Impact.

Commented [MB45]: This is modified from the SEA Protocol, Annex III

probability, duration, frequency, reversibility, magnitude and extent (such as geographical area or size of population likely to be affected).

5. The risks to the environment, including to health and society.
6. If the plan or programme will affect valuable or vulnerable areas, protected areas, including areas with a recognised national or international protection status.
7. If the plan or programme will affect indigenous peoples or natural resources allocation to indigenous people.
8. Comments received from the public participation and consultation process.

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

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

ARTICLE #

Scoping

The relevant government institution shall determine together with MOE and based on the screening process and comments received from other Ministries, the information and scope of the SEA.

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

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

ARTICLE #

Consultation and Public Participation

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

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

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

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

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

ARTICLE #

Environmental Report

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

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

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

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

ARTICLE #

Review and Decision

The assessment of the SEA shall be conducted by a SEA report assessment committee

established by the relevant government institution and will include the representatives of the Office of the PM, the CDC, the institution of the Environment, and other concerned Ministries.

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

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

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

The SEA report assessment committee may:

- (i) Conduct a survey on areas or adjacent areas where the project is carried out;
- (ii) Verify and evaluate information, data, analysis results, evaluation, or forecast in the Environmental Report;
- (iii) Collect opinions of relevant socio-political organisations, social organisations, socio-professional organisations, or experts;
- (iv) Hold thematic meetings between experts.

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

ARTICLE #

Results of assessment of SEA reports

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

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

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

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

CHAPTER # INFORMATION ON DECISION

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

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

CHAPTER # MONITORING

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

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

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

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

ARTICLE #

Evaluating effects on ecosystem services.

CHAPTER # APPRAISAL OF SEA REPORTS

~~Title 6~~ TITLE 7 ENVIRONMENTAL IMPACT ASSESSMENT

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

- Environmental Impact Assessment;
 - Initial Environmental Evaluation; and
 - Environmental Permit.
- The aim of this Title on EIA is to require all development projects and activities that will have an impact on the environment or society to undertake some form of environmental assessment. The level of assessment will be determined according to the potential impact on the environment or society.
 - The threshold for trigger for EIA will be clearly defined.
 - An EIA Approval Certificate will be issued and any other permit will be issued in accordance with the EIA Approval Certificate.
 - EIA will be required for all projects or activities likely to have a significant impact on the environment or society.
 - IEE will be required for those projects or activities likely to have a minor impact on the environment or society.
 - An Environmental Permit will be required for those projects or activities that do not require an EIA or IEE. These will be required to have permission to ensure that the project is not likely to cause harm or damage to the environment or society.

Commented [M46]: The definition of environment in the definition section will be clear and thorough (and comprehensive and robust) and will provide examples in order for there to be an appropriate understanding that “environment” is very broadly defined and includes relationships and the characteristics important to Cambodia.

CHAPTER # PURPOSE OF EIA

CHAPTER # SCOPE OF EIA IN CAMBODIA

CHAPTER # OBJECTIVES OF EIA IN CAMBODIA

CHAPTER # APPLICATION TO PUBLIC AND PRIVATE DEVELOPMENT PROJECTS

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

Commented [M47]: Per NGO Forum. Must ensure EIA is conducted for every phase of a project or activity, such as exploration/feasibility studies, land clearance, construction, operation, expansion, closure).

Commented [M48]: Per NGO Forum. Also, funding for sub-national authority role? Scope of project approval under sub-national authority?

ARTICLE

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

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

ARTICLE #

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

CHAPTER # REGISTRATION OF EIA EXPERTS

ARTICLE #

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

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

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

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

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

ARTICLE

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

Commented [M49]: A comprehensive and robust definition of "environment" would clarify and simplify the text and meaning.

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

Commented [M50]: Per NGO Forum.

ARTICLE

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

Commented [M51]: Per NGO Forum.

ARTICLE

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

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

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

ARTICLE

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

ARTICLE #

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

ARTICLE #

IEE report shall be required for:

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

When the proposed project is required to do an IEE, the Project Proponent shall cooperate with consulting firms in order to prepare the Terms of Reference (ToR) in accordance with the provisions and guidelines of MoE and submit to EIA Unit for final approval.

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

ARTICLE #

An Environmental Impact Assessment report shall be required for:

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

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

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

ARTICLE #

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

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

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

CHAPTER # ESTABLISHMENT OF EIA REVIEW COMMITTEE

ARTICLE #

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

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

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

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

Commented [M52]: While representatives from the public, including potentially affected communities, are not included in the Expert Review Committee, the public participation process provides the opportunity for EIA review and input on the decisions.

CHAPTER # ROLE OF EIA REVIEW COMMITTEE

CHAPTER # TIMEFRAMES FOR EIA AND IEE PROCEDURE

ARTICLE #

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

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

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

Commented [M53]: Per NGO Forum. Reimbursement for participation in an EIA Expert Review Committee should be limited to those committee members acting outside their normal responsibilities. Government officials or staff whose job it is to participate in the EIA process should not be specially remunerated.

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

ARTICLE #

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

ARTICLE #

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

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

ARTICLE #

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

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

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

CHAPTER # PREPARATION OF EIA REPORT

CHAPTER # PREPARATION OF ENVIRONMENTAL MANAGEMENT PLAN

ARTICLE

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

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

ARTICLE

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

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

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

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

ARTICLE

Project-affected persons and all stakeholders shall have the right to report issues and grievances of environmental and social concerns to the Project Proponent and to petition competent authorities. Such issues will be addressed by a sub-national commission and it can continue to an inter-ministerial commission established as part of the EMP.

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

Commented [M54]: Per NGO Forum. Define in more detail, link to relevant sections of the Code.

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

CHAPTER # SUBMISSION OF EIA REPORT

CHAPTER # CONSIDERATION AND ASSESSMENT OF EIA REPORT

ARTICLE #

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

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

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

CHAPTER # REVISION OF EIA REPORT

ARTICLE #

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

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

In case where the MoE rejects an IEE or EIA report, the MoE shall provide the reasons for the decision.

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

ARTICLE

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

Commented [M55]: Per NGO Forum. Follow guidelines of FPIC, UNDRIP, and international human rights standards and respect existing laws on conservation and safeguard principles, including following Cambodia's signatory standards under international agreements.

CHAPTER # APPROVAL OR REJECTION OF EIA REPORT

ARTICLE

MoE shall send the decision on the rejection or the order to make adjustment and correction in writing as well as the reasons or condition and/or the points that need to be adjusted or corrected to the Project Proponent and consulting firm in order to prepare the EIA report.

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

CHAPTER # GRANTING OF EIA APPROVAL LETTER

CHAPTER # PROHIBITION OF ACTIVITIES WITHOUT EIA APPROVAL LETTER

ARTICLE

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

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

ARTICLE

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

CHAPTER # EXISTING PROJECTS

ARTICLE 31

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

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

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

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

CHAPTER # MATTERS FOR CONSIDERATION

ARTICLE #

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

CHAPTER # SOCIAL IMPACT ASSESSMENT

[To be developed in detail]

CHAPTER # HEALTH IMPACT ASSESSMENT

Commented [MB56]: Projects that are planned or existing that have completed the EIA process and Government approval processes shall not require further assessment. All existing projects will be required to comply with the Code and be subject to the appropriate penalties if the project causes harm to the environment or society.

Commented [M57]: Per NGO Forum. Clarification for expansion of existing projects.

Commented [M58]: Per NGO Forum.

ARTICLE

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

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

Commented [M59]: Per NGO Forum.

Commented [M60]: Per NGO Forum.

Commented [M61]: Per NGO Forum.

ARTICLE

In assessing the health impacts, Project Proponents must:

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

Commented [M62]: Per NGO Forum.

CHAPTER # TRANSBOUNDARY ENVIRONMENTAL

Commented [M63]: A comprehensive and robust definition of Environment will be defined.

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

ARTICLE

Procedures for conducting TbEIA including government institution jurisdictions.

CHAPTER # CUMULATIVE IMPACT ASSESSMENT

Commented [M64]: Per NGO Forum. Recommend referencing work on cumulative impact assessment by University of Queensland, CSRM.

ARTICLE

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

CHAPTER # ENVIRONMENTAL MANAGEMENT AND MONITORING

ARTICLE #

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

CHAPTER # PROVISION OF INFORMATION

CHAPTER # REPORTING REQUIREMENTS

ARTICLE #

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

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

ARTICLE #

Each development project with an EIA Approval Letter and Certificate shall submit a quarterly

and semi-annual report to the EIA Unit concerning its environmental management and monitoring;

Project Proponents have the obligation to promptly report a critical environmental problem to relevant and competent authorities and to the public to avoid negative impacts to the environment or society; Project Proponents shall provide information related to environmental management of the project to MoE in accordance with the request of MoE.

CHAPTER # FEES AND CHARGES

ARTICLE #

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

ARTICLE #

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

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

ARTICLE #

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

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

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

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

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

~~Title 11~~ **TITLE 8 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING**

- This Title will outline the principles and requirements for environmental audits and for reporting requirements under the relevant provisions of the Environmental Code. An environmental audit will be a key mechanism to ensure that permit holders and those undertaking development projects are complying with the conditions of approval. This will include EIA, IEE and environmental protection agreements as well as any conditions attached to permits or licenses or ELC.

- The Title will also establish a PROPER system for self-report of pollution by companies and a color-coded registration for environmental compliance. Companies will be designated from Green and Blue (Beyond Compliance) to Black (Compliance) to Yellow and Red (Below Compliance)
- The aim of this Title is not to increase the regulatory burden on the holder of a license or approval but to ensure that environmental and social obligations are carried out in accordance with the approval conditions.

CHAPTER # ESTABLISHMENT OF SELF-REPORTING FOR ENVIRONMENTAL COMPLIANCE

Commented [M65]: e.g., PRTR

CHAPTER # OBLIGATION TO REPORT BREACHES OF ENVIRONMENTAL CODE

CHAPTER # ESTABLISHMENT OF SYSTEM OF ENVIRONMENTAL COMPLIANCE

CHAPTER # REGISTER OF APPROVALS, PERMITS, LICENSES AND MONITORING REPORTS

CHAPTER # UNIFIED REGISTER TO BE PUBLICALLY AVAILABLE AND EASILY ACCESSIBLE

CHAPTER # ENVIRONMENTAL AUDITS

Commented [M66]: Per NGO Forum. Ensure mandatory audits.

CHAPTER # APPOINTMENT AND QUALIFICATIONS OF ENVIRONMENTAL AUDITORS

CHAPTER # PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL AUDITS

CHAPTER # PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL CERTIFICATION TO INTERNATIONAL STANDARDS

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

Commented [M67]: Per NGO Forum. Link to risk identification and mitigation plans.

CHAPTER # MONITORING REPORTS REQUIRED UNDER EIA APPROVALS

CHAPTER # MONITORING REPORTS TO BE PUBLICALLY AVAILABLE

CHAPTER # RIGHTS AND RESPONSIBILITIES TRAINING

Commented [M68]: Per NGO Forum. Propose "Responsible Business Conduct". Will promote better policy coherence with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises

Move Chapter to Book 7 Environmental Education and Awareness?

BOOK 3 ENVIRONMENTAL MANAGEMENT AND SUSTAINABILITY MECHANISMS

TITLE 1 DISASTER RISK REDUCTION AND MANAGEMENT

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

CHAPTER # DISASTER MANAGEMENT PLANNING

CHAPTER # INCORPORATION OF RISK-REDUCTION PLANNING

CHAPTER # DEVELOPMENTS TO TAKE INTO ACCOUNT DISASTER MANAGEMENT PLANNING

CHAPTER # PLANNING FOR MAJOR POLLUTION INCIDENTS

CHAPTER # RESPONDING TO ENVIRONMENTAL DAMAGE

CHAPTER # DISASTER MANAGEMENT FOR PROTECTED AREAS AND HERITAGE LOCATIONS

CHAPTER # MANAGEMENT OF DISASTERS AT WASTE FACILITIES

CHAPTER # MANAGEMENT OF DISASTERS AT ENERGY PRODUCTION AND STORAGE FACILITIES

CHAPTER # MANAGEMENT OF DISASTERS AT CHEMICAL FACILITIES

CHAPTER # OBLIGATION TO REPORT POTENTIAL DISASTERS

TITLE 2 CLIMATE CHANGE ADAPTATION AND MITIGATION

- This Title will outline how to mainstream Climate Change assessment into the management of natural resources in Cambodia. Adopting existing strategies to adapt to and mitigate the impacts of climate change in Cambodia, this Title will provide the details on how those matters should be taken into consideration during the EIA process and the natural resource management process.
- The Title will incorporate international climate change mechanisms such as REDD+ CDM and other climate change mechanisms into Cambodia law.

- This Title will outline how to reduce greenhouse gas emissions by Cambodia and the promotion of Green Growth.
- This Title will also link to Title 6 – Sustainable Energy and Book 8 Title 1 – Environmental Incentives.
- It will also address some key issues in relation to other relevant Titles, including building resilience to climate change through planning and construction standards (referencing Book 2 Book 2 Title 3– Urban Land Use Planning and Title 3– Sustainable Cities)

CHAPTER # OBLIGATION TO ADDRESS CLIMATE CHANGE

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

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

TITLE 3 SUSTAINABLE CONSUMPTION AND PRODUCTION

Commented [M69]: Per Z. Fadeeva.

- This Title will address the issues of resource use, inclusive manufacturing, consumption, product requirements, public procurement, etc.

TITLE 4 SUSTAINABLE CITIES

- This Title will require that land use planning and management for urban areas be conducted to promote sustainable and resilient cities.
- It will ensure that planning takes into account long-term impacts on urban areas, including climate change, energy, water, population and economic development.
- It will also examine the management of trees along public roads and the development of people and nature friendly cities, including the promotion of renewable energy in urban areas.
- Establishment of special institution to promote capacity building and technical education on sustainable cities

CHAPTER # DEVELOPMENT OF SUSTAINABLE URBAN CENTRES

CHAPTER # MAKING A SUSTAINABLE CITY PLAN

ARTICLE #

Measuring progress towards sustainability

CHAPTER # ESTABLISHMENT OF RECYCLING PLANS FOR URBAN AREAS

CHAPTER # PROMOTING ENERGY EFFICIENCY

CHAPTER # SETTING OF ENERGY EFFICIENCY STANDARDS

CHAPTER # SETTING OF STANDARDS FOR GREEN BUILDINGS

CHAPTER # INTERIM ADOPTION OF INTERNATIONAL STANDARDS

CHAPTER # CREATION OF SUSTAINABLE AND BETTER HOUSING

ARTICLE #

Identifying and remedying threats to human and environmental health in existing housing stock

ARTICLE #

Implementing an environmentally sound, sustainable and affordable social housing programme

CHAPTER # OPEN SPACE, PUBLIC PARKS AND GREEN SPACES

CHAPTER # ENSURING CLIMATE RESILIENCE IN URBAN AREAS

TITLE 5 SUSTAINABLE TOURISM AND ECO-TOURISM

- This Title will create a framework for encouraging appropriate eco-tourism activities in Cambodia.
- Eco-tourism activities include small scale, community based tourism opportunities.
- This Title will also create a framework to promote sustainable tourism in general, including larger scale tourism with reduced environmental impact.

CHAPTER # PROMOTION OF ECOTOURISM AND SUSTAINABLE TOURISM AS DEVELOPMENT PRIORITIES

CHAPTER # DESIGNATION OF SPECIAL ECOTOURISM AREAS

ARTICLE #

Ecotourism in protected areas or wildlife reserves

ARTICLE #

Zoning for ecotourism

CHAPTER # FINANCIAL INCENTIVES FOR ECOTOURISM OPERATIONS

CHAPTER # ECOTOURISM OPERATIONAL STANDARDS (COMMUNITY GUIDELINES, COMMUNITY MANAGEMENT, COMMUNITY FUND, ETC.)

ARTICLE #

Standards for ecotourism benefits to the local economy

ARTICLE #

Protecting cultural heritage

ARTICLE #

Independent Certification of Ecotourism

CHAPTER # MARKETING AND PROMOTION OF ECOTOURISM

ARTICLE #

Regulating false claims in ecotourism

CHAPTER # SUSTAINABLE TOURISM: DEVELOPING STANDARDS, GUIDELINES, AND APPLICATION FOR THE GENERAL TOURISM SECTOR

ARTICLE #

Independent certification for sustainable tourism

CHAPTER # CODE OF CONDUCT FOR ECO-TOURISM DEVELOPMENT

TITLE 6 SUSTAINABLE ENERGY

Commented [M70]: Per STWG 3/5 Members.

- This Title will set goals and standards for the development of sustainable energy for Cambodia.
- This Title will address sustainable energy for all aspects of energy issues, including access, efficiency, and renewables.
- It will detail the mechanism to achieve the rapid development of energy sources in Cambodia, with a focus on alternative, carbon-free or low carbon energy sources, such as hydropower, wind energy, solar energy, biogas, geothermal, tidal energy and nuclear energy.
- It will also examine the development of oil and gas as energy sources in a manner that promotes sustainable development and transparency.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

Commented [M71]: Per Z. Fadeeva.

Commented [M72]: Per NGO Forum.

CHAPTER # SUSTAINABLE ENERGY PLAN

ARTICLE

Procedures for developing a Sustainable Energy Plan

ARTICLE

Setting targets for percentage of renewable and non-renewable energy production sources

CHAPTER # STANDARDS AND TECHNOLOGY FOR SUSTAINABLE ENERGY

ARTICLE

Standards for approval of proposed hydropower projects

Commented [M73]: Per NGO Forum. Limit large- and medium-scale hydropower with preference for small-scale projects.

ARTICLE

Issuing of permits for hydropower projects

ARTICLE

Standards for management of hydropower projects

Commented [M74]: Per NGO Forum. Reference HSAF and HSAP.

ARTICLE

Standards for approval of proposed wind and solar projects

ARTICLE #

Issuing of permits for wind and solar projects

ARTICLE #

Standards for management of wind and solar projects

ARTICLE #

Promoting the diffusion of sustainable energy technology

**CHAPTER # STANDARDS AND TECHNOLOGY FOR COAL-FIRED POWER
PLANTS**

ARTICLE #

Standards for approval of proposed coal-fired power plants

ARTICLE #

Issuing of permits for coal-fired power plants

ARTICLE #

Standards for management of coal-fired power plants

**CHAPTER # STANDARDS AND TECHNOLOGY FOR NATURAL GAS-FIRED
POWER PLANTS**

ARTICLE #

Standards for approval of proposed natural gas-fired power plants

ARTICLE #

Issuing of permits for natural gas-fired power plants

ARTICLE #

Commented [M75]: Per NGO Forum. Recommend Cambodia follow international trend of practices and standards that limit the use of coal.

Standards for management of natural gas-fired power plants

CHAPTER # PROVISION OF CLEAN ENERGY FOR RURAL COMMUNITIES

ARTICLE

Extending the energy grid and promoting smaller-scale energy production.

Commented [M76]: Per NGO Forum.

CHAPTER # DEVELOPMENT OF MICRO AND MINI-GRID SYSTEMS

TITLE 7 SUSTAINABLE EXTRACTIVE INDUSTRIES

- This Title will examine the Laws relating to Mining in the provision of sustainable economic benefits to Cambodia.
- This will link to the Title on EIA, to promote efficient and effective extractive industry development in Cambodia.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

Commented [M77]: Per STWG 3/5 Members.

Commented [M78]: Per NGO Forum. Review of translation needed per 6 April Workshop comments.

Frame Title within "Do No Harm" and rights-based, due diligence framework.

Link to newly established Extractive Industry Governance Framework Platform.

CHAPTER # ADOPTION OF BEST PRACTICE IN EXTRACTIVE INDUSTRY

Commented [M79]: NGO Forum. References for best practices in extractives provided in comment.

This chapter will include, but is not limited to, best practices related to assessment of gender impacts, resettlement, FPIC, human rights impacts and due diligence (including access to remedy), meaningful stakeholder engagement (including access to information and participatory decision making, use of security personnel, waste management (tailings management, riverine waste disposal, water usage and treatment, corruption, bribery, facilitation payments, and extractives infrastructure (road, rail, ports, energy grids)).

Commented [M80]: Per NGO Forum.

ARTICLE

Extractive Industries Transparency Initiative (EITI) requirements and standards

Commented [M81]: Per NGO Forum. Cambodia is not an "EITI Candidate Country".

CHAPTER # ADDRESSING CUMULATIVE IMPACTS

Commented [M82]: Per NGO Forum. Link to EIA section.

CHAPTER # FINANCIAL AND ECONOMIC ARRANGEMENTS TO ENSURE PROPER SITE MANAGEMENT

CHAPTER # PROVISIONS AND FINANCING FOR CLOSURE (INCLUDING PLANS) AND REHABILITATION, REMEDIATION AND RESTORATION OF EXTRACTIVE INDUSTRY SITES

Commented [M83]: Per NGO Forum. Including required insurance, bond or fund for decommissioning costs.

**CHAPTER # LICENSING AND PERMITTING SYSTEM FOLLOWING EIA
APPROVAL**

CHAPTER # SAND MINING

CHAPTER # ROCK AND AGGREGATE MINING

CHAPTER # MINERALS

CHAPTER # METAL MINING

CHAPTER # OIL AND GAS

**BOOK 4 SUSTAINABLE MANAGEMENT OF
NATURAL RESOURCES AND ECOSYSTEMS**

**TITLE 1 COLLABORATIVE MANAGEMENT OF NATURAL
RESOURCES**

- The Title would examine options for community use of natural resources, hunting, community fishing and use of land for sustainable community needs.
- To include a revision of current CF and CPA procedures, Address CFI and CBET (provisions for ecotourism under development) under a unified management framework.
- This title will contain or reference the outcome of an ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.
- This Title will include provisions as relates to the Title on Collaborative Management of Conservation Landscapes in the Book on Conservation and Protection of Biodiversity and Cultural Heritage (as relates to the ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources).

Title 1 TITLE 2 SUSTAINABLE WATER RESOURCES MANAGEMENT

- This Title will provide details of water management and water planning. Plans for water management should be prepared under the provisions of Book 2 Title 1 dealing with

Commented [M84]: Pper STWG 3/5. New Book.

Commented [M85]: Per Mang M. Recommend applying decentralization and deconcentration reform to speed up lengthy 11-step process for establishing Community Forestry as outlined in the 2006 Prakas on CF. Need translation.

Commented [M86]: Per Mang. M.

Commented [M87]: Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

Commented [M88]: Proposed revision to "co-management" by STWG 3/5 is "collaborative management."

Commented [M89]: Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

Commented [M90]: STWG 3/5 proposes the term "collaborative management" (easier to understand in Khmer and English; "co-management" is apparently already misunderstood).

Commented [M91]: Per STWG 3/5 Members.

National, Regional and Local Management Plans.

- This will need to consider the benefit-sharing arrangements for the use of transboundary watercourses in accordance with international legal obligations.
- Waste water and water pollution will be dealt with in [Book 6 Waste and Pollution Management and Sustainable Production](#).

**CHAPTER # WHOLE-OF-CATCHMENT CONCERNS (INCLUDING
RELATIONSHIPS BETWEEN UPPER AND LOWER RIVER REACHES AND
BETWEEN DIFFERENT USERS)**

**CHAPTER # IDENTIFYING AND QUANTIFYING (THROUGH MONITORING AND
MAPPING) ALL SURFACE AND GROUND WATER SOURCES**

**CHAPTER # IRRIGATION SYSTEM AND WATER SUPPLY FOR AGRICULTURAL
PURPOSES**

**CHAPTER # EROSION CONTROL (RIPARIAN [AND WETLAND](#) VEGETATION
MANAGEMENT)**

CHAPTER # MAN-MADE WATERWAY

**CHAPTER # WATER RESERVOIRS FOR PUBLIC USE (REFERENCING URBAN
PLANNING IN [BOOK 2 TITLE 3](#))**

CHAPTER # GROUNDWATER MANAGEMENT

ARTICLE #

Establishing requirements for monitoring wells, with triggers for conservation measures if such wells fall below a [critical level](#)

CHAPTER # ALLOCATION AND TRADE OF ENTITLEMENTS TO USE WATER

ARTICLE #

Groundwater

ARTICLE #

Rivers, streams and lakes

Commented [M92]: Per NGO Forum. Ensure irrigation systems do not capture rice field water.

Commented [M93]: Per NGO Forum. Including wetland rehabilitation and policies to preserve remaining wetlands.

Link to Protection of Plants, Important Habitats and Significant Ecosystems Title.

Commented [M94]: NGO Forum. Include community participation and regional planning for wells.

Commented [M95]: Per NGO Forum. Clear and precise definition required.

CHAPTER # INTRODUCING MONITORING AND REPORTING SYSTEMS (IN REFERENCE TO BOOK 2 TITLE 8 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING)

ARTICLE #

Mandatory reporting of normal emissions and effluents.

ARTICLE #

Mandatory reporting of sudden discharges during maintenance or accidents

Title 2 TITLE 3 COASTAL ZONE MANAGEMENT

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

CHAPTER 1. GENERAL PROVISIONS

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

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

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

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

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

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

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

CHAPTER 2: COASTAL SUBZONES

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

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

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

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

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

CHAPTER 3. COASTAL ZONE MANAGEMENT MANDATES

Pursuant to this authority, the appropriate ministry shall:

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

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

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

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

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

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

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

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

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

2) Produce and openly distribute maps of the Coastal Zone and its subzones, so that all parties, both public and private, may clearly understand the areas in which special Coastal Zone regulations apply.

Commented [M96]: Link to process and system for access to and distribution of other environmental information, e.g., environmental information data repository.

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

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

5) Ensure that any activity, construction, or other type of project that results in loss of coral reef,

sea grass or mangroves shall be prohibited except under special permit from the appropriate ministry. In issuing such a permit, the following criteria must be applied:

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

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

(c) If an unavoidable loss of coral reef, sea grass, or mangroves is permitted, then the permittee must enter into an agreement with the appropriate ministry to ensure that an area of the same ecosystem type, and of same or greater quality, be set aside in permanent protected status as a mitigation offset. Because the benefit stream from protection of the mitigation area is probabilistic, a function of the year by year likelihood the habitat would be lost if not protected and not certain to be lost otherwise, a ratio of three times shall be applied on an areal basis. Such mitigation offsets may be added to existing protected areas in order to satisfy this requirement.

Commented [M97]: Per M. Barash.

Commented [M98]: Per M. Barash. New text and mitigation ratio.

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

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

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

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

impacts.

CHAPTER 4. COASTAL ZONE MANAGEMENT DISCRETIONARY AUTHORITIES

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

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

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

CHAPTER # PLANNING FOR CLIMATE CHANGE IN COASTAL ZONE MANAGEMENT

CHAPTER # ROLES AND RESPONSIBILITIES OF MINISTRIES

CHAPTER # ROLES OF CITIZEN AND COMMUNITIES

CHAPTER # REQUIREMENTS FOR PUBLIC CONSULTATION

CHAPTER # PROMOTION OF SUSTAINABLE DEVELOPMENT IN THE COASTAL ZONE

~~Title 3~~ TITLE 4 SUSTAINABLE LAND MANAGEMENT

- This Title will review the role and functions of Economic Land Concessions and the implementation of projects on ELCs.

Commented [M99]: Per STWG 3/5 Members.

- This title will also include selected revisions of the current Cambodian Land Management Framework.
- This title will establish a framework for soil protection and management

**CHAPTER # PROCEDURES FOR GRANTING, MONITORING AND TERMINATING
ELCS**

**CHAPTER # MANAGEMENT OF ELCS, INCLUDING MANAGEMENT PLANS,
TRANSPARENCY, AND RELATION TO SUSTAINABLE TIMBER
PRODUCTION AND BIODIVERSITY RESTORATION**

**CHAPTER # – REVISIONS OF THE CURRENT CAMBODIAN LAND MANAGEMENT
FRAMEWORK.**

ARTICLE #

Reviewing land cadastral system and making changes as needed (considering problems of transference of title, mistaken title, etc.).

ARTICLE #

Procedures for expedited land titling.

ARTICLE #

Increasing land security among the poor, including streamlining and clarification of indigenous peoples' communal land rights and possession rights.

ARTICLE #

Consistent land tenure approaches for Community Protected Areas, Community Forests and Co-management areas.

ARTICLE #

Formalizing and regulating informal settlements.

CHAPTER # – SOIL PROTECTION AND MANAGEMENT

- This Chapter will set out the procedures for developing a national policy of soil protection and management.

Commented [M100]: Per STWG 3/5 Members. Revise Title to Chapter for Soil Protection and Management within Title for Land Management.

- Soil is generally a forgotten element of environmental law. Where water resource, air or biodiversity benefit from a status of protection, soil issues are split into different branches of the law, regarding different activities. Therefore, land degradation and land restoration mechanisms are not built according to a standard of environmental quality, but according to the uses planned by different stakeholders. This chapter will provide a proper soil status in environmental law.
- It will include provisions on the use of fertilizers, pesticides, herbicides and other agricultural chemicals.
- It will also include provisions to create a programme to monitor soil health.

Commented [M101]: Per M. Descrousseaux.

ARTICLE 1 SUBJECT-MATTER AND SCOPE

This Chapter establishes a framework for the protection of soil and the preservation of the capacity of soil to perform any of the following environmental, economic, social and cultural functions:

- (a) Biomass production, including in agriculture and forestry;
- (b) Storing, filtering and transforming nutrients, substances and water;
- (c) Biodiversity pool, such as habitats, species and genes;
- (d) Physical and cultural environment for humans and human activities;
- (e) Source of raw materials;
- (f) Acting as carbon pool;
- (g) Archive of geological and archeological heritage.

To that end, it lays down measures for the prevention of soil degradation processes, both occurring naturally and caused by a wide range of human activities, which undermine the capacity of a soil to perform those functions. Such measures include the mitigation of the effects of those processes, and the restoration and remediation of degraded soils to a level of functionality consistent at least with the current and approved future use.

ARTICLE 2

Soil is a common heritage, and its protection is in the public interest.

ARTICLE 3

Land planning policies must take into account the scarcity of the soil and integrate soil functions and services in order to ensure the appropriate and economic use of the land and its properly ordered settlement.

ARTICLE 4

Obligations to Prevent Hazards:

(1) Any person who is by his action affecting the soil shall act in such a manner that harmful soil changes do not occur.

(2) The property owner and the occupant of a real property shall be obligated to take measures to prevent harmful soil changes originating from their property.

(3) The party who caused a harmful soil change or a contaminated site, and his universal successor, as well as the relevant property owner and the occupant of the relevant real property, shall be obligated to remediate the soil and contaminated sites, and any water pollution caused by harmful soil changes or contaminated sites, in such a manner that no hazards, considerable disadvantages or considerable nuisances for individuals or the general public occur in the long term. In cases of burdens from pollutants, in addition to decontamination measures also securing measures are to be taken into consideration, that permanently prevent spread of pollutants. Where such measures are not possible or cannot be reasonably required, other protection and restriction measures shall be carried out. Persons who, for reasons of commercial law or company law, are required to answer for a legal entity that owns a real property that is encumbered with harmful soil changes to the soil or site contamination, and persons who give up ownership of such properties, is also obliged to carry out remediation.

(4) As part of fulfilment of obligations relative to the soil and to contaminated sites, pursuant to paragraphs (1) through (3), the permissible use of the piece of land under planning law, and the resulting protection requirements, shall be taken into account, as far as this is compatible with the protection of the soil functions. If relevant determinations under planning law are lacking, the nature of the relevant area, taking into account its expected development, shall determine the requirements for protection. The requirements to be fulfilled in connection with rehabilitation of bodies of water shall be determined by law pertaining to water.

(5) If harmful soil changes or contaminated sites have occurred after *(to be determined)*, pollutants shall be eliminated, where this is a reasonable requirement with respect to the previous soil pollution. This shall not apply to a party who, at the time the pollution was caused, expected that such impacts to the soil would not occur because he had fulfilled the applicable legal requirements, and whose good faith is worthy of protection, taking the circumstances of the

relevant individual case into account.

(6) The former owner of a real property is obligated to carry out remediation if he has transferred his property after (to be determined), and if he was aware of, or should have been aware of the relevant harmful soil change or site contamination. This shall not apply to a party who, when purchasing the real property, confided that such harmful soil changes or contaminated sites would not be present, and whose confidence is worthy of protection, taking the circumstances of the relevant individual case into account.

~~Title 4~~ **TITLE 5 SUSTAINABLE FORESTRY**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable timber management.

CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FORESTRY SECTOR; OBJECTIVES AND LIMITATIONS OF SUSTAINABLE TIMBER MANAGEMENT

CHAPTER # DEVELOPMENT OF SUSTAINABLE FORESTRY MANAGEMENT PLANS

CHAPTER # PROHIBITION OF THE CUTTING, REMOVAL, TRANSPORT, EXPORT AND USE OF TIMBER WITHOUT A PERMIT GRANTED IN ACCORDANCE WITH THE CODE

CHAPTER # ASSESSMENT OF APPLICATIONS FOR PERMITS TO HARVEST TIMBER OR EXPORT OF TIMBER

CHAPTER # PROHIBITION OF REMOVAL OF TIMBER ON ECONOMIC LAND CONCESSIONS WITHOUT THE PROPER PERMIT

CHAPTER # PERMIT TO CUT OR REMOVE TIMBER ONLY TO BE GRANTED FOLLOWING ENVIRONMENTAL ASSESSMENT OF THE ACTIVITY

CHAPTER # SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON- TIMBER FOREST PRODUCTS IN FOREST PRODUCTION ZONES; INCLUDING INTERNATIONAL CERTIFICATION MECHANISMS

CHAPTER # SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON- TIMBER FOREST PRODUCTS FROM COMMUNITY FORESTS, COMMUNITY CO-MANAGEMENT AREAS

AND INDIGENOUS COMMUNAL TITLED LANDS

**CHAPTER # GOVERNMENT AND CITIZEN ROLES IN MONITORING AND
OVERSIGHT OF SUSTAINABLE TIMBER MANAGEMENT OPERATIONS**

CHAPTER # RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS

~~Title 5~~ TITLE 6 SUSTAINABLE MARINE FISHERIES

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable marine fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on marine fishery landings, regulate fishing gear and other aspects of marine fishing.

Commented [M102]: Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.

CHAPTER 1 GENERAL PROVISIONS

The Kingdom of Cambodia claims and will exercise sovereign rights and exclusive fishery management authority over all fish and other marine fishery resources within its Exclusive Economic Zone.

The appropriate ministry shall have the authority to oversee, regulate and enforce laws relating to all types of fishing, both commercial and non-commercial, for marine fishery resources in the Exclusive Economic Zone of the Kingdom of Cambodia, including intertidal zones, also referred to collectively as the Marine Fishery Domain.

The conservation and management measures undertaken by the appropriate ministry shall be based on the best scientific evidence, and shall prevent overfishing while achieving on a continuing basis the optimum yield for any given fishery stock or stock complex. To the extent possible, individual fishery stocks shall be managed as a single unit throughout their entire range in the Marine Fishery Domain of Cambodia, rather than as individual stocks within individual provinces.

CHAPTER 2 MARINE FISHERIES MANDATES

Pursuant to this authority, the appropriate ministry shall:

- 1) **Require a license for all fishing activities in the Marine Fishery Domain, consistent with Article 32 of the Law on Fisheries, NS/RKM/506/11. This license shall include an annual fee in order to help support the fishery research and management activities of the appropriate ministry.**

Commented [M103]: Per NGO Forum. Subsistence vs. commercial?

The amount of the annual fee shall be determined by the appropriate ministry. Fishing without obtaining such a license shall result in a notice of violation and fine.

2) Require that all motorized fishing vessels with motors greater than 5 horsepower, if used in whole or in part for fishing purposes in the Marine Fishery Domain, be registered with the appropriate ministry. This registration shall include an annual fee. The amount of the annual fee shall be determined by the appropriate ministry. Failure to register such a vessel shall result in a notice of violation and fine. For vessels operating in the Marine Fishery Domain, this provision shall replace the registration requirement in Article 33 of the Law on Fisheries, NS/RKM/506/11.

3) Require that data on marine fishery landings be collected from all entities or individuals who purchase marine fishery resources harvested in the Marine Fishery Domain. This data collection shall take the form of a monthly report to the appropriate ministry detailing the individual types of marine fishery resources purchased (preferably identified to the level of species), the number of pieces of each type purchased, the total pounds of each type purchased, the sources from which the fishery resources were purchased, including those sources' license numbers, and the port or ports of landing for each type of purchase. This report shall be filed on a form provided by the appropriate ministry. Failure to file this report within 30 days of the end of each month shall result in a notice of violation and fine of not less than US\$100. Failure to file such a report for three consecutive months shall result in a notice of violation and fine of not less than US\$500. Failure to file such a report for more than three months shall result in a notice of violation and revocation of the company's or individual's business license. For the Marine Fishery Domain, this provision shall replace the daily logbook requirement in Articles 34 and 45 of the Law on Fisheries, NS/RKM/506/11, with Article 45 being hereby repealed.

4) Issue an updated and revised list of all fishing gear types prohibited for sale, possession, or use in the Marine Fishery Domain, consistent with gears already banned as per Articles 20 and 21 of the Law on Fisheries, NS/RKM/506/11. In addition to the banned gears already listed in Articles 20 and 21, use of trawl gears and take of fish by spear while using SCUBA shall both also be prohibited in the Marine Fishery Domain. Any types of fishing gear not included on the prohibited list produced by the appropriate ministry shall be presumed to be allowed unless specifically designated otherwise.

5) In cooperation with the Ministry of Foreign Affairs, establish a system by which foreign fishing vessels may purchase fishing rights to harvest marine resources in the Exclusive Economic Zone of the Kingdom of Cambodia. The amount of the annual fee for obtaining such fishing rights shall be determined by the appropriate ministry. Continued retention of such fishing rights by any foreign fishing vessel shall be contingent upon the maintenance of a daily

logbook detailing the number of daily gear sets, and the weight and type of daily catch, with the logbook open to examination by the appropriate ministry upon request; and the filing of a monthly catch report with the appropriate ministry detailing the individual types of marine fishery resources harvested (preferably identified to the level of species), the number of the total pounds of each type harvested, and the port or ports of landing for the catch. Foreign fishing vessels purchasing fishing rights in the EEZ of the Kingdom of Cambodia must also comply with the following terms and conditions:

(a) The owner and operator of any foreign fishing vessel will abide by all laws of the Kingdom of Cambodia;

(b) Any officer authorized to enforce the laws of the Kingdom of Cambodia shall be permitted to board, search and inspect any foreign fishing vessel at any time, and to make arrests, and seizures whenever such officer has reasonable cause to believe, as a result of such search or inspection, that the vessel or any person upon it has violated the laws of the Kingdom of Cambodia;

(c) The owner or operator of the foreign fishing vessel shall not, in any year, harvest an amount of fish or other marine life which exceeds any limits on harvest that may be set by the appropriate ministry of the Kingdom of Cambodia.

6) Designate and delineate marine zones in which various types of fishing activities are allowed, specially managed, or banned. Such zoning shall include a coastal waters zone extending from the shoreline to 5 km offshore, which shall supersede the definition of a nearshore zone extending from the shoreline to 20 m depth. Community Fishing Areas may be established within this nearshore zone, consistent with the Sub-Decree on Community Fisheries Management. Such zoning shall also include an exclusion zone in the inshore waters of the Marine Fishery Domain for vessels using large-scale fishing gears as defined in Article 31 of the Law on Fisheries, NS/RKM/506/11, such that gears of this type may not be used in areas lying within 25 km of the shoreline. Such an exclusion zone shall also apply uniformly to foreign fishing vessels of any size which have purchased annual fishing rights in the Exclusive Economic Zone of the Kingdom of Cambodia.

7) In relation to highly migratory fishery stocks, cooperate directly or through appropriate international organisations, such as the South East Asian Fisheries Development Centre, with those nations involved in fisheries harvesting such species with a view to ensuring conservation and to promote the achievement of optimum sustainable yield of such species throughout their ranges, both with and beyond the EEZ of the Kingdom of Cambodia.

8) Issue an updated and revised list of all activities prohibited in the Marine Fishery Domain, consistent with activities already prohibited as per Article 52 of the Law on Fisheries, NS/RKM/506/11. In addition to the prohibited activities already listed in Article 52, the harvest and landing of sharks or shark products (such as shark fins), as well as the harvest and landing of sea turtles or sea turtle products (such as shells or portions thereof) shall be specifically prohibited.

9) Issue an updated and revised list of all activities that may be undertaken in the Marine Fishery Domain under a permit from the appropriate ministry, consistent with those listed in Article 23 of the Law on Fisheries, NS/RKM/506/11.

10) Ensure that fishery management in the Marine Fishery Domain is based upon the best available scientific information, and undertake fishery research that adds to this base of scientific knowledge.

11) Undertake a programme to produce updated maps of the distributions of species harvested and the location and extent of key marine fishery resources in the Marine Fishery Domain, with special reference to coral reefs, seagrass beds, and mangroves.

12) Monitor and issue an annual summary of changes to marine fishery resources, with special reference to coral reefs, seagrass beds, and mangroves, and analysing links to climate change and other driving factors.

13) Regulate aquaculture in the Marine Fishery Domain consistent with the provisions in Articles 53-58 of the Law on Fisheries, NS/RKM/506/11.

14) Regulate the landing, transport, and international trans-shipment of marine fishery resources harvested in the Exclusive Economic Zone of the Kingdom of Cambodia, consistent with the provisions in Articles 64-69 of the Law on Fisheries, NS/RKM/506/11.

15) Regulate the import into Cambodia of marine fishery resources harvested in the waters of a foreign nation, and require importers to certify that such resources have been harvested in accordance with the fishery laws prevailing in their countries of origin.

16) Undertake measures to combat illegal, unreported, and unregulated fishing, including market-based measures to prevent the trade or importation of fish or other marine life caught by vessels identified as having engaged in such unauthorized fishing;

17) Develop a National Fishery Management Plan as per Article 15 of the Law on Fisheries,

NS/RKM/506/11. This plan shall be reviewed and amended as necessary every 5 years.

18) Undertake enforcement actions against those entities or individuals who violate fishery laws in the Marine Fishery Domain, as per Articles 72-85 of the Law on Fisheries, NS/RKM/506/11.

19) Assess penalties against those entities or individuals found guilty of violating fishery laws in the Marine Fishery Domain, as per Articles 86-107 of the Law on Fisheries, NS/RKM/506/11.

CHAPTER 3- MARINE FISHERIES DISCRETIONARY AUTHORITIES

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

1) Utilize the following conservation and management measures in order to ensure sustainability of marine fishery resources in the Marine Fishery Domain, depending on which method is most appropriate to the species and circumstances involved:

(a) Set daily individual fisher bag limits for any species of marine life, or for the combined catch from any stock complex consisting of multiple species;

(b) Set minimum or maximum size limits for any species of marine life, below or above which harvest is not permitted;

(c) Set a total allowable catch for any given species of fish or marine life, or for any defined fishery stock or stock complex, during the course of a year, or any other period of time;

(d) Create limited entry systems in relation to a harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(e) Allocate non-transferable individual fishing quotas over a given period of time for any particular marine fishery resource, stock or stock complex;

(f) Implement seasonal closures for any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(g) Implement permanent or temporary area closures for the harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(h) Implement restrictions on the type, size and amount of gear used to harvest any particular marine fishery resource, or their use in any particular geographic area.

2) Implement spatially-based management by designating various types of Marine Managed Areas in the Marine Fishery Domain, including:

(a) Marine National Park (MNP) – Such areas shall fall under strict protected status, with all entry and activities controlled by a permit from the appropriate ministry. Such areas may be established consistent with the Protected Areas Law, NS/RKM/0208/007, and with Article 19 of the Law on Fisheries, NS/RKM/506/11, such that no fishing of any type shall be allowed, no entry for navigation shall be allowed without a permit except by the appropriate ministry's enforcement agents or within strictly defined transit corridors, and no new settlements shall be allowed within 2 km of the boundaries of such areas. Such MNP areas may have subzones, including those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

(b) Marine Life Conservation Area (MLCA) – Such areas may be established consistent with Articles 18, 19 and 26-29 of the Law on Fisheries, NS/RKM/506/11, and shall be used to protect marine resources of particular importance to fishery recruitment, including but not limited to mangrove, seagrass and coral reef. Fishing may be prohibited in such areas, whereas freedom of navigation is allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

(c) Fishery Management Area (FMA) – Such areas shall be used to implement management measures for designated fishery stocks or stock complexes. Fishing shall be allowed, although there may be harvest restrictions or prohibition of take imposed for certain species in need of special management to ensure long-term sustainability. Freedom of navigation shall be allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

3) Implement community-based sub-zoning, for non-commercial subsistence fishery purposes only, within Marine Reserves or Marine Life Conservation Areas as described above. Such community-based subzones shall have restrictions on the types of fishing gears allowed for use. Such gear restrictions shall be determined by the appropriate ministry, which may restrict allowable gear types to pole-and-line, handline, cast net, and fish traps.

4) Set limits on the number, size and type of vessels that may participate in any given fishery, or that may enter designated marine zones or marine managed areas, so as to adequately control

fishing effort and ensure sustainability of harvest for any given stock or stock complex.

5) Based on the best available scientific information, create Fishery Management Plans for individual fisheries. Such plans shall be deemed sufficient to justify any management measures applied within any given fishery, and should contain at a minimum:

(a) A description of the fishery in question, including the number of vessels involved, the type of quantity of fishing gear used, the species of marine life harvested, and the geographic extent of the fishery;

(b) An estimate of optimum sustainable yield from the fishery and its probable future condition, including a summary of the information used in making this determination;

(c) A description of the conservation and management measures that can be best applied to the fishery to prevent overfishing while achieving, on a continuing basis, the estimated optimum yield.

6) Enact measures to limit fishery bycatch of non-target species such as seabirds, marine mammals and sea turtles.

7) Create special licensing, vessel registration and catch reporting provisions for sport charter fishing vessels, with daily limits on catch of individual species, and daily special license fees for fishers. Such fees may be set higher at higher levels for citizens of foreign countries in comparison to those charged to citizens of the Kingdom of Cambodia.

8) Issue permits for marine fisheries research, and for the collection and export of specimens related to such research.

CHAPTER # AQUACULTURE

CHAPTER # TENURE OF FISHERIES

CHAPTER # IDENTIFICATION OF AQUATIC ORGANISMS

CHAPTER # COMMUNITY FISHERIES

CHAPTER # PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS WITHOUT A PERMIT

CHAPTER # PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE

GRANTED IF SUSTAINABLE

**CHAPTER # CITIZEN ROLES IN MONITORING AND OVERSIGHT OF
SUSTAINABLE FISHERIES MANAGEMENT OPERATIONS**

**CHAPTER # RESTORATION OF DAMAGED FISHERIES HABITAT OR AQUATIC
ECOSYSTEMS**

~~Title 6~~ **TITLE 7 SUSTAINABLE FRESHWATER FISHERIES AND
AQUACULTURE**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable freshwater fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on freshwater fishery landings, and regulate all aspects of freshwater fisheries and aquaculture.

CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FISHERIES INDUSTRY

**CHAPTER # PROVISION FOR CAPTURE FISHERIES AND AQUACULTURE AND
FISHERIES PROTECTION AREAS**

CHAPTER # PROTECTION OF FISHERIES AND AQUATIC ECOSYSTEMS

CHAPTER # TENURE OF FISHERIES AND AQUACULTURE OPERATIONS

CHAPTER # IDENTIFICATION OF AQUATIC ORGANISMS

**CHAPTER # PROHIBITION ON COMMERCIAL FISHING THAT IS NOT
SUSTAINABLE**

CHAPTER # ASSESSMENT OF APPLICATIONS FOR COMMERCIAL FISHING

CHAPTER # COMMUNITY FISHERIES

**CHAPTER # PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS
WITHOUT A PERMIT**

**CHAPTER # PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE
GRANTED IF SUSTAINABLE**

Commented [M104]: Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.

**CHAPTER # SUSTAINABLE MANAGEMENT OF FISHERIES AND FISH BREEDING
AREAS**

**CHAPTER # GOVERNMENT AND CITIZEN ROLES IN MONITORING AND
OVERSIGHT OF SUSTAINABLE FISHERIES MANAGEMENT
OPERATIONS**

**CHAPTER # RESTORATION OF DAMAGED FISHERIES HABITATS OR AQUATIC
ECOSYSTEMS**

**CHAPTER # MANAGEMENT OF ACTIVITIES THAT IMPACT FISHERIES AND
AQUATIC ECOSYSTEMS**

CHAPTER # ESTABLISHMENT OF FRESHWATER FISHERIES RESERVES

**CHAPTER # ESTABLISHING REGULATIONS FOR AQUACULTURE OPERATIONS
INCLUDING PERMITTING, MONITORING AND ENFORCEMENT**

**BOOK 5 CONSERVATION AND PROTECTION OF
BIODIVERSITY AND CULTURAL HERITAGE**

- This Book will examine the conservation, protection, and management of biodiversity, and include different Titles on conservation landscapes/corridors; protected areas; wildlife; plants, habitat, and ecosystems; and cultural heritage.
- Specific Titles or Chapters could address key priority areas including Tonle Sap Lake, the Mekong River, and the Sesan River.

**TITLE 1 COLLABORATIVE MANAGEMENT OF CONSERVATION
LANDSCAPES**

- This title will contain the outcome of an ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.
- This Title will link to Title on Collaborative Management of Natural Resources in Book on Sustainable Management of Natural Resources and Ecosystems.

Commented [M105]: Per STWG 3/5. New Book.

Commented [M106]: Per NGO Forum.

Commented [M107]: Per STWG 3/5 Members. New Title.

Commented [M108]: Per STWG 3/5 Members. Revised Title heading ("community management" implies management of communities).

Commented [M109]: Proposed revision to "co-management" by STWG 3/5 is "collaborative management."

Commented [M110]: Some sections under Community-Based NRM Title in the Sustainable Management of NR and Ecosystems may more appropriately be included in this Title.

Commented [M111]: Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

TITLE 2 **PROTECTED AREAS MANAGEMENT**

CHAPTER 1: GENERAL PROVISIONS

CHAPTER 2: MINISTRY OF ENVIRONMENT/RESPONSIBLE INSTITUTIONS

CHAPTER 3: ESTABLISHMENT, MODIFICATION AND CLASSIFICATION OF PROTECTED AREAS

CHAPTER 4: ZONING OF PROTECTED AREAS

CHAPTER 5: PROTECTED AREAS MANAGEMENT PLANS

CHAPTER 6: ACCESS AND USER RIGHTS OF LOCAL COMMUNITIES AND INDIGENOUS ETHNIC MINORITY COMMUNITIES

CHAPTER 7: PROHIBITED ACTIVITIES IN PROTECTED AREAS

CHAPTER 8: PERMITS AND AUTHORITIES

CHAPTER 9: ENFORCEMENT AND PROTECTION

CHAPTER 10: MONITORING AND EVALUATION OF EFFECTIVENESS

CHAPTER 11: STAFFING OF PROTECTED AREAS

CHAPTER 12: PROTECTED AREAS BUDGETS AND FINANCING

CHAPTER 13: PROCEDURES TO RESOLVE OFFENCES

CHAPTER 14: OFFENCES AND LEGAL PENALTIES

CHAPTER 15: IMPLEMENTATION OF COURT VERDICT

CHAPTER 16: FINAL PROVISIONS

DEFINITIONS

CHAPTER # ESTABLISHMENT OF FRESHWATER PRODUCTION ZONES

CHAPTER # ESTABLISHMENT OF MARINE RESERVES

TITLE 3 **WILDLIFE PROTECTION, CONSERVATION AND**

Commented [M112]: Per STWG 3/5 Protected Areas group. New Title and Chapters on protected areas management. This proposed structure follows and adds to the structure of the existing PA Law.

Commented [M113]: To refer to co-management (collaborative management) legal instrument here/ responsibilities of other stakeholders in PA management.

Commented [M114]: STWG 3/5 recommends that the number and name of zones for Co-Management (Collaborative Management) Protection Zones remains the same as the current zones for Protected Areas. Co-management Zones are likely to cover many Protected Areas and two separate zoning systems with similar names could be confusing to understand and apply for all stakeholders.

Commented [M115]: Per NGO Forum. Projects must not be implemented inside already designated conservation areas. "Zero Tolerance"

Commented [M116]: This will include reference to the title on wildlife/species protection.

Commented [M117]: Permitting process for all controlled activities/access inside Pas.

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MANAGEMENT

Commented [M118]: Per STWG 3/5 Members. New Title heading.

**CHAPTER # ADOPTING AN ECOSYSTEMS APPROACH TO BIODIVERSITY
MANAGEMENT AND ENDANGERED SPECIES PROTECTION**

CHAPTER # BIOREGIONAL PLANNING FOR BIODIVERSITY CONSERVATION

CHAPTER 1: GENERAL PROVISIONS

CHAPTER 2: RESPONSIBLE INSTITUTIONS

CHAPTER 3: CLASSIFICATION OF WILDLIFE SPECIES

CHAPTER 4: PROHIBITIONS ON HUNTING

CHAPTER 5: SPECIAL EXCEPTIONS ON HUNTING OF WILD ANIMALS

**CHAPTER 6: GRANTING OF PERMITS FOR SPECIAL PURPOSES (INCLUDING
FOR SCIENTIFIC AND EDUCATIONAL PURPOSES)**

CHAPTER 7: SUSPENSION OR CANCELLATION OF PERMITS

**CHAPTER 8. PROHIBITION OF TRADE (DOMESTIC AND INTERNATIONAL),
TRAFFICKING OR COMMERCE IN WILD ANIMALS, TROPHIES,
ANIMAL PARTS AND ALL DERIVATIVES OF WILD ANIMALS**

**CHAPTER 9: ADHERENCE TO OTHER INTERNATIONAL CONVENTIONS AND
AGREEMENTS**

CHAPTER 10: MANAGEMENT OF CONFISCATED WILDLIFE

**CHAPTER 11: MANAGEMENT OF CAPTIVE BREEDING, WILDLIFE RESCUE
CENTRES AND ZOOLOGICAL INSTITUTIONS**

CHAPTER 12: MANAGEMENT OF WILDLIFE FARMS***

**CHAPTER 13: SPECIES MANAGEMENT AND RECOVERY PLANS (INCLUDES
IDENTIFYING KEY THREATENING PROCESSES AND DEVELOPING
THREAT ABATEMENT PLANS AND RECOVERY PLANS)**

CHAPTER XX: MANAGEMENT OF INVASIVE SPECIES

CHAPTER 14: PROCEDURES TO RESOLVE OFFENCES

Commented [M119]: To include CITES, international and regional resolutions, mechanisms for inter-agency and international collaboration on wildlife trafficking.

CHAPTER 15: OFFENCES AND LEGAL PENALTIES

CHAPTER 16: IMPLEMENTATION OF COURT VERDICT

CHAPTER 17: FINAL PROVISIONS

Commented [M120]: Per STWG 3/5 Protected Areas Group. Proposed headings/structure.

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

CHAPTER # PROHIBITION OF, OR MANAGEMENT AND APPROVALS FOR, USE OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS

(Definition of Genetically Modified Organisms to be included in Code Definition Section)

TITLE 4 PROTECTION OF PLANTS, IMPORTANT HABITATS AND SIGNIFICANT ECOSYSTEMS

Commented [M121]: Per STWG 3/5 Members. New Title.

- This title will address the protection of plant species, important habitats for both plants and wildlife, and significant ecosystems in Cambodia. The structure will likely be similar to the structure for the Title for Wildlife Protection, Conservation and Management, but will need to include additional chapters.

CHAPTER # PROTECTION OF PLANTS AND PLANT COMMUNITIES

CHAPTER # PROTECTION OF NATIVE PLANT AND WILDLIFE HABITAT AND IMPORTANT ECOLOGICAL COMMUNITIES (INCLUDING “CRITICAL HABITAT” FOR ENDANGERED PLANT AND ANIMAL SPECIES)

CHAPTER # WETLANDS CLASSIFICATION, MANAGEMENT AND CONSERVATION

CHAPTER # PROHIBITION ON DAMAGING OR DESTROYING NATIVE VEGETATION AND FOREST PROTECTED AREAS

CHAPTER # RESTORATION OF DAMAGED ECOSYSTEMS

CHAPTER # MANAGEMENT OF INVASIVE SPECIES

CHAPTER # PROHIBITION OF, OR MANAGEMENT AND APPROVALS FOR, USE OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS

(DEFINITION OF GENETICALLY MODIFIED ORGANISMS TO BE INCLUDED IN DEFINITION SECTION)

**TITLE 5 CULTURAL AND NATURAL HERITAGE
CONSERVATION**

- This Title will examine the identification, protection and management of cultural and natural heritage. It will consider the need to protect both tangible and intangible items of cultural heritage.
- This Title establishes the Heritage Council of Cambodia with representatives from relevant Ministries, NGO and private sector, The Heritage Council will develop policies to protect Colonial and modern Cambodian heritage as well as Angkor and Pre-Angkor heritage. The Heritage Council will have the task to set up and maintain the Heritage Register for Cambodia. This Heritage Register will be a list of places, objects, buildings and other items that are to be protected or preserved. An interim list for the Heritage Register will be prepared to protect these items until a detailed assessment can be undertaken to assess the heritage value.
- This Title will regulate the activities of heritage site establishment to ensure the protection of the rights of citizens living in those areas.
- This Title will look at the operation of the APSARA Authority and related legislation to ensure a consistent approach to the protection and management of natural, cultural and built heritage, including both tangible and intangible heritage.
- Ministry of Culture and Fine Arts and other authorities related to heritage protection and management should retain a strong role in heritage protection but this should include consultation and liaison with other Ministries, including Ministry of the Environment and the Minister for Land Use Planning.
- This would examine both World Heritage and Ramsar listed areas, as well as local and national heritage areas, with special attention to ethnic minorities and indigenous people.
- It will regulate key activities in heritage areas, including tourism, research, archaeological digs and any other development activity. Also note new chapter on rescue archaeology and salvage archaeological surveys
- Other protection mechanisms will include anti-trafficking provisions, protections against intentional or accidental damage or demolition of known or unknown cultural or natural

Commented [M122]: Per STWG 3/5 Members.

Commented [M123]: Per NGO Forum.

Commented [M124]: Per STWG 4.

Commented [M125]: Per NGO Forum.

heritage, restoration and repair of damaged heritage, and financial incentives for heritage protection.

CHAPTER 1 – GENERAL PROVISIONS

ARTICLE 1 – OBJECTIVE

This provision has the following objectives:

- a) To preserve, protect, and manage natural resource and to conserve historic and cultural heritage.
- b) To preserve, protect cultural identity of the nation which is the workmanship of our forefathers (intellectual property of national identity).
- c) To preserve the beauty and protect the historical identity of the capital, province, urban area, ancient site and shrine (worship place).
- d) To preserve and conserve biodiversity and ecosystem.
- e) To create the balance of nature and society.
- f) To promote the development of tourism.
- g) To create the collaboration between the Ministry of Environment and relevant institutions as well as National and International Organizations and development partners.
- h) To improve the livelihood, tradition, culture and custom of indigenous community.
- i) To create funds to preserve and protect cultural and natural heritage.

ARTICLE 2 – SCOPE

This provision has the scope of application throughout the Kingdom of Cambodia over both state land and private land.

ARTICLE 3

Definition of cultural heritage.

ARTICLE 4

Definition of built heritage.

ARTICLE

Definition of natural heritage.

ARTICLE 6

Definition of intangible heritage.

ARTICLE 7

Adoption of UNESCO Guidelines.

ARTICLE 8

Obligation to protect the national heritage of Cambodia.

CHAPTER 2 – CREATION OF THE HERITAGE COUNCIL OF CAMBODIA

ARTICLE 1

The Royal Government shall create the Heritage Council of Cambodia.

ARTICLE 2

Purpose of the Heritage Council of Cambodia.

ARTICLE 3

Membership of the Heritage Council of Cambodia.

ARTICLE 4

Duties of the Heritage Council of Cambodia.

CHAPTER 3 – INVENTORY AND CLASSIFICATION

ARTICLE 1

Establishment of a Heritage Register for Cambodia.

ARTICLE 2

Listing on the Heritage Register for Cambodia.

ARTICLE 3

Categories to be listed on the Heritage Register for Cambodia.

ARTICLE 4

Interim listing on the Heritage Register for Cambodia.

ARTICLE 5

Emergency listing on the Heritage Register for Cambodia.

ARTICLE 6

Legal protection granted to items listed on Heritage Register for Cambodia.

ARTICLE 7

Procedure for updating the Heritage Register for Cambodia.

CHAPTER 4 – APPOINTMENT OF HERITAGE PROTECTION OFFICERS

ARTICLE 1

Each Province and regional government shall appoint a Heritage Protection officer.

ARTICLE 2

Duties of HPO.

ARTICLE 3

Qualifications of HPO.

ARTICLE 4

HPO may work with other HPO in other Provinces.

ARTICLE 5

The HPO must be consulted prior to any action that may damage or harm an item or place or area on the Heritage Register for Cambodia.

CHAPTER 5 – ZONING OF HERITAGE PROTECTION AREAS

ARTICLE 1

Plans and zoning maps may include the following provisions for the following heritage protection areas:

- a) Historical parks
- b) Cultural landscape
- c) Cultural village
- d) Site museum
- e) Ancient sites
- f) Urban Heritage Zones

ARTICLE 2

The zones for heritage protection areas will require the preparation of a report prior to any approval for altering or demolition within those areas.

CHAPTER 6 – CRITERIA

ARTICLE 1

The following shall be considered as "cultural heritage":

- a) Monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;
- b) Groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- c) Sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

ARTICLE 2

The following shall be considered as "natural heritage":

- a) Natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;
- b) Geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
- c) Natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

ARTICLE 3

Determination of cultural property heritage can be made by:

- a) Determining the number of years, the age of the property, or based on its era for example French Colonization Era and Sangkim Reas Niyum Era.
- b) A number of workmanship is not so old but it is of a special value which cannot be found elsewhere.
- c) A new innovation which is valuable to the society.
- d) Cultural property which is of a special value for the nation.
- e) A movement of architecture which reflect national identity.
- ⇒f) An architectural workmanship which influence the next generations.

CHAPTER 7 – INVENTORY AND CLASSIFICATION

ARTICLE 1

Competent Institutions shall prepare cultural property inventory.

ARTICLE 2

Cultural Property Inventory shall be updated every five years.

1. Obligation of competent institutions

2. Obligation of owners of cultural property

a) Sell to the State;

b) Prohibition to any damage to the outside beauty;

c) Do not have the right to build any new or additional construction)

3. Preservation and usage of cultural property inventory

4. Budget used for the work on cultural property inventory

ARTICLE 3

The state may pay a portion of the cost for repairing private building (built in Sangkum Reas Niyum Era).

ARTICLE 4

The owners of the building must submit request for support to repair the building from the state.

ARTICLE 5

The state shall provide technical experts to help repair the building.

CHAPTER 8 PREVENTIVE AND SALVAGE EXCAVATION

ARTICLE 1

Discovery of heritage items during demolition, construction or other activities

ARTICLE 2

Work must halt to protect the heritage item

ARTICLE 3

Obligation to notify Heritage Council and HPO

ARTICLE 4

Determination of heritage significance

ARTICLE 5

Permission required before destruction of heritage item

ARTICLE 6

Activities to salvage the heritage item

ARTICLE 7

Obligation to record and photograph heritage item

**CHAPTER 9 IDENTIFICATION AND DESIGNATION OF CULTURAL AND
NATURAL HERITAGE SITES**

ARTICLE 1

The Heritage Council may recommend that a site for designation as a heritage site

ARTICLE 2

The Heritage Council may require preparation of a management plan

ARTICLE 3

Preparation of a management plan

ARTICLE 4

Implementation of a management plan

ARTICLE 5

Failure to comply with the management plan

CHAPTER 10 DAMAGE AND CONSERVATION STATUS CLASSIFICATIONS

CHAPTER 11 SPECIAL CONSIDERATIONS IN EIA HERITAGE SITES

Commented [M126]: Per STWG 4.

ARTICLE 1

All projects requiring EIA in a heritage protection zone must make an assessment of the impact of the project on the heritage values

ARTICLE 2

All projects having an impact or potential impact on an item of heritage or a item listed on the Heritage Register must have a permit before any work can be done that may harm the item.

ARTICLE 3

Procedures to grant a permit to be determined by the Heritage Council.

ARTICLE 4

It is prohibited to damage or destroy or harm an item on the Heritage Register without a permit.

CHAPTER 12 PROTECTION FOR HERITAGE SITES FROM ACTIVITIES NOT COVERED BY EIA

ARTICLE 1

Any construction permit or approval cannot be granted until a permit has been granted by the Heritage Council or the HPO

ARTICLE 2

No permit can be granted until the Heritage Council or HPO has assessed the heritage value of the item.

CHAPTER 13 MANAGEMENT PLANS FOR SITES

ARTICLE 1

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

ARTICLE 2

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

ARTICLE 3

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

ARTICLE 4

Ensuring sustainable use of cultural and natural heritage sites

CHAPTER 14 ORDER TO HALT CONSTRUCTION OR CLEARING IF A HERITAGE SITE IS THREATENED OR ENDANGERED

ARTICLE 1

The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if a heritage site is threatened or endangered.

ARTICLE 2

The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if an item on the Heritage Register is threatened or endangered.

ARTICLE 3

The order to halt will last for 14 days and may be extended for a further 14 days.

ARTICLE 4

Any person or legal entity who does not follow the order to halt work commits an offence.

CHAPTER 15 - IMPACT OF PROTECTED SITE ON COMMUNITIES

CHAPTER 16 ILLEGAL TRAFFICKING OF ARTEFACTS

ARTICLE 1

Illegal trafficking defined

ARTICLE 2

Mechanisms to prevent illegal trafficking

CHAPTER 17 EDUCATION AND PUBLIC AWARENESS OF CULTURAL AND NATURAL HERITAGE

CHAPTER 18 INCENTIVES FOR CONSERVATION OF CULTURAL AND NATURAL HERITAGE

CHAPTER 19 FUNDING MECHANISMS FOR NATURAL AND CULTURAL HERITAGE SITES

ARTICLE 1

Entrance fees

ARTICLE 2

Public-private partnerships

BOOK 6 WASTE AND POLLUTION MANAGEMENT AND SUSTAINABLE PRODUCTION

- This book will include provisions relating to the General Obligations for Pollution Control, including the prohibition of polluting activities. There would then be a lawful exception to the prohibition of these polluting activities. This would enable a permit to be granted to a legal entity or person for certain emissions or activities. However the legal entity or person would have to prove that they had a lawfully granted permit and that the emissions or activities were undertaken in accordance with the permit. If the legal entity or person could not show these two things then they would have committed an offence under the Environmental Code.
- The Book will cover all aspects of pollution control and sustainable production.
- This Book will address contaminated land.
- The Book will re-examine the provisions of the Sub-Decree on Solid Waste Management 36 ANRK.BK 1999. It will update the relevant provisions about solid waste and hazardous waste management. It will also update and incorporate the provisions dealing with the Sub-Decree on Water Pollution 27 ANRK.BK 1999.
- This Book will address hazardous waste and chemicals, including agricultural, industrial, and extractive industries use or manufacture of hazardous waste or chemicals.
- This Book will include environmental controls on agricultural practices, including fertilizer, pesticide and herbicide use.

Commented [M127]: Per STWG 2: New section heading and content structure.

This draft has included recommendations from Submissions 42, 43, 44, 63, the inputs from STWG dated 7 July 2016, comments from the National Consultation Workshop.

Commented [M128]: Per NGO Forum.

- Fees and charges will be provided in accordance with Book 8.
- Reporting and monitoring requirements, including public disclosure, will be dealt with in Book 9.
- Procedures for investigation on breaches and offences will be dealt with in Book 9. The aim is that investigations and proceedings for all waste management and pollution offences will be the same as for other offences and breaches of the Environmental Code.

TITLE 1 GENERAL OBLIGATIONS FOR POLLUTION CONTROL AND SUSTAINABLE PRODUCTION

1. Prohibition on pollution of air
2. Prohibition on the pollution of water
3. Prohibition on the pollution the soil
4. Prohibition on the transport, treatment and disposal of waste
5. Prohibition on chemical substances
6. Lawful exception to the prohibition with lawful permit
7. Commitment of the Royal Government to Sustainable Production
8. All activities must consider the best practice for sustainable production
- +9. All activities must consider the best practices for pollution and waste minimization

TITLE 2 STANDARDS FOR POLLUTION CONTROL AND SUSTAINABLE PRODUCTION

1. The limit of public air quality standards
2. The maximum standard limited for the authorized of hazardous substance in the air
3. The maximum standard for the noxious substances discharge from the fixed source in the atmosphere
4. The standard level of emission from mobile sources
5. The maximum standard of the sound level permitted to vehicle on the road
6. The maximum standard of sound level permitted in the public and residence area
7. The standard level for the sound control in the area of the workshop and industrial factory
8. The standard of the toxic level permitted to contain for the fuel and burning substance

9. The standard level for air quality in the building

10. The vibration standard level

TITLE 3 HAZARDOUS SUBSTANCES MANAGEMENT

1. Hazardous waste determination, classification and labelling

2. Hazardous waste collection, packaging, storage, recycling and treatment

3. Disposal of hazardous waste (incineration, destruction, and landfill)

4. Monitoring and inspection of hazardous waste

5. Operational requirements for all hazardous waste facilities

6. Import and export of hazardous waste

7. Transitional provision

8. Administrative requirements (Registration, license, shipments, analytical methods, etc.)

9. Management of specific hazardous wastes (waste asbestos, oil, paint, etc.) application of international conventions on hazardous waste

10. Standard for classification of hazardous waste

11. Standard for disposal of hazardous waste

12. Penalty

TITLE 4 MANAGEMENT OF HAZARDOUS CHEMICAL SUBSTANCE TO ENVIRONMENT

1. Definition

2. Institutional Responsibility

3. Prohibition on Hazardous Substances

4. Research, Registration and Information Disclosure of Hazardous Substances

5. Inventory, Classification and Labelling of Hazardous Substances

- [6. Production, Distribution, Storage, Transportation, Usage and Disposal](#)
- [7. Import and Export](#)
- [8. Monitoring and Inspection of Hazardous Substances Safety Assessment](#)
- [9. Accident Prevention, Preparedness and Responses](#)
- [10. Application of International Convention on Hazardous substances](#)
- [11. POPs Convention](#)
- [12. Minamata Convention](#)
- [13. International Agreements](#)
- [14. Penalty](#)

CHAPTER # MANAGEMENT OF CHEMICAL SUBSTANCES

GENERAL PROVISIONS

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

ARTICLE 1

This Law has the following objectives:

1. To promote effective management and safe use of hazardous chemical substances and hazardous chemical products in Cambodia;
2. To ensure proper registration, classification and labelling of chemical substances and chemical products in order to prevent misuse and to promote safe handling in the work place;
3. To enhance public awareness and access to information on safety and mitigation of risks throughout chemical life cycle, including production, storage, transportation, use and disposal;
4. To set up appropriate institutional coordination mechanism and information system for effective management and control of hazardous substances and hazardous chemical products in all stages of chemical life cycle;

Commented [M129]: Per NGO Forum. Link to sections on planning for and management of extractive industries.

Commented [MB130]: From Draft legislation on the management of chemical substances.

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

(2)

ARTICLE 2

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

ARTICLE 3

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

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

ARTICLE 4

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

CHAPTER 2 INSTITUTIONAL RESPONSIBILITY

ARTICLE 5

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

ARTICLE 6

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

ARTICLE 7

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

ARTICLE 8

No person shall undertake the following activities:

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

ARTICLE 9

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

ARTICLE 10

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

ARTICLE 11

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

ARTICLE 12

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

ARTICLE 13

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

ARTICLE 14

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

CHAPTER 4 REGISTRATION AND INFORMATION DISCLOSURE

ARTICLE 15

Organisations and individuals shall have the duty to hold valid official registration of any hazardous chemical substances and hazardous chemical products intended for manufacture, distribution, sale and use in Cambodia.

ARTICLE 16

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

ARTICLE 17

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

ARTICLE 18

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

ARTICLE 19

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

CHAPTER 5 CLASSIFICATION AND LABELLING

ARTICLE 20

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

ARTICLE 21

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

ARTICLE 22

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

ARTICLE 23

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

CHAPTER 6 TRANSPORTATION

ARTICLE 24

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

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

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

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

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

ARTICLE 25

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

CHAPTER 7 USE AND DISPOSAL

ARTICLE 26

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

ARTICLE 27

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

ARTICLE 28

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

Environment.

Disposal of any part of hazardous chemical and its package shall follow regulations and guidelines specified by the sub-decree No 36 ANRK.BK dated 27 April 1999 on Solid Waste Management and the Sub-decree No 27 ANRK.BK dated 06 April 1999.

Additional guidelines on disposal of hazardous chemical substances and chemical wastes shall be specified by a Prakas of the Ministry of Environment.

ARTICLE 29

Organisation or individual using hazardous chemicals for scientific research shall have the following duty:

- Use of hazardous chemical substances following regulations stipulated by this Law;
- Laboratory shall have sufficient equipment for safe storage and handling of hazardous chemical substances and personal protective equipment for workers;
- Hazardous substances shall have correct labelling according to the regulations specified by the Sub-decree dated October 2009;
- The Laboratory shall have an appropriate filing systems and records of hazardous chemical substances being used;
- Disposal of hazardous substance or chemical wastes shall follow regulations specified under Article 25 of this Law.
- Identifying and minimizing any potential hazards which may be caused by the use and disposal of hazardous substance or chemical wastes through setting up effective mechanisms to minimize risk and mitigate effects of any hazard which may occur.

ARTICLE 30

No person shall use hazardous chemical substances in food products, cosmetics, and toys that can cause direct health hazards to human beings.

CHAPTER 8 CHEMICAL INDUSTRY

ARTICLE 31

Organisation or individual engaged in production of chemical substances shall have technical

capacity for environmental and social safeguarding as shown below:

- Workshops, storehouse and technological equipment;
- Safety equipment and devices, equipment and devices for prevention and fighting of fire, explosions, lightning, chemical leakages or dispersal and other chemical incidents;
- Labour protection equipment and devices;
- Environmental protection equipment and devices,
- Waste disposal and treatment systems;
- Prevention and response plan, including posting visible hazard pictogram and hazard communication;

ARTICLE 32

Organisations and individuals engaged in production of chemical substances shall have professional staff with qualifications relevant to the scope, type, and scale of the chemical-related activity along with thorough knowledge about technologies and chemical safety plans and measures.

ARTICLE 33

Organisations or individuals are encouraged to review manufacturing processes that can produce chemical substances or products involving less greenhouse gases emission, less energy consumption, and minimal hazard and toxicity to the environment and human.

ARTICLE 34

Organisations or individuals engaged in production of chemical substances or products shall have proper registration of the substances and manufacturing permits issued by relevant responsible ministry or authority.

ARTICLE 35

In case of production of hazardous chemicals or hazardous chemical products, organisation or individual shall provide annual report on manufacturing processes, the amount of hazardous ingredients, intended use, point of delivery, waste disposal and treatment systems, and safety plan and measures to the respective ministries and the Ministry of Environment. The format of

reports shall be developed by responsible Ministry in cooperation with the Ministry of Environment.

CHAPTER 9 PREVENTION AND RESPONSE

ARTICLE 36

Organisations or individuals shall have the duty to:

- Strictly follow technical specification, labelling and safety instruction defined by each hazardous substance;
- Have prevention and emergency response measures (first aid, evacuation plan, fire elimination equipment) including personal protective equipment for workers at the work place;
- Organize training on safe use and safe handling of hazardous substances, including a safe-drill toward the occurrence of hazard to human health and/or the environment;
- Set up a chemical emergency response.

ARTICLE #

In case of accidents caused by hazardous chemical substances, organisation or individual shall cease immediately the activities in question and immediately inform the relevant authorities and the Ministry of Environment. Adequate action shall be taken according to the prevention and emergency response plan aiming for reducing hazards and damage to human health, environment and the property.

Any organisation or individual directly involved in the accident shall immediately inform any local members of the public who may be affected by the accident of the exact risks posed to the public's health and property by the accident and advise the public on measures to mitigate those risks.

ARTICLE #

A Hazard Chemical Insurance Mechanism shall be set up by a financing mechanism for prevention, response and compensation of hazards or accidents associated with hazard substances. The regulations and operation of this insurance shall be specified by a Sub-decree.

CHAPTER 10 PUBLIC AWARENESS

ARTICLE #

Organisation or individual involved in distribution, sale and use of hazardous chemical substances shall provide all information related to safety data sheets, hazard communication, prevention and mitigation measures to the responsible ministries, the users and the public.

CHAPTER # -- DIRECTIVE FOR PRTR

(To be included in titles on Hazardous Waste Management and Hazardous Substances Management)

1. Interpretation (definition: pollutant, transfer, release, register, etc.)
2. Design and structure (materials list, form and environmental media release)
3. Reporting by generator/facilities (schedule for submission information/report...)
4. Estimation standard for emission release (to air, water, land, etc.)
5. Quality assurance and assessment
6. Access to information (public participation, awareness, raising)
7. Confidentiality
8. Penalty
- +9. Prosecution of offense

TITLE 5 WATER POLLUTION CONTROL

1. Responsible institutions
2. Measures to prevent water pollution
3. Permission of liquid waste discharge
4. Water pollution source control
5. Monitoring and evaluation of public water pollution
- +6. Sewage System and Sewage Treatment System management

Improving rural sewage treatment
Improving urban sewage treatment
Improving coastal sewage treatment
Seasonal adaptations in sewage treatment
Separation of storm water drainage and sewage infrastructure
Understanding and supporting the role of wetlands in waste filtration and preserving wetlands
Promoting and regulating private septic tanks
Mandatory reporting of normal discharge, effluents and sudden discharge.

7. Responsible institutions

8. Responsibilities of site owner

9. General measure to sewage management

10. Provision of sewage system management and sewage treatment system management services

11. Natural storing basin and Sewage Treatment System management

12. Penalty

2-13. Water pollution offenses

TITLE 6 MARINE POLLUTION CONTROL

(This title should be included in water pollution/coastal zone management/separate section?)

1. Application of MARPOL and Conventions

2. Prevention of pollution by oil & oily water

3. Discharging oil into State waters from a ship

4. Causing discharge of oil into State waters from a ship

5. Control of pollution by noxious liquid substances in bulk

6. Offences relating to carrying uncategorized noxious liquid substances

7. Offences relating to discharge of noxious liquid substances

8. Cleaning of tanks of ships
9. Prevention of pollution by harmful substances carried by sea in packaged form
10. Offences relating to carriage
11. Offences relating to jettisoning
12. Pollution by sewage from ships
13. Offences relating to discharge of sewage
14. Pollution by garbage from ships
15. Offences relating to discharge of garbage
16. Prevention of air pollution from ships
17. Offences relating to release of smoke
18. Prevention of disposal of hazardous waste from ships
19. Application of the Base Convention to ships

~~Title 6~~ **TITLE 7 AIR POLLUTION, NOISE AND VIBRATION CONTROL**

- This Title will revise and incorporate the Control of Air Pollution and Noise Disturbance 42 ANRK 2000.

Section 1 Air Pollution Source Control

1. Indoor air pollution
2. The flow of toxic air from mobile sources
3. The flow of toxic air from fixed sources (Air pollution from immobile source)
4. The air pollution in buildings
5. The technology to reduce and prevent air pollution
6. The control of air pollution
7. The request for approval of a permit

8. The monitoring of atmosphere quality

9. The procedure of inspections

10. The transboundary air pollution

Section 2 Noise and Vibration Control

1. Noise emission from mobile source

2. Noise emission from immobile source

3. Noise emission in workplaces/inside buildings

4. The sound emitted from mobile source

5. The sound emitted from fixed source

6. The voice in the workplace

7. The technology of sound deduction

8. The monitoring of sound diffusion

9. The request for approval

10. The vibrant causing

11. The monitoring of vibration levels

12. The technology for vibrant reduction

13. The request for approval of a permit

Section 3 Controlling and Monitoring of Atmospheric Quality

Section 4 Measures to Prevent and Reduce Air Pollution, Noise and Vibration

TITLE 8 OZONE LAYER PROTECTION

1. Importing and exporting of ozone depleting substances control

2. Exportation and usage of ozone depleting substances control

3. Cleaning up, recycling and destructing of ozone depleting substances control

4. Cooling substances and tools control

5. Program to eliminate ozone depleting substances control

6. Monitoring, controlling and managing of ozone depleting substances control

7. Formality of registration and license application

~~Title 7~~ TITLE 9 HOUSEHOLD SOLID WASTE MANAGEMENT

Radiological and biological waste

Electronic waste

Identifying and promoting alternatives to landfills

Landfills including monitoring and reporting requirements

Waste incinerators including monitoring and reporting requirements

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

Reducing the use of plastic bags

Identification, management and rehabilitation and remediation of contaminated land

Commented [N132]: To be harmonised with prakas under development.

1. Management plan and responsible jurisdiction

a. Urban/household waste is waste from houses, public administrative buildings, service and business locations, clinics, hospital, markets, super markets, commercial centers, gardens, public areas, tourism sites, a septic tank, all of which excludes hazardous waste.

b. Labeling of waste (Shall be included in the below chapter that states about hazardous waste in details)

c. Regulation of waste management facilities, including rubbish dumps (shall states in details from the establishment, collection, transport, 3R, resources exploitation, treatment, compost production, biogas incinerators until the final disposal, export, and import of non-toxic rubbish or solid waste for the future)

d. Standards for classification of waste

e. Management of waste incinerators (details about incinerator standard and technique, incinerator operation and limit standard of ash discharge from burning)

2. Provisions for management:

a. Effectiveness of management:

i. Separation, packaging, and disposal at the source:

- ii. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable
- iii. The setting of rules and conditions of proper packaging
- iv. The setting of rules and conditions of disposal at the source in order not to affect aesthetic value, order, traffic, transport, ...
- v. The setting of time of solid waste discharge awaiting to be collected
- vi. What are obligations of waste producers?

b. Provisional disposal location (joint): The setting of rules and conditions on selecting location for managing, time for receiving , and transporting of waste and rules for controlling that location

c. Collection and transport

- i. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
- ii. The setting of rules and conditions of transport, loading
- iii. Collection and transport divided based on waste types
- iv. Obligations of companies providing services of collection and transport
- v. Obligations of competent institutions on collection and transport task (monitor, check, instruct, and recommend service companies)

d. Reduce, reuse, and recycle (3R) Compost production

- i. The setting of rules to courage the practice of 3R: provide support and encourage investors and 3R activities
- ii. Obligations of competent institutions in 3R activities
- iii. Obligations of citizens in 3R activities

- e. Resources exploitation from rubbish, solid waste (Biogas incinerator): The setting of methodology of exploiting biogases from organic waste
- f. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment
- g. The final disposal:
 - i. Measures to reduce at maximum waste poured into the dump site
 - ii. Measures to control the final disposal with safety
 - iii. Construction, operation, and maintenance when shutting the dump site
 - iv. Waste incinerator sets technical standard for construction and operation of waste burning
- h. Obligations and participation of relevant institutions and private sectors on solid waste management
- i. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions
- j. Education and knowledge enhancement for the public relating to solid waste management
- k. Penalty provisions on committing offenses

TITLE 10 INDUSTRIAL SOLID WASTE MANAGEMENT

1. Sources: Industrial solid waste is waste from factories, enterprises, handicrafts (from production), sewage system treatment, agricultural sector, all of which excludes hazardous waste.
2. Effectiveness of management:
 - a. Separation, packaging, and disposal at the source:
 - i. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable
 - ii. The setting of rules and conditions of proper packaging

- iii. The preparation of location or place to dispose waste based on types and with safety.
 - iv. The setting of rules and conditions of disposal in order not to affect people's health and the environment
 - v. What are the obligations of waste producers? cleaning premise outside and around factories
- 3. Collection and transport
 - vi. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
 - vii. The setting of rules and conditions of transport, loading
 - viii. Collection and transport divided based on waste types
- 4. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment
- 5. The final disposal:
 - ix. Measures to reduce at maximum waste poured into the dump site
 - x. Measures to control the final disposal with safety
 - xi. Construction, operation, and maintenance when shutting the dump site
 - xii. Waste incinerator sets technical standard for construction and operation of waste burning
- 6. Obligations and participation of relevant institutions and private sectors on solid waste management
- 7. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions
- 8. Education and knowledge enhancement for the public relating to solid waste management
- 9. Penalty provisions on committing offenses
- 3. Solid waste management department, MoE requested that there shall be a separation of provisions on non-toxic solid waste and toxic waste, so that it is easy to check and practice when the law comes into force.
- 4. 4Rs principle – Reject, Reduce, Reuse and Recycle
 - a. Promoting waste avoidance and reduction

- b. Encouraging and facilitating recycling (including regulating recycling businesses)
- c. Roles and responsibilities of government, private sector and citizens in recycling, waste reduction, and waste management
- 5. Management of plastic bags and plastic packaging materials use reduction
- 6. Measures on disposal

TITLE 11 ENVIRONMENTAL POLLUTION CHECK AND INSPECTION

- Role of Environmental Pollution Inspectors: Articles 1, 2, 3 and 4
- Notification of Complaints and Inspections: Article 5 and 6
- Recommendations for Future Actions: Articles 7, 8, 9, 10 and 11

ARTICLE 1

1. Environmental pollution inspection officers appointed by the proclamation of the minister of environment ministry shall have following duties:
2. Daily check source of pollution and polluting activities
3. Inspect environmental pollution
4. Suppress environmental pollution offenses
5. Fulfil other duties assigned by the minister of environment ministry.

ARTICLE 2

An environmental pollution inspection officer is rehabilitated as a police of justice for checking environmental pollution offenses stated in this code, in accordance with criminal procedure code of kingdom of Cambodia.

The formality and procedure of rehabilitation for pollution inspection officers are determined by joint proclamation of the minister of justice ministry and the minister of environment ministry.

ARTICLE 3

Environmental pollution inspection officers shall have uniforms, labelling, and ranking signs

determined by sub-degree.

During the operation of implementing this law, an environmental pollution inspection officer shall have mission command letter and wear a uniform, labelling, and ranking sign as stated in the first paragraph above.

ARTICLE 4

On duties to daily check pollution source and pollution activities, environmental pollution inspection officers shall have the following rights:

1. Check controlling means and facilities and treatment of waste and pollutants from pollution source in consistence with provisions and procedure of this law.
2. Monitor and control activities relating to discharge of waste and pollutants from pollution source.
3. Guide, at the controlled scene, owners or pollution controllers to change or correct their waste and pollution discharge.
4. Take photo of and bring a waste or pollutant sample which is a subject to be checked to make an analysis for verification and assessment.
5. Require people who are owners or pollution controllers provide information and disclose documents, records, permission letters, and documents relevant to waste or pollutants.
6. Take measure to temporarily stop serious pollution activities found while checking and implementing inspection procedure or procedure to suppress environmental pollution offences continuously.

ARTICLE 5

In case there is a notification or a complaint on environmental pollution case or a serious pollution offence which harms public health or destroy property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on inspection work immediately.

On duties to inspect environmental pollution cases, environmental pollution inspection officers shall have the following rights:

1. Search for reasons and a person who causes environmental pollution.

2. Bring a waste or pollutant sample which is a subject to be checked to make an analysis for verification and assessment.
3. Collect and seize any object relating to environmental pollution cases.
4. Take provisional measure on any activity or means relating environmental pollution cases found during the inspection and implementation of procedure to suppress environmental pollution offenses continuously.

The procedure of inspection on an environmental case is set by a proclamation of the minister of environment minister.

ARTICLE 6

In case of a flagrant environmental pollution offense which is harmful to the environment, public health, or damage property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on environmental pollution offense suppression work immediately.

On duties to suppress an environmental pollution offense, environmental pollution inspection officers shall have the following rights:

1. Take provisional action on any activity contributing to an environmental pollution offence.
2. Check, observe causes of an environmental pollution offence.
3. Bring and analyse a pollutant sample, an environmental sample, or a relevant sample which is polluted for verification, assessment, and assertion.
4. Limit and evaluate scope of impact.
5. Collect evidences for making a complaint in consistence with law procedure.
6. Take immediate action to eliminate environmental pollution.

ARTICLE 7

Case filing of an environmental pollution offense shall follow the criminal procedure code of Kingdom of Cambodia.

Application form for taking minutes of an environmental pollution offense shall be determined by joint proclamation of the minister of justice ministry and the minister of environment ministry.

ARTICLE 8

Cost on an environmental pollution elimination operation is an offender responsibility. In case that identity of the offender is not known, all cost is the state responsibility.

ARTICLE 9

In case of an environmental pollution offense which affects or harms the environment or damage public property, environment ministry shall make a complaint to demand damages for destruction or damages for environmental quality restoration from the offender.

An impact scope assessment shall be made by environment ministry and have assessment participation from line competent ministries, institutions based on a proposal of the minister of environment ministry.

ARTICLE 10

Competent ministries, institutions, sub-national administration, and the public shall have good and active cooperation in participating in inspecting or suppressing an environmental offence based on a proposal of environment ministry or municipal, provincial environment department.

ARTICLE 11

Any person who is not satisfied with any measure taken by environmental pollution inspection officers as stated in this law, except for a decision on transitional punishment, may file a complaint to the minister of environment ministry within thirty (30) days after receiving decision.

The minister of environment ministry shall decide on the complaint and make a written response to complaint owner within forty (40) days after receiving the complaint.

In case that a person who is the complaint owner is still not happy with the decision of minister of environment ministry, that person has right to file a lawsuit to court based upon the court procedure.

Book 6 **BOOK 7 ENVIRONMENTAL EDUCATION AND AWARENESS**

Commented [M133]: Per STWG 7. New Book.

- Environmental Education (EE) has been defined as the process of helping people, through formal and non-formal/informal education, to acquire understanding, skills and values that will enable them to participate as active and informed citizens in the development of an ecologically sustainable and socially-just society. (ASEAN 2014-2018).
- Education for Sustainable Development (ESD), training and awareness are seen as processes for developing values, understanding and skills consistent with environmentally sustainable and socially just society and assisting citizen participation in effective public participation and decision making. ESD balances human and economic and environmental development.
- “Education, including formal education, public awareness and training should be recognized as a process by which human beings and societies can reach their fullest potential. Education is critical for promoting sustainable development and improving the capacity of the people to address environment and development issues. While basic education provides the underpinning for any environmental and development education, the latter needs to be incorporated as an essential part of learning. Both formal and non-formal education are indispensable to changing people’s attitudes so that they have the capacity to assess and address their sustainable development concerns. It is also critical for achieving environmental and ethical awareness, values and attitudes, skills and behaviour consistent with sustainable development and for effective public participation in decision-making. To be effective, environment and development education should deal with the dynamics of both the physical/biological and socio-economic environment and human (which may include spiritual) development, should be integrated in all disciplines, and should employ formal and non-formal methods and effective means of communication. “ (Agenda 21 1992 United Nations Conference on Environment and Development)

TITLE 1 GENERAL PROVISIONS

The Kingdom of Cambodia considers that it is in the national interest to align the development objectives of the Kingdom with Environmental Education (EE) and knowledge development [reference National Green Growth Strategy and other relevant documents indicating commitment for national sustainable development].

Further, the Kingdom of Cambodia considers that education, public awareness and access to information are critical for achieving all objectives of the Environmental Code.

The Kingdom of Cambodia considers EE as a mechanism for implementing the Principle of Intergenerational Equity.

The appropriate Ministries and authorities shall have the authority to design, implementation and enforcement of curricula.

Consistent with [insert legal documents here], the appropriate Ministries shall:

- a) Strengthen capacity of educational system and relevant processes to address environmental and development challenges of the Kingdom of Cambodia;
- b) Encourage sustainable development;
- c) Increase scientific and intellectual innovation;
- d) Assure provisions for continuous development of professional skills and knowledge of environment and sustainable development for all sectors including in education, industry, private sector, agriculture, transport and public administration, media, civil society organizations;
- e) Assure inclusion of knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into education;
- f) Assure inclusion of latest achievement of science and technology into education and development;
- g) Assure that relevant EE content, methods and materials are provided for the trainings and learning;
- h) Assure variety of opportunities to engage in learning processes at the levels of communities, professional associations, interest groups;
- i) Ensure regulatory, policy and operational frameworks for the integration of EE an ESD into education at all levels.

The overall objective of the actions is to empower Cambodia citizens, through environmental education and public participation, to contribute to cleaner and more socially just society, and, ultimately, to environmentally sustainable development, through support in developing values, attitudes and skills and capable to ensure sustainable development of the country and the region.

TITLE 2 POLICY MAKING

Development provisions that affect environment and health of Cambodian citizens shall be accompanied by supporting provisions of the Ministry of Education Youth and Sport as well as other relevant ministries and authorities (inter-ministerial collaboration that aligns, at the policy level, development and education/training);

Relevant ministries shall include principles and provisions of EE and ESD into any sectoral and cross-sectoral policy and decision making processes affecting national and sub-national development; such provisions shall be accompanied by plans to develop and deliver necessary competencies into such development.

TITLE 3 TRAINING

Relevant Ministries should include knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into professional qualifications and certificates.

Relevant Ministries create provisions to include relevant EE content, appropriate methods and materials are provided for the trainings and other learning processes.

Training should be provided to include environmental topics.

Relevant Ministries are responsible for creating training materials supporting educational processes aiming at addressing environmental challenges.

Relevant ministries and authorities should create variety of learning opportunities addressing environmental issues at the levels of communities, professional associations, and interest groups.

TITLE 4 AWARENESS

Relevant ministries and authorities shall assure that key groups of stakeholders of development processes are informed about environmental implications of these processes and potential remediation

Relevant ministries and authorities facilitate engagement of key stakeholders through main information channels including through media, festivals, and events, as appropriate and specified by Title 3 Public Participation and Title 4 Access to Information.

TITLE 5 FORMAL EDUCATION SYSTEM

Relevant ministries and authorities shall:

- a) Assure Inclusion of requirements for environmental and sustainability knowledge into qualification criteria (certification and re-certification) for professions
- b) For the EE/ESD to be effective for supporting human and national development, its themes shall be integrated into all levels of education (general education, tertiary education, professional and vocational trainings), across relevant subject (mainstreaming) as well as to form specific programmes and courses (specialized educational processes).
- c) Assurance that areas of EE/ESD knowledge reflect development priorities and latest achievements of science and technology.
- d) Assure development of guidelines for integration of the EE/ESD into curricular of students and educators (in-service and pre- service).
- e) Educational materials – pedagogic, didactic, methodological publications as well as textbooks and other relevant resources shall be developed to support teaching and learning processes related to environment and other associated aspects of sustainable development:
 - Ensure development and production of printed and electronic (including Internet-based) materials, video, audio and other materials for primary, secondary and vocational schools.
 - Ensure development and production of printed, electronic and other materials for higher education institutions.
 - Stimulate production of pedagogic, didactic and methodological materials supporting EE and ESD at higher education institutions.
 - Ensure development of information and learning materials for media on environmental protection, sustainable resource use and other associated issues.
 - Support informational portal that will provide access to resources related to environment and sustainable development relevant for the Kingdom of Cambodia.
 - Create an internet portal to give easy access to information and resources on sustainability, including on teaching and learning.
- f) Ensure support for the development of environmental management systems at schools, institutions of higher education and other learning organizations.

g) Stimulate and support integration of EE and ESD principles and approaches into education and training environment (whole-institution approach).

h) Facilitate and support different approaches in education including an interdisciplinary and transdisciplinary approach, ways of including EE into different subjects, programmes and learning processes, draws on local context.

Title 2 TITLE 6 COMPETENCES AND CAPABILITY OF EDUCATORS, TRAINERS, AND CHANGE AGENTS

To improving competences of educators, change facilitators, leaders and decision makers in formal and non-formal education to support knowledge development towards greener and more sustainable society, the relevant ministries and authorities shall:

a) Assure that competences of educators that support education towards more sustainable development are defined as well as qualification criteria for educators in formal educational system;

b) Assure development of programmes for training pre-service and training and retraining in-service educators as well as development of required educational materials.

Relevant ministries and authorities shall promote environmental and sustainability ideas at all levels of education and in all educational processes by:

a) Assuring development and support of national network on EE and ESD competencies, methodologies and approaches.

b) Supporting and promoting results of research into EE and ESD including its content, teaching and learning methods, ways of integrating it into programmes and other educational activities, including methods of assessment.

TITLE 7 RESEARCH AND INNOVATION

Relevant ministries and authorities:

a) Should develop a process that implementation of in-service teacher training programmes based on latest scientific knowledge related to environment and sustainable development.

b) Should support development and implementation of programmes that bring together education and research and aim at solutions for environmental challenges.

- c) Should regularly update educational and training materials ensuring based on the latest scientific knowledge.
- d) Should facilitate support for relevant research and education by providing resources for research as well as opportunities for studies and exchange.

Relevant ministries and authorities should align knowledge on environmental protection and sustainable resource use with development of knowledge and expertise in other areas of sustainable development (link to SDGs) by:

- a) Assuring collaboration between traditional knowledge holders and scientific knowledge
- b) Supporting cross-sectoral collaboration, stimulate interaction between science (natural and social), technology development and business, development of appropriate technologies with a smaller negative impact on the environment.
- c) Support transdisciplinary research and innovation.
- d) Developing action research programmes that aim at addressing solutions/innovations for environmental and sustainability challenges; should prioritize research that brings together the different dimensions of SD, as well as focuses on issues of local sustainable development.

Title 3 TITLE 8 REGULATION AND OPERATIONAL FRAMEWORK

The Government should have provisions for regulatory, financial and organizational support of EE and research by:

- a) Assure provisions on sharing responsibilities – stakeholders are invited in defining priorities for various sectors; government carries ultimate responsibility.
- b) Should create mechanism for education coordination and training on the environment and development including provisions for creation of the (Inter-agencies Committee on EE).
- c) Should use economic and organizational instruments to increase in international scientific and educational exchanges, international programmes for research and technology development.
- d) Should create informational resource for support of environmental education.
- e) Assure provisions on research that demonstrates effective ways of working with EE and

ESD

f) Assure provisions on monitoring.

g) Assure provisions for funding – to assess costs for implementation of provisions (EE Strategy?) and secure necessary funding.

h) Assure funds for supporting environmental research.

The Government of the Kingdom of Cambodia is to have in place EE national action plan with provisions for its implementation.

**Book 7 BOOK 8 ENVIRONMENTAL INCENTIVES,
FEES, TAXES AND FUNDING**

- This Book will set out the mechanism by which the responsible Ministries will be able to charge fees.
- This Book will include clear provisions to ensure that all fees and taxes that are levied and received and all economic instruments that are established such as environmental funds will be managed in accordance with international standards on accountability and transparency.

TITLE 1 ENVIRONMENTAL INCENTIVES

**CHAPTER # ECONOMIC INCENTIVES FOR GREEN INVESTMENT AND
SUSTAINABLE FINANCING IN THE BANKING SECTOR**

CHAPTER # SPECIAL INCENTIVES FOR PUBLIC/PRIVATE PARTNERSHIPS

**CHAPTER# FINANCIAL INCENTIVES AND TAXATION MEASURES TO REDUCE
DEFORESTATION AND PROMOTE BIODIVERSITY AND NATURAL
RESOURCE CONSERVATION, GREEN URBAN INFRASTRUCTURE, ECO-
TOURISM AND SUSTAINABLE TOURISM, COMMUNITY-BASED
NATURAL RESOURCE MANAGEMENT, SUSTAINABLE LOW CARBON
ENERGY PRODUCTION, SUSTAINABLE FORESTRY, AND SUSTAINABLE
FISHERIES**

CHAPTER # ECO-LABELLING

ARTICLE #

Financing for eco-labelling

ARTICLE #

Independent Certification for eco-labelling of products and services

ARTICLE #

Incentives to switch to more efficient consumer appliances and the phasing out of inefficient devices

TITLE 2 VALUATION OF RESOURCES AND ECOSYSTEMS SERVICES

CHAPTER # SCOPE AND PROCEDURES FOR VALUATION OF RESOURCES AND ECOSYSTEM SERVICES, INCLUDING NATURAL CAPITAL ASSESSMENT

CHAPTER # PAYMENT FOR ECOSYSTEM SERVICES

TITLE 3 ENVIRONMENTAL TAXES, FEES AND OTHER FUNDING OPTIONS AND FUND MANAGEMENT

- A submission has been received that highlights that Cambodia does not have a Trust Fund Law that would assist in developing funding arrangements to finance the protection of protected areas and protected forests. Consideration should be given to enabling Trusts to be created.

CHAPTER # ENVIRONMENTAL TAXATION

CHAPTER # FEES PAYABLE FOR SERVICES PROVIDED BY MINISTRY

CHAPTER # OTHER FEES

CHAPTER # OTHER FUNDING OPTIONS (E.G., FUNDING OPTIONS FOR FOREST CONSERVATION)

CHAPTER # BENEFIT SHARING AGREEMENTS

CHAPTER # ESTABLISHMENT OF THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND; GOALS OF THE FUND

CHAPTER # ESTABLISHMENT OF OTHER FUNDS

Commented [M134]: Funding Options for Forest Conservation under development.

Commented [M135]: Per NGO Forum.

(e.g., community initiative funds)

**CHAPTER # SOURCES OF REVENUE ~~TO~~ FOR THE ENVIRONMENT,
CONSERVATION AND SOCIAL DEVELOPMENT FUND AND OTHER
FUNDS**

ARTICLE #

The Project Proponent shall make payment of a minimum of 1 percent of the project costs to the Environmental and Social Fund of MoE. An Environmental and Social Fund shall be created by the Ministry of Environment to provide finance for the restoration of environment, conservation of biodiversity and social development in and around the area where the project is located.

ARTICLE #

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

Commented [BR136]: These two articles are moved from the EIA title, and presented here in the form in which they existed in the final version of the draft EIA Law.

NOTE:

Discussion is currently underway regarding the different types of funds that are required in order to 1) ensure proper project performance 2) guarantee any needed environmental restoration at project conclusion, and 3) to provide sufficient contribution to overall environment and conservation activities.

Discussion is also underway regarding the amounts of fees that Project Proponents will be required to provide to these respective funds.

CHAPTER # TRANSPARENCY AND GOVERNANCE PROCEDURES FOR FUNDS

CHAPTER # AUDITING OF FUNDS

**CHAPTER # CRITERIA FOR GRANT-MAKING AND DISBURSEMENT FROM THE
ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND**

**CHAPTER # ENVIRONMENTAL LIABILITY INSURANCE MECHANISMS FOR
PAYMENTS BY POLLUTERS OR FOR ENVIRONMENTAL DAMAGE (E.G.
BOND, ENVIRONMENT AND SOCIAL FUND)**

**BOOK 9 ENVIRONMENTAL OFFENSES,
ENFORCEMENT AND REMEDIES**

**~~Title 3~~ TITLE 1 INVESTIGATION, ENFORCEMENT AND ACCESS TO
REMEDIES**

- This Title will deal with the powers of the relevant Ministries to investigate the environmental offences outlined in Book 9 Title 2.

- It will make provision to allow for citizens and organisations to follow dispute resolution procedures and bring proceedings to the relevant review body. These provisions will also identify mechanisms for citizens and organisations to bring general complaints and other proceedings.
- This Title will also examine the use of relevant dispute resolution procedures and grievance mechanisms, including Environmental Courts and Tribunals (ECTs), to deal with environmental and natural resources development decisions. This Title will examine options for the Ministry of Environment to establish an Environmental Tribunal to re-examine environment and natural resource management decisions made under the Environmental Code.
- This Title will also look at other options such as Administrative Tribunals and an Ombudsman or Environmental Commissioner, to review problems and concerns relating to environmental and natural resources decisions. These would be established to be accessible to the community and open and transparent. For example, one matter would be the use of municipal planning tribunals to resolve conflict between planning and land use decisions in the urban context.
- Legal entity and local-level dispute resolution and grievance mechanisms.
- The mechanisms in this Title will be consistent with international recognized criteria, including legitimate, accessible, predictable, equitable, rights-based, and transparent.

Commented [M137]: Per NGO Forum.

CHAPTER # ENVIRONMENTAL COMPLAINTS

CHAPTER # PROCEDURES FOR RESOLUTION OF ENVIRONMENTAL COMPLAINTS

SECTION 1 GENERAL PROVISIONS

ARTICLE

Objective

ARTICLE

Scope of Code Application

ARTICLE

General Principle

ARTICLE #

Type of Environmental Dispute Resolution

a) Ombudsman or Environmental Commissioner

b) Administrative Tribunal

c) Court

⇒d) Out of Court / Mediation

ARTICLE #

Establishing Enforcement Priorities

**CHAPTER # ESTABLISHMENT OF OMBUDSMAN OR ENVIRONMENT
COMMISSIONER**

ARTICLE #

Role of the Ombudsman or Environment Commissioner.

**CHAPTER # ESTABLISHMENT OF ENVIRONMENTAL ADMINISTRATIVE
TRIBUNAL**

ARTICLE #

All citizens may bring complaints before the Administrative Tribunal for breaches of the Environmental Code.

ARTICLE #

Rights of review of environmental and natural resources decisions.

ARTICLE #

NGOs may assist citizens and communities to bring matters to the Administrative Tribunal.

ARTICLE #

Obligation of Administrative Tribunal to hear and determine matters quickly and fairly.

**SECTION 3 RESOLUTION OF ENVIRONMENTAL DISPUTE THROUGH THE
COURT**

SECTION 2 TYPE OF ENVIRONMENTAL COMPLAINT

ARTICLE #

Civil Complaints

ARTICLE #

Criminal Complaint

ARTICLE #

Complaint against Administrative Decision of the Government or Governmental Authorities

ARTICLE #

Relation of Civil and Criminal Complaint

SECTION 1 PARTIES OF ENVIRONMENTAL COMPLAINT

ARTICLE #

Directly Affected Parties

ARTICLE #

Participation of Relevant NGOs in Environmental Complaint

ARTICLE #

The Governmental authorities in the Environmental Complaint

ARTICLE #

Rights of Affected Parties

ARTICLE #

Decision of Court

ARTICLE #

Appeal to Decision of Lower Court to Higher Court

**SECTION 4 COMPLAINT AGAINST TO DECISION OF ADMINISTRATION OF
GOVERNMENTAL AUTHORITIES**

ARTICLE #

Right of Affected Natural Person/Legal Entities

ARTICLE #

Time Limitation of Issuance of Decision on the Complaint

ARTICLE #

Appeal to Decision of Higher Administration Institute

SECTION 2 OUT OF COURT RESOLUTION OF ENVIRONMENTAL DISPUTE

ARTICLE #

Objective

ARTICLE #

Appointment of Mediator/Arbitrator

ARTICLE #

Obligation of Government to Create the Environmental Arbitration Institute

ARTICLE #

Appeal to the Decision of Arbitrator to the Court

**CHAPTER # MONITORING, COMPLIANCE AND CITIZENS RIGHTS TO BRING
PROCEEDINGS**

SECTION 1 GENERAL

- a) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against any natural or legal person who violates or fails to comply with the provisions of this Code and its implementing regulations [by emitting restricted substances into the environment, harming protected species, habitats or ecosystems, beginning work without a license on construction or extraction projects that require a license, or any other act that is clearly in violation of this Code].
- b) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against a Minister or Ministry charged with a nondiscretionary duty in this Code to enforce any of the Code's provisions or to create regulations, where the Minister or Ministry has failed to discharge that duty within a reasonable time.
- c) Any plaintiff pursuing an action under Section 1 shall do so for the public good and does not need to be directly impacted.
- d) Any plaintiff pursuing an action under this Section 1 shall do so for the public good and must not receive economic benefit.
- e) An action under this Section 1 shall not affect the rights of any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society in an action for personal injury or damage due to the same conduct that is the subject of a Section 1 complaint.

SECTION 2 NOTICE

- a) Before any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursues any action under Section 1, they must give notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.
- a) A Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing any action under Section 1 must also give notice to
 - i) the relevant Ministry; and

- ii) the administration of the District in which the violation or failure to comply has occurred.
- c) No action may be commenced under Section 1
 - i) within 30 working days of notice provided under Subsection 2(a) and (b); or
 - ii) if the relevant Ministry or District has commenced and is diligently prosecuting a civil action in Court to require compliance with the Code provision in question.
- d) Notwithstanding Subsections 2(a), 2(b), and 2(c), where the violation of the Code represents a public health or environmental emergency, any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing action under Section 1 may commence any action under Section 1 immediately after giving notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.

SECTION 3 VENUE

- a) An entity filing a written complaint under Subsection 1(a) must do so with the Administrative Tribunal, in compliance with Section 2 and the procedures for the Administrative Tribunal.
- b) An entity filing a written complaint under Subsection 1(b) may do so with
 - i) The Administrative Tribunal, in compliance with Section 2 and the procedures for the Administrative Tribunal; or
 - ii) The Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.
- c) Notwithstanding Subsections 3(a) and 3(b), where the violation of a provision of the Code represents a public health or environmental emergency, an entity filing any complaint under Section 1 must do so with the Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.

SECTION 4 PROCEDURE

- a) An entity filing any written complaint under Section 1 with the Administrative Tribunal must comply with the procedures for the Administrative Tribunal.
- b) Notwithstanding the procedures for the Administrative Tribunal, the Administrative

Tribunal must give notice to the public of its acceptance of the action within ten working days of its acceptance.

- c) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Administrative Tribunal to participate in the complaint under Subsection 1(a) within thirty working days of the announcement under Subsection 4(b).
- d) An entity filing a written complaint under Subsection 1(b) of this Code shall do so in compliance with the Code of Civil Procedures.
- e) Notwithstanding the Code of Civil Procedures, the Court shall give notice to the public of its acceptance of an action under Subsection 1(b) within ten working days of its acceptance.
- f) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Court to participate in the complaint under Section III of the Code of Civil Procedures.

SECTION 5 REMEDY, AWARDS AND CIVIL PENALTIES

- a) The Administrative Tribunal, in issuing any final order in any action brought under Subsection 1(a), may require the natural or legal person to perform its duty under the Code.
- b) The Administrative Tribunal in issuing any final order in any action brought under Subsection 1(a), may have recourse to any appropriate civil penalties.
- c) The Court, in issuing any final order in an action brought under Subsection 1(b) may require the Minister or Ministry to perform its nondiscretionary duty.
- d) The Administrative Tribunal or the Court, upon motion of the complainant, may issue a provisional disposition establishing a provisional status.
- e) The Administrative Tribunal or the Court, in issuing any final order in any action brought under Section 1, may issue an injunction requiring the defendant to stop all illegal activity and to pay for the costs of remedying all of the environmental damage or human injuries resulting from violations of the Code.
- ⊕f) The administrative tribunal or Court, in issuing any final order in any action brought under Section 1, may require a defendant found to have violated the Environmental Code

to pay

- i) a successful plaintiff's costs of litigation (including reasonable attorney and expert witness fees) to the plaintiff; and/or
- ii) any fee established by law as a consequence of violating the Code into a special fund for licensing, the costs of the Minister or Ministry as defendant in an action under Subsection 1(b), and other services; and/or
- iii) any civil penalty to be paid into the fund specified in Subsection 5(f)(ii).
- g) The administrative tribunal or Court, in issuing an order under Subsection 5(f)(iii), shall have discretion to order that such civil penalties, in lieu of being deposited in the fund referred to in Subsection 5(f)(iii), be used in beneficial mitigation projects which are consistent with this Code and enhance the protection of the environment.
- h) The award of costs of litigation to a plaintiff must not be considered an economic benefit to the plaintiff.

SECTION 6 PLAINTIFF'S COSTS

- a) The Court shall exempt an action under Section 1 from the payment of filing fees until either the complaint is proven to be without merit or a final order is issued, in which case such fees shall be included as part of a successful plaintiff's costs of litigation under Subsection 4(d)(ii).

SECTION 7 TIME

- a) Claims raised under Section 1 shall be resolved within one year of filing.

SECTION 8 STRATEGIC LITIGATION TO DETER PUBLIC PARTICIPATION (SLDPP)

- a) Where a counter-suit is filed or administrative action undertaken against a Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society who has filed an action under Section 1 or has given notice under Section 2, the court or administrative decision-maker must make a determination in not less than thirty working days from the commencement of the counter-suit or action on whether said counter-suit or action is intended to harass, vex, exert undue pressure, or stifle the resources of the entity filing under Section 1 or the entity giving notice under Section 2. If the court or administrative decision-maker makes such a determination supported by evidence, the Court shall

dismiss the counter-action or administrative action and award attorney's fees and double damages to the SLDPP defendant.

b) Subsection 7(a) also applies where a court action is filed or an administrative action undertaken against a government official or entity acting in their official capacity, provided that the court or administrative decision-maker has made a determination based on evidence that the government official or entity was acting in the course of enforcing this Code, and that there was no abuse of authority.

CHAPTER # COMMUNITY DRIVEN OPERATIONAL GRIEVANCE MECHANISMS

CHAPTER # JUDICIAL POLICE OFFICERS

ARTICLE #

Role and Obligation of Judicial Police Officers

ARTICLE #

Procedure of Qualification of Judicial Police Officers

ARTICLE #

Territory of Judicial Police Officers

ARTICLE #

Investigation of Environmental Crime of Judicial Police Officers

ARTICLE #

Obligation of Relevant Authorities in Co-Operation to Environmental Crime Investigation

ARTICLE #

Procedure of Environmental Complaint Compilation

CHAPTER # ESTABLISHMENT OF ROYAL ACADEMY OF RANGER PROFESSIONALS

ENVIRONMENTAL OFFENCES AND REMEDIES (PENALTIES)

- This Title will outline the Environmental Offences that will be subject to possible action under the Civil Code or Criminal Code.
- It will provide an outline for determining which breaches of the Code should be subject to criminal prosecution.
- The Title will identify specific offences and failures to comply with relevant provisions of the Code.
- It will provide options for penalties from fines to imprisonment and remediation orders. It will be based of the work done on the draft EIA Law.

CHAPTER # BREACH OF ANY PROVISION OF THE ENVIRONMENTAL CODE

CHAPTER # PENALTY PROVISIONS

CHAPTER # ENVIRONMENTAL IMPACT ASSESSMENT OFFENSES

CHAPTER # AIR POLLUTION OFFENSES

CHAPTER # CLASSIFICATION OF OFFENSES

CHAPTER # TABLE OF PENALTIES FOR OFFENSES

**CHAPTER # APPLICATION OF CRIMINAL CODE TO ENVIRONMENTAL
OFFENSES**

**CHAPTER # APPLICATION OF CIVIL PENALTIES FOR ENVIRONMENTAL
OFFENSES**

**TITLE 2 RESTORATION AND COMPENSATION FOR INJURIES
TO NATURAL, CULTURAL, HISTORIC AND
ARCHAEOLOGICAL RESOURCES**

- This Title will provide relevant information about compensation and restoration orders, if a breach of the Code has led to environmental harm or harm to human health.

CHAPTER 1 GENERAL PROVISIONS AND OBJECTIVES

ARTICLE 1

There is a national interest in restoring and compensating for injuries to resources of Cambodia.

ARTICLE 2

Application of the polluter pays principle requires that any person found responsible for any injury to any resources of Cambodia shall be required to restore all such injuries, and or otherwise compensate for all losses resulting therefrom.

ARTICLE 3

Timely restoration and just compensation critical to long term well-being of the people of Cambodia.

CHAPTER 2 LIABILITY PROVISIONS

ARTICLE 4

Liability.

ARTICLE 5

Liability in rem (directed towards property).

ARTICLE 6

Liability of corporate officials.

ARTICLE 7

Joint and several liability.

ARTICLE 8

Right to seek contribution from other potentially liable persons.

CHAPTER 3 DEFENCES AND EXCEPTIONS TO DEFENCES

ARTICLE 9

Defences.

ARTICLE 10

Exceptions to defences.

CHAPTER 4 – ENVIRONMENTAL COMPENSATION

ARTICLE 11

Measure of environmental compensation.

CHAPTER 5 – PARTIES CLAIMANT

ARTICLE 12

Parties who can make claims for Environmental Compensation.

**CHAPTER 5 – RESTORATION PLANNING COUNCIL AND COMPENSATION
EVALUATION PROCESS**

ARTICLE 13

Restoration Planning Council.

ARTICLE 14

Duties and authority of the Council

ARTICLE 15

Restoration Compensation Evaluation.

CHAPTER 6 – RESTORATION CONSULTATION AND RESOLUTION

ARTICLE 16

Restoration consultation process.

**CHAPTER 7 – SETTLEMENT REQUIREMENTS AND JUDICIAL STANDARD OF
REVIEW**

ARTICLE 17

Administrative and judicial resolutions.

ARTICLE 18

Judicial standard of review of a restoration compensation claim.

CHAPTER 8 – ADMINISTRATIVE ORDER AUTHORITY

ARTICLE 19

Authority of the Minister of the Environment to order support of Restoration Compensation Evaluation, and Restoration Council activities.

ARTICLE 20

Authority of the Minister of the Environment to order emergency restoration.

CHAPTER 9 – AUTHORITY OF THE MINISTER OF THE ENVIRONMENT TO RECOVER COSTS OF RESTORATION

ARTICLE 21

Notwithstanding any other provision of this Code, the Minister of the Environment may undertake the necessary restoration of injuries to resources of Cambodia and may recover those costs and expenses in the manner provided under the Civil Code of Cambodia.
Chapter 10 – Management and Use of Recovered Funds

ARTICLE 22

Monies recovered as payment towards or reimbursement of the costs and expenses of Restoration Compensation Evaluation and Restoration Council activities shall be paid directly to the party incurring, or who will be incurring, said costs and expenses, and shall be used for that purpose only.

ARTICLE 23

Monies recovered for the implementation of restoration shall be held in a special account. (Restoration Implementation Fund).

ARTICLE 24

Authorization for release of funds.

ARTICLE 25

Fund Manager shall be personally responsible for maintaining the Restoration Implementation Fund and insuring that all transactions are properly recorded and made available for viewing

[online.](#)

CHAPTER 11 – SCOPE OF TITLE AND RELATIONSHIP OF OTHER ACTIONS

CHAPTER 12 – STATUTE OF LIMITATIONS

ARTICLE 26

Statute of limitation for right to claim for environmental compensation.

~~Book 8~~BOOK 10 TRANSITIONAL PROVISIONS

- This Book will provide details of the transitional provisions required to allow the Code to become effective in the shortest period of time.
- It will provide details of how existing protected areas and relevant reserves will be maintained, based on the principles of the Environmental Code, until they have been reviewed and assessed in accordance with the provisions of the Code.
- The development of the Environmental Code should not be used to allow continued environmental destruction during the period that new management plans are being developed.
- This Book will provide details of the laws and sub-decrees that will be repealed.
- This Book will clarify how the Environmental Code will amend the various existing natural resources laws and laws relating to environmental protection and natural resource management.

~~Book 9~~BOOK 11 FINAL PROVISIONS