

NATURAL RESOURCE AND ENVIRONMENT **CODE OF CAMBODIA**

Fifth Draft - DRAFT 5.0 –14 October 2016

Table of Contents

Book 1	General Provisions	3
Title 1	General Provisions	3
Title 2	Organisation of Jurisdictional Institutions/Jurisdictional Issues.....	13
Title 3	Public Participation.....	19
Title 4	Access to Environmental Information	22
Book 2	Environmental Planning, Assessment and Monitoring	29
Title 1	Making of National, Sub-National and Local Environmental and Natural Resources Plans	29
Title 2	Landscape-Scale Conservation Planning	30
Title 3	Land Use Planning	31
Title 4	Extended Producer Responsibility	39
Title 5	Risk Assessment.....	39
Title 6	Environmental Quality Standards	53
Title 7	Strategic Environmental Assessment.....	55
Title 8	Environmental Assessment	64
Title 9	Environmental Audits and Environmental Management Reporting	83
Book 3	Environmental Management and Sustainability Mechanisms.....	85
Title 1	Disaster Risk Reduction and Management	85
Title 2	Climate Change Adaptation and Mitigation.....	86
Title 3	Sustainable Consumption and Production.....	87
Title 4	Sustainable Cities	95
Title 5	Sustainable Tourism and Ecotourism.....	100
Title 6	Sustainable Energy.....	117
Title 7	Responsible Extractive Industries.....	130
Book 4	Sustainable Management of Natural Resources.....	141
Title 1	Management of Conservation Landscapes.....	141
Title 2	Protected Areas Management.....	143
Title 3	Collaborative Management of Natural Resources	180
Title 4	Sustainable Forest Management	184
Title 5	Soil Protection and Management	196

Title 6	Wildlife Protection, Conservation and Management.....	198
Title 7	Protection of Threatened Plants, Habitats and Ecosystems.....	236
Title 8	Coastal Zone Management.....	253
Title 9	Sustainable Water Resources Management.....	258
Title 10	Sustainable Marine Fisheries.....	287
Title 11	Sustainable Freshwater Fisheries and Aquaculture	294
Book 5	Cultural and Natural Heritage Conservation.....	296
Book 6	Waste and Pollution Management and Sustainable Production.....	313
Title 1	General Obligations for Pollution Control and Sustainable Production	314
Title 2	Standards for Pollution Control and Sustainable Production	314
Title 3	Management of Hazardous Chemical Substances	315
Title 4	Hazardous Waste Management.....	338
Title 5	Solid Waste Management.....	357
Title 6	Water Pollution Control	374
Title 7	Air Pollution.....	382
Title 8	Noise and Vibration Control.....	390
Title 9	Ozone Layer Protection.....	397
Title 10	Environmental Pollution Check and Inspection.....	397
Book 7	Environmental Education and Awareness	401
Title 1	General Provisions	402
Title 2	Policy Making	403
Title 3	Training.....	403
Title 4	Awareness.....	404
Title 5	Formal Education System	404
Title 6	Competences and Capability of Educators, Trainers, and Change Agents	406
Title 7	Research and Innovation	406
Title 8	Regulation and Operational Framework	407
Book 8	Environmental Incentives, Fees, Taxes and Funding	408
Title 1	Incentives and Taxation.....	409
Title 2	Valuation of Resources and Ecosystems Services.....	412
Title 3	Environmental Fees, Funds and Fund Management.....	413
Book 9	Environmental Offenses, Enforcement and Remedies.....	420
Title 1	Environmental Offences and Penalties	420
Title 2	Investigation, Enforcement and Access to Remedies	421
Title 3	Restoration and Compensation for Harm to Natural, Cultural, Historic and Archaeological Resources.....	439
Book 10	Transitional Provisions	451
Book 11	Final Provisions	451

BOOK 1 GENERAL PROVISIONS

TITLE 1 GENERAL PROVISIONS

CHAPTER 1 OBJECTIVE OF THE ENVIRONMENTAL CODE

ARTICLE 1 PURPOSES OF THE ENVIRONMENTAL CODE

The purpose of this Environmental Code is the sustainable development of Cambodia through the protection of the environment and the conservation of natural resources.

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).
- ~~e)f)~~ Promote gender equality and the empowerment of women in all aspects of environmental conservation, protection and management.
- ~~f)g)~~ Ensure that environmental protection and sustainable development objectives are fully integrated into national and regional economic planning and into natural resources planning and management;
- ~~g)h)~~ _____ Implement the National Environmental Strategy and Action Plan;
- ~~h)i)~~ Promote a collaborative approach to the protection and management of the environment involving government, the private sector, land-holders and communities paying particular attention to individuals or groups of people who are

vulnerable, marginalised from decision making processes or at most risk from the development of projects or other uses of or changes to the natural environment (this may include a focus on women, indigenous people, youth, and disabled people);

h) Promote environmental awareness and support for environmental protection through transparency and public participation, especially by individuals or groups of people who are vulnerable, marginalised from decision making processes or at most risk from the development of projects or other uses of or changes to the natural environment (this may include a focus on women, indigenous people, youth, and disabled people);

i) Assist the implementation of Cambodia’s international environmental responsibilities;

j) 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.

In addition to specific clarifications and amendments of current legislation set forth within this Code, all existing and future legislation of the Royal Kingdom of Cambodia shall be interpreted and implemented in full accordance with the principles and other provisions of this Code.

ARTICLE 4 APPLICABLE ENTITIES

This Code applies to Cambodian State bodies, organisations, family households and individuals; to Cambodians residing overseas and “foreign organisations” individuals with operations in the territory of Cambodia, and individuals or entities whose actions otherwise adversely impact or effect the Cambodian environment or its natural resources. Where an international treaty of which Cambodia is a member contains provisions, which are different from the provisions in this Code, the provisions of such international treaty shall prevail. In cases of doubt, matters shall be resolved in a way most likely to promote the protection and conservation of the environment, with preference to be given to alternatives that are least harmful to the environment. Actions shall not be undertaken where their potential adverse impacts on the environment are disproportionate or excessive in relation to the benefits to be derived therefrom.

CHAPTER 2 DEFINITIONS/GLOSSARY

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

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

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

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

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 –

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

Environmental 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;

Commented [MQ1]: Definition will be developed that is clear and through, reflects Cambodian values, and includes examples. Definition will be broad, comprehensive and robust.

Commented [MQ2]: Definition of “environmental impact” will be further developed and clarified.

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

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, including both women and men, communities, civil society, business

Commented [MQ3]: 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 [MQ4]: Definition to be further developed.

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

Commented [MQ5]: 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 3 PRINCIPLES OF THE ENVIRONMENTAL CODE

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

ARTICLE 6 THE PRINCIPLE OF PUBLIC PARTICIPATION

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

ARTICLE 7 THE PRINCIPLE OF ACCESS TO INFORMATION

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

ARTICLE 8 THE PRINCIPLE OF ACCESS TO EFFECTIVE REMEDIES

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

Commented [MQ6]: Need to include reference to the need to pay attention to individuals or groups of people who are vulnerable, marginalised from decision making processes or at most risk from the development of projects or other uses of or changes to the natural environment (noting that this may include a focus on women among others).

Commented [MQ7]: 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 [MQ8]: Need to include reference to the need to pay attention to individuals or groups of people who are vulnerable, marginalised from decision making processes or at most risk from the development of projects or other uses of or changes to the natural environment (noting that this may include a focus on women among others).

Commented [MQ9]: Need to include reference to the need to pay attention to individuals or groups of people who are vulnerable, marginalised from decision making processes or at most risk from the development of projects or other uses of or changes to the natural environment (noting that this may include a focus on women among others).

encourages a culture of compliance.

ARTICLE 9 THE POLLUTER PAYS PRINCIPLE

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

Commented [MQ10]: Environmental harm will be defined in the definition section.

ARTICLE 10 THE PRECAUTIONARY PRINCIPLE

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

ARTICLE 6 11 THE PREVENTION PRINCIPLE

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

ARTICLE 12 THE PRINCIPLE OF INTERGENERATIONAL EQUITY

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

ARTICLE 13 THE PRINCIPLE OF ENVIRONMENTAL LIABILITY

Liability to compensate for environmental harm applies to environmental damage and imminent threat of damage resulting from developmental activities, where it is possible to establish a causal link between the harm and the activity in question. Liability should cover the cost of ecosystem or resource restoration or of replacing the damaged resources, the cost of assessing the damage, and the interim losses pending restoration or replacement. Liability includes personal injury or environmental harm to public natural resources.

ARTICLE 14 THE PRINCIPLE OF EVIDENCE-BASED DECISION-MAKING

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

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

Gender equality and the empowerment of women in all aspects of environmental conservation, protection and management is to be promoted. Gender equality refers to the equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognising the diversity of different groups of women and men. Impact assessments for development projects and environmentally relevant policies will include mechanisms to effectively assess the impacts on women as well as men and develop risk management strategies to mitigate and prevent adverse impacts. Gender concerns and the perspective of women will be integrated into policies and programmes for sustainable development and into the implementation of this Code.

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

The involvement of vulnerable, marginalised and at risk people is to be promoted in environmental protection and natural resource management planning and decision-making at all levels. Impact assessments for development projects and environmentally relevant policies will include mechanisms to effectively assess the impacts on vulnerable, marginalised and at risk people and will develop risk management strategies to mitigate and prevent adverse impacts. The perspective of vulnerable, marginalised and at risk people will be integrated into policies and programmes for sustainable development and into the implementation of this Code.

ARTICLE 17 THE PRINCIPLE OF 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 18 THE PRINCIPLE OF PUBLIC INTEREST IN PROTECTING THE ENVIRONMENT VS. PRIVATE INTEREST

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

margin of safety for vulnerable peoples.

ARTICLE 19 THE PRINCIPLE OF USER PAYS

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

Commented [MQ11]: These principles are included during the drafting of the Environmental Code as guiding principles for the development of the Code and/or may be applicable to specific sections.

ARTICLE 20 THE PRINCIPLE OF FREE, PRIOR AND INFORMED CONSENT

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

CHAPTER 4 GENERAL DUTY TO AVOID ENVIRONMENTAL HARM

ARTICLE 21

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

Commented [MQ12]: Per Kris Energy.

CHAPTER 5 INTERNATIONAL ENVIRONMENTAL AGREEMENTS

- 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.

Commented [MQ13]: e.g., Convention on the Elimination of all Forms of Discrimination against Women.

ARTICLE 22

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

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

TITLE 2 ORGANISATION OF JURISDICTIONAL INSTITUTIONS/JURISDICTIONAL ISSUES

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

- Ministry of Environment
- Ministry of Agriculture, Forests and Fisheries
- Ministry of Mines and Energy
- Ministry of Water Resources and Meteorology
- Ministry of Land Management, Urban Planning and Construction
- Ministry of Economics and Finance
- Ministry of Culture and Fine Arts
- Ministry of Tourism
- Ministry of Women's Affairs
- Ministry of Rural Development
- Ministry of Education
- National Council for Sustainable Development
- National Committee for Sub-National Democratic Development
- Council for the Development of Cambodia
- Provincial and Local Authorities

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

FORESTRY AND FISHERIES

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

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

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

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

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

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

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

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

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

ARTICLE #

Assigning environmental monitoring and information gathering responsibilities among governmental institutions

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

The Ministry of Environment shall established a Register of Environmental Audits

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

CHAPTER # CAMBODIAN ENVIRONMENTAL MAPPING CENTRE

ARTICLE # GENERAL PROVISIONS

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

Pursuant to this, the appropriate government institution shall have the authority to establish a Cambodian Environmental Mapping Centre (CEMC). The purpose of this centre shall be to establish standards, compile, analyse, 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 # 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 # 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 #

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

ARTICLE #

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

ARTICLE #

Any person who is exercising a right to participate under the Environmental Code may not be charged with a criminal or civil offence.

ARTICLE #

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

ARTICLE #

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

Commented [MQ14]: New and revised content in Code Draft 5 for this section is in accordance with submissions and comments on Public Participation from various stakeholders and STWG members and experts and are included for discussion.

Commented [MQ15]: Art 66, Indonesia Law on Environmental Protection

criminal or civil offence.

ARTICLE #

This does not prevent any person who commits a criminal or civil offence from being charged in accordance with the Criminal or Civil Code

ARTICLE #

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

- a) are well informed about the project or activity or decision,
- 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 or implementation.

ARTICLE #

Any decision made in accordance with the Environmental Code must be subject to the provisions of public participation

ARTICLE #

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

- a) identify areas of significance of environment, economy, society and culture;
- b) collect opinions of stakeholders, including from individuals or groups of people (with a focus on women among others) who are vulnerable, marginalised from decision making processes or at most risk from the development of projects or other uses of or changes to the natural environment, and integrate such opinions into the decision making process;
- c) review the project proposal and explain impacts on environment, economy, society, and culture; and
- d) consider a wider range of alternatives and mitigation measures.

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

ARTICLE #

The EIA Report shall:

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

ARTICLE #

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

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

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

CHAPTER # DUTY TO CONSULT WITH POTENTIAL AFFECTED PERSONS

CHAPTER # DUTY TO CONSIDER CONCERNS RAISED BY THE COMMUNITY

CHAPTER # IDENTIFICATION OF PROJECT AFFECTED PERSONS AND OTHER STAKEHOLDERS

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 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;
- b)c) ensure that the all mitigation measures are governed by a commitment to non-discrimination including gender discrimination, and that particular attention is given to individuals or groups of people (this may include women among others) who are vulnerable or at most risk of their livelihoods deteriorating because of resettlement.

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

Commented [MQ16]: 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

Commented [MQ17]: New and revised content in Code Draft 5 for this section is in accordance with submissions and comments on Access to Information from various stakeholders and STWG members and experts and are included for discussion.

- 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. (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 1 GENERAL PROVISIONS

ARTICLE

Environmental information shall be disclosed in accordance with the provisions of the Environmental Code

ARTICLE #

Environmental information is disclosed to ensure that all stakeholders have the opportunity to effectively participate in the decision-making process on environmental and natural resources matters.

ARTICLE #

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

ARTICLE #

The relevant Ministries must disclose all relevant environmental information prior to any decision being made impacting natural resources or the environment under the provisions of the Environmental Code.

ARTICLE #

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

ARTICLE #

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

CHAPTER # CONFIDENTIAL INFORMATION

ARTICLE #

The relevant Ministries may develop Guidelines of the categories of information that may be considered to be confidential.

ARTICLE #

All environmental information provided to any Ministry in accordance with the Environmental

Code shall be made publically available unless there is a specific request that the information is confidential.

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

The Government may specify certain types of information that should be confidential, including matters of national security.

CHAPTER # REVIEW OF CLAIM FOR CONFIDENTIALITY

ARTICLE #

Any person may request that the relevant Ministry, review and reconsider a claim that information remain confidential information.

ARTICLE #

In considering a review whether confidential information should be kept as confidential, the relevant Ministry should consider the public benefit and the possible harm in releasing the information.

ARTICLE #

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

ARTICLE #

The relevant Ministry may consult with the person or legal entity who has made the claim for confidentiality of the information prior to making a decision about the review of the claim for confidentiality.

CHAPTER # INFORMATION ON PROJECTS AND ACTIVITIES

ARTICLE #

Project Proponents shall provide a project specific web-site to include information relevant to the project, including information on environmental assessment, all approvals and permits, including all conditions attached to these approvals and permits

ARTICLE #

Project Proponents shall provide on written request by any person or organisation information relevant to the project, including information on environmental assessment, all approvals and permits, including all conditions attached to these approvals and permits

ARTICLE #

Any reference to specific information or documents to be provided under the Environmental Code reflect the minimum requirement to promote public participation in decision-making.

CHAPTER # ENVIRONMENTAL INFORMATION

Environmental information includes information on:

- a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements.
- b) Factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment.
- c) Measures (including administrative measures), such as policies, legislation, plans,

Commented [MQ18]: Shall include all ecosystems data, all research and field data, all documents created within the EIA process, all project specific documentation and reporting.

programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to above as well as measures or activities designed to protect those elements.

- d) Instances of non-compliance with environmental laws, policies, regulations, agreements.
- e) Information about environmental risks that can affect the state of human health and safety, cultural sites and built structures.
- f) The analyses of costs and advantages as well as the economic hypotheses used in the framework of the decisions and activities described in (b) and (c) above.
- g) Reports on the implementation of the measures in the item (c) above and in implementation of MEAs.

CHAPTER #RELIABILITY OF INFORMATION

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

CHAPTER #ENVIRONMENTAL COMPLIANCE RECORDS

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

CHAPTER #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 # 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 [MQ19]: 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 # MONITORING OF INFORMATION PROVISION

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

Commented [MQ20]: 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 # 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 # PROTECTION OF WHISTLE-BLOWERS FOR PROVISION OF
INFORMATION AND JOURNALISTS WHO PUBLISH INFORMATION

BOOK 2 ENVIRONMENTAL PLANNING, ASSESSMENT AND
MONITORING

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 7, Strategic Environmental 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 Book1 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.
- The provisions on planning in this Book will include:

- The requirement for Meaningful Stakeholder Engagement.
- That public consultation processes and similar pay attention to individuals or groups of people (with a focus on women among others) who are vulnerable, marginalised from decision making processes or at most risk from the development of projects or other uses of or changes to the natural environment.
- That the Ministry of Women's Affairs has a formal role in the development, review

or approval of the various plans required in this Book.

- That the Ministry of Environment issues Guidelines or the Code itself mandates that gender issues must be assessed, identified or inform decision making processes.

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-SCALE CONSERVATION PLANNING

• This Title will establish landscape-scale conservation planning and a system of -national conservation landscape areas and conservation corridors. National landscapes include , for example:

- North Eastern Protected Landscape.

- North Central Protected Landscape
- Eastern Protected Landscape
- South Western Protected Landscape
- Tonle Sap Protected Landscape
- This Title will establish a landscape approach to protected (or otherwise classified land management) areas and natural resources management.

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

CHAPTER # CLASSIFICATION OF ZONES WITHIN THE NATIONAL LANDSCAPE CONSERVATION AREAS AND CONSERVATION CORRIDORS

CHAPTER # ACTIVITIES PROHIBITED IN THE LANDSCAPE CONSERVATION AREAS AND CONSERVATION CORRIDORS

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

CHAPTER # RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS IN THE NATIONAL LANDSCAPE CONSERVATION AREAS AND CONSERVATION CORRIDORS

CHAPTER # PROCEDURES FOR ADJUSTMENTS TO THE BOUNDARIES OF THE NATIONAL LANDSCAPE CONSERVATION AREAS AND CONSERVATION CORRIDORS

TITLE 3 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.
- This Title will review the role and functions of Economic Land Concessions and the implementation of projects on ELCs.
- This title will also include selected revisions of the current Cambodian Land Management Framework.
- This title will establish a framework for soil protection and management.

The Law on Concessions 2007, the Law on Land 2001, Law on Protection of Cultural Heritage 1996, Law on Water Resources Management 2007, and the Law on Land Management, Urban Planning and Construction 1994 are hereby amended and clarified as follows:

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

Commented [MQ21]: Moved Title on Sustainable Land Management in Book 4.

CHAPTER # ENVIRONMENTAL LAND USE REQUIREMENT

ARTICLE #

Ministry of Environment – General Requirements that land use plans and zoning ordinances at all levels of government must include before MoE grants clearance to a project or plan as environmentally satisfactory and advises MLMUPC that any plan development requiring an EIA or an IEE, or an environmental protection contract, as these terms are used in Title 8 EIA (Sub-Decree 72 on EIA, 1999) that protects Cambodia's human, natural and social environment.

- a) A requirement to set aside a reasonable percentage of the land not exceeding 15% of the

- total area of the project being developed for open space. The land may be dedicated as state public land, or held as private land provided that the owner registers it as open space, files a declaration of such dedication with the provincial and district government in which the land is located, and provides for the management of the open space.
- b) A requirement that the developer provide a reasonable fee to the Ministry to acquire open space in the general area of the development. The fee may be enhanced by 50% as a replacement for up to 50% of the land dedication required in A.
 - c) A requirement that the development address the issue of carbon neutrality by reducing carbon emissions associated with it.
 - d) A Requirement that the development contain adequate plans for drainage or runoff to prevent flooding.
 - e) A requirement that the development have adequate plans for the treatment of wastewater to avoid pollution of surface waters or groundwater
 - f) A requirement that the development provide for sustainability of any forests within its area, and for the enforcement of such requirements
 - g) A requirement for the limitation of solid and liquid waste streams from the development
 - h) A requirement that the road circulation system in the development be safe and efficient that it tie in safely and efficiently with roads outside the development
 - i) For industrial developments, a plan for ensuring that any contamination of the soil or water be monitored, reported and made public, and a signed agreement that the landowner at the time the contamination occurred and the persons or entity responsible for the contamination agree to pay for the costs of clean up
 - j) A disclosure of any provisions of any ELC or SLC that may be affected by the development.
 - k) An analysis of the effect of the development on any Protected Area, National Landscape/Corridor or Forest Area designated for protection by MAFF within 20 kilometres of the proposed development, and a plan for eliminating or at least mitigating any adverse effects, and where needed, the terms of a proposed contract including funding with residents in the Protected Area or Forest for administering programs mitigating adverse impacts.

- l) A plan for preservation or enhancement of any historical, cultural or natural resource values currently possessed by the land, such as its use for charcoal production, or fishing or other traditional activity, or use of the property for religious purposes
- m) For development in the 27 cities, a statement showing how the development promotes sustainable cities as defined elsewhere in this code and how it complies with any master plan or zoning ordinance for any such city.
- n) A statement demonstrating how the project conforms to all other relevant Master Plans and zoning ordinances at all other levels of government.

ARTICLE #

The Ministry may by sub-decree exempt development requiring only an environmental protection contract, or IEE but not one requiring an EIA from categories of the requirements listed above or may limit the information required with respect to a category.

ARTICLE #

All plans, documents and other information required in Article #, above, plus a map of the proposed development, shall be made freely available to the public by filing with the MoE, the local municipality, and the relevant commune, district, songkat or provincial offices. Such information shall also be provided in digital form and be made readily available on the Internet at a site maintained by the Ministry. In addition, a notice of the proposed project in large type shall be posted and maintained on a prominent place on the property for which approval is sought. The notice shall state briefly what is being proposed and where information about the project can be found.

ARTICLE #

No decision on any environmental clearance shall be made until 45 days after the posting, filing and internet postings required above and any significant revisions to them. No project shall be approved unless the information has been provided.

ARTICLE #

All decisions to grant, deny or approval a permit with conditions shall be posted on the Ministry website within 15 days of the decision.

ARTICLE #

Any official granting a permit where all the necessary information set forth in in Article # [first Article] has not been provided or provided too late shall be subject to sanctions.

ARTICLE #

The Ministry may charge fees sufficient to provide for the administration of these requirements and for the enforcement of the conditions of any permit it may grant. These fees may be used for, among other things, the hiring, training, compensation of enforcement officers and other personnel.

ARTICLE #

These requirements shall cover all land development projects in the Kingdom for which an environmental review by the MoE is required including but not limited to projects in ELCs, SLCs or Protected Areas or Forests. No construction permit or approval of a plan shall be issued unless the environmental reviews have been approved by MoE and the project has received an environmental clearance from MoE.

ARTICLE #

Where the relevant authorities have not provided for the requirements and information set forth in Article # [first Article], then the MoE shall deny environmental clearance until these requirements have been met and information have been provided to it.

By the Prakas, published and made known to the public in advance of any permit decision, the Ministry shall establish standards for complying with each of the items set forth in in Article # [first Article] in order to deal with the situations where the requirements and information in in Article # [first Article] are not imposed in zoning or other regulations. Such shall be adopted after due consultation with MLMUPC or in the case of Cities with Master Plans and zoning ordinances, with the City.

ARTICLE #

The Ministry of Environment shall establish by sub-decree a schedule of impact fees which shall be imposed on projects requiring an EIA or IEE, which shall be based on objective standards such as number of housing units or square feet of commercial or industrial space. The total amount of such fees shall not exceed 15% of the value of the construction for which a permit is being sought. The funds shall be payable in full at the time construction of the project is started. They shall only be used to offset environmental, traffic and other impacts of the project and shall not be placed in the general treasury.

ARTICLE #

There is hereby established the Inter-ministerial Committee on Land Use to coordinate the development and implementation of these above provisions. Its Members shall include MLMUPC, MoE, MoI, MAFF, MME and others who may be needed from time to time. The Committee shall meet at least monthly to review the development, administration, and enforcement of land use requirements in the Kingdom and shall suggest measures to improve them and to provide for coordination among agencies for implementing them.

ARTICLE #

Citizens are hereby empowered to bring petitions for enforcement of the requirements in 1. Such petitions shall be acted on within 60 days of their being filed with the Ministry. Also, any citizen who believes that the DoE has granted a permit in violation of these requirements may file a petition to revoke or modify such permit within 60 days of the posting on the Ministry Website of the decision to grant such permit. The precise procedures for informal and formal dispute resolution shall be set forth by sub-decree.

ARTICLE #

Compliance with these land use provisions shall be in addition to requirements for environmental protection contained in other laws and sub-decrees, including for example, the Law on Protection of Cultural Heritage (1996), the Law on Water Resources Management (2007) and other provisions of this Code.

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

ARTICLE #

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

CHAPTER # CLASSIFICATION OF URBAN LAND

ARTICLE #

Population threshold at which a zoning plan is required

CHAPTER # ZONING OF URBAN LAND

CHAPTER # MINIMUM STANDARDS OF URBAN ZONING PLANS

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

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

CHAPTER # URBAN INFRASTRUCTURE REQUIREMENTS

ARTICLE #

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

ARTICLE #

Facilitating public-private infrastructure financing

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

ARTICLE #

Incentivizing public transit ridership.

ARTICLE #

Promoting Walkability

CHAPTER # BUILDING, PARKING, OPEN SPACE REQUIREMENTS

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

CHAPTER # OTHER PRIVATE SECTOR PROVISIONS

CHAPTER # MOTOR VEHICLE EXHAUST STANDARDS

CHAPTER # POTENTIAL NEW TENURE SYSTEMS FOR SOCIAL HOUSING

PROJECTS

TITLE 4 **EXTENDED PRODUCER RESPONSIBILITY**

TITLE 5 **RISK ASSESSMENT**

DEFINITIONS

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

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

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

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

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

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

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

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

Commented [MQ22]: 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).

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

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

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

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

Site – A Contaminated Site as defined.

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

Sustainable Financial Assessment - the ability to secure stable and sufficient long-term financial resources, and to allocate them in a timely manner and appropriate form, to cover the full costs of any project or operational costs.

CHAPTER 1 SCOPE AND APPLICATION OF RISK ASSESSMENT

ARTICLE 1

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

ARTICLE 2

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

ARTICLE 3

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

CHAPTER 2 RISK ASSESSMENT PROVISIONS

SECTION 1 PURPOSE OF RISK ASSESSMENT

ARTICLE 4

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

ARTICLE 5

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

ARTICLE 6

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

ARTICLE 7

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

ARTICLE 8

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

SECTION 2 FRAMEWORK OF RISK ASSESSMENT

ARTICLE 9

The Ministry of Environment shall develop procedures, tasks, and methods for the performance of

a Risk Assessment using commonly accepted and sound scientific principles.

ARTICLE 10

The Risk Assessment which is conducted before making any decision, or approval of a project or activity, shall be prepared as a part of the environmental assessment process (IEE or EIA).

ARTICLE 11

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

ARTICLE 12

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

SECTION 3 USE OF RISK ASSESSMENTS

ARTICLE 13

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

ARTICLE 14

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

ARTICLE 15

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

ARTICLE 16

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

ARTICLE 17

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

ARTICLE 18

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

SECTION 4 GOALS OF A RISK ASSESSMENT

ARTICLE 19

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

ARTICLE 20

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

ARTICLE 21

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

ARTICLE 22

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

ARTICLE 23

A goal of Risk Assessment shall be to enable the public to obtain useful and scientifically sound

information related to risks identified at a project or on a contaminated site and to foster public participation to the maximum extent possible.

ARTICLE 24

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

CHAPTER 3 RESTORATION OF SIGNIFICANT ENVIRONMENTAL IMPACTS TO THE ENVIRONMENT

SECTION 1 RESTORATION PURPOSE AND APPLICABILITY

ARTICLE 25

The purpose of conducting Restoration of a Contaminated Site shall be to reduce or eliminate Significant Environmental Impacts to the Environment through utilization of a Risk Assessment or Risk Reduction approach, which may vary depending on the Site. A Risk Assessment process may be utilized under Chapter 1 of this Title 12 to achieve the appropriate Restoration for a Contaminated Site.

ARTICLE 26

Chapter 3 applies to the Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site whether the Discharge causing or contributing to the Contamination occurred prior to, on, or after the effective date of the Environmental Code. The Ministry of Environment shall develop a general list or categories of potential Contaminated Sites that could be subject to this Chapter. A Contaminated Site may include property or an area either privately or publicly owned or operated.

ARTICLE 27

The Person or Persons responsible for Restoration of a Contaminated Site shall be identified under Book [4], Title [6] of the Environmental Code and shall be any Person who has legal responsibility for Restoration. The real property owner, the business or facility owner, the business or facility operator, the discharger, or other Person or governmental entity responsible for Significant Environmental Impacts to the Environment at a Contaminated Site may also be liable for Restoration.

ARTICLE 28

The scope and extent of a Contaminated Site shall be determined depending on the specific site. The size and land or water (including surface water and groundwater) area coverage of a Contaminated Site may not initially be known. The Site Investigation conducted under Section 7 of this Chapter is intended to enable the scope and extent of the Contaminated Site to be determined.

SECTION 2 REPORTING OF SIGNIFICANT ENVIRONMENTAL IMPACTS TO THE ENVIRONMENT

ARTICLE 29

The discovery of a Discharge, a Contaminated Site, or a Significant Environmental Impact to the Environment shall be reported by any Responsible Person or Persons to the Ministry of Environment, or any governmental entity designated by the Ministry of Environment.

ARTICLE 30

The discovery of a Discharge, a Contaminated Site, or a Significant Environmental Impact to the Environment may be reported by any member of the general public in keeping with the principle of public participation established under the Environmental Code.

ARTICLE 31

Reporting of a Discharge, a Contaminated Site, or a Significant Environmental Impact to the environment may also be the result of an investigation or inspection by the Ministry of Environment, any representative of the Ministry of Environment, any other ministries or governmental entities, or any consultant conducting an investigation or inspection under the authority of the Ministry of Environment.

ARTICLE 32

The Ministry of Environment may establish more specific requirements for the process and schedule on such reporting under Section 2.

SECTION 3 NOTICES AND PUBLIC PARTICIPATION

ARTICLE 33

Within 72-hours of the Ministry of Environment receiving any report under Section 2, the

appropriate Ministry of Environment representative shall provide notice and a brief summary of such report to any other ministries and other governmental entities whose jurisdiction could extend over the environmental impacts that are the subject to the report. Such notice shall be provided in writing or through electronic communication. Other ministries and governmental entities receiving a Notice as specified from the Ministry of Environment shall have the opportunity to request periodic status updates from the Ministry of Environment on any subsequent work being conducted by any Responsible Person or Persons related to Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site following the Notice provided by the Ministry of Environment.

ARTICLE 34

Ministry of Environment is required to establish a process and schedule for providing Notice to the general public, including any non-governmental organizations (NGOs) in the area of the property for which any reporting under Section 2 has occurred.

Article 35 Ministry of Environment is required to establish a process and schedule for satisfying the notice and public participation requirements for Section 3. Such process and schedule to be developed by the Ministry of Environment shall incorporate the principles of public participation and access to information as set forth in the Environmental Code

SECTION 4 RESTORATION RELATED TECHNICAL DOCUMENTS, STANDARDS, AND REPORTS

ARTICLE 36

Work undertaken under authority of the Ministry of Environment or by any Responsible Person or Persons on Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site may often be technically and scientifically detailed or complex. Accordingly, technical and scientific guidelines and information sources may be utilized and relied upon during the performance of Restoration work under Chapter 3. The Ministry of Environment shall develop and maintain a list of technical and scientific guidelines and information sources that may pertain to and be utilized to conduct the work of Restoration of Significant Environmental Impacts to the Environment at any Contaminated Site.

ARTICLE 37

The reference list maintained by MOE under Article 36, may be utilized by Ministry of Environment, other ministries and governmental entities, any Responsible Person or Persons for Restoration of a Contaminated Site, and any authorized consultants, as well as any member of the general public or NGOs for purposes of either conducting the Restoration referenced or otherwise

monitoring any work or actions undertaken for the Restoration of a Contaminated Site.

**SECTION 5 RESTORATION AGREEMENT WITH RESPONSIBLE OR LIABLE
PERSON**

ARTICLE 38

Ministry of Environment may require any Responsible Person or Persons to enter into a written Restoration Agreement in order to provide the framework and specific requirements for the conduct of Restoration of Significant Environmental Impacts at a Contaminated Site. The purpose of any such Restoration Agreement shall be as specified in Section 1, of Chapter 3 and the goal shall be to establish a framework for ultimately obtaining a final determination of Contaminated Site Restoration completion from the Ministry of Environment under Section 9 of Chapter 3.

ARTICLE 39

Ministry of Environment is authorized to establish a general procedure and schedule for negotiating and finalizing Restoration Agreements with a Responsible Person or Persons to conduct Restoration of a Contaminated Site.

ARTICLE 40

As part of a Restoration Agreement, Ministry of Environment may require an optional development of a Conceptual Restoration Plan for the purpose of establishing the extent of Restoration work under Chapter 3, including the use and implementation of any Risk Assessment under Chapter 1 of this Title 12 in support of a goal of Risk Reduction at a Contaminated Site.

ARTICLE 41

Upon finalization of any Restoration Agreement, Ministry of Environment shall provide Notices of such finalization to those Notice recipients identified under Section 3 of Chapter 3, in accordance with the process and schedule to be developed. Ministry of Environment shall also maintain a list of all final Restoration Agreements as a reference source and public participation repository for future review and use by any person, other ministries and governmental entities, and the general public, including NGOs.

ARTICLE 42

Ministry of Environment shall establish requirements for the establishment of appropriate and necessary funding for the completion of any Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site as set forth in this Chapter 3. These requirements may

include the necessary provision of sufficient funding to be provided by any Responsible Person or Persons for completion of Restoration under Section 9 below. Restoration work funding and financial assurance may be established as a component of any Restoration Agreement or separately if a Restoration Agreement is not required to be developed and finalized.

ARTICLE 43

As part of the Ministry of Environment establishment of funding and financial assurance requirements for Restoration of a Contaminated Site, Ministry of Environment may also require, on a Site determined basis, that funding to any other appropriate ministry or governmental entity, or a qualified NGO, as appropriate or necessary, shall be provided in order to monitor work associated with the Restoration of a Contaminated Site or to otherwise facilitate and foster the principles of public participation and access to information as set forth under the Environmental Code.

SECTION 6 INITIAL RESTORATION ACTIVITIES

ARTICLE 44

Whether or not a Restoration Agreement has been developed and finalized under Section 5 above, the Ministry of Environment shall establish a process, procedures, and schedule for coordinating any participation or involvement by Ministry of Environment and any other appropriate ministries and governmental entities for purposes of fostering, facilitating, and monitoring the Restoration of a Contaminated Site in order to address Significant Environmental Impacts to the Environment being undertaken by any Responsible Person or Persons.

ARTICLE 45

Ministry of Environment is authorized to establish a process and procedures for requiring immediate activities to be initiated by the ministry, other ministries or governmental entities, and any Responsible Person or Persons for the purpose of implementing any Emergency Response Action under an expedited schedule to be established by Ministry of Environment, whether at any Contaminated Site potentially or actually affecting adjacent or nearby areas.

ARTICLE 46

The source of Significant Environmental Impacts to the Environment may present an adverse continuing impact that could be lessened or alleviated if Source Removal actions are promptly implemented by a Responsible Person or Persons. Ministry of Environment is authorized to establish a process, procedures and schedule for conducting Source Removal of the

Contamination, as necessary or appropriate, at a Contaminated Site.

SECTION 7 CONTAMINATED SITE INVESTIGATION

ARTICLE 47

The Responsible Person or Persons shall conduct an assessment and investigation of a Contaminated Site as part of the Restoration of Significant Environmental Impacts to the Environment. The site assessment and investigation shall be undertaken in accordance with specific requirements and timeframes to be established by the Ministry of Environment. To facilitate the site assessment process, the Responsible Person or Persons may have discussions with the appropriate Ministry of Environment personnel at various decision points to establish the scope and methodology of the site assessment and the possible utilization of a Risk Assessment under Chapter 1 of Title [12] in order to identify Risk Reduction options for the Restoration of a Contaminated Site. These discussions may include the development of a Conceptual Restoration Plan, whether or not as part of a Restoration Agreement under Section 5 above, to help make decisions with regard to site assessment, remedial strategy evaluation, risk management, and the completion of Contaminated Site Restoration. The site assessment and investigation shall be performed by an environmental consultant approved by Ministry of Environment.

ARTICLE 48

If a Restoration Agreement has been finalized with a Responsible Person or Persons under Section 5, a site assessment and investigation shall be completed in accordance with the timeframes for such work set forth in the Restoration Agreement. Otherwise, site assessment and investigation tasks shall be completed pursuant to any specific requirements and timeframes established by the Ministry of Environment pursuant to Article 47.

ARTICLE 49

As a component of any site investigation undertaken at a Contaminated Site, a Risk Assessment pursuant to Chapter 1 of Title 12 may be undertaken by the Responsible Person or Persons or may be required by Ministry of Environment as part of a final Restoration Agreement. Alternatively, a Risk Assessment may be conducted by a Responsible Person or Persons or may be directed to be undertaken by the Ministry of Environment after completion of a Contaminated Site investigation. The results of any such Risk Assessment may be utilized for determining the appropriate Restoration alternative to be conducted under Section 8, below, for the Contaminated Site.

ARTICLE 50

A written site assessment report shall be prepared by the Responsible Person or Persons at the conclusion of the site assessment and investigation referenced under Article 1 above. The Ministry of Environment is authorized to establish guidelines or requirements for the specific content and goals of a site assessment report for a Contaminated Site. The site assessment report shall also include recommendations to Ministry of Environment for one or more Restoration alternatives to be performed by the Responsible Person or Persons at the Contaminated Site as follow-up work. The recommendations shall be based upon the findings and conclusions of the site assessment and investigation, including the results of any Risk Assessment, if performed.

ARTICLE 51

If a Restoration Agreement has been finalized with a Responsible Person or Persons under Section 5, a site assessment and investigation shall be completed in accordance with the timeframes for such work set forth in the Restoration Agreement. Otherwise, site assessment and investigation tasks shall be completed pursuant to any specific guidelines or requirements established by the Ministry of Environment pursuant to Article 47.

SECTION 8 RESTORATION ALTERNATIVES

ARTICLE 52

The Responsible Person or Persons may propose and recommend that no further action should be required if the results of Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site confirm that remaining environmental impacts are in compliance with the standards for pollution control established in either or both Title 1 and Title [2] of Book 6 and any applicable Environmental Quality Standards established under Book 2, Title [5] of the Environmental Code. The Ministry of Environment shall be responsible for either rejecting or approving any such no further action proposal and recommendation.

ARTICLE 53

Even if Restoration work at a Contaminated Site has not achieved the general obligations or standards for pollution control and Environmental Quality Standards, as necessary and appropriate, as referenced in Article 52, a no further action proposal or recommendation may still be offered for Ministry of Environment consideration in conjunction with the utilization of Institutional Controls and/or Engineering Controls if the results of a Risk Assessment demonstrate that such Institutional Controls and/or Engineering Controls demonstrate sufficient Risk Reduction to the environment, public safety and human health at the Contaminated Site. The Ministry of Environment shall be responsible for either rejecting or approving any such no further action proposal and recommendation which may be offered in conjunction with proposed Institutional

Controls and/or Engineering Controls.

ARTICLE 54

Ministry of Environment is authorized to establish specific examples and a list of Engineering Controls and Institutional Controls that may be offered for consideration as part of a no further action proposal or recommendation referenced in Article 2 above.

ARTICLE 55

If the conditions at a Contaminated Site which are identified after the site assessment and investigation actions and a site assessment report are completed as specified under Section 7 above do not support a no further action proposal or recommendation, with or without the use of Institutional Controls or Engineering Controls, the Responsible Person or Persons shall prepare and submit to Ministry of Environment for review a remedial action plan for active Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site. The remedial action plan shall be prepared and undertaken in accordance with specific requirements and timeframes to be established by the Ministry of Environment.

ARTICLE 56

If a Restoration Agreement has been finalized with a Responsible Person or Persons under Section 5; active Restoration shall be completed in accordance with the timeframes for such work in the Restoration Agreement. Otherwise, active Restoration shall be completed pursuant to any specific requirements and timeframes established by the Ministry of Environment pursuant to Article 4.

ARTICLE 57

Restoration of a Contaminated Site may require long term care and maintenance actions before a final determination of restoration completion is made by the Ministry of Environment under Section 9. Ministry of Environment is authorized to establish representative examples and a list of long term care and maintenance actions which may include, but are not limited to, erosion control, general maintenance, groundwater protection, leachate control, storm water or other surface water management, and public access restrictions.

ARTICLE 58

Restoration of a Contaminated Site may require environmental monitoring requirements before a final determination of restoration completion is made by the Ministry of Environment under Section 9. Ministry of Environment is authorized to establish representative examples and a list of environmental monitoring requirements.

SECTION 9 DETERMINATION OF RESTORATION COMPLETION

ARTICLE 59

The Ministry of Environment shall provide the Responsible Person or Persons with a determination that Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site has been completed when it has been satisfactorily demonstrated that Restoration work has met the general obligations and standards for pollution control set forth in Book 6, Titles [1] and [2], and also any applicable Environmental Quality Standards which have been established under Book 2, Title [5], as necessary.

ARTICLE 60

The Ministry of Environment shall provide the Responsible Person or Persons with a determination that Restoration of Significant Environmental Impacts to the Environment at a Contaminated Site has been completed when it has been satisfactorily determined that Restoration work has met the no further action proposal or recommendation in conjunction with the utilization of Institutional Controls and/or Engineering Controls referenced in Section 8, Article 53.

ARTICLE 61

Contaminated Site Restoration shall not be considered complete until such time as the Ministry of Environment finalizes a determination under either Article 59 or 60 above. If Ministry of Environment proposes to finalize such a determination, the ministry shall first provide a proposed draft of the determination, with the supporting rationale and relevant information, to other appropriate ministries and governmental entities, as well as the general public and any appropriate NGOs for review and input before the ministry issues its final determination. After the receipt of any timely response, Ministry of Environment shall either finalize its Contamination Site Restoration completeness determination or shall notify the Responsible Person or Persons that additional Restoration work must be accomplished before a final completeness determination shall be issued by Ministry of Environment.

ARTICLE 62

Ministry of Environment is authorized to establish the necessary notice and public participation process and procedures in accordance with Section 61 above, including an appropriate schedule for responses to such notice to be made to the ministry, on a proposed Contaminated Site Restoration completeness determination. Ministry of Environment shall also include, if necessary, the timeframe for completing the issuance of a final completeness determination or for additional Restoration work to be accomplished by the Responsible Person or Persons.

ARTICLE 63

Upon finalization of any determination of Contamination Site Restoration, Ministry of Environment shall provide Notices of such finalization to those Notice recipients identified under Section 3 of Chapter 3, in accordance with the process and schedule to be developed. Additionally, Ministry of Environment shall maintain a list of all final Contamination Site Restoration determinations as a reference source and public participation repository for future review and use by any person, other ministries and governmental entities, and the general public, including NGOs.

ARTICLE 64

Funding and financial assurance for Contaminated Site Restoration may have been provided as part of a finalized Restoration Agreement under Section 5, Article 42, or under authority of other applicable provisions of the Environmental Code. When the Ministry of Environment makes a final determination of Contaminated Site Restoration completion pursuant to this Section 9, any such funding and financial assurance amounts established by the Responsible Person or Persons and which have not been expended on Restoration work shall be reimbursed to the Responsible Person or Persons. An exception to this fund reimbursement provision shall be if Ministry of Environment, as part of its Restoration completeness determination review requires that applicable long-term maintenance and/or environmental monitoring requirements for the Contaminated Site shall also be conducted in the future before finalization of the ministry's Contamination Site Restoration completion determination.

Title 4 TITLE 6 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 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 7 STRATEGIC ENVIRONMENTAL ASSESSMENT

- This Title will outline the use of Strategic Environmental Assessment (SEA) for the assessment and development of programmes and plans in Cambodia. The use of SEA can be for all types of programmes and plans, including decisions that may have a significant impact on the environment or natural resources management. SEA does not apply to activities or developments, which will be covered under the EIA Book of the Environmental Code.
- The threshold for trigger for SEA will be defined by the NCSD, which shall act as the coordinating body for SEA. SEA will be conducted by the relevant Ministry (or institution)

Commented [MQ23]: New and revised content in Code Draft 5 for this section is in accordance with submissions and comments on SEA from various stakeholders and STWG members and experts and are included for discussion.

Content in this Title will be clarified, further developed, and made consistent with text regarding EIA as appropriate. The relationship between SEA and EIA will be further considered.

responsible for the implementation of the programme or plan. The threshold trigger for an SEA will be whether the programme or plan is likely to have a significant impact on the environment.

SECTION # OUTLINE OF STRATEGIC ENVIRONMENTAL ASSESSMENT

CHAPTER # OBJECTIVE OF STRATEGIC ENVIRONMENTAL ASSESSMENT

ARTICLE

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

CHAPTER # AIMS OF STRATEGIC ENVIRONMENTAL ASSESSMENT

ARTICLE

The key aims of SEA include:

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

CHAPTER # IMPLEMENTATION OF SEA

ARTICLE

The SEA procedure will include the following steps:

- 1) Screening
- 2) Scoping

Commented [MQ24]: Meaningful Stakeholder Engagement (which includes a focus on women) will be included.

Commented [MQ25]: Definitions for Environment and for Environmental Impact will be developed that are clear and through, reflect Cambodian values, and include examples.

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

ARTICLE # RELEVANT GOVERNMENT INSTITUTION

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

ARTICLE #

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

ARTICLE # ROLE OF THE NATIONAL COUNCIL FOR SUSTAINABLE DEVELOPMENT

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

ARTICLE #

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

SECTION # SCREENING

ARTICLE # SCREENING FOR SEA

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

Commented [MQ26]: Guidelines could contain detail on what should be included in an SEA similar to the detail provided for EIA in the Title on Responsible Extractive Industries.

Any guidelines prepared on public participation and access to information in the SEA process will be expanded to require that these Guidelines will support women in public participation and access to information in SEA processes.

ARTICLE # REQUIREMENT FOR SEA

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

Commented [MQ27]: Or this could be in accordance with the Appendix I. Based on the Vietnam Decree on SEA.

- a) agriculture,
- b) forestry,
- c) fisheries,
- d) energy,
- e) industry,
- f) mining,
- g) transport,
- h) infrastructure,
- i) regional development,
- j) water management,
- k) waste management,
- l) telecommunications,
- m) tourism,
- n) urban and regional planning or land use.

ARTICLE #

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

Commented [MQ28]: The Code will clarify who must determine what constitutes a Significant Environmental Impact and the definition for Environment and Significant Environmental Impact.

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

In reaching the decision whether to conduct SEA, the NCS D shall take into account the following factors:

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

Commented [MQ29]: This is modified from the SEA Protocol, Annex III.

ARTICLE #

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

SECTION # SCOPING

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

SECTION # CONSULTATION AND PUBLIC PARTICIPATION

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

SECTION # DRAFT SEA REPORT

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

SECTION # REVIEW OF DRAFT SEA REPORT

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

The SEA report assessment committee may:

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

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

ARTICLE # RESULTS OF ASSESSMENT OF DRAFT SEA REPORTS

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

SECTION # REVIEW OF FINAL SEA REPORT

ARTICLE #

The Final SEA Report shall be submitted to the NCSD.

ARTICLE #

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

CHAPTER # INFORMATION ON DECISION

ARTICLE #

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

ARTICLE #

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

CHAPTER # IMPLEMENTATION AND MONITORING

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

~~Title 6~~ TITLE 8 ENVIRONMENTAL ASSESSMENT

- This Title will modify and update the existing 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.
- The title covers the environmental assessment for all projects, activities and decisions that are likely to have an impact on the environment. “Environmental impact” is broadly defined to include social, health, biodiversity, cultural heritage, air, water, soil, flora and fauna.
- 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 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

Commented [MQ30]: New and revised content in Code Draft 5 for this section is in accordance with submissions and comments on EIA from various stakeholders and STWG members and experts and are included for discussion.

The title has been changed to “Environmental Assessment” to reflect that the provisions cover all levels of assessment for projects, activities and decisions that are likely to have an impact on the environment.

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.

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 PROJECT PROPONENT

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

Commented [MQ31]: Meaningful Stakeholder Engagement (which includes a focus on women) will be included.

Commented [MQ32]: 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).

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

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

ARTICLE #

Officials of the EIA 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

Commented [MQ33]: Will be expanded in order for MOE to have the authority to require Meaningful Stakeholder Engagement in order to understand stakeholders' experiences of and views on the environmental management of the project.

Commented [MQ34]: Per NGO Forum. Also, funding for sub-national authority role? Scope of project approval under sub-national authority?

Commented [MQ35]: Purpose and need to be defined and clarified.

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.

ARTICLE

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

ARTICLE

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

ARTICLE

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

ARTICLE

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

ARTICLE

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

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

ARTICLE

All development projects and activities 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 [MQ36]: A comprehensive and robust definition of "environment" would clarify and simplify the text and meaning.

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

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

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

ARTICLE #

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

ARTICLE #

An EIA is required in all cases where the Project will be located in or will have foreseeable adverse effects on any legally protected national, regional or indigenous area, including without limitations:

- (i) a forest conservation area (including biodiversity reserved area);
- (ii) a protected areas (including marine protected area);
- (iv) a mangrove forest;
- (v) any other sensitive coastal area;

- (vi) a wildlife sanctuary;
- (vii) a scientific reserve;
- (viii) a nature reserve;
- (ix) a geophysically significant reserve;
- (x) any other nature reserve nominated by the Minister;
- (xi) a cultural heritage area or listed national cultural heritage item; and
- (xii) an archaeological area or area of historical significance

ARTICLE #

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

ARTICLE # LETTERS OF ENDORSEMENT

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

- a) the accuracy and completeness of the relevant documents;
- b) that the documents have been prepared in strict compliance with applicable laws including any Guidelines issued by the MoE; and
- c) that the Project will at all times comply fully with the commitments, mitigation measures, EMP, and plans submitted and with the EIA Approval Certificate or Environmental Protection Agreement.

CHAPTER # INITIAL ENVIRONMENTAL EVALUATIONS

ARTICLE #

IEE report shall be required for:

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

ARTICLE #

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

ARTICLE #

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

Commented [MQ37]: Guidelines for IEE and EIA could contain detail on what should be included in an IEE and EIA similar to the detail provided in the Title on Responsible Extractive Industries.

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

Commented [MQ38]: Any guidelines prepared by the MoE on public participation and access to information in the EIA process will be expanded to require that these Guidelines will support women in public participation and access to information in EIA processes.

ARTICLE #

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

ARTICLE #

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

SECTION # ENVIRONMENTAL IMPACT ASSESSMENT

ARTICLE #

An Environmental Impact Assessment report shall be required for:

1. Projects listed in 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.

CHAPTER # SCOPING OF EIA REPORT

ARTICLE #

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

ARTICLE #

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

ARTICLE #

MoE shall issue guidelines for the preparation of Environmental Impact Assessment. These Guidelines will include best practice principles for Environmental Impact Assessment, including requiring that Environmental Impact Assessments assess the potential gender impacts of the

Commented [MQ39]: Guidelines for IEE and EIA could contain detail on what should be included in an IEE and EIA similar to the detail provided in the Title on Responsible Extractive Industries.

proposed project [other best practice principles could be added].

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

CHAPTER # PREPARATION OF EIA REPORT

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

The EIA Consultant shall make available all the environmental information required to ensure genuine and meaningful public participation in accordance with the provisions of the

Commented [MQ40]: Any guidelines prepared by the MoE on public participation and access to information in the EIA process will be expanded to require that these Guidelines will support women in public participation and access to information in EIA processes.

Environmental Code and any Guidelines prepared by the MoE on public participation and access to information in EIA process.

ARTICLE #

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

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

ARTICLE #

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

CHAPTER # ESTABLISHMENT OF EXPERT REVIEW COMMITTEE

ARTICLE #

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

ARTICLE #

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

Commented [MQ41]: 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.

ARTICLE #

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

ARTICLE #

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

Commented [MQ42]: 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.

CHAPTER # ROLE OF EXPERT REVIEW COMMITTEE

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

CHAPTER # TIMEFRAMES FOR EIA AND IEE PROCEDURE

ARTICLE #

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

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

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

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

The MoE has a period of 30 (thirty) working days to review, comment, approve, reject, or require

adjustment or correction to Environmental Protection Agreement and Environmental Protection Plan. The period is counted from the date of the submission of Environmental Protection Agreement, Environmental Protection Plan, and relevant documents.

ARTICLE #

MoE shall review and comment on the IEE report within sixty (60) working days counting from the date of receiving the report. The period of sixty (60) days of working days for the review and comment shall always restart when MoE receives an application asking for review as well as the final EIA report which the Project Proponent has corrected in accordance with the order or instruction that MoE has provided previously.

ARTICLE #

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.

ARTICLE #

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

ARTICLE #

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

CHAPTER # PREPARATION OF ENVIRONMENTAL MANAGEMENT PLAN

ARTICLE #

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

Commented [MQ43]: Will include a requirement for Meaningful Stakeholder Engagement.

were identified in the IEE and EIA reports.

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

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

Commented [MQ44]: 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.

SECTION # ASSESSMENT OF EIA REPORT

CHAPTER # REVIEW OF EIA REPORT

ARTICLE #

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

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

ARTICLE #

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

CHAPTER # REVISION OF EIA REPORT

ARTICLE #

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

ARTICLE #

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

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

ARTICLE #

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

ARTICLE #

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

Commented [MQ45]: 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.

ARTICLE #

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

CHAPTER # PROHIBITION OF ACTIVITIES WITHOUT EIA APPROVAL LETTER

ARTICLE #

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

ARTICLE #

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

ARTICLE #

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

CHAPTER # EXISTING PROJECTS

ARTICLE 31

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

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

ARTICLE #

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

ARTICLE #

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

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

CHAPTER # MATTERS FOR CONSIDERATION

Commented [MQ46]: 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.

ARTICLE #

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

CHAPTER # TRANSBOUNDARY ENVIRONMENTAL

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

ARTICLE #

Procedures for conducting TbEIA including government institution jurisdictions.

CHAPTER # CUMULATIVE IMPACT ASSESSMENT

ARTICLE #

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

CHAPTER # ENVIRONMENTAL MANAGEMENT AND MONITORING

ARTICLE #

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

CHAPTER # PROVISION OF INFORMATION

Commented [MQ47]: A comprehensive and robust definition of Environment will be developed.

Commented [MQ48]: Per NGO Forum. Recommend referencing work on cumulative impact assessment by University of Queensland, CSRM.

ARTICLE #

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

CHAPTER # REPORTING REQUIREMENTS

ARTICLE #

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

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

ARTICLE #

Each development project with an EIA Approval Letter and Certificate shall submit a quarterly and semi-annual report to the EIA Unit concerning its environmental management and monitoring; Project Proponents have the obligation to promptly report a critical environmental problem to relevant and competent authorities and to the public to avoid negative impacts to the environment or society; Project Proponents shall provide information related to environmental management of the project to MoE in accordance with the request of MoE.

CHAPTER # FEES AND CHARGES

ARTICLE #

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

ARTICLE #

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

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

ARTICLE #

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

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

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

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

Service fees and other charges shall be determined by an Inter-ministerial 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.

Title 7 TITTLE 9 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 (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

CHAPTER # APPOINTMENT AND QUALIFICATIONS OF ENVIRONMENTAL AUDITORS

CHAPTER # PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL AUDITS

Commented [MQ49]: Per NGO Forum. Ensure mandatory audits.

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

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

CHAPTER # MONITORING REPORTS REQUIRED UNDER EIA APPROVALS

CHAPTER # MONITORING REPORTS TO BE PUBLICALLY AVAILABLE

CHAPTER # RIGHTS AND RESPONSIBILITIES TRAINING

**BOOK 3 ENVIRONMENTAL MANAGEMENT AND
SUSTAINABILITY MECHANISMS**

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

Commented [MQ50]: Per NGO Forum. Link to risk identification and mitigation plans.

Commented [MQ51]: 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?

The Disaster Risk Management 2015 is hereby amended and clarified as follows:

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

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 Title 3 – Urban Land Use Planning and Book 3 Title 4 – 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

CHAPTER # REDD+

[Chapter under development]

- Using REDD+ as climate change mitigation measure (emission reduction) - attached Cambodia INDC and Paris Agreement

- Compliant with international agreement (e.g., Cancun safeguards)
- Develop spatial land use plans that help guide development of activities (e.g. agricultural development and infrastructure improvements), conservation areas and multiple use zones
- Develop national policies to help govern and regulate agribusiness (e.g., standard practices for sustainable palm oil and rubber)
- Sustainable forest management
- Restoration
- Public private partnership for Conservation
- Cooperate social responsibility
- Source of funding (attached sustainable forest financing)

TITLE 3 SUSTAINABLE CONSUMPTION AND PRODUCTION

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

CHAPTER # SUSTAINABLE CONSUMPTION AND PRODUCTION ACTION PLAN

CHAPTER # SUSTAINABLE CONSUMPTION

CHAPTER # GREEN PUBLIC PROCUREMENT

The Law on Corporate Accounts, Their Audit, and the Accounting Profession 2016, the Law on Public Finance System 2008, and the Law on the Establishment of the Ministry of Environment, 1996 are hereby amended and clarified as follows:

[Green Public Procurement considerations shall be included. Prerogatives of MoE shall be expanded to be able to follow the procedures set in this Chapter.]

DEFINITIONS

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

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

Life-cycle costing relates to costs associated with the life cycle of a product or service and includes costs borne by contracting authority and other users (cost of acquisition, use, maintenance, collection and, potentially, recycling at the end of life) and costs of environmental externalities linked to the product or service (e.g. cost of emissions) of greenhouse gases and of other pollutant emissions and other climate change mitigation costs (EU procurement directive)

ARTICLE # PURPOSE

The purpose of this chapter is two-fold:

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

ARTICLE # GENERAL PRINCIPLES

Specifies principles of green procurement specified in the three green growth-related decrees:

- life-cycle perspective
- resource efficiency, 3R, integrated waste management strategy, cleaner production,
- environmentally sound technology,
- green finance

- greening and facilitating SME's production

SECTION 1 GENERAL PROVISIONS

ARTICLE 1

The Title applies to goods and services that are

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

ARTICLE 2

Environmental criteria shall be considered together with other criteria in public procurement such as price, availability, quality. In defining environmental criteria the responsible party shall include environmental impact or products and services along their life cycle – at the stage or production, use and end-of-life management as well as impact of transportation at all stages of the life cycle.

ARTICLE 3

Following provision of the chapter responsible agencies shall implement policies and practices that encourage their suppliers to comply with environmental regulations and to offer environmentally friendly products and services. Suppliers of products and services to the public authorities can be required to provide evidence of their commitment to the environment according to the guidelines of relevant sub-legislation.

ARTICLE 4

Environmentally-friendly goods and services include

- Products, including materials, that carry less or no significant impact on the environmental and human health during their production, use or disposal through: reduction of harmful substances used in a product composition, minimization of excessive use of material and energy [reference to benchmarking], reduction in generation of CO2 emissions, increase in use of reuse and recycling practices of the product at the end of its working life (whole product or its parts)
- Services, including those provided for large scale development, that demonstrate lesser environmental load through operations including through reliance on environmentally

friendly products to deliver these services

c) Recycled material that are not adding environmental load across the life circle

SECTION 2 OBLIGATIONS FOR PROCUREMENT POLICIES AND PROCEDURES TO INCLUDE ENVIRONMENTAL CONSIDERATIONS

ARTICLE 5

MoE, in collaboration with other relevant ministries shall develop government-wide green procurement policy and a strategy for its implementation.

ARTICLE 6

The Royal Government of Cambodia shall implement measures to remove legal and administrative barriers that prevent introduction, purchase, use, import, export of environmentally friendly products.

ARTICLE 7

Departments of government engaged in procurement shall establish sectoral environmental procurement policies.

ARTICLE 8

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

ARTICLE 9

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

a) at the stage of planning procurement processes, governmental agencies with procurement responsibilities shall include a minimum environmental criteria in procurement specifications. Environmental criteria shall cover all stages of life cycle of product or

service including manufacturing, use, and disposal.

b) Governmental agencies with procurement responsibilities shall clearly communicate requirements for environmental criteria, as pre-qualifying criteria for selecting products or service providers

c) Assessment of service providers before awarding contracts must include assessment of their environmental performance, including compliance with environmental laws.

ARTICLE 10

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

SECTION 3 FACILITATING PROMOTION OF ENVIRONMENTAL GOODS AND SERVICES

ARTICLE 11

The responsible authorities shall implement measures that facilitate demand for environmentally friendly products and services. They shall also develop administrative structures and procedures that assist implementing measures for procurement of environmentally friendly goods and services.

ARTICLE 12

MoE, in collaboration with other responsible authorities conducting purchasing on behalf of government or state owned enterprises, including those responsible for manufacturing, import and sales, develop and annually update a list of environmentally-friendly products and services that become priority for state, regional and government procurement. They are to decide on the procedures associated with development of the qualifying criteria, promotion strategies towards buyers, producers and importers as well as capacity development for the producers and state, and associated, buyers.

ARTICLE 13

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

ARTICLE 14

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

ARTICLE 15

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

SECTION 4 PROVISION OF INFORMATION OF GOODS AND SERVICES, INCLUDING ENVIRONMENTALLY FRIENDLY GOODS AND SERVICES

ARTICLE 16

Producers of the goods and services, local and imported, as well as sales and import organizations shall provide information on products adherence to the minimum environmental performance.
Section 5 Capacity Development

ARTICLE 17

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

ARTICLE 18

MoE, in collaboration with the other responsible entities shall establish lists of specifications for green products and make these specifications publicly available. They shall also develop databases of suppliers with good environmental credentials.

ARTICLE 19

Responsible entities shall develop and continuously carry on capacity development for the persons

engaged in public procurement to assist them in making decisions based on environmental considerations. They shall develop awareness raising activities for suppliers, service providers, contractors (and capacity development where suppliers are locally based) and customers.

ARTICLE 20

MoE, in collaboration with sectoral ministries, shall support development of the guidance documents and documentation for selecting appropriate suppliers.

ARTICLE 21

Moe, in collaboration with sectoral ministries, shall facilitate development of databases of suppliers and products that fulfil minimum environmental criteria.

SECTION 6 MONITORING AND CORRECTIVE ACTIONS

ARTICLE 22

The Royal Government of Cambodia shall establish independent responsible authority and detailed procedures to monitor fulfilment of procurement obligations by all agencies responsible for governmental procurement.

ARTICLE 23

The procuring and contracting authorities shall send annual reports to the MoE and MEF on fulfilling environmental requirements in public procurement.

ARTICLE 24

MoE and MEF will receive annual reports form the procuring and contracting authorities in order to collect information on procurement to determine problems and inefficiencies in fulfilling environmental requirements in public procurement. They shall record and analyse recurring challenges and, in collaboration with the procuring and contracting authorities, devise necessary corrective procedures and actions, including possible amendments of the relevant laws and associated policies.

ARTICLE 25

MoE shall develop and maintain a database of contractors and providers who **seriously** or repeatedly failed to fulfil environmental conditions of contracts or work of the public authorities or offered false claims about their environmental performance or performance of their products.

Commented [S52]: Definition required.

ARTICLE 26

Serious or repeated failure to fulfil environmental conditions of the contract of public authorities or offering false claim on environmental performance of their product and work will exclude the contractor from participation in future contractual and bidding arrangements.

SECTION 7 TRANSITIONAL ARRANGEMENTS

ARTICLE 27

Green procurement should be seen as an integral part of the general procurement. In the case of Cambodia, public procurement practices are still not well developed or regulated (except those related to ODA). Therefore, it might require additional transitional arrangements that allow development of elements of green procurement while waiting for establishing general public procurement systems. Such elements can include facilitation of development of general green procurement policies (at the national, regional, sectoral levels), databases of environmentally conscious producers, green or greener products, training of procurement officials, supporting of local environmentally friendly producers, facilitating voluntary initiatives with private sector. While general procurement system is growing, the MoE might be in an excellent strategic position to put environmental considerations there at the start.

ARTICLE 28

This Title can be reasonably expected to be put in place in 2019. The detailed plan for transition is to be developed by the MoE in collaboration with MoET. Such plan can include the following ideas:

- MoE shall create national multi-stakeholder task force on environmental procurement, potentially on the platform of NCSD
- In collaboration with reconcile ministries, MoE will identify officials within responsible government ministries and departments who will be held accountable for implementation of environmental procurement
- The MoE, in collaboration with responsible ministries are to organize awareness-raising activities and stakeholder consultations to develop a green/sustainable public procurement policy. They are to facilitate research to assess priorities and to identify the largest expenditure categories for procurement and to identify challenges for implementation of environmental procurement

- The government, with leadership of MoE, will facilitate introduction of environmental criteria in several development processes with big potential for improvement and of evident significance in government procurement, e.g. construction, IT, cars, infrastructure development and white goods
- Development of capacity development of responsible parties, including in a course of pilot projects focused on procurement of specific categories of products (e.g. food for governmental functions, IT office equipment), accommodation (energy efficiency of buildings) or transportation (purchase of cars, organization of public transport)
- MoE, in collaboration with responsible authorities, shall develop and keep up-to-date Guidelines on incorporation of environmental (and SSD) criteria into all stages of the procurement process, from bidding documents to monitoring and evaluation
- Engagement with the private sector and other stakeholders to identify challenges and opportunities, build capacity of suppliers
- The government can consider introducing regulations that put (gradually increasing – in terms of degree of environmental criteria and/or volume of procurement) requirements of specific products and services, for example,
 - Requirements of proof of legality of source of wood used in public construction and infrastructure projects
 - Requirements for energy efficiency in buildings owned or rented by governmental authorities
 - Requirements for energy efficient IT equipment for government projects and offices
 - Requirements for procurement of the fuel efficient cars for governmental projects
 - Requirement for procurement of local and organic food for governmental offices and governmental institutions, e.g. schools, universities, hospitals.

CHAPTER # RESOURCE EFFICIENCY

TITLE 4 SUSTAINABLE CITIES

Commented [MQ53]: Title on Sustainable Cities moved to Book 2, to replace Urban Land Use Planning, and renamed Planning for 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.

This basic outline of a proposal for the Sustainable Cities Code seeks to extend the work already underway in Cambodia, specifically as announced and proposed in the PHNOM PENH GREEN CITY STRATEGIC PLAN 2016-2025. That extension would provide a broader framework, and legitimized legal backing, to Sustainable Cities planning both in the capital city, but also in urbanized areas throughout the country.

The basic components of the proposed Sustainable Cities Code are outlined below:

National Council for Sustainable Development. [NCSD's role in Sustainable Cities to be developed and clarified.]

National assistance to local governments. Examples from other Asian countries, such as Korea and Singapore, indicate that even where power is granted to local governments, they require assistance from the national government for technical matters and in establishing both procedures and substantive mandates.

Local sustainability councils. Such councils would likely be advisory to local governments and would consist of a variety of officials from government and non-governmental organizations. Local councils would be required for Phnom Penh and municipalities. Sub-councils could also be optional at sub-municipal levels, such as khans, sangkats, or communes.

Establishing a cycle of sustainability planning. National and local sustainability councils would work together to establish a cycle of sustainability planning based around a set of prescribed, and a set of optional, elements. They would engage in a 5-year iterative planning cycles: baseline review, target setting, political commitment, implementation and monitoring, and evaluation and

reporting. These planning cycles could be pegged to other aspects of Cambodian law, such as the National Strategic Development Plan. The PHNOM PENH GREEN CITY STRATEGIC PLAN 2016-2025 p. 30 (2016) defined the “key urban sectors that play a major role in the city’s current performance and that need to be transformed over time in order to contribute to the achievement of the green city vision and goals described in the previous section.” The eight urban sectors noted by the plan, “considered to be all equally important for a ‘green city’ future,” are:

- Urban planning
- Urban vulnerability
- Energy
- Transport
- Built environment
- Manufacturing
- Solid waste management
- Public spaces and cultural heritage

To the extent that Cambodia has already committed to this framework, it is a viable and sufficient approach to categorizing the variety of engagement.

Transparency. All reports and meetings should be open to the public. Reports should ultimately be available on a common and widely known Internet site.

Drafting code for long-term. The Sustainable Cities Code should anticipate both a first iteration of review, which may be basic in its form, while also anticipating more nuanced and detailed review as capacity builds.

Facilitate broad participation. Local knowledge is important in addressing sustainability issues. Finding ways for participation to inform the work of the local sustainability councils is important.

Enforcement and power. The national and local sustainability councils need to be clear on their powers and enforceability of their pronouncements. One approach has already been imagined in the PHNOM PENH GREEN CITY STRATEGIC PLAN 2016 – 2025.

CHAPTER # DEVELOPMENT OF SUSTAINABLE URBAN CENTRES

ARTICLE # GREEN URBAN CITY

All proposed development in the cities (buildings, houses, factories) need to consider minimum environmental consideration. (e.g., wider road, drainage system, green space for recreation, playground)

CHAPTER # MAKING A SUSTAINABLE CITY PLAN

ARTICLE #

Measuring progress towards sustainability.

ARTICLE #

Establishing priorities for sustainable cities development across scales (i.e., at the local, regional and national level) with cooperation between multiple ministries at the national and local levels.

ARTICLE # CITY ZONING

ARTICLE # TRAFFIC MANAGEMENT

ARTICLE # TRANSPORTATION MANAGEMENT

Sustainability of transportation:

- The importation of vehicles shall consider the minimum environmental standards of emissions.
- The existing road shall improve by providing sufficient facilities for pedestrians (sidewalks, traffic lights etc.).
- Construction of new road shall providing sufficient facilities for pedestrians (sidewalks, traffic lights etc.).

CHAPTER # ESTABLISHMENT OF RECYCLING PLANS FOR URBAN AREAS

CHAPTER # PROMOTING ENERGY EFFICIENCY

ARTICLE #

Mechanisms to support energy efficiency.

CHAPTER # SETTING OF ENERGY EFFICIENCY STANDARDS

CHAPTER # SETTING OF STANDARDS FOR GREEN BUILDINGS

ARTICLE #

Develop sustainable building policies.

ARTICLE #

Develop sustainable building practices.

CHAPTER # INTERIM ADOPTION OF INTERNATIONAL STANDARDS

CHAPTER # CREATION OF SUSTAINABLE AND BETTER HOUSING

ARTICLE #

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

ARTICLE #

Implementing an environmentally sound, sustainable and affordable social housing programme

CHAPTER # OPEN SPACE, PUBLIC PARKS AND GREEN SPACES

ARTICLE #

Promotion of ecological space within cities, given that increasing urbanization is contributing to the deterioration of environmental services.

ARTICLE #

City and town shall promote eco-villages to integrate urban and rural ways of life, and promote sustainable lifestyles through of ecological design, permaculture, ecological building, green production, alternative energy, community building practices, etc.

CHAPTER # ENSURING CLIMATE RESILIENCE IN URBAN AREAS

CHAPTER # FINANCIAL MECHANISMS TO SUPPORT GREEN INVESTMENT

ARTICLE #

Cities, and district level administrations shall allocate a financial budget for green space, recreation

ARTICLE #

Tax policy

TITLE 5 SUSTAINABLE TOURISM AND ECOTOURISM

The Law on Tourism 2009 is hereby amended and clarified as follows:

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

Tourism: comprises the activities of persons traveling to and staying in places outside their usual environment for not more than one consecutive year for leisure, business and other purposes. (Source: UN World Tourism Organization)

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

Responsible tourism (responsible travel): tourism which

- a) minimizes negative social, economic and environmental impacts
- b) generates greater economic benefits for local people and enhances the well-being of host communities and improves working conditions and access to the industry
- c) involves local people in decisions that affect their lives and life chances
- d) makes positive contributions to the conservation of natural and cultural heritage embracing diversity
- e) provides more enjoyable experiences for tourists through more meaningful connections with local people, and a greater understanding of local cultural, social and environmental issues
- f) provides access for physically challenged people
- g) is culturally sensitive, encourages respect between tourists and hosts, and builds local pride and confidence

(Source: The Cape Town declaration 2002, confirmed by the Kerala Declaration 2008)

Ecotourism: sustainable, responsible tourism to relatively undisturbed natural areas, in order to enjoy, study and appreciate nature (and any accompanying cultural features—both past and present), that promotes conservation, has low visitor impact, provides for beneficially active socio-economic involvement of local populations and involves interpretation and education of both visitors and hosts. (Based on an official definition adopted by the IUCN in 1996 with a contribution from The International Ecotourism Society in 2015)

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

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

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

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1 NATIONAL INTEREST IN THE TOURISM SECTOR

The Kingdom of Cambodia finds that there is national interest in the sustainable development and management of the tourism sector and its sub-sectors including but not necessarily limited to leisure and recreational tourism, nature tourism, adventure tourism, agricultural tourism, cultural tourism, and privately-operated or community-based ecotourism that may be proposed and undertaken on public or private lands within the Kingdom.

ARTICLE 2 SUSTAINABILITY AS NATIONAL STRATEGY

Commented [MQ54]: Content is included for consideration. It must be determined whether and how the Environmental Code will apply to tourism operations on private lands.

This Article establishes that sustainable development and management of all aspects of tourism within the Kingdom of Cambodia on public or private lands is a national strategy and goal.

ARTICLE 3 ACCEPTANCE OF WORLD TRAVEL AND TOURISM COUNCIL AGENDA 21

This Article confirms that the Kingdom of Cambodia accepts in principle Agenda 21 prepared in 1992 by the World Travel and Tourism Council, the World Tourism Organization and the Earth Council concerning the sustainability of the tourism sector, as follows:

- Travel and Tourism should assist people in leading healthy and productive lives in harmony with nature.
- Travel and Tourism should contribute to the conservation and restoration of the earth's ecosystem.
- Travel and Tourism should be based upon sustainable patterns of production and consumption.
- Nations should cooperate to promote an open economic system, in which international trade in Travel & Tourism services can take place on a sustainable basis.
- Travel & Tourism, peace, development and environmental protection are interdependent.
- Protectionism in trade in Travel and Tourism should be halted or reversed.
- Environmental protection should constitute an integral part of the tourism development process.
- Tourism development issues should be handled with the participation of concerned citizens, with planning decisions being developed at local level.
- Nations shall warn one another of natural disasters that could affect tourists or tourist areas.
- Travel and Tourism should use its capacity to create employment for women and indigenous peoples to the fullest extent.

ARTICLE 4 VALUE OF TOURISM TO CAMBODIAN NATION AND PEOPLE JUSTIFIES NATIONAL SUPPORT

This Article confirms that sustainable development and management of tourism can and should

Commented [MQ55]: Content is included for consideration. It must be determined whether and how the Environmental Code will apply to tourism operations on private lands.

provide substantial social, economic, health and security benefits for individuals, communities, sub-national government units and the nation at large, and that obtaining this value in full justifies an appropriate expenditure of public funds and other resources.

ARTICLE 5 SCOPE OF APPLICATION

The scope of the general and specific provisions of this Title shall extend to the transportation, accommodation, entertainment, guiding, rental services provided, education and safety and all other activities of international and domestic tourists and the training and behaviour of tourism service providers.

ARTICLE 6 RESOURCES AFFECTED BY THE TOURISM SECTOR

The Kingdom of Cambodia affirms that tourism and its sub-sectors involve or may involve all the Kingdom's natural, historic and cultural resources in the terrestrial, freshwater, coastal or marine environments, inside or outside of formal protected areas and on private land.

ARTICLE 7 MINISTRIES WITH SHARED RESPONSIBILITY FOR TOURISM SECTOR AND RESOURCES ON WHICH IT DEPENDS

This Article confirms that consistent with existing Law, the Ministry of Tourism, not itself a resource management ministry, is charged with overall supervision and regulation of tourism which is dependent on the Kingdom's resources as described in Article 6 'Resources affected by the tourism sector' and which are the responsibility of resource management ministries including the Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries or special government authorities such as APSARA.

ARTICLE 8 ROLES AND RESPONSIBILITIES AND COORDINATION OF RESPONSIBLE MINISTRIES

Inter-ministerial coordination in the pursuit of sustainable development and management of the tourism sector is mandated, and the roles and responsibilities of those Ministries identified in Article 7 'Ministries with shared responsibility for tourism sector and resources on which it depends' are clarified or modified according to Special Provisions in Chapter 2 'Special Provisions'. It is further required that those Ministries delegate appropriate authorities and responsibilities to their sub-national Departments and offices at the Provincial and local level and assure that they have the resources and training to exercise those authorities and responsibilities.

ARTICLE 9 IMPORTANCE OF SUSTAINABLE ECOTOURISM

Commented [MQ56]: Included content is draft language of what has been developed thus far. It must be determined whether the scope should be limited to medium/large enterprises. If so, should this be done in this provision or in sub-legislation?

Comment from the advising expert: "We have an issue of scale here: for example, we know that all large projects/activities airline transportation, big hotels, tourist bus companies, casinos, travel agencies (?) should be directed towards sustainability but what about the small businesses like bed and breakfast hotels, eco-lodges, bike-to-tourist rentals, small or even large restaurants serving tourists, retail shops selling mostly to tourists? How will we limit the scope – here in this provision or in some other place?"

Commented [MQ57]: Content is included for consideration. It must be determined whether and how the Environmental Code will apply to tourism operations on private lands.

Commented [MQ58]: Advising expert asks whether there are other special authorities that should be mentioned in this article.

This Article affirms that environmental, economic and social benefits of well planned, appropriately located, privately operated or community-based ecotourism activities are of local, regional and national importance, and provides a framework for ecotourism development and management which will maximize those benefits sustainably on an ecosystem, community, regional and national level.

ARTICLE 10 REQUIREMENT TO ENGAGE AND CONSULT STAKEHOLDERS IN COMMUNITY-BASED ECOTOURISM DEVELOPMENT

This Article mandates that responsible Ministries and their sub-national departments and agents shall actively and transparently undertake planning and management of community-based ecotourism with full engagement of and active consultation with local communities who have established their legitimate relationships to Protected Areas or other public or private lands on which ecotourism activities may be proposed.

ARTICLE 11 REQUIREMENT FOR ENVIRONMENTAL ANALYSIS OF FUTURE TOURISM PROJECTS

This Article requires that proposed future tourism projects within the Kingdom of Cambodia undergo environmental analysis prior to approval and provides criteria for the determination of the scale, characteristics and location of tourism developments that will trigger a level of environmental analysis as consistent with existing Law and provisions of Book 2 ‘Environmental Planning, Assessment and Monitoring’ of this Environmental Code.

ARTICLE 12 REQUIREMENT TO REVIEW EXISTING TOURISM PROJECTS

This Article requires that Ministries identified in Article 7 ‘Ministries with shared responsibility for tourism sector and resources on which it depends’ jointly develop and agree on procedures to identify, review and complete such review of existing tourism projects, including ecotourism projects, which may not have been subject to environmental analysis or that have not complied with provisions stipulated in approval of such projects after environmental analysis, with special attention to recommending and requiring modifications so that existing tourism projects eventually comply with the national strategy of sustainability.

CHAPTER 2 SPECIFIC PROVISIONS

The following Articles are specific provisions of the Code with respect to development and management of the tourism sector including ecotourism.

SECTION 1 JURISDICTIONS OF RELEVANT MINISTRIES AND SPECIAL

Commented [MQ59]: Included content is draft language of what has been developed thus far. Should the scope be broadened to include privately-owned tourism activities? This would likely be unrealistic to implement given the large number of private operations of various sizes. Therefore, the section has been limited to community-based ecotourism.

Comment from advising expert: “There is a decision that has to be made whether or not privately-operated ecotourism activities would be required to engage and consult with stakeholders to the same extent as for community-based ecotourism activities. If so, this would mean that by this Code, a private eco-lodge owner who at least minimally meets the test for ecotourism would be required to actively engage and consult with the communities. This doesn’t sound very realistic to require and supervise since there are or will be 1000s of these privately-operated ecotourism activities. So the above section has been written only to apply to community-based ecotourism.”

Commented [MQ60]: Content is included for consideration. It must be determined whether and how the Environmental Code will apply to tourism operations on private lands.

AUTHORITIES

ARTICLE 13 CLARIFICATION OF ROLES AND RESPONSIBILITIES OF MINISTRIES AND SPECIAL AUTHORITIES IN TOURISM AND ECOTOURISM

Each of the Ministries identified in Chapter 1 ‘General Provisions’, Article 7 ‘Ministries with shared responsibility for tourism sector and resources on which it depends’ have roles and responsibilities defined by their respective existing Laws, sub-decrees and prakas. The following Articles clarify or modify those roles and responsibilities according to Chapter 1 ‘General Provisions’ of this Title, Article 2 ‘Sustainability as national strategy’ and Article 10 ‘Requirement to engage and consult stakeholders in community-based ecotourism development’, and other relevant General Provisions.

ARTICLE 14 MINISTRY OF TOURISM

With exceptions noted elsewhere in the Environmental Code, the June 2009 Law on Tourism is confirmed, as are provisions of the Tourism Development Strategic Plan 2012 – 2020. The following clarifications are provided:

- This Title’s national strategy to achieve sustainability throughout the tourism sector emphasizes the Ministry of Tourism’s existing obligation to consult with and consider the expert advice of the Ministries charged with sustainable management of the resources on which tourism largely depends.
- This Title’s requirement to actively and transparently involve all stakeholders in development and management of tourism including ecotourism shall apply to the Ministry of Tourism as it undertakes its duties under the Law on Tourism.
- This Title’s requirement to delegate appropriate authorities and responsibilities to sub-national institutions applies to the Ministry of Tourism and further requires that they secure adequate financial resources and technically competent staff to ensure those institutions can effectively carry out their delegated authorities and responsibilities.
- Consistent with the sub-decree on Co-Management Guidelines and provisions on Collaborative Management set forth in Book 4 ‘Sustainable Management of Natural Resources’ of the Environmental Code, the Ministry of Tourism will participate in the Collaborative Management process as a respected partner.
- This Title’s requirement to identify and review existing tourism projects as to environmental issues and guide them towards sustainability may in some instances require

Commented [MQ61]: See note on Article 17 ‘Special Authorities’—to be determined whether this Title will apply to authorities such as APSARA.

Commented [MQ62]: Note that it is under consideration whether Article 10 should be broadened in scope to include private enterprises.

that the Ministry of Tourism alter or renegotiate the terms of its existing permits or make other changes in its supervision of projects.

ARTICLE 15 THE MINISTRY OF ENVIRONMENT

With exceptions noted elsewhere in the Environmental Code, the 2008 Protected Areas Law is confirmed. The following clarifications are provided in the Environmental Code:

- Consistent with Title 5 ‘Sustainable Tourism and Ecotourism’, Chapter 1 ‘General Provisions’, Article 2 ‘Sustainability as a National Strategy’ and Article 7 ‘Ministries with shared responsibility for tourism sector and resources on which it depends’, the Ministry of Environment is obligated to consult with and consider the expert advice of the Ministries with which it shares responsibility for assuring sustainable development of the tourism sector.
- In recognition of the Ministry of Environment’s central role in the establishment and management of the Kingdom’s system of Landscape Conservation Areas and other Protected Areas, including areas under Co-Management, it is recognized that for tourism including ecotourism within Conservation and Protection Areas the Ministry of Environment shall take the lead provided they act in accordance with provisions on Co-Management set forth in Book 4 ‘Sustainable Management of Natural Resources’ of the Environmental Code and acknowledge the participation of other stakeholders as respected partners.
- This Title’s requirement to actively and transparently involve all stakeholders in development and management of tourism including ecotourism shall apply to the Ministry of Environment as it undertakes its duties under the Protected Areas Law and other relevant Laws both inside and outside of Protected Areas.
- This Title’s requirement to delegate appropriate authorities and responsibilities to sub-national institutions applies to the Ministry of Environment and further requires that they secure adequate financial resources and technically competent staff to ensure those institutions can effectively carry out their delegated authorities and responsibilities.
- Further definition of the Ministry of Environment’s roles and responsibilities is provided under Section 6 ‘Special considerations for ecotourism within Cambodia’s natural, cultural and historical areas of national and international significance’ of Chapter 2 ‘Special Provisions’ of this Title.
- In addition to the roles and responsibilities as outlined above, the Ministry of Environment

Commented [MQ63]: Proposed wording, replacing “Protected Areas and associated Community Protected Areas”.

Commented [MQ64]: Proposed wording, replacing “within Protected Areas and Community Protected Areas [sic]”.

Commented [MQ65]: Note that the application of this article to all tourism and not just ecotourism is to be decided. If it is broadened to ecotourism, “tourism and” must be added to that article heading and to this reference.

shall act as authorized in Book 2 ‘Environmental Planning, Assessment and Monitoring’, Title 8 ‘Environmental Assessment’, with respect to the initiation, development, review and monitoring of Environmental Impact Assessments including those EIAs that may be required for tourism and ecotourism projects.

- In carrying out its function regarding EIA, the Ministry of Environment shall place emphasis on location, design and management of ecotourism projects to assure they are sustainable.

ARTICLE 16 THE MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES

Content under development.

ARTICLE 17 SPECIAL AUTHORITIES

Content under development.

SECTION 2 ASSURANCE OF SUSTAINABILITY IN EXISTING AND FUTURE TOURISM AND ECOTOURISM PROJECTS AND ACTIVITIES

This Section provides specific requirements to implement Chapter 1 ‘General Provisions’ Article 2 ‘Sustainability as national strategy’ which establishes that sustainability in all aspects of tourism is a national strategy and goal. In carrying out these requirements the responsible Ministries and other involved parties shall comply with other relevant Books of this Environmental Code that may require that certain tourism projects and activities undergo Environmental Analysis.

ARTICLE 18 REQUIREMENT FOR EXISTING TOURISM AND ECOTOURISM PROJECTS WITHIN PROTECTED AREAS TO PROGRESS TOWARDS SUSTAINABILITY

Content under development, included for consideration.

Tourism and ecotourism projects that have been completed or have been approved but not yet completed within Landscape Conservation Areas and other Protected Areas since enactment of the 2008 Protected Areas Law shall be subject to review of their sustainability by the Ministry of Environment in consultation with the Ministry of Tourism and other Ministries as appropriate.

Recommendations resulting from such review will provide guidance to project owners or managers on improving the sustainability of the project or activity that could result in renegotiation of aspects of the project’s design and operation but shall not be binding without mutual agreement

Commented [MQ66]: Awaiting clarification regarding jurisdiction over Community Forestry areas, marine/coastal areas etc. not currently under MoE that may hold ecotourism sites.

Commented [MQ67]: To be determined whether and how the Environmental Code will apply to special authorities such as APSARA.

Commented [MQ68]: To be determined whether sustainability requirements set out in the Code will be applied to existing ecotourism projects. If so, should this be limited to MoE managed sites? Perhaps this could be achieved through creating collaborative ‘Sustainable Tourism Management Plans’ for sites such as the hotel/casino complex at Bokor NP (if completed after 2008). Note that current language is non-binding, but could be made binding if desired.

Commented [MQ69]: Language to be reviewed.

of the project owners or operators and the reviewing Ministries.

Such review is not equivalent to formal Environmental Analysis but is a separate process for which detailed Guidelines shall be provided by a sub-decree.

Commented [MQ70]: Comment from advising expert:
“Note that this requirement for a separate process could be substituted by requiring these existing projects to go through the EIA process.”

Guidelines shall include but not necessarily be limited to consideration of benefit sharing between the tourism project and the local park administration and surrounding communities following models established in the Collaborative Management sections of Book 4 ‘Sustainable management of natural resources and ecosystems’ of this Environmental Code.

ARTICLE 19 REQUIREMENT FOR FUTURE TOURISM AND ECOTOURISM PROJECTS TO PLAN FOR SUSTAINABILITY

The intent of this Article is to assure that proposed future tourism and ecotourism projects throughout Cambodia are planned and managed according to accepted and evolving best practices for achieving sustainability.

Best practices for sustainability shall be detailed in a sub-decree issued by the Ministry of Tourism upon consultation and agreement with the Ministry of Environment. At a minimum, those best practices shall include:

Commented [MQ71]: Content included for consideration. There may be another more suitable level of legislation.

- a) choosing locations that minimize environmental and social impacts
- b) providing incentives to meaningfully involve domestic investors
- c) consideration of involving local cooperatives and/or social enterprises
- d) incorporating local materials and styles in construction
- e) using recyclable materials
- f) designing for efficient minimum energy consumption
- g) using renewable energy sources
- h) recruiting and training management and lower staff locally
- i) active participation in benefit sharing with local communities
- j) active participation in benefit sharing with Protected Areas or other public land units impacted by the project.

Commented [MQ72]: Language to be developed, regarding tax and other incentives to promote sustainability among stakeholders.

Recognizing that the scale of a proposed project may or may not justify imposing a requirement of sustainability, upon consultation and agreement with the Ministry of Environment, the Ministry of Tourism shall issue a sub-decree issued criteria for determining a qualifying or non-qualifying project.

Commented [MQ73]: Content included for consideration. There may be another more suitable level of legislation.

If a proposed qualifying private or public tourism or ecotourism project incorporates, depends upon or provides access to resources of the Cambodian National Estate including but not limited to its coastal and marine zones, World Heritage or Ramsar Sites, Landscape Conservation Areas, Protected Areas, Community Protected Areas, Protection Forests or Community Forestry Areas, its planning and management shall be accomplished in an open and transparent process involving the responsible Ministries, local governments and affected communities.

Commented [MQ74]: Language to be reviewed.

Where such qualified proposals are made involving resources within Protected Areas, Conservation Corridors or other lands managed by the Ministry of Environment, their planning and management shall be guided by the principles and processes of Collaborative Management as set out in Book 4 ‘Sustainable management of natural resources and ecosystems’ in this Environmental Code, provided that best practices for sustainability as referenced above are incorporated.

Commented [MQ75]: Advising expert comment: “this statement might later be broadened or amended”.

Where such qualifying proposals are made not involving resources within Protected Areas, Conservation Corridors or other areas managed by the Ministry of Environment, their planning and management shall be accomplished in an open and transparent process led by the Ministry of Tourism and involving other responsible Ministries, local governments, affected communities and qualified Non-Governmental Organizations.

SECTION 3 REQUIREMENT TO ENSURE TECHNICAL CAPACITY OF STAFF AND ADEQUATE FINANCIAL RESOURCES IN MINISTRIES PARTICIPATING IN TOURISM AND ECOTOURISM DEVELOPMENT

ARTICLE 20 PROVISION OF ORGANIZATIONAL STRUCTURE, STAFF AND FINANCIAL RESOURCES

Relevant Ministries including but not limited to the Ministry of Environment and Ministry of Tourism, shall provide an organizational structure, staff and adequate financial resources sufficient to fulfil obligations and responsibilities in tourism and ecotourism as set forth in Articles 21 – 24 of this Title, and to facilitate their participation in Collaborative Management as set forth in Book 4 ‘Sustainable management of natural resources and ecosystems’ of the Environmental Code.

ARTICLE 21 ORGANIZATIONAL STRUCTURE

Each relevant Ministry shall develop a new or strengthen its existing organizational structure at the national and sub-national level focused on implementing the national strategy of sustainability in tourism and ecotourism in Cambodia.

ARTICLE 22 STAFF AND TRAINING

Adequate staff shall be reassigned or newly recruited at the national and sub-national levels to fulfil the organizational structure in the definitions section for this Title and they shall be provided the technical training and participatory planning skills required to implement the provisions of this Title and to participate in Collaborative Management.

ARTICLE 23 ALLOCATION OF FINANCIAL RESOURCES

The Government of Cambodia shall allocate sufficient funds to support salaries of additional staff and for their training and for travel and other expenses associated with implementing the provisions of this Title and their participation in Collaborative Management.

ARTICLE 24 ROLE OF NGOS IN PROVIDING TECHNICAL ASSISTANCE AND FUNDING FOR ECOTOURISM

Until such time as the relevant Ministries have adequate organizational structure, staffing and financial resources required by Articles 21 – 23 of this Title, qualified international and domestic non-governmental organizations shall be encouraged and supported to assist National, sub-national and local community organizations in fulfilling the provisions of this Title.

Commented [MQ76]: (i.e. the preceding 3 articles.)

SECTION 4 REQUIREMENT THAT TOURISM AND ECOTOURISM PROJECTS UNDERGO ENVIRONMENTAL ANALYSIS

This content is included for consideration.

Commented [MQ77]: Comment from advising expert: "This section cannot be properly drafted until the Title on EIA is nearly finalized, particularly in its reference to establishing a threshold for triggering EIA. The language below is what could go into this section but it needs to be reviewed after the EIA Title is completed. Also: reviewers should confirm that SEA is not an issue for such projects."

The intent of this section is to assure that tourism and ecotourism projects receive the extent of environmental impact analysis that is necessary and appropriate before being approved. Environmental Impact Assessment is the subject of Book 2 'Environmental, Planning, Monitoring and Assessment', Title 8 'Environmental Assessment' of this Environmental Code and its provisions shall apply to tourism and ecotourism projects and in its application responsible authorities shall pay particular concern to the following Articles.

Article 25 Medium to Large Scale Private Tourism Projects

Environmental Impact Assessment for private or mixed private/public sector tourism projects involving medium to large capital investment such as large hotels, hotel complexes, casinos, theme parks and transportation networks among others that require large inputs of electrical or fuel energy

and/or employ both locally and non-locally recruited staff and whose objectives are primarily to return profit to investors shall be subject to the full requirements of EIA as set forth in Book 2 'Environmental, Planning, Monitoring and Assessment', Title 8 'Environmental Assessment' of this Environmental Code.

ARTICLE 26 SMALL SCALE PRIVATELY-OPERATED ECOTOURISM PROJECTS

Small scale ecotourism projects which are privately-operated such as small hotels or lodges or providers of services such as guides or equipment shall be subject to the requirements of EIA as set forth in Book 2 'Environmental, Planning, Monitoring and Assessment', Title 8 'Environmental Assessment' with the understanding that financial costs, administrative or bureaucratic procedures, timetables for compliance and in some cases standards of service resulting from that EIA shall not impose burdens that could not be reasonably met by the project's managers and investors.

ARTICLE 27 SMALL SCALE COMMUNITY-BASED ECOTOURISM PROJECTS

Small scale projects which meet the criteria of community-based ecotourism will in most cases be planned, approved and managed under the principles of Collaborative Management in Book 4 'Sustainable management of natural resources and ecosystems' of the Environmental Code. The extent of and processes for Environmental Impact Analysis of such projects shall be dictated by those principles.

SECTION 5 ESTABLISHMENT OF CLASSIFICATION SYSTEM, ACCREDITATION PROGRAM AND PERFORMANCE STANDARDS FOR TOURISM SUB-SECTORS

The intent of this Section is to ensure that in addition to being sustainable, the tourism sector in Cambodia shall be subject to a classification system and accreditation program derived from international best practices and held accountable for meeting regionally-supported performance standards that assure tourists will be provided with safe, clean, efficiently run transportation, accommodations and food services, be led by qualified guides and receive accurate and relevant information on the resources they are being exposed to.

ARTICLE 28 MINISTRY OF TOURISM HAS PRIMARY RESPONSIBILITY

It is confirmed that the Ministry of Tourism has primary responsibility for quality assurance, standards and licensing for the tourism sector including ecotourism as per Chapter Five Articles 22 – 30 of the 2009 Law on Tourism which shall include development of classification systems, accreditation programs and technical and general standards to be met by each sub-sector, and that they shall continue to exercise that responsibility using existing or future sub-decrees and prakas.

Commented [MQ78]: Content considered for consideration. Comment from advising expert: this content may be incorporated into the EIA title for EIA treatment of triggers for certain levels of EIA.

Thought needs to be given to how much EIA is applied to small-scale ecotourism operations. These make up large proportion of Cambodia's total ecotourism, but are not likely to have the national economic impacts driving leadership decisions.

Commented [MQ79]: Content considered for consideration. Comment from advising expert: this content may be incorporated into the EIA title for EIA treatment of triggers for certain levels of EIA.

Thought needs to be given to how much EIA is applied to small-scale ecotourism operations. These make up large proportion of Cambodia's total ecotourism, but are not likely to have the national economic impacts driving leadership decisions.

ARTICLE 29 SPECIAL CONSIDERATIONS FOR CLASSIFYING, ACCREDITING AND APPLYING STANDARDS IN COMMUNITY-BASED ECOTOURISM

Almost all community based ecotourism will come under the principles of Collaborative Management as stipulated in Book 4 ‘Sustainable management of natural resources and ecosystems’ of the Environmental Code, and the following special considerations shall apply in classifying, accrediting and applying standards to that sub-sector:

- As part of its participation in the Collaborative Management planning process, the Ministry of Tourism shall introduce and explain the importance of classifying and accrediting community based ecotourism projects and activities so there can be an open discussion how these may be applied in a fair and positive manner.
- When and if the ASEAN Community Based Tourism Standard is adopted by the Ministry of Tourism and formalized by prakas or sub-decree, it shall be introduced in the Collaborative Management planning process and serve as a non-binding guideline to the development of sustainable community-based ecotourism programs.
- In its application of classifications, accreditations and standards in community-based ecotourism, the Ministries involved shall be flexible in setting timelines for compliance and penalties for non-compliance in recognition of potentially low levels of understanding and appreciation for these regulatory measures as well as the low level of technical skills of local people in providing services.

SECTION 6 SPECIAL CONSIDERATIONS FOR ECOTOURISM WITHIN CAMBODIA’S NATURAL, CULTURAL AND HISTORICAL AREAS OF NATIONAL AND INTERNATIONAL SIGNIFICANCE

In carrying out the provisions of this Title and other provisions of the Environmental Code and existing Law with respect to tourism and ecotourism within Cambodia’s natural, cultural and historical areas of national and international significance, responsible Ministries and authorities are required to comply with the following Articles.

ARTICLE 30 TOURISM AND ECOTOURISM WITHIN AREAS ADMINISTERED BY THE MINISTRY OF ENVIRONMENT ARE SUBJECT TO COLLABORATIVE MANAGEMENT

Within National Parks, Wildlife Sanctuaries, Community Protected Areas and other areas administered by the Ministry of Environment, the planning, development, approval and management of tourism and ecotourism shall specifically be included in the scope of Collaborative

Commented [MQ80]: Content included for consideration. There may be another more suitable level of legislation.

Commented [MQ81]: As per advising expert comment: this may be broadened to include all tourism if appropriate. If so, “and tourism” should be added to the heading and to all references to this section in the text.

Management as fully presented in Book 4 ‘Sustainable management of natural resources and ecosystems’ of this Environmental Code.

ARTICLE 31 THE MINISTRY OF ENVIRONMENT AND THE MINISTRY OF TOURISM SHALL PARTICIPATE IN THE COLLABORATIVE MANAGEMENT PROCESS

The Ministry of Tourism and/or its sub-national Provincial and local departments shall participate in Collaborative Management with the Ministry of Environment taking the leadership role as defined in Collaborative Management process provisions of this Environmental Code.

ARTICLE 32 TOURISM AND ECOTOURISM WITHIN AREAS ADMINISTERED BY THE MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES

Within Community Forestry Areas or other portions of Protection Forests, or on other lands or waters of the freshwater, marine and coastal zone administered by the Ministry of Agriculture, Forestry and Fisheries, the planning, development, approval and management of tourism and ecotourism shall incorporate sustainability as a goal and furthermore adopt procedures of engagement of all stakeholders including local communities, local government entities and other responsible Ministries.

ARTICLE 33 WITHIN AREAS OF INTERNATIONAL STATUS SUCH AS WORLD HERITAGE, RAMSAR AND OTHER SITES

In areas with formally designated international status such as World Heritage, Biosphere Reserves, Ramsar or other sites for which Cambodian Law has created special management authorities, those special authorities are hereby required to establish coordination or increase the extent of existing coordination with and attention to the concerns of the Ministry of Environment and its Nature Protection and Conservation Administration, or other Ministries, in areas where those Ministries have legally established responsibilities for tourism and ecotourism.

SECTION 7 GUIDELINES FOR THE STRUCTURE AND BENEFIT SHARING OF COMMUNITY-BASED ECOTOURISM PROJECTS

ARTICLE 34 DEVELOPMENT AND MANAGEMENT OF COMMUNITY-BASED ECOTOURISM PROJECTS CONSISTENT WITH THE COLLABORATIVE MANAGEMENT PROCESS

The development and management of community-based ecotourism projects shall be an integral part of the Collaborative Management process as set forth in Book 4 ‘Sustainable management of

Commented [MQ82]: Comment from advising expert: “This article and its contents might not be needed or should be modified if elsewhere in the EC the future status of CFAs has been clarified.”

Commented [MQ83]: Content included for consideration. Advising expert comments, “The following language reflects only the requirement to consult with such special authorities regarding tourism and ecotourism.”

natural resources and ecosystems' in this Environmental Code, for which further details will be issued as a Co-Management Guideline as a sub-decree. Additional considerations (as distinct from the process) are provided by the following Articles.

Commented [MQ84]: Content included for consideration. There may be another more suitable level of legislation.

ARTICLE 35 STRUCTURE OF COMMUNITY-BASED ECOTOURISM PROJECTS

The ASEAN Community Based Tourism Standard as noted in Article 30 'Special considerations for classifying, accrediting and applying standards in community-based ecotourism', Section 5 'Establishment of classification system, accreditation program and performance standards for tourism sub-sectors' of Chapter 2 'Special Provisions' shall be used as a guideline in structuring the project as determined by consultation among all stakeholders. In application of the Standard the following issues or objectives shall also be considered:

- Each situation, including the characteristics of the community, its traditional relationship to the area, the natural, cultural or heritage resources and the type of Protected Area involved is unique, and no single project structure or set of standards should be imposed.
- One objective of the project's structure should be to maintain the maximum degree of ownership and management by the communities affected and receiving benefits.
- The structure should meet the fundamental definition of ecotourism including providing community benefits, contributing to the conservation of resources on which the tourism depends, and development of cross-cultural appreciation of tourists and local community members through education and interpretation.
- Although gaining insight from the ASEAN standard, stakeholders shall also be guided by the experience of current and past community-based ecotourism projects in Cambodia, with particular reference to activities in the communities of Chi Phat, Tmatboey, Dang Phlet, work of the Sam Veasna Centre, and programs in the Protected Areas of Mondulkiri Province.
- Project structure and management must provide a reasonable level of protection for community-based services from competition from outside providers, and if outside providers are invited to participate they must comply with the same principles and procedures that are applied to sustainable community ecotourism projects.

ARTICLE 36 ECOTOURISM BENEFIT SHARING

Details of benefit-sharing shall be established through collaborative efforts of all stakeholders as set forth in the sub-decree on Co-Management and the principles of Collaborative Management in

Book 4 ‘Sustainable management of natural resources and ecosystems’ of this Environmental Code. In establishing such benefit sharing the stakeholders shall bear in mind the broad objectives as follows:

- Each community based ecotourism project is unique and the exact sharing of benefits derived from tourist payments, donations or other contributions shall be determined in consultation with all stakeholders.
- Community members who provide services like accommodation, food, security or guiding services as part of ecotourism activities either as owners or staff are entitled to reasonable compensation which is distinct from any benefits they may receive as part of the larger community.
- Payments or other benefits beyond those going to service providers will generally be directed to a community development fund.
- Communities and especially certain disadvantaged or poor members of that community shall be provided a share of benefits from the community development fund.
- Projects which benefit the wider community such as provision of clean water, medical care, private or public toilets, clean drinking water, school and road repairs among others shall also receive funds through the community development fund.
- Contributions of cash or in-kind services derived from tourism income shall be made to the management of the local Protected Area to facilitate patrolling, monitoring and rehabilitation.
- Although local stakeholders are ultimately responsible for approving benefit sharing procedures, those stakeholders shall put the highest priority on retaining benefits within the local community, the local government and the Protected Area and resist pressure to transfer such benefits or payments to central government budgets.

SECTION 8 GUIDELINES FOR MARKETING TOURISM AND ECOTOURISM

ARTICLE 37 EFFECTIVE AND ETHICAL MARKETING

The intent of this section is to encourage those responsible for marketing all tourism and ecotourism in the Kingdom of Cambodia to ensure that it is effectively and ethically marketed and reflects the commitment to sustainability that this Title establishes.

ARTICLE 38 CONFIRMING JURISDICTION OF THE MINISTRY OF TOURISM

According to existing law including the 2009 Law on Tourism and subsequent National Tourism Planning, the Ministry of Tourism has jurisdiction in matters of marketing of the tourism sector, provided that inter-ministerial consultation and coordination is undertaken, and this jurisdiction is confirmed. This consultation and coordination is of particular importance when management of the resources on which tourism is based is the responsibility of other Ministries including but not limited to the Ministry of Environment and the Ministry of Agriculture, Forestry and Fisheries.

Commented [MQ85]: Wording to be clarified.

ARTICLE 39 GUIDELINES FOR MARKETING PRIVATELY OPERATED ECOTOURISM

Content to be developed.

Commented [MQ86]: Comment from advising expert: "This section will have to be completed after we have a better understanding of how the MoT will address the economically large and important sector of privately-operated hotels, eco-lodges and services that are not community-owned and managed and classified as "community-based (see Article 3 below) but which can legitimately be called ecotourism." Art 3 is the following article, 'Guidelines for marketing and promotion of community-based ecotourism'.

ARTICLE 40 GUIDELINES FOR MARKETING AND PROMOTION OF COMMUNITY-BASED ECOTOURISM

As established elsewhere in this Title, the Ministry of Tourism, the Ministry of Environment and other relevant Ministries shall be participants in Co-Management of qualified Landscape Conservation Areas, other Protected Areas and other units of public lands. Marketing and promotion of the ecotourism products created and managed under Co-Management shall be determined by the stakeholders in the Co-Management process but in so doing they shall give consideration to the following:

- In the early stages of development of community-based ecotourism, where knowledge and skills of local ecotourism committees and service providers may be limited, use of an external third party to assist in marketing may be indicated.
- Caution shall be exercised in selecting any third party to provide this marketing to ensure that the interests of the community are protected and that the principles of ecotourism are maintained.
- Consideration shall be given to selection of a third party that employs a social enterprise model which emphasizes the return of profit and other benefits to the community over the distribution of profits to an external owner or investor.
- Where a third party may be involved not only in marketing but in organizing and guiding individuals or tour groups to community-based ecotourism activities, involvement of local community members as local guides or in providing other services is a high priority.

- The long-term strategy concerning marketing and promotions is that more and more responsibility shall return to the community as knowledge and skills improve following training provided by national and sub-national institutions of the Ministry of Tourism and Ministry of Environment, assisted as necessary by collaboration with qualified non-government organizations.

SECTION 9 ROLE OF TOURISM AND ECOTOURISM IN PROTECTING AND INTERPRETING CAMBODIA'S CULTURAL HERITAGE

Content under development. The points below are included for consideration as critical issues that this section needs to address.

- More attention should be focused on preservation of Cambodia's intangible cultural resources (language, traditional customs and ceremonies, art forms), and appropriate tourism can play a role.
- Tourism associated with both tangible (buildings, temples etc.) and intangible cultural resources can be classified as privately-operated or community-based ecotourism provided the principles of ecotourism are observed.
- Just as with natural resources, tourism/ecotourism associated with cultural resources can have negative impacts and the Environmental Code should highlight processes to minimize such negative impacts.

TITLE 6 SUSTAINABLE ENERGY

The Law on Electricity 2001 is hereby amended and clarified as follows:

[Chapter 2 - Framework of the Electric Power Supply and Services; Chapter 3 - Establishment of Electricity Authority of Cambodia; Chapter 5 - Type of Licenses; Chapter 6 - Licensing of Electric Power Utilities; Chapter 7 - Tariffs]

CHAPTER 1 PRINCIPLES, GOALS, AND DEFINITIONS

ARTICLE 1 PRINCIPLE TO PROMOTE SUSTAINABLE ENERGY PROJECTS

The Government of Cambodia shall apply sustainable energy principles and prioritize, whenever possible, the development of sustainable energy projects to meet the present and future demand of energy for the Cambodian population.

Commented [MQ87]: The advising expert notes that this section is yet to be developed. It will address points raised by STWG-4 (Cultural Heritage), in consideration of Book 5 Title 5 in Draft 4 (i.e. 'Conservation and protection of biodiversity and cultural heritage', 'Cultural and natural heritage conservation' to avoid redundancy and contradiction.

The Ministry of Environment, the Ministry of Mines and Energy, relevant government institutions, and state owned entities shall apply sustainable energy principles in their decisions and programming. These government institutions shall consequently ensure that private parties apply the same principles in the projects developed under their purview.

After the approval of the Environmental Code, Electricité Du Cambodge is not to sign new contracts for the purchase of electricity from non-sustainable energy sources as defined by this Code, unless Electricité Du Cambodge simultaneously purchases or generates the same amount of energy from sustainable energy sources.

ARTICLE 2 GOALS OF SUSTAINABLE ENERGY

In the term of ten (10) years since the date of approval of this Environmental Code, sustainable energy projects shall generate a minimum of 25% of the total energy portfolio for Cambodia. The Ministry of Mines and Energy, the Electricity Authority of Cambodia, and Electricité Du Cambodge shall be responsible, in their respective areas of work, to take timely and appropriate action to achieve this goal.

ARTICLE 3 DEFINITION OF SUSTAINABLE ENERGY

For the purposes of this Code and the general application of the law of Cambodia, sustainable energy sources are defined as being derived from solar, wind, biomass, and waste to energy technologies. Non-sustainable energy sources are defined as energy generated from coal, charcoal, natural gas, diesel, and large-scale hydropower.

Hydropower projects can be considered sustainable energy sources on an individual basis, depending on analysis performed in each case by the Ministry of Environment, at the time of approval of the EIA. Qualification as sustainable energy shall be based on the social impact incurred by third parties and the impact that the project causes to the environment through a basin wide perspective and trans-boundary analysis, if deemed necessary.

ARTICLE 4 DIFFERENTIATION BETWEEN ENERGY AND ELECTRICITY

The Government of Cambodia shall address, through the relevant ministries, agencies, and state run entities, both the issue of provision of electricity to households, business and public areas of the country, as well as the provision of energy for activities in households and businesses.

For purposes of this law, a state owned company is defined as a corporation created by a regulation issued by the government in order to execute economic activities or public services of interest for the state. The company shall be owned entirely by the government of Cambodia and its

administration may be delegated to third parties.

ARTICLE 5 PROMOTION OF ENVIRONMENTALLY FRIENDLY TECHNOLOGY

The Ministry of Environment and the Ministry of Mines and Energy, within the scope of their capability and the applicable administrative procedures, shall review that every new energy project applies energy efficient technology. The Government of Cambodia shall not approve, by any means or under any justification, an energy project that uses technology or procedures that harm the environment more than an available alternative.

To verify that energy efficient technology is applied in an energy or electricity project, during the analysis of the EIA, the Ministry of Environment can request that the project proponent submit alternative designs that are more efficient, while still achieving the stipulated goals of the project.

ARTICLE 6 PRINCIPLE OF COEXISTENCE OF SOURCES

The Government of Cambodia will promote the supply of energy both from the national grid as well as from off-grid sources that can be implemented by individuals or companies, as these systems are complementary and non-competitive.

Users can be both connected to the national electricity grid and have the option to install individual off-grid technologies, which can be used as a primary or secondary source of energy. The Government shall not have the authority to force citizens to use a specific source of energy generation.

Household energy generation solutions shall not require any permit from public authorities to be installed, as long as they use certified equipment, in adherence with the terms of this Environmental Code. Sustainable energy solutions that are developed by business (individual or corporations) or communities mainly for their own provision of electricity may be connected to the grid, at the owner's decision, and in case of supply of electricity generation, the excess supply of energy shall be regulated by Electricité Du Cambodge, following the rules of this Code and for which Electricité Du Cambodge will develop a policy for in a term of [365] days from the implementation of this Code. .

ARTICLE 7 PRINCIPLE OF FAIR COMPETITION

The electricity market shall be open and the Government of Cambodia shall guarantee that no private party has privilege above others, including in the securing of all permits and licenses, and in the negotiation of conditions of contracts agreed with government entities. All decisions for granting permits, licenses, and formalizing other relevant conditions for contracts shall be made

based on technical and economic evidence, as accepted under international practices.

When selecting a private party to develop an energy project in Cambodia, the Government shall mandatorily include in the application process the possibility for open competition and other private parties to submit offers for the same project, ensuring that those private parties can have timely and reasonable access to prepare their proposals.

The Government of Cambodia recognizes the importance of transforming its energy portfolio and include in it the generation of electricity and energy from renewable and sustainable sources, with special interest in projects that have little or no impact on the environment or on the livelihood of the communities in the project area.

ARTICLE 8 QUALITY CONTROL

It is the obligation of the Government of Cambodia to control the quality of the energy generation devices supplied and used for the national market, in order to ensure that they comply with health, safety, and environmental standards.

The Electricity Authority of Cambodia shall verify that the quality of the products sold in Cambodia for energy generation have received a certification of quality before they are commercialized. Certification can be qualified by any internationally accepted standard, such as those approved by the International Standards Organization (ISO). Verification of imported equipment shall be made at customs. Verification for national products shall be made before commercialization to the public by the relevant ministry or authority.

CHAPTER 2 APPLICATION OF INTERNATIONAL STANDARDS

ARTICLE 9 INTERNATIONAL STANDARDS DEFINED

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

The Government of Cambodia acknowledges the existence and applicability of these standards in the country, in the terms mandated in this Code.

ARTICLE 10 STANDARDS TO BE APPLIED

The Government of Cambodia will apply and accept the standards issued by the International

Standards Organization, as well as the decisions agreed by international organizations, signed or ratified by the Government of Cambodia for sustainable energy.

ARTICLE 11 APPLICATION OF STANDARDS IN THE CONTEXT OF NATIONAL LEGISLATION

If there is a conflict between the technical rules established in an international standard applicable in Cambodia and any legal rule of the country, the former shall prevail.

ARTICLE 12 APPLICATION OF STANDARDS BY AUTHORITIES

When new standards are created, applicable in the country under the rules of this Code or any other law, these standards shall be applied by government authorities and citizens without requiring additional formalization or approval from any government entity.

CHAPTER 3 PLANNING

ARTICLE 13 PREPARATION OF A NATIONAL SUSTAINABLE ENERGY PLAN

The National Council for Sustainable Development shall design a National Sustainable Energy and Electricity Plan (NSEEP), coordinating its work with the relevant ministries and other public entities, as well as consulting civil society organizations and communities impacted by the development of energy and electricity projects.

ARTICLE 14 MINIMUM CONTENTS FOR THE NATIONAL SUSTAINABLE ENERGY AND ELECTRICITY PLAN

The NSEEP shall be a comprehensive tool for policymaking and a mandatory guide for administrative actions, in order to achieve the goals established in the law. The plan shall include, at least:

- An assessment of the current state of the energy and electricity generation and transmission infrastructure available in the country.
- A description of the available projects to be developed for generation of energy and electricity, and for transmission of electricity.
- Specific targets for sustainable energy generation.
- An analysis of the environmental impact of the energy and electricity generation planned projects, especially focused on the effects of the Mekong River system, and of the

transmission infrastructure plan.

- An assessment of the possible sustainable energy projects to be developed in the country.

ARTICLE 15 COMPLIANCE AND REPORTING

The government institutions included in the construction of the NSEEP should be involved mandatorily in its compliance, following the task list organized by the National Council for Sustainable Development.

The Council shall issue periodical reports on the evolution of the NSEEP and the compliance of the goals, with the specification of the areas and entities that are missing the scheduled targets. The report should be published every six months in printed and digital format, and shall be published on the website of the Council.

CHAPTER 4 EIA REGULATIONS FOR ENERGY PROJECTS

ARTICLE 16 PROHIBITION OF PROJECTS IN PROTECTED AREAS

No electricity or energy project shall be permitted within: (a) Landscape Conservation Areas, (except for buffer zones and corridor (connecting) lands), (b) in areas inhabited or subject to traditional use of Indigenous People, except in instances where the free, prior, and informed consent of the affected Indigenous People has been granted, (c) other Ramsar sites, (d) UNESCO sites, (e) critical freshwater, marine and coastal ecosystems, or (f) other areas of high landscape, species biodiversity or ecosystem conservation value.

ARTICLE 17 EIA EXEMPTION FOR PILOT PROJECTS

The Ministry of Environment shall grant, after review of the technical support submitted by the petitioner, an exemption of EIA for pilot energy or electricity generation projects that comply with all of the following conditions:

- Generation of energy or electricity is produced from sustainable energy sources.
- Must stay compliant with all other applicable regulations.
- Capacity of generation is less than 5MW.
- Shall submit an Initial Environmental Examination (IEE) and a plan for disposal of any waste to be generated.

If the project lasts for more than three (3) years or increases its generation capacity above 5MW, an EIA shall be submitted for approval by the Ministry of Environment.

ARTICLE 18 ECONOMIC ANALYSIS OF ENERGY AND ELECTRICITY PROJECTS

All energy and electricity projects that require an EIA shall include a business plan and an economic analysis of the project, which shall estimate the long-term impact on third parties and relevant environmental externalities.

ARTICLE 19 SOURCE OF ENERGY GENERATION DISCLOSURE

In the EIA performed for the development of any project in Cambodia that must use a non-renewable source of energy, the EIA shall expressly include the source from which the project will obtain the energy it needs to operate. The Ministry of Environment may ask clarification and detailed information to determine whether the energy might be generated using illegal or unsustainable energy sources of any kind.

CHAPTER 5 REGULATION BY TYPE OF ENERGY OR ELECTRICITY PROJECT

SECTION 1 SUSTAINABLE ENERGY

ARTICLE 20 SUSTAINABLE ENERGY FINANCING

The Rural Electrification Fund will provide conditional cash transfers to Cambodian citizens, in order to help them purchase off-grid devices that generate energy for their household activities. To qualify for the conditional cash transfer, the purchase of sustainable energy devices shall be made to a business (company or individual) that sells devices duly qualified as compliant with health, safety and environment regulations, following the rules of this Code.

The disbursement of the payment for the device will be made directly to the seller, contingent upon installation, maintenance, and complying with good business practices.

ARTICLE 21 TAX INCENTIVES FOR SUSTAINABLE ENERGY

In order to promote the adoption of sustainable energy solutions, the Government of Cambodia establishes the following taxation rules:

- a) Business (individual or companies) that commercialize, install or provide technical support or maintenance to sustainable energy devices will be exempt from the payment of national income tax for five (5) years, after they start to report profits (or a 20% reduction of the income tax rate, whichever is applicable).

b) Businesses that import, produce, distribute, or sell devices that produce sustainable energy, such as solar panels, bio-digesters, wind turbines, among others, as well as services to install, maintain and repair such devices, are to be exempt from paying VAT.

To benefit from the exemption, business (company or individual) can only sell devices duly qualified as compliant with health, safety and environment regulations, following the rules of this Code.

The Ministry of Economy and Finance will grant the exemption requested, ten (10) days after the submission of the petition with the technical description of the devices to be sold and the quality certification. If the exemption is not granted in the abovementioned term, it will be automatically granted.

c) The business benefited for the previous exemption can claim from the Ministry of Economy and Finances the devolution of the VAT paid by them in the purchase of goods and services, following the common rules for this procedure.

d) The import of devices for the generation of clean energy, referred to in this section of the Code, shall have no tariffs applied to them upon entry into Cambodia.

ARTICLE 22 PUBLIC PRIVATE PARTNERSHIPS

Electricité Du Cambodge is authorized to develop clean energy generation projects under the mechanism of public private partnerships (PPP) with private investors, local or foreign, without preference. In the term of six (6) months of the approval of this Code, the Ministry of Mines and Energy will issue the guidelines for the development of PPP's, following international standards.

In any case, the private partner should provide the capital resources for the development of the project and is allowed to operate the project or to delegate such operation to a third private party, at his election, duly approved by the government partner.

The profit of the PPP's projects shall be shared between the parties considering the risks incurred by each party, the know-how and the assets provided at the beginning and during the execution of the project and the tasks performed by each party, if any, in the execution of the project.

Section 2 Coal, Diesel and Wood Based Generation

ARTICLE 23 EIA SPECIFIC REQUIREMENTS

The Ministry of Environment shall require that the current or future operator of a coal, diesel or

firewood-fuelled energy generation or electricity project, justifies the sustainability of the project according to the following criteria:

- a) Demonstrating that the operator solely source from legal and sustainable sources for provision of coal, diesel or firewood for the duration of the project.
- b) Impacts on community, environment and agricultural activities.

This rule shall apply to any other economic activity that uses unsustainable hydrocarbons or wood material, to generate energy or electricity.

ARTICLE 24 SANCTIONS FOR PURCHASING ILLEGALLY FELLED WOOD

If a business, individual or corporation, purchases wood obtained illegally from any area designated for conservation purposes, even if it was sold with forged documents or unknowingly from an intermediary, a fine between 5% and 20% of the annual income of the business entity shall be paid by the business benefiting from the illegal purchase.

When the purchasing party and the beneficiary of the illegal purchase are different entities, both will be fined between 5% and 20% of the income of each business entity during the previous fiscal year.

Entities and operators that completely transition from a reliance on biomass for energy or electricity generation shall be granted a 20% reduction on their income tax rate for a period of [5] years.

ARTICLE 25 INCENTIVES FOR SUSTAINABLE ENERGY ADOPTION

In order to promote the elimination of the most noxious sources of energy, the Government of Cambodia establishes the following taxation rules:

- a) Business (individual or companies) will receive a reduction of their income tax rate of ten (10) percentage points for five (5) years after they start to report profits (or a 20% reduction of the income tax rate, whichever is applicable), when they execute the following activities:
 - i) Generate greater than 75% of their energy for their industrial activities using sustainable energy sources.

When the generation based on sustainable energy sources is partial and less than 75%, the company may use the exemption proportionately.

SECTION 3 NUCLEAR POWER

ARTICLE 26 MANDATE TO DEVELOP NUCLEAR ENERGY

Nuclear energy may be developed only under full government control and ownership, with international oversight and applying the most stringent Health, Safety, and Environment (HSE) standards.

The Government shall develop and approve a Nuclear Energy and Safety Law, as well as structure and organize the required legal and technical entities for overseeing this kind of energy generation project.

Cambodia shall not receive nuclear waste from third countries, in any condition or under any circumstance.

ARTICLE 27 NUCLEAR ENERGY TRAINING

The government, through the Ministry of Mines and Energy, may organize a process of training for its officers, in collaboration with the International Atomic Energy Agency and under its oversight.

The Ministry may also collect information about the development of nuclear energy projects in third countries, in order to study such information and develop local knowledge on this kind of energy source.

SECTION 4 TRANSMISSION

ARTICLE 28 REDUCTION OF TRANSMISSION LOSSES

Transmission projects shall use state-of-the-art technology, in order to reduce electricity losses. The Ministry of Environment may deny the approval of an EIA if the most efficient technology available at the moment of the petition for approval is not being used. The technology applied should be the one that is competitive (economically and environmentally) compared to the losses that it helps to avoid.

ARTICLE 29 SMART GRID IMPLEMENTATION

In order to facilitate and efficiently use electricity generated from sustainable energy, Cambodia will need to develop an electrical grid that uses digital communications technology to detect and react to local changes in usage and generation, otherwise known as a “smart grid”. The

Government of Cambodia shall design a program to implement smart grid technology and procedures in the national electricity grid. The plan shall be prepared by the Ministry of Mines and Energy and shall be concluded and ready to be implemented within one (1) year after the approval of the Code.

The costs generated by the implementation of smart grid technology and procedures shall be distributed among all users of the grid.

Based on social, economic or environmental considerations, the Government can decide to halt the expansion of the grid to specific areas of the country. In that case, the Government should promote and execute programs to provide off-grid solutions to households based on end user needs, both for electricity and energy generation.

ARTICLE 30 FREE MARKET PURCHASE AND SALE OF ENERGY

Any household or private entity that owns a generation facility for its own consumption and is connected to the national grid, may sell the surplus of energy produced to Electricité Du Cambodge, using such grid. The decision of selling energy shall be made by each owner of the generating facility and Electricité Du Cambodge shall develop the capacity to purchase the electricity.

The energy authority shall, in the term of twelve [12] months, issue the required regulations to purchase electricity from private entities. These regulations shall include the plan and timeline for implementing this mandate.

The energy producing household or business shall be paid at a technically and market defined price for the energy provided and shall be charged a similarly calculated rate for the use of the transmission grid and other services provided by Electricité Du Cambodge.

If the implementation of this process requires the purchase of equipment by the suppliers of energy, Electricité Du Cambodge shall provide financing in cases where that service is required to achieve the mandated connection and transaction stated in this article. The financing hereby determined may be paid with energy provision, under agreement of the involved parties.

SECTION 5 ELECTRICITY AND ENERGY PRICING

ARTICLE 31 CONSUMER ENERGY PRICING

The citizens and entities of Cambodia are entitled to pay the real price of the electricity provided by the Government or third-party suppliers. The government shall determine the electricity price

applicable. Prices shall be adjusted every month, in consideration of the change of price for the factors that are part of the electricity generation process.

The final price of sale shall include:

- a) The cost of generation.
- b) The cost of transmission.
- c) The cost of distribution.
- d) Reasonable administrative costs, detailed to the final customer.
- e) Capital investments for the maintenance of existing infrastructure and the future development of electricity in Cambodia.

The information regarding energy price structure shall be available for the community, following the rules of transparency of the information stated in this Section of the Code.

ARTICLE 32 PRICING METHODOLOGY

In determining the final price of the energy, the Government shall apply a cross-subsidy system under which some consumers pay a premium price in order to allow impoverished customers to receive electricity at a more affordable price. The criteria to apply cross subsidies are the following:

- a) Households that consume a larger amount of electricity per month shall pay a price per KW/h higher than households with lower consumption.
- b) Urban households shall pay a higher price per KW/h than households located in rural areas.
- c) Businesses (individual or corporations of any kind), independent of their location or level of consumption, shall pay a higher price per KW/h than households.
- d) Businesses (individual or corporations of any kind) may get a discounted rate when connected to the national grid at specific timeframes, such as off peak hours.
- e) The need to finance transmission infrastructure is a burden that should be equally distributed among consumers, considering the previously listed criteria.

Electricité Du Cambodge shall determine the adequate prices for electricity based on the stated criteria and start applying those within six (6) months after the approval of this Code, founding its decision in technical and economic studies.

SECTION 6 ENERGY EFFICIENCY

ARTICLE 33 DEFINITION OF ENERGY EFFICIENCY AND APPLICABLE STANDARDS

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

ARTICLE 34 GOVERNMENT PROMOTION AND PURCHASE OF ENERGY EFFICIENT PRODUCTS

Immediately after the approval of this Code, all government purchases of goods, services and public works shall comply with the ISO 50001 standards, when applicable.

ARTICLE 35 BUSINESS AND INDUSTRY TRANSITION TO ENERGY EFFICIENT PRACTICE

Business and government entities are mandated to adopt the recommendations included in the ISO 50001 standard in the following terms, after the approval of this Code:

- a) Businesses with income greater than USD \$10,000 in FY 2015, and all government entities in their buildings and facilities: three (3) years.
- b) Business with income between USD \$1,000 and USD \$10'000: five (5) years.
- c) All other business activities with relevant facilities and energy usage: seven (7) years.

Government entities compliance of the ISO 50001 standards will be supported and supervised by the Ministry of Environment and for the appropriate energy authority.

ARTICLE 36 ENERGY EFFICIENCY IN RENTED ESTABLISHMENTS

When a property is rented, the renter may improve the energy efficiency in order to comply with the rules of this Code and of the applicable standards before the term limit stated in the previous article. In that case, the owner shall reimburse the renter for all the improvements included in the construction that are not removable after the lease is concluded.

The price of reimbursement shall be determined by the effective amount spent in the

improvements, discounted by the depreciation of goods when applicable, which shall be in accordance with market prices.

TITLE 7 RESPONSIBLE EXTRACTIVE INDUSTRIES

The Law on Mineral Resource Management and Exploitation 2001 is hereby amended and clarified as follows:

[Chapter 3 - Mineral License Categories; Chapter 4 - Mineral Resource License Procedures; Chapter 5 - Exploration and Mining Operation]

DEFINITIONS

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

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

Extractive Industries - oil, gas, mining, and metals industries.

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

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

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

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

Project Proponent - any individual, group or organization that proposes, develops, finances, or provides material support for any Project.

Commented [MQ88]: Frame Title within "Do No Harm" and rights-based, due diligence framework.

Link to newly established Extractive Industry Governance Framework Platform.

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

CHAPTER 1 ENVIRONMENTAL MANAGEMENT IN THE EXTRACTIVE INDUSTRIES

ARTICLE 1 SECTOR-BASED NATURAL RESOURCE MANAGEMENT PLAN

The Ministry of Environment shall create a sector-based Natural Resource Management Plan for each specific Extractive Industry resource in the Kingdom of Cambodia in accordance with Book 2, Title [1] of this Code. Ministry of Environment must furnish for meaningful stakeholder engagement and in collaboration with the Ministry of Mines and Energy, each such Natural Resource Management Plan on or prior to [July 1, 2017] and finalize and make available each such Natural Resource Management Plan on or prior to [January 1, 2018].

ARTICLE 2 SECTOR-BASED STRATEGIC ENVIRONMENTAL ASSESSMENT

Ministry of Environment shall create a sector-based Strategic Environmental Assessment (SEA) for the exploration or extraction for each specific Extractive Industries resource in the Kingdom of Cambodia in accordance with Book 2, Title [7] of this Code. For each specific Extractive Industries resource for which exploration or extraction has occurred prior to the enactment of this Code, the Ministry of Environment must furnish for meaningful stakeholder engagement each such SEA on or prior to [July 1, 2017] and finalize and make available each such SEA on or prior to [January 1, 2018]. For each specific Extractive Industries resource for which exploration or extraction has not occurred prior to the enactment of this Code, Ministry of Environment must furnish for meaningful stakeholder engagement each such SEA within [90 days] of the commencement of any exploration or extraction of such resource and finalize and make available each such SEA within [180 days] of the commencement of any exploration or extraction of such resource.

ARTICLE 3 TRANS-BOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT

Project proponents shall conduct a Trans-boundary Environmental Impact Assessment for any Extractive Industries Project in the Kingdom of Cambodia that has potentially significant trans-boundary environmental impacts in accordance with Book 2, Title [8] of this Code.

ARTICLE 4 ENVIRONMENTAL IMPACT ASSESSMENT

Project proponents shall conduct an Environmental Impact Assessment (EIA) prior to any

Extractive Industries project in the Kingdom of Cambodia in accordance with Book 2, Title [8] of this Code. This requirement applies regardless of the total land size of the project. This law expressly supersedes Inter-Ministerial Prakas (No. 191) on Classification of EIA for projects of all kinds of construction minerals exploitation or other minerals with the characteristic of handcraft or small-scale exploitation.

Ministry of Environment shall issue guidelines for EIA for any Extractive Industries project in the Kingdom of Cambodia on or prior to [July 1, 2017]. These Guidelines will include best practice principles for EIA, including to require that EIA assess the potential gender impacts of any extractive industries project and provide guidance on how project proponents can meet their obligations under Article 4.

Each EIA for any Extractive Industries Project in the Kingdom of Cambodia must contain:

- a) An assessment of the full environmental cost of the project, including those associated with regulatory oversight, reclamation, closure, and post-closure monitoring and maintenance;
- b) Consideration of worst-case scenarios and analyses of off-site impacts to identify potential emergency scenarios and to develop appropriate response strategies;
- c) Rigorous evaluation of any reasonable alternative to the Project, including the No-Action Alternative, and for any alternative which was eliminated, a brief discussion of the reasons for it having been eliminated; and
- d) An environmental and social baseline. The social baseline should include information detailing the socio-economic conditions of directly and indirectly affected communities affected by the extractive industries project and identifying all potentially impacted people. This information should be disaggregated by sex, age and ethnicity.
- e) A detailed assessment of all potential direct effects, indirect effects, and cumulative effects of the project, including:
 - (i) Impacts to ambient soil, air, and water conditions;
 - (ii) Impacts on land, including both privately owned and communal land, and on the women and men that currently use that land;
 - (iii) Noise, odour, and vibrations from operations;
 - (iv) Biodiversity impacts, including all potentially impacted flora and fauna and especially endangered or threatened species;

- (v) Cultural impacts, including effects on shared customs, obligations, values, language, religious beliefs and any other distinct attributes of any impacted social or ethnic group;
- (vi) Community infrastructure, including any potential land acquisition or Involuntary Resettlement as well as effects on infrastructure, facilities and services and how women and men use these infrastructure, facilities and services;
- (vii) Quality of life impacts, including effects on sense of place, aesthetics and heritage, perception of belonging, safety and security, voluntary organizations, activity networks and cohesion, solidarity and social norms and aspirations for the future paying attention to the different impacts on women and men;
- (viii) Health impacts, including effects on mental, physical and social well-being paying attention to the different impacts on women and men;
- (ix) Gender impacts, including women and men's workloads, access to and control of resources, including land and water resources, livelihoods, access to or ability to enjoy benefits from the project, health impacts, decision-making in the household and community including in relation to the proposed project, participation in society, and social status; and
- (x) Impacts on Indigenous People, including the way a project will impact rights to participation, consultation, information, planning, complaints, fair compensation, decision-making, and free, prior, and informed consent.

ARTICLE 5 ENVIRONMENTAL MANAGEMENT PLAN

Project proponents shall create a site-specific Environmental Management Plan for any Extractive Industries project in the Kingdom of Cambodia in accordance with Book 2, Title [8] of this Code. The Environmental Management Plan shall be developed, implemented and updated throughout the lifecycle of the project. The Environmental Management Plan shall include, at a minimum, the following:

- a) Information about the project and the owner and/or operator of the project, which shall include a description of the planned exploration, extraction, closure, post-closure, and reclamation activities;
- b) The project proponent's environmental policy statement;
- c) Plans for compliance with all applicable Environmental Quality Standards;
- d) Plans to prevent pollution;

- e) Programs for the management of air quality, water quality, tailings, hazardous substances, wastes, and land;
- f) Programs to avoid adverse effects to biodiversity and the landscape throughout the lifecycle of the project, with particular emphasis on the protection of endangered species and ecosystem conservation values;
- g) Environmental objectives and targets along with schedules for achieving such objectives and targets; and
- h) Procedures for communicating with regulatory agencies and for facilitating Meaningful Stakeholder Engagement including commitments to regular and ongoing engagement with affected women and men and paying particular attention to individuals or groups of people who are vulnerable, marginalized from decision making processes or negatively impacted by the extractive industries project.

ARTICLE 6 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING

Project proponents shall conduct Environmental Audits and Environmental Management Reporting for any Extractive Industries project in the Kingdom of Cambodia in accordance with Book 2, Title [9] of this Code.

ARTICLE 7 LIMITS AND CONDITIONS ON EXTRACTIVE INDUSTRY ACTIVITIES

No Extractive Industry projects shall be permitted within: (a) Landscape Conservation Areas, (except for buffer zones and corridor (connecting) lands), (b) in areas inhabited or subject to traditional use of Indigenous People, except in instances where the free, prior, and informed consent of the affected Indigenous People has been granted, (c) other Ramsar sites, (d) UNESCO sites, (e) critical freshwater, marine and coastal ecosystems, or (f) other areas of high landscape, species biodiversity or ecosystem conservation value.

Project proponents of Extractive Industry projects must integrate biodiversity and landscape conservation into all stages of project development following international standards and practices, and shall ensure that threats to endangered species and ecosystem conservation values are prevented throughout the project lifecycle.

ARTICLE 8 RESTORATION AND REHABILITATION FUNDING

To ensure the restoration and rehabilitation of the Environment from the effects of Extractive Industry projects, project proponents shall comply with Book [8], Title [] on Financing for Closure, Rehabilitation, Remediation and Restoration of Activities affecting the Environment.

Funds and financial matters related to restoration and rehabilitation will be managed by the Ministry of Finance and Economics, in collaboration with the Ministry of Environment. The use of funds for restoration and rehabilitation of Extractive Industry project sites must be conducted with Meaningful Stakeholder Engagement and used for the exclusive purpose of restoring and rehabilitating the environment from the effects of Extractive Industry projects.

The Project Proponent shall be responsible for any other fees required by legislation outside of those stipulated by the Environmental Code.

CHAPTER 2 ENVIRONMENTAL MANAGEMENT RESPONSIBILITY AND TOOLS

ARTICLE 9 POLLUTION AVOIDANCE AND MINIMIZATION

Project proponents shall avoid causing pollution or any other environmental harm when conducting Extractive Industries activities.

Project proponents shall use the best available technology to maximize efficiency, minimize pollution or any other environmental harm when conducting Extractive Industries activities. Ministry of Environment must furnish for Meaningful Stakeholder Engagement the best available technology for each specific Extractive Industry resource within [180 days] of the enactment of this Code and finalize and make available each such best available technology within [360 days] of the enactment of this Code. Ministry of Environment must then update the best available technology for each specific Extractive Industry resource on or prior to [2 years] following the enactment of this Code.

ARTICLE 10 ENVIRONMENTAL QUALITY STANDARDS

Ministry of Environment, in consultation with the Ministry of Mines and Energy, shall establish Environmental Quality Standards and Guidelines, to include air and water quality standards, for the operations of each specific Extractive Industry within [180 days] of the enactment of this Code. Ministry of Environment must then update the Environmental Quality Standards and Guidelines for the operations of each specific Extractive Industry every [2 years] following the enactment of this Code.

Project proponents shall comply with all Environmental Quality Standards and Guidelines relating to Extractive Industry operations.

ARTICLE 11 DISCLOSURE AND USE OF CHEMICALS

Prior to beginning an Extractive Industry project, project proponents shall disclose to Ministry of Environment all chemicals that will possibly be used in the lifecycle of the project, including exploration, extraction, reclamation, closure, or post-closure activities, in accordance with Book [7], Title [4] of this Code. Such disclosure shall contain a detailed description of such chemicals, the quantity of predicted use of such chemical, and any potential impacts to human health or the Environment associated with the use of such chemical. Ministry of Environment must organize such disclosures in a Chemical Substance Inventory.

Project proponents must also furnish such disclosure to each person or community potentially impacted by such Extractive Industry project.

Ministry of Environment must assess whether any chemical disclosed as possibly being used in the lifecycle of an Extractive Industries project poses an unreasonable risk to human health or the environment, as outlined in Book [6] of this Code. If Ministry of Environment determines that such chemical does pose an unreasonable risk to human health or the environment, then the Ministry of Environment must prohibit its use with respect to that project.

Project proponents must avoid using chemicals and hazardous substances subject to international bans due to their high toxicity to living organisms, environmental persistence, or potential for irreversible ecological impacts, including rigorously suppressing arsenic and mercury emissions and managing cyanide according to the highest international standard.

Project proponents of mining projects must avoid groundwater or surface water contamination caused by acid rock drainage and metals leaching.

ARTICLE 12 RELEASES OF HAZARDOUS SUBSTANCES

Project proponents must utilize best practices to prevent releases of hazardous or chemical substances, materials or wastes that exceed permitted levels in the lifecycle of all Extractive Industries projects.

If a release of hazardous or chemical substances, materials or wastes occurs during the lifecycle of any Extractive Industries project that exceeds permitted levels, the project proponent must immediately notify the Ministry of Environment and all persons and communities potentially affected by such release.

ARTICLE 13 DISPOSAL AND STORAGE OF WASTES

Project proponents must dispose of wastes from Extractive Industries projects in accordance with

Book [6] of this Code.

In adherence with Book [6], project proponents must not dispose wastes from Extractive Industries projects in Tonle Sap Lake or tributaries thereto, the Tonle Sap River or tributaries thereto, the Mekong River or tributaries thereto, or coastal rivers. Project proponents must also not engage in shallow-water submarine waste disposal. Deep-water submarine waste disposal shall not be used unless an independent assessment can demonstrate minimal environmental and social risks.

Project proponents must manage wastewater from mining projects by:

- a) Publicly reporting water risks and management activities and performance;
- b) Conducting Meaningful Stakeholder Engagement;
- c) Adhering to social, cultural, economic and environmental values at the water catchment level where the mining project is located; and
- d) Developing and implementing a wastewater management plan.

Project proponents of mining projects must also:

- a) Adequately manage waste rocks and tailings to ensure structural stability, control discharge, and protect against the potential impacts of acid mine drainage, metal leaching, or loss of containment;
- b) Avoid building riverine or shallow marine tailings; and
- c) Consider the construction of zero discharge tailings, including permanent storage after decommissioning.

ARTICLE 14 CYANIDE AND MERCURY USE IN GOLD AND SILVER MINING

Project proponents of gold and silver mining projects must certify to the Ministry of Environment that the cyanide and mercury to be used in their gold or silver mining operations was purchased in a safe and environmentally friendly manner.

Competent Authorities must ensure that agreements with producers, distributors, transporters or project proponents establish responsibility and appropriately allocate liability with respect to safety, security, release prevention, training and emergency response in relation to the cyanide and mercury to be used in gold or silver mining projects.

For cyanide and mercury to be used in gold or silver mining projects, Competent Authorities shall ensure that facilities handling such substances:

- a) Design and construct unloading, storage and mixing facilities consistent with sound, accepted engineering practices, quality control and quality assurance procedures, and release prevention and containment measures;
- b) Operate unloading, storage and mixing facilities using inspections, preventive maintenance and contingency plans to prevent or contain releases and control and respond to worker exposures;
- c) Operate and monitor cyanide and mercury facilities to protect worker health and safety and periodically evaluate the effectiveness of health and safety measures;
- d) Implement management and operating systems designed to protect human health and the environment, including contingency planning and inspection and preventive maintenance procedures;
- e) Implement a comprehensive water management program to protect against unintentional releases;
- f) Implement measures to protect flora and fauna from potential adverse effects of cyanide and mercury processes;
- g) Implement measures to protect flora and fauna from direct and indirect discharges of cyanide and mercury processes to surface water;
- h) Implement monitoring programs to evaluate the effects of cyanide and mercury use on flora and fauna and surface and ground water quality;
- i) Develop and implement emergency response plans and procedures to respond to worker exposure to cyanide and mercury;
- j) Develop procedures for internal and external emergency notification and reporting;
- k) Provide Meaningful Stakeholder Engagement to communicate issues of concern; and
- l) Make appropriate operational and environmental information regarding cyanide and mercury management available to stakeholders.

ARTICLE 15 EMERGENCY PLANNING

Project proponents must develop and implement site-specific emergency response plans to reduce hazards and damage to human health and the Environment caused by Extractive Industries projects. Such plans must contain disaster risk mitigation and management strategies. Project proponents must test and update such plans on a regular basis. These plans must respect relevant national legislated requirements and include Meaningful Stakeholder Engagement as part of the plan's development and preparation.

ARTICLE 16 CLOSURE, RESTORATION, AND REHABILITATION PLANNING

Prior to beginning an Extractive Industries project, project proponents shall develop a plan for the closure of the project and the restoration and rehabilitation of the Environment affected or damaged by the project. This plan must ensure the protection of human health and the environment, the future beneficial use of the affected or damaged environment, and the return of such environment to a stable condition.

Each such plan must:

- a) Provide detailed estimates for the cost of closure, restoration, and rehabilitation;
- b) Demonstrate that the project proponent has appropriate funding to achieve closure of the project and the restoration and rehabilitation of the environment affected or damaged by the project, in accordance with Book [8], Title [];
- c) Be the result of a process with Meaningful Stakeholder Engagement; and
- d) Pay specific attention to decommissioning tailings, controlling post-closure methane emissions, and the management of any associated Releases of hazardous or chemical substances, materials or wastes.

ARTICLE 17 RESTORATION

Project proponents must restore the environment of the areas that are affected or damaged by any Extractive Industries project under the inspection and evaluation of the Ministry of Environment. The project proponent must pay all costs incurred by the Ministry of Environment in relation to such inspection and evaluation.

CHAPTER 3 PUBLIC AND COMMUNITY ENGAGEMENT

ARTICLE 18 MEANINGFUL STAKEHOLDER ENGAGEMENT

Ministry of Environment must ensure that the project proponent engages in Meaningful Stakeholder Engagement in accordance with procedures outlined in Book [1 / 2] of this Code, including with Indigenous People, throughout the lifecycle of any Extractive Industries project.

ARTICLE 19 INVOLUNTARY RESETTLEMENT

Competent Authorities and project proponents shall to the greatest extent possible avoid Involuntary Resettlement when conducting any Extractive Industries project.

When deemed unavoidable, Involuntary Resettlement must be minimized to the greatest extent possible and appropriate measures taken to mitigate adverse impacts on displaced persons and host communities.

If a project requires Involuntary Resettlement, the project proponent must not proceed with such Involuntary Resettlement unless:

- a) The affected persons and communities have received fair compensation for loss of assets, including land, at replacement cost. Compensation is governed by a commitment to non-discrimination including gender discrimination;
- b) Any Involuntary Resettlement is implemented with appropriate disclosure of information, consultation, and the informed participation of those affected, which shall include Meaningful Stakeholder Engagement; and
- c) The Project Proponent has improved, or restored, the livelihoods and standards of living of displaced persons and communities, which shall include the provision of adequate housing with security of tenure at resettlement sites. Livelihood restoration programs and programs to improve standards of living must pay particular attention to individuals or groups of people who are vulnerable or at most risk of their livelihoods or standard of living deteriorating because of Involuntary Displacement.

ARTICLE 20 PUBLIC DISCLOSURE

Competent Authorities shall ensure that details of each Extractive Industries project, including all applicable Natural Resource Management Plans, Strategic Environmental Assessments, Trans-boundary Environmental Impact Assessments, Environmental Impact Assessments, Environmental Management Plans, Environmental Audits, [Environmental Management Reports], and contracts or other agreements between national, sub-national, or local authorities and project proponents, are made available to the public and furnished to potentially affected communities and residents in a manner that is comprehensible and in the appropriate language and format.

Competent Authorities shall ensure that no data relating to any Extractive Industries project shall be considered confidential if it relates to human health or the Environment.

BOOK 4 SUSTAINABLE MANAGEMENT OF NATURAL RESOURCES

- This Book will address landscape-scale conservation and the sustainable management of natural resources and protected (or otherwise classified land management) areas.
- This Book will address sustainable management of (1) landscape conservation areas, (2) conservation corridors, and (3) protected or otherwise classified land management areas, before and without co-management (i.e., state/government management) and with co-management.
- Overarching management objectives are (1) biodiversity and natural resource conservation, (2) ecosystem values, and (3) livelihoods development.
- This Book will examine the conservation, protection, and management of natural resources, biodiversity, and ecosystems, and includes different Titles on conservation landscapes/corridors; protected areas; collaborative management; forests; soils; wildlife; threatened plants, habitat, and ecosystems; coastal zones; water resources; fisheries.
- Specific Chapters could address key priority areas including Tonle Sap Lake, the Mekong River, and the Sesan River.

TITLE 1 MANAGEMENT OF CONSERVATION LANDSCAPES

DEFINITIONS

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

Landscape Conservation Area: An area of protected land comprised of Protected Areas, Community Protected Areas, Community Forests, and Conservation Corridors.

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

and livelihood values.

Conservation Corridor: An area of protected land connecting Protected Areas within a Landscape Conservation Area, to be managed in accordance with co-management and decentralization principles, in cooperation with community members, local authorities, national level institutions, local and international NGOs, development partners and the private sector.

Landscape Conservation Area Protection and Management Plan: An overarching plan for management of a Landscape Conservation Area, to be determined in cooperation with local communities, the relevant government authorities, local and international NGOs, and private sector. Subordinate management plans for smaller geographic areas within the Landscape Conservation Areas will also be developed on a site-specific basis.

CHAPTER # ESTABLISHMENT OF LANDSCAPE CONSERVATION AREAS

ARTICLE

The following Landscape Conservation Areas are established:

[Landscape Conservation Areas listed by name, maps referenced.]

ARTICLE

All Landscape Conservation Areas shall be managed according to the following objectives:

1. Biodiversity and natural resource conservation
2. Ecosystem values
3. Livelihoods development

ARTICLE

All Landscape Conservation Areas shall be managed in accordance with the objectives stated in Article ____.

All Landscape Conservation Areas will be subject to one overarching management plan, with sub-management plans created to improve implementability on a site-specific basis.

All Landscape Conservation Areas are eligible to be managed in accordance with Collaborative Management principles, in cooperation with community members, local authorities, national level

institutions, local and international NGOs, and development partners. Any Landscape Conservation Area, or portion of a Landscape Conservation Area, that is designated to be managed according to Collaborative Management, shall be managed in accordance with Title 3 of Book 4, Collaborative Management.

Until such time as Collaborative Management is established in any portion of any Landscape Conservation Area, all Landscape Conservation Areas shall be managed in accordance with Title 2 of Book 4, Protected Areas Management.

Any Landscape Conservation Area, or portion thereof, that does not become subject to Collaborative Management, shall continue to be managed in accordance with Title 2 of Book 4, Protected Areas Management.

ARTICLE #

A National Committee for the Management of Landscape Conservation Areas is hereby established, consisting of _____

Provincial Committees for the Management of Landscape Conservation Areas are hereby established, consisting of _____.

TITLE 2 PROTECTED AREAS MANAGEMENT

The Law on Forestry 2002, the Law on Fisheries 2007, the Law on Concessions 2007, the Law on Nature Protection Areas 2008, and the Law on Environmental Protection and Natural Resource Management 1996 are hereby amended and clarified as follows:

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

DEFINITIONS

Animal - "animal" includes, whether live or dead, amphibians, birds, mammals, reptiles and their young, offspring, and eggs and any parts or products or the dead body thereof

Animal part - "Animal part" refers to any part or product made from any captive or wild animal and includes an article or object in which the whole or any part of such animal has been used

Captive breeding - animals that are alive or dead, and born or otherwise produced in a controlled

environment. The term "captive breeding" can be applied to any wild animal breeding venture, whether for conservation or commercial purposes.

Captivity - the condition of being confined within an enclosure, building or otherwise, which is outside of an animal's natural wild habitat

CITES - The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement between governments. It aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. CITES regulates international trade in Endangered species listed on the appendices of CITES.

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

Collaborative management -

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

Conservation purposes - doing an activity for the aim of conservation of the species, habitat or ecosystem in question and avoiding degradation, destruction, decline and extinction.

Customary use/ Subsistence Use/ family scale - use of natural resources that will meet only the food security and subsistence needs of the family. The use of natural resources for sale, gifting, trade, economic benefit, or any other use beyond the immediate family, is not included in customary/subsistence use.

Disturb - means to harass or interfere with the natural behaviour, including breeding, of any wild animal, its young or eggs, and with any natural habitat.

Ecosystem services - Benefits provided by ecosystems that contribute to human life, including provisioning services such as food and water, regulating services such as control of climate and disease, supporting services such as nutrient cycles and crop pollination, and cultural services such as spiritual and recreational benefits.

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

Gender mainstreaming - assessing the different implications of men and women for any planned

policy action. It ensures the concerns and experiences of women as well as men are an integral part of the design, implementation, monitoring and evaluation of policies and programmes, so that women and men benefit equally and inequality is not perpetuated.

Habitat - includes land, water, vegetation or air, which is the natural home of any wild animal

Harassing - means to disturb, worry, exhaust, fatigue, annoy, plague, pester, tease or torment any animal, or otherwise interfere with the natural behaviour of any animal, its young or eggs, but does not include the lawful hunting, trapping or capturing of wildlife

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

Hunting - Hunting includes harassing, capturing, killing, poisoning, pursuing, snaring, shooting, trapping, baiting, netting and luring of any wild animal and any attempt to engage in such conduct, and wounding, injuring or destroying or taking any part of the animal or its offspring, or in the case of wild birds or reptiles, collecting, damaging or disturbing the eggs or nests

Infrastructure - Infrastructure in this context can be defined as the basic physical systems providing commodities to a business or nation, including but not limited to transportation (e.g. roads, bridges, and tunnels), communication, sewage, water supplies and electricity

Invasive - plants, animals or pathogens that are non-native to the ecosystem or country under consideration and whose introduction causes or is likely to cause harm

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

Local Community

Means of transport - any vehicle that you can travel or carry goods in, including but not limited to, motorbikes, bicycles, tractor, car, cart, truck, boat, vessel or any other type of vehicle

National Wildlife Advisory Board - a board composed of wildlife experts from the Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries, scientific institutions and non-profit organisations. The board will advise the Ministry of Environment on all matters related to Wildlife Protection, Conservation and Management under this law and the Law on Wildlife Protection, Conservation and Management.

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

Commented [Vishnu89]: Will be "defined" in Code, but definition will refer to official process [to be developed in supporting/sub-legislation] for determining a "local community" for purposes of rights and responsibilities under the Code.

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

Permit - means a permit granted under this law or any regulation or rule made thereunder

REDD(+) - Reducing Emissions from Deforestation and Forest Degradation (REDD) is a mechanism established by the United Nations Framework on Climate Change (UNFCCC), with the objective of mitigating climate change through the reduction of emissions of greenhouse gases, through enhancing sustainable forest management, conserving and enhancing forest carbon stocks and reducing forest conversion and loss in developing countries.

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

Sustainable Finance – long term protected area funding mechanisms such as payments for ecosystem services, REDD+, and conservation trust funds. These funding mechanisms commonly provide performance based payments as set out in legally binding agreements.

Wildlife farming - raising and breeding of wild animals in captivity with the primary purpose of selling, trading and gaining income from these animals and their parts or trophies

Wildlife - means any animal and aquatic or terrestrial vegetation which forms part of any habitat

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1

This law defines the framework of management, conservation and development of protected areas.

The objectives of this law are to ensure the management, conservation of biodiversity and sustainable use of natural resources in protected areas.

The management, conservation and protection of all wildlife are covered within the Title on Wildlife Protection, Conservation and Management.

ARTICLE 2

This law has a scope of application in protected areas defined by the provisions of the Law on

Environmental Protection and Natural Resources Management, which was promulgated by Preah Reach Kram (Royal Decree) No NS/RKM/1296/36 of December 24, 1996, Royal Decree (Preah Reach Kret) on the Establishment and Designation of Protected Areas of November 01, 1993, Royal Decree on the Establishment and Management of Boeung Tonle Sp Biosphere Reserve No NS/RKT/0401/070 of April 10, 2001, and other relevant standard documents.

Commented [Vishnu90]: A new Royal Decree will announce the Environmental Code. The new Royal Decree can replace content from the old Royal Decree or add content.

ARTICLE 3

For the purposes of this law, the terminology and vocabulary listed in this law shall be defined as provided in the appendix.

CHAPTER 2 RESPONSIBLE INSTITUTIONS

ARTICLE 4

The management of protected areas as mentioned in Article 2 of this law shall be under the jurisdiction of the Ministry of Environment.

All ministries shall seek to conserve protected areas and natural resource values and shall utilize their authorities in the furtherance of this law.

The management of the protected area shall have to guarantee the rights of the local communities, indigenous ethnic minorities and the public to participate in the decision-making on the sustainable management and conservation of biodiversity and to ensure fair and equitable access to protected areas for resource users.

ARTICLE 5

The Ministry of Environment shall have the following main duties:

1. Develop and implement strategic plans, action plans, and technical guidelines for managing the protected areas based on a landscape approach.
2. Make proposals for the establishment and modification of any protected area as required by the Royal Government of Cambodia or pursuant to regional and international conventions, protocols and agreements.
3. Prepare guidelines and procedures for effective enforcement of this Law.
4. Take action to investigate, control, and crackdown on natural resource offences in the protected areas and file complaint to court.

5. Promote education and dissemination to the public to participate in the conservation and protection of natural resources within the protected areas.
6. Formulate agreements on community protected area development programmes.
7. Monitor and evaluate the effectiveness of protected area management.
8. Establish sustainable finance mechanisms for protected areas.
9. Develop, update and oversee 5 year management plans for all existing and newly established protected areas.

ARTICLE 6

Officials of the Ministry of Environment have the following rights and duties:

1. Regularly patrol, investigate, control and crack down on national resource offences of all kinds in protected areas.
2. Inspect and issue licenses, permits, and other relevant documents determined by this law.
3. Take action to prevent and control forest fires in protected areas.
4. Control export and import of flora and fauna, seeds and samples from/into the protected areas.
5. Promote education and dissemination among the public and coordinate with local indigenous communities to participate in the preparation and implementation of community protected areas.
6. The officials of the Ministry of Environment have a role as judicial police.
7. Conduct consultations with relevant stakeholders prior to establishment or amendment of any protected area.
8. Abide by obligations related to receiving protected area finance as set out in legal agreements.
9. Detailed rights and duties of natural protection and conservation agency's officials shall be determined by Prakas of the Ministry of Environment.

ARTICLE 7

Commented [MQ91]: Revisions to wording will be based on decentralisation and deconcentration recommendations.

The Provincial Department of Environments shall have the following roles and responsibilities:

1. Support Protected Area Directors in the management of protected areas based on a landscape approach in accordance with finance agreements, individual protected area management plans, and in the development of individual protected area management plans and activities.
2. Coordinate with provincial, district and commune level authorities and other stakeholders for the implementation of protected area activities, including community protected areas, land titling, zoning, biodiversity monitoring and research, eco-tourism and education, as well as the arrest and prosecution of persons conducting illegal activities.
3. Disseminate laws and regulations related to conservation and protected area management, in coordination with local stakeholders.
4. Inspect and issue licenses, permits, and other relevant documents determined by this law.

ARTICLE 8

A Protected Area Director shall be appointed who has satisfactorily completed a Bachelor's degree in forestry, environment and natural resource management, biodiversity conservation, or other relevant field, or has equivalent years of relevant experience.

A Director of the Provincial Department of Environment shall be appointed who has satisfactorily completed a Bachelor's degree or higher degree in forestry, environment and natural resource management, biodiversity conservation or other relevant field, or has equivalent years of relevant experience.

The Ministry of Environment shall provide capacity building opportunities and training for all protected area staff in line with their responsibilities, required skills and capacity needs.

ARTICLE 9

Protected Area Directors shall have the following roles and responsibilities:

1. To manage protected areas and protected area staff in accordance with finance agreements, available budgets, approved zonation, management and action plans, the National Protected Area Strategic Management Plan and relevant laws and regulations.
2. To report to the Ministry of Environment and the Provincial Department of Environment

Commented [Vishnu92]: Qualifications of directors may be a matter for a Prakas on management.

Commented [Vishnu93]: Minimum number of years to be determined and specified.

Commented [Vishnu94]: Minimum number of years to be determined and specified.

each month on protected area management implementation, progress against plans, threats, challenges and any other issues. Submission of law enforcement activity and performance reports and monthly databases of protected area offences and offenders shall be submitted.

CHAPTER 3 ESTABLISHMENT, MODIFICATION AND CLASSIFICATION OF PROTECTED AREAS

ARTICLE 10 (8) ESTABLISHMENT AND EXPANSION OF PROTECTED AREAS

Protected Areas in Cambodia are established and managed to secure for perpetuity the country's biological diversity, ecosystem services and natural and cultural resources.

The Ministry of Environment is responsible for nominating areas to be managed as Protected Areas and a proposal to establish or expand a Protected Area shall consist of:

1. A description of the significance of the area(s) proposed for establishment or expansion in terms of biological, topographical, geological, historical, cultural, and conservation values based on scientific analysis where possible using appropriate scientific methodologies together with an assessment report of natural resources and current land and natural resource use in the proposed area.
2. A legal description of the area proposed for establishment or expansion with appropriately scaled and clear maps indicating location, boundaries, and size.
3. A description of the management and conservation objectives of the proposed area for establishment or expansion, a proposed protected area category as in article 12(7), and estimated operational budget.
4. Results from open, timely, and meaningful consultations with all relevant agencies, stakeholders, and local authority representatives situated within or adjacent to the proposed area, including other government agencies, scientific bodies, academic institutions, technical experts, and local communities.
5. An assessment of how the new or expanded Protected Area fits within the national Protected Area system, the National REDD+ Strategy (NRS) and is compatible and consistent with the National Protected Area Strategic Management Plan (NPASMP).

The establishment of new Protected Areas or expansion of the boundaries of existing Protected Area is issued through sub-decree.

Unless explicitly stated under sub-decree, all new Protected Areas, or additions to the Protected

Commented [MQ95]: Numbers in brackets correspond to the existing related article in the PA Law.

Area estate as a result of Protected Area expansion, will be managed and legally protected as [areas of high conservation values and natural resources, ecosystems, watershed areas, and natural landscapes] until zonation and management plans are approved.

All existing protected areas without approved zonation plans will be managed and legally protected as [areas of high conservation values and natural resources, ecosystems, watershed areas, and natural landscapes] excepting areas with existing villages, Community Protected Areas and Indigenous Community Titles.

ARTICLE 11 (9) PROTECTED AREA REDUCTION AND DECLASSIFICATION

Cambodia's Protected Area system is designed for perpetuity and once established as a Protected Area in accordance with the law (see Article 1) the legal presumption is for the sites' permanent security and perpetual integrity.

Declassification of all, or part, of a Protected Area is reserved for circumstances in which the conservation and ecosystem services value have been reduced to such a degree that restoration is not feasible.

Declassification of all, or part of, a Protected Area should occur through **Prime Ministerial Decree** following recommendation by the Ministry of the Environment and the National Wildlife Advisory Board.

Commented [MQ96]: IUCN guidelines suggest that this is higher than what is needed to create a protected area.

Reasons for declassification or reduction shall be made public in writing in advance of the action, opportunity for public comment shall be provided, and these comments shall be taken into account in the decision.

Exceptions to the above concern areas of the current Protected Area network under active and non-revoked Economic Land Concessions (granted and approved prior to 1st January 2016), which will be declassified following public consultations.

ARTICLE 12 (7) CLASSIFICATION OF PROTECTED AREAS

All Protected Area will be classified and named based on the published IUCN Protected Area Management Categories.

Commented [Vishnu97]: This represents a change to the existing Cambodian approach, and is included for consideration.

Four types of Protected Area will be recognized: National Parks or Natural Heritage Parks (IUCN Category II), National Monuments (IUCN Category III), Species Conservation Areas (IUCN Category IV), and Protected Landscapes (IUCN Category V) [for definitions see Appendix 1].

Protected Area classification will be defined in Protected Area Sub-Decrees and justified in each Protected Area's Management Plan.

All current Wildlife Sanctuaries meet criteria for IUCN Category II status and could thus become National Heritage Parks.

All Protected Areas, irrespective of categorization, require management and zonation plans.

ARTICLE 13 (9)

The Royal Government of Cambodia may designate any protected area of national and international significance as world or regional heritage site provided that the area responds to criteria set forth by such international or regional conventions, protocols, and agreements.

A protected area already designated as world or regional heritage site shall require appropriate interventions by the Royal Government of Cambodia to ensure its management and conservation consistent with procedures and relevant regulations prescribed in such instruments.

A protected area which has already been acknowledged by international or regional treaty, convention, protocol, and agreement, shall be determined by a sub-decree.

ARTICLE 14 (10)

The Royal Government of Cambodia may establish provincial/municipal protected areas.

The Establishment of provincial/municipal protected areas shall be determined by sub-decree.

CHAPTER 4 MANAGEMENT ZONES OF PROTECTED AREAS

ARTICLE 15A

Division of protected areas into management zones shall be site-specific, and in consideration of the wider Landscape Conservation Area in which a protected area may be found. Appropriate management zones for each site shall be determined according to the following three criteria:

1. Biodiversity and natural resource conservation
2. Ecosystem values
3. Livelihoods development

Commented [Vishnu98]: It is important to promote a landscape approach to protected areas instead of dividing PAs according to administrative boundaries,

e.g.,
North Eastern Protected Landscape,
North Central Protected Landscape
Eastern Protected Landscape
South Western Protected Landscape
Tonle Sap Protected Landscape

Management plans for each landscape and zoning within the landscape can be facilitated to promote a more integrated approach for NRM.

Commented [Vishnu99]: Note that most protected areas will fall within Landscape Conservation Areas, but there may be some isolated areas that do not.

as set out in Title 1 Management of Conservation Landscapes.

Commented [Vishnu100]: This language is being developed and is included for consideration.

ARTICLE 15B

Each protected area shall be individually divided into appropriate zones on a site-specific basis according to the criteria outlined in Article 15A through a process to be established and based on site-appropriate objectives.

Commented [MQ101]: Specific process of zonation to be further developed in the next draft.

ARTICLE 15C

Until zonation plans are developed and approved, all protected areas shall be treated and managed for protection of high conservation values and natural resources, ecosystems, watershed areas, and natural landscapes, excepting community areas and other titles. Access and use would be regulated to reflect these priorities.

Any development, infrastructure, investment activities and exploration shall not be permitted in protected areas without an approved Environmental Impact Assessment, and approval for the development from the Prime Minister.

ARTICLE 16 (12)

The zoning as stated in Article 15 above shall be implemented in all protected areas according to a participatory framework or guidelines, approved by the Ministry of Environment, based on the following criteria:

- a) The area's management objectives
- b) The area's natural resource values
- c) The area's biodiversity conservation significance
- d) Sustainable finance agreements such as REDD+
- e) Use of the areas by local communities
- f) Socio-economic and cultural implications of the area
- g) Carrying capacity of the natural resources of the area
- h) Geographical location of the area

The guidelines for zoning in any protected area shall be prescribed by prakas issued by the Ministry

of Environment.

ARTICLE 17 (13)

Modification of the boundaries of each zoning system as provided in article 15(11) of this law could be done based on:

- b. Clear scientific information on ecosystem, including animal species, plant species, genetic resources, biodiversity resources, socio-economic and cultural aspects which are under threat.
- c. Compliance with the policies and strategies of the Royal Government of Cambodia.
- d. Sustainable finance agreements.

Decisions on the proposed modification of the boundaries of each zoning system shall be made by the Ministry of Environment and the National Wildlife Advisory Board under the Biodiversity Centre of the National Council for Sustainable Development... Prior to modification consultation will be held with the affected stakeholders.

ARTICLE 18 (14)

The Ministry of Environment shall formalize the map for each protected area on an appropriate scale, in consideration of the Landscape Conservation Area in which it may occur. This shall be done with the participation of the Ministry of Land Management, Urban Planning and Construction, local authorities, local communities and relevant agencies.

The Ministry of Environment shall conduct research and management zoning as stated in article 15(11) of this law in accordance with the Ministry of Environment's guidelines and demarcate the boundary markers for each protected area based on appropriate locations on the map, and agreed zones, determined by sub-decree. The boundaries of the protected areas and zones will be publicly available and disseminated to relevant stakeholders.

CHAPTER 5 NATIONAL STRATEGIC AND ACTION PLANS FOR PROTECTED AREAS MANAGEMENT

ARTICLE 19 (15)

The Ministry of Environment shall develop a National Protected Area Strategic Management Plan (NPASMP) and ensure that the Plan is compatible and consistent with national plans including the national budget for protected area management, the National Environment Action Plan, National

Commented [MQ102]: Propose that the national "biodiversity board" that would have sub-committees to look at the status of wildlife, plant species and ecosystems.

Commented [MQ103]: Need to confirm name.

Biodiversity Strategy and Action Plan, National REDD+ Strategy, and the National Wetland Action Plan. The NPASMP is to be adopted by the Royal Government of Cambodia at the request of the Ministry of Environment.

ARTICLE 20 (16)

The NPASMP shall include, at a minimum, the following contents:

- e. Vision, Mission and Goals
- f. Guiding Principles
- g. Objectives of conservation, rehabilitation, suppression of illegal activities and sustainable use of natural resources and ecosystems within individual protected areas
- h. Current status of natural resources and ecosystems within each zone including flora and fauna species, genetic resources and socio-cultural aspects
- i. Assessment of potential level of contribution of each protected area to achieving biodiversity and natural resources protection and conservation
- j. Recommended actions and timelines for successful achievement of the protected area objectives; and steps for implementation of management plan for priority protected areas
- k. Monitoring and Evaluation plans referencing clear performance indicators
- l. Gender Mainstreaming
- m. Climate Change Mitigation and Adaptation
- n. Financing Resources

The NPASMP shall be prepared and revised through a process involving public consultation, notice and comments in line with guidelines issued by the Ministry of Environment.

ARTICLE 21 (17)

The Ministry of Environment shall make proposals for review and revision of the NPASMP at least once every five years, or earlier if changes are needed to achieve the Ministry of Environment's purpose(s), vision, goals, or objectives in protected area management, based on:

1. Improved scientific information about, and understanding of, Cambodia's living resources and ecosystems, including communities of species of flora and fauna, biological and genetic diversity, and socio-cultural resources;
2. Threats to the National Protected Area System;
3. Evolving implementation requirements in accordance with the policies of the Royal Government of Cambodia; and
4. Findings from monitoring and evaluation;
5. Changes to the budget allocation for protected area management.
6. Performance under sustainable finance agreements.

The NPASMP shall be revised through a process involving public consultation at the national and provincial level, notice, and comments in line with guidelines produced by the Ministry of Environment.

ARTICLE 22 (18)

The Ministry of Environment shall develop, for all individual protected areas and Landscape Conservation Areas, a management plan in accordance with the NPASMP.

The process for the development of the individual plans shall involve coordination and consultations with local authorities, local communities and indigenous ethnic minorities living inside and adjacent to the protected area and other relevant stakeholders, including private sector entities such as economic land concession owners. Particular care must be taken to solicit and take into consideration the views and needs of marginalized groups, including indigenous people, women, those without land title, and the poor.

Funds for the development of protected area management plans can be made available from the Ministry of Economics and Finance as part of the national budget allocated to protected area management, as well as from other sources.

A draft of the protected area management plans must be made available for public review and comment for a period no shorter than 30 days, in both Khmer and English prior to its approval.

ARTICLE 23 (19)

Commented [Vishnu104]: To be determined whether this will be addressed specifically in a different section of the Code.

Commented [MQ105]: Refer to guidelines on responding to public comments in SEA/EA sections?

The Ministry of Environment shall issue prakas prescribing guidelines for a standardized process for the development of individual protected area management plans. Protected area management plans shall be based on the best available scientific knowledge and evidence.

Commented [MQ106]: Based on process existing Pas have gone through.

The content for each of the plans for individual protected areas and Landscape Conservation Areas shall include the following:

Commented [Vishnu107]: New management requirements.

1. Introduction, including the location, socio-economic context and conservation significance of the protected area.
2. Vision, mission, goals and management plan targets for the protected area.
3. Guiding principles for the protected area.
4. Strategic analysis, including the governance context, threats to management targets and responses.
5. Strategies for strengthening conservation, sustainable resource use and community services.
6. Financing, including staffing and administration, infrastructure, building, equipment and materials and long-term sustainable funding plans
7. Monitoring and evaluation.
8. A detailed description of the activities allowed within each zone and accompanied by zoning categories and maps.

Commented [MQ108]: Guidance for the contents of management plans issued by MOE to WWF. Suggest this replaces the guidance in the PA Law.

ARTICLE 24

A protected area management plan shall be submitted to the Ministry of Environment for approval within twelve (12) months of the establishment of a new protected area. The approval of a protected area management plan shall be within six (6) months of its submission.

ARTICLE 25

Each individual protected area management plan must be renewed every five (5) years from its date of approval, or earlier if changes are required to achieve the protected area management objectives as stated in the protected area management plan, based on:

1. Findings from monitoring and evaluation

2. Improved scientific information about and understanding of Cambodia's living resources and ecosystems, including communities of species of flora and fauna, biological and genetic diversity, and socio-cultural resources
3. Threats to the protected area; and
4. Implementation in accordance with the Royal Government policies
5. Performance under sustainable finance agreements

The review process shall begin six months before the expiry of any given protected area management plan, and approved at the latest two months before the expiry of the preceding plan. The Ministry of Environment is responsible for the review process.

ARTICLE #

ARTICLE 26 (20)

A National Committee for Conflict Resolution on Protected Area Management (NCRPAM), chaired by the Minister of Environment and participated in by the National Wildlife Advisory Board of the NCSA, relevant ministries and institutions as members, shall be established to assist in the discussion, consultation and conflict resolution on the protected area.

The National Committee for Conflict Resolution on Protected Area Management shall meet as required at the request of the Minister of Environment, following the receipt of reports, or complaints from an interested party. The Committee shall review and evaluate the complaint and make a decision on a resolution within 90 days of the receipt of the complaint.

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

ARTICLE 27 (21)

In accordance with the UN Declaration on the Rights of Indigenous Peoples, local communities, indigenous ethnic minorities, the public and civil society are encouraged to participate fully in the provision of and access to information relevant to the protected area management, conservation and development. This is to be achieved through the process of free, prior and informed consent.

ARTICLE 28 (22)

Commented [MQ109]: Include references of which governments are tasked to implement management plans.

Roles of subnational governments?

Commented [MQ110]: 30 to 60 days?

Commented [Vishnu111]: Community access rights to be revised.

The state recognizes and secures access to traditional uses, local customs, beliefs, and religions of the local communities, and indigenous ethnic minority groups residing within and adjacent to the protected areas.

Access to traditional uses of natural resources and customary practices of local communities and indigenous ethnic minority groups, including resin harvesting, are allowed within the conservation zone and sustainable use zone following guidelines by persons holding a valid permit issued by the Provincial Department of Environment and Protected Area Director, and in compliance with other relevant laws, including the Law on Wildlife Protection, Conservation and Management. The guidelines shall be prescribed in a prakas of the Ministry of Environment

Small-scale community uses of timber, firewood, non-timber forest products (NTFPs) to support local communities and local ethnic minorities' livelihood may be allowed under strict control via permits issued by the Ministry of Environment, provided that they do not present serious adverse impacts on biodiversity within the zone.

ARTICLE 29 (23)

Utilization of natural resources in accordance with articles of this law may only be allowed in the sustainable use zone or the areas designated as community protected area, with the exception of resin harvesting by local communities and indigenous ethnic minority groups which will be allowed in the Conservation Zones by individuals holding a valid permit as stated in article 28(22) of this law.

Utilization of land for subsistence agriculture and residential land is allowed only in the community zone or with special agreement in the sustainable use zone. The CPA Committees can assist commune councils to manage the community zones in accordance to the agreements between the MoE and the said community. Issuing of land titles in the community zone will be in accordance to the Land Law.

Utilization of natural resources shall be in accordance with the Management Plan and technical guidelines to ensure sustainability of natural resources within the community protected areas and community zones.

Utilization of natural resources shall be in accordance with sustainable finance agreements, such as those made under REDD+.

ARTICLE 30 (24)

Commented [Vishnu112]: All Protected Areas should require IEE for exploration and EIA for exploitation. Mining should also be prohibited in certain areas of special significance. (Also see article 34 (28) below.)

Swidden agriculture practices, commercial agricultural practices and any other agricultural practices shall not be permitted in the core zone and conservation zone of protected areas.

ARTICLE 31 (25)

The Ministry of Environment has the authority to allocate part or parts of the sustainable use zone to communities residing within or adjacent to a protected area, as the community protected area.

The concerned community protected area shall enter into an agreement with the Ministry of Environment and the agreement shall be valid for a period not exceeding fifteen (15) years.

If the community protected area fails to abide strictly by the agreement with the Ministry of Environment and management plan, the Ministry of Environment has the right to temporarily stop for review and assessment of the operation of the community protected area.

The Ministry of Environment has the authority to revoke the agreement with the community protected area in case the community acts in contravention of the terms of the agreement and management plan.

Guidelines on the procedures and process of establishment of the community protected area shall be determined by Prakas of the Ministry of Environment.

ARTICLE 32 (26)

Local communities and indigenous ethnic minorities may not have the rights to clear or work forestlands in the **community protected areas, co-management Zone or community zones allocated to it, pursuant to the agreements with the Ministry of Environment, to practice agricultural farming or to claim title over the land, or to sell, lease, pawn, donate, share, divide or transfer the areas under its own management to any person or legal entity.**

Community protected area, co-management zone or community zone regulations shall be established by local community and indigenous ethnic minorities acknowledged by local authority and endorsed by the Ministry of Environment.

Allocation of more farmland to local communities and indigenous ethnic minorities shall be determined by a sub-decree.

ARTICLE 33 (27)

The Ministry of Environment, upon consultation and coordination with local authorities, local

Commented [MQ113]: If Collaborative Management will replace CPA, this needs to be removed to ensure consistency.

communities and indigenous ethnic minorities is duty-bound to conduct feasibility study on the establishment of community protected areas and to define clear location and appropriate size.

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

ARTICLE 34 (28)

The community protected area shall develop, with recognition of the local authority, a natural resources management plan which shall be reviewed and approved by the Ministry of Environment. The plan shall be reviewed regularly every three (3) years or earlier if necessary. Any new extractive activities shall require a social and environmental impact assessment in addition to a sustainable harvesting plan.

The plan and the community protected area development activities shall be integrated into the commune development plan.

**CHAPTER 7 EDUCATION, DISSEMINATION, REHABILITATION, IMPROVEMENT
AND FUNDING OF PROTECTED AREAS**

ARTICLE 35 (29)

Citizens, Buddhist monks, school children, civil servants, members of the armed forces, and local authorities shall have an obligation to participate in the protection, conservation and rehabilitation of natural resources within protected areas.

ARTICLE 36 (30).

Extensive programmes for education and dissemination, involving all means of communications, shall be developed for individual protected areas on the protection and conservation of natural resources, the rehabilitation and restoration of biodiversity and degraded and lost ecosystems.

The Ministry of Environment shall, every year on the National and World Environment Day and other national and international convention days, organize activities for rehabilitation of biological resources and ecosystems within the protected areas with a view to providing public education and awareness on the value of protected areas and promoting participatory protection and conservation of natural resources.

ARTICLE 37 (31).

The Ministry of Environment shall, in collaboration with local communities, indigenous ethnic minorities, national and international organisations and NGOs, rehabilitate and restore the environment in degraded areas within the protected area.

ARTICLE 38 (32).

The Government shall establish a fund called "protected areas fund" which is organised, managed and given responsibility by a protected area committee with Minister of Environment and Minister of Economy and Finance as co-chairmen.

The establishment and functioning of the committee shall be determined by a sub-decree.

The Protected Areas Fund will be the repository for revenues collected from fees, fines and taxes related to protected area management. It will be used by the Ministry of Environment to enable investments in protected areas over and above what is available from national budget allocations.

As the primary implementing agency, the Ministry of Environment will have its own financial account and budget, allocated as part of the national budget, with which it will prioritize annual investments in individual protected areas, in consultation with other stakeholders.

Protected areas of higher biodiversity value and higher threat, as identified by the National Wildlife Advisory Board, should receive a higher proportion per hectare than areas of lower inherent value or threat.

ARTICLE 39

The Ministry of Environment will undertake an annual budgeting process in accordance with international standards and in coordination with the NPASMP review, which is available for public scrutiny. The budget will account for:

1. Funds allocated by the national budget; and
2. Funds available, and expected in the coming financial year, in the Protected Area Fund.
3. Funds available relative to meeting performance targets
4. Funds available from any other sources

The budget will identify funding priorities under the following three funding scenarios.

Commented [Vishnu114]: Need to confirm about the fund. Exists within current PA law, but need to know more about what's happening with it now. Does it exist?

Commented [MQ115]: Confirm with MEF.

Commented [MQ116]: Can prioritize? Is this the best method? Supporting / sub-legislation?

Commented [MQ117]: Clarify: prioritize funding for PAs and/or within PAs?

1. Scenario 1: minimum funding, with activities and costs necessary for basic functionality, sustainable finance agreements, and minimum desirable level of management and protection.
2. Scenario 2: medium level of funding necessary to maintain/ implement activities designed to provide a sufficient level of management and protection.
3. Scenario 3: maximum level of funding to undertake activities designed to provide an enhanced level of management and protection.

ARTICLE 40 (33)

Funding support for rehabilitation, management, improvement of protected areas and biodiversity shall come from:

1. National budget
2. Protected area entrance and other service fees
3. Environmental endowment insurance
4. Donations
5. Assistance from national and international organizations and friendly countries
6. Assistance from international environment funds
7. Protected Areas Fund
8. Trust fund endowments
9. Payments for Environmental Services schemes
10. Emissions reductions initiatives such as REDD+

ARTICLE 41 (34)

Budget and funds from sources as stated in article (33) of this law may be used to support the following activities within the protected areas:

- The protection and conservation of biological resources and ecosystems

- Rehabilitation and enhancement of biodiversity and ecosystems
- Technical and scientific research studies on biodiversity and ecosystems
- Maintenance and extension of eco-tourism services
- Training, human resource development and capacity building of Ministry of Environment staff for effective protection and conservation of biodiversity and ecosystems
- Programmes supporting the establishment of community protected areas
- Dissemination and education on protected areas and
- Construction, rehabilitation and maintenance of infrastructure
- The development of protected area management plans and community protected area management plans
- Obligations under sustainable finance agreements

Commented [MQ118]: Clarify what this means in practice.

ARTICLE 42

The Ministry of Environment will work with all other relevant Ministries to ensure an enabling policy environment for the following potential sources of future funding for Cambodia's protected area system:

- Government-sourced funds including from multi-lateral and bi-lateral donors and debt-for-nature swaps
- Tax incentives for ecosystem conservation, and surcharges including from economic land concessions and compensation from hydropower and mining concessions
- Permits, fees and licenses, tourism concession fees, payments for ecosystem services (e.g. water, carbon, sustainably managed natural forest) and compensatory legal fees and fines
- Donations, volunteers and cost sharing including corporate (CSR) and personal donations, public-private partnerships, assistance from international NGOs and international environment funds
- Private sector investment in appropriate economic activities in protected areas from which protected areas management funds can be generated.

- Emissions reductions projects, including Reduced Emission from Deforestation and Degradation (REDD)

ARTICLE 43

The Ministry of Environment will prepare a detailed report at the end of each financial year which reports all expenditures and is available to the public on the Ministry of Environment website in both English and Khmer.

CHAPTER 8 PERMIT AND PROHIBITION AND ENVIRONMENTAL AND SOCIAL IMPACTS ASSESSMENT

ARTICLE 44 (35)

The Minister of Environment has the authority to issue permits, agreements, or contracts for non-profit purposes in terms of conservation, management of and customary access to natural resources in protected areas.

Request procedures and formalities to get permits and agreements or contracts for non-profit purposes in terms of conservation and management of natural resources in protected areas shall be defined by Prakas of the Ministry of Environment.

ARTICLE 45 (36)

All development for public infrastructures in protected areas, including clearances and bulldozing within the open land, grassland, or forestland in protected areas for the purposes of building all types of public infrastructures through the core zone and conservation zone shall be strictly prohibited. Economic land concessions and social land concessions shall be strictly prohibited from the Core Zone and Conservation Zone.

These activities can only be carried out in the sustainable use zone and community zone with approval from the Royal Government of Cambodia at the request from the Ministry of Environment and only following the completion and evaluation of a social and environmental impact assessment.

Any development, including infrastructure, investment activities, concessions or exploration, that is proposed to take place between the boundaries of adjacent protected areas must be subject to a social and environmental impact assessment, reviewed and approved by the Minister of Environment.

Commented [MQ119]: Marine and fresh water areas?

Commented [Vishnu120]: Should also be addressed in Landscape Conservation Areas / Conservation Corridors.

Commented [Vishnu121]: Terminology to be reviewed.

ARTICLE 46 (37)

To establish bases, transfer of base location or temporary strategic bases of the armed forces in protected areas, the Ministry of Environment and institutions managing the armed forces shall collaborate and conduct feasibility studies in order to submit the proposal to the Royal Government for approval.

The Armed forces' bases in protected areas that have been mobilized or moved to other locations shall be handed over to the Ministry of Environment.

Military exercises, training, and camping in the core zone and conservation zone of protected areas are strictly prohibited, except for national security and national defence needs, and in such cases the Armed Forces need approval in advance from the Ministry of Environment. These activities can only be carried out in the sustainable use zone and community zone with approval from the Ministry of Environment.

ARTICLE 47 (38)

All actions of taking out of or into protected areas, plants, seeds, wildlife or fish, and cross breeding of wild species or fish of all species shall be subject to research, diagnosis and evaluation by the Ministry of Environment and the National Wildlife Advisory Board. If such activities are deemed not detrimental to the plants, wildlife or fish involved, such activities shall receive approval from the Ministry of Environment.

Commented [MQ122]: Need to clarify what this means.
Cross breeding of animals should not be permitted

Any actions involving wildlife must be compliant with the Law on Wildlife Protection, Conservation and Management.

ARTICLE 48 (39)

All non-commercial export, import or exchange between the Kingdom of Cambodia and other countries of wildlife, captive bred wild animals and plant species, plant seeds, cross-breeding of wildlife, and fish species and specimens of species endemic to the protected area shall be subject to comprehensive research, diagnosis, and evaluation by the Ministry of Environment. Permission for such activities can only be granted by the Ministry of Environment, if the proposed activities are in accordance with the laws and regulations of the Royal Government of Cambodia, including the Law on the Wildlife Protection, Conservation and Management and the sub-decree of CITES.

ARTICLE 49 (40)

Setting forest fire in the protected areas without a permit is prohibited. The use of fire may be

allowed by the Ministry of Environment, for arboriculture, habitat management, fire road and forest sanitation, in accordance with approved management plans.

Citizens, armed forces, and authorities of all levels have the obligation to participate in collaborating to conserve, prevent and control the forest fire.

ARTICLE 50

Fishing inside the Core Zone of a protected area is strictly prohibited.

Fishing with illegal gears inside any zone of the protected area is strictly prohibited, including but not limited to chemical and other poisonous substances, electrocution, mosquito nets, explosives, spear in combination with projected light, gill net or seine net with mesh size smaller than 1.5cm, encircling net with light, in accordance with the Law on Fisheries.

Placing a barrier or obstruction in any aquatic system that prevents the free passage of fish is prohibited without a permit from the Ministry of Environment.

Draining, or attempting to drain or pump dry an aquatic system in order to catch or kill fish in any manner whatsoever is strictly prohibited.

Damage to spawning grounds, banks or spawn of fish is strictly prohibited inside all zones of protected areas.

Establishment or operation of an aquaculture process is strictly prohibited inside Core Zones and Conservation Zones.

ARTICLE 51 (41)

Each protected area shall be protected against destructive practices or harms caused by illegal land claim, collection, clearance, commercialization, pollution in the areas containing valuable biological resources, forest fire, swidden and commercial agriculture, transmission of diseases and pests including invasive plants and animals.

Prohibited practices considered destructive and harmful include:

1. Placement, removal or destruction of protected area boundary markers or posts
2. Collection of timber and non-timber products (NTFPs), fishery products and natural resources in a manner violating the recognized and authorized access rights, or by persons

without a valid permit

3. Felling, pruning, clearing, damaging or poisoning plants or trees, or uprooting tree stumps without a valid permit.
4. Catching, hunting, collecting and harassing wild eggs, offspring and birds by all means
5. Destroying water quality in all forms, poisoning, using chemical substances, disposing of solid and liquid wastes into water or on land, using electric shock equipment as described in the Law on Wildlife Protection, Conservation and Management
6. Hunting wildlife illegally or without a valid permit as described in the Law on Wildlife Protection, Conservation and Management
7. Stocking, buying, selling, possessing, trading, breeding, keeping, maintaining, transporting, consuming, storing and any other uses of wild animals and their products as described in the Law on Wildlife Protection, Conservation and Management
8. Destroying natural grassland, plants and wildlife habitats
9. Bringing or releasing any non-native flora or fauna, including cattle, livestock, and dogs, into the Core Zone or Conservation Zone
10. Illegal fishing practices harmful to natural resources, both marine and freshwater, flooded forests, mangroves, corals and seaweeds, rivers and wetlands
11. Establishment of bases for processing Khlem Chan (*Auilaria crassna*), Mreah Prov (*Ocimum sanctum*), Vor Romeat (*Teramnus labialis*) or other NTFPs and freshwater and marine aquaculture that may cause pollution or destructive effects to the biota and ecosystem
12. Mining activities including survey, testing, exploration and extraction of minerals
13. Dredging or extraction of sand and other minerals or resources from rivers and riverbanks
14. Development of small-scale dams or irrigation within the Core Zone and Conservation Zone

ARTICLE 52 (42)

Processing natural resources products and by-products, and fisheries, establishing and operating sawmill bases for wood processing, timber processing plants, shops to process natural resource

products and by-products, fisheries and all kinds of kilns in the protected areas are strictly prohibited, with the exception of NTFP processing plants operated and maintained by local communities and indigenous ethnic minorities, which may be permitted within the Sustainable Use Zone and Community Zone.

Establishing wildlife capture, raising, stocking, breeding, maintaining or farming operations for commercial purposes, or any other non-conservation purposes, inside or adjacent to a protected area is strictly prohibited.

Transporting illegal natural resources inside all zones of protected areas is prohibited. Transportation of natural resources inside all zones of protected areas without a valid permit is prohibited.

ARTICLE 53 (43)

No physical person or legal entity may have authority to issue permission, either directly or indirectly, to fell trees, clear forestlands or grasslands, poison, electrocution, hunt or trap for any species of animals or to undertake activities to collect NTFPs, wildlife, to take land or components of natural resources into their ownership within a protected area, which contravene the provisions of this Law and the Law on Wildlife Protection, Conservation and Management.

Any physical person or legal entity that has felled trees, cleared forestland or grasslands, or taken land or components of natural resources into their possession within a protected area which contravenes the provisions of this Law, must sign an agreement with the Ministry of Environment or Provincial Department of Environment to return the land back to the Ministry of Environment, and to not plant, cultivate or otherwise alter the land further. If the individual or legal entity refuses to sign such an agreement, or the agreement is not respected, the law enforcement officials reserve the right to apply the appropriate penalties.

Any land cleared in contravention of this law must be immediately demarcated by officials of the Ministry of Environment, who have the right to monitor, investigate and enforce these agreements.

ARTICLE 54 (44)

To minimize adverse impacts on the environment and to ensure that management objectives of protected areas are satisfied, and Environmental and Social Impact Assessment shall be required on all proposals and investment for development, including economic and social land concessions, within or adjacent to protected area boundaries by the Ministry of Environment with the collaboration from relevant ministries and institutions.

Commented [Vishnu123]: Need to clarify in the Land Law, and to better understand how this process has occurred customarily.

The procedures for Environmental and Social Impact Assessment for any projects or activities shall comply with provisions pertaining to the process of Social and Environmental and Impact Assessment as described in the Law on Environmental Impact Assessment.

ARTICLE 55

The Ministry of Environment shall develop policies and guidelines on the payment of compensatory mitigation for damage done to species or habitats within protected areas, by companies, individuals or other legal entities, following the guiding principles of the Environmental Code.

ARTICLE 56

Harvesting resin within the Conservation Zone or Sustainable Use Zone of protected areas is prohibited without a valid permit.

Resin harvesting permits must be carried on persons at all times whilst accessing the Conservation Zone and Sustainable Use Zone, and produced for inspection as required.

A resin harvesting permit gives permission to the identified user to harvest resin in a particular location inside a protected area, in accordance with customary user rights of local communities and indigenous minority groups.

Individuals wishing to obtain a resin harvesting permit must submit a written application to the Provincial Department of Environment.

Resin harvesting applications for Conservation Zones of protected areas will be reviewed, and if appropriate, approved and permits issued by the Director of the Provincial Department of Environment and Director of the relevant protected area.

No resin harvesting permit will be issued to any person involved in more than 3 instances of illegal activities inside a protected area in accordance with this Law.

No resin harvesting permit will be issued to any person that the Provincial Department of Environment or Protected Area Director has reasonable cause to believe, or evidence to prove, that the individual has participated in or had any involvement with commercial hunting and trade of wildlife.

Commented [Vishnu124]: Zoning to be developed and clarified—may be done on a site-specific basis. Refer to Art 15a.

A resin harvesting permit may be granted or refused, or conditions or restrictions imposed as the Director of Provincial Department of Environment and Director of the protected area sees fit.

Transfer of resin harvesting permits from one person to another is prohibited.

A resin harvesting permit is valid for 1 year, thereafter it will be reviewed and renewed annually.

Where a resin harvesting permit is lost, the holder of a permit must immediately inform the Provincial Department of Environment, and Director of the Protected Area if appropriate, and cease all resin harvesting activities until a replacement permit is issued.

The Protected Area Director or Director of Provincial Department of Environment may suspend or cancel any resin harvesting permit, granted under this Law, to be recorded in writing.

Article 57

Any person, group, community or legal entity that conducts eco-tourism within the boundary of a protected area must have an agreement with the Ministry of Environment for the proposed eco-tourism activities and arrangements.

CHAPTER 9 LAW ENFORCEMENT AND PROCEDURES TO RESOLVE OFFENCES

ARTICLE 58 (45)

Natural resource offences are criminal offences that are specially defined as mentioned in this law. Offences against wildlife shall be referred to and covered by the Law on Wildlife Protection, Conservation and Management.

Officials of the Ministry of Environment and Provincial Department of Environment having duties as judicial police officers shall have the authority to investigate, prevent and crack down on natural resource offences within their assigned territory, in all zones of protected areas, and file such cases with the court.

Operations by officials of the Ministry of Environment and Provincial Department of Environment who are commissioned as judicial police officers shall be carried out in accordance with the law on criminal procedures of the Kingdom of Cambodia.

Ministry of Environment officials and officials of the Provincial Department of Environment who are commissioned as Judicial Police Officers can conduct searches with prior authorization from the prosecutor, whether verbal or written. Judicial Police Officers must follow the Law on Criminal Procedures in such cases.

Commented [Vishnu125]: In addition to provincial level of departments, also engage other subnational level government entities.

Commented [MQ126]: Text from the Law on Criminal Procedures.

Ideally would not need warrant.

After a court decision or judgment is made, any confiscated evidence shall be managed in accordance with the procedures of the Ministry of Environment.

Commented [MQ127]: These procedures might need updating (supporting regulations).

All Directors, Deputy Directors of Protected Areas and Law Enforcement Team Leaders should be officials of the Nature Protection and Conservation Administration or Provincial Department of Environment with duties as Judicial Police Officers.

ARTICLE 59 (46)

Local authorities, armed forces, other concerned institutions and law enforcement agencies and the public shall facilitate the process of providing information, and assist in the investigation, prevention and suppression, of natural resource offences, or in the temporary custody of any seized evidence so that it can be made available at the request of the Ministry of Environment officials.

Officials of the Ministry of Environment, in cooperation with local authorities, for the purposes of making the management and conservation of natural resources highly effective, shall take prompt action to investigate any cases of offences upon complaint or report, or other information on natural resource offences in the protected area.

When conducting an enquiry into offences, Officials of the Ministry of Environment that are not qualified as Judicial Police Officers, are required to make reports, in accordance with the Law on Criminal Procedures.

ARTICLE 60 (47)

When conducting the prevention of and crackdown on natural resources offences and conducting their duties within their responsible territory and when in court session, the NCPA officer shall wear appropriate uniform, insignia and hierarchical ranking badge, with the exception of covert investigations.

ARTICLE 61 (48)

Officials of the Ministry of Environment, in their role as judicial police, shall have the authority to use weapons and authority to use self-defence against physical violence by offenders while performing their mission. The weapons shall be managed by the Ministry of Interior in accordance with the Law on the Management of Weapons, Explosives and Ammunition.

ARTICLE 62 (49)

The filing of offences inside protected areas shall be in accordance with the Criminal Procedures in force.

The Ministry of Environment and Ministry of Justice shall make a joint Prakas on the procedures for recording offences within a protected area.

ARTICLE 63 (50).

Evidence of natural resources offences inside the protected area shall be defined as follows:

1. Natural resources products and by-products, clearance, destruction, disturbance or damage, that are the actual evidence of illegal activities
2. Equipment and any means of transport that may be used for committing illegal activities, including materials that may be used for the construction of equipment to conduct illegal activities
3. Equipment and records used in the business of protected area offences (including, inter alia, telephones, financial records, bank records)
4. Assets considered likely to have been purchased through the proceeds of protected area offences
5. Documents or other testimony by witnesses to the illegal activities or the intent to commit such an offense

Evidence as stated in the first sentence above shall be temporarily seized until the cases are resolved by the court whether by transaction fines or by the court decision.

During the illegal transportation of natural resources products and by-products the driver of that means of transport without its owner present shall be temporarily detained to assist in the investigation of offenders and their accomplices.

With appropriate recording, the Ministry of Environment has the authority to release or destroy or keep for public benefit the natural resources products and by-products seized which are easily spoilt. Seizures and management of seized wildlife, wildlife products, trophies or other derivatives, must follow the guidelines in the Law on Wildlife Protection, Conservation and Management.

ARTICLE 64 (51)

Officials of the Ministry of Environment on duty have the authority to temporarily stop all or part of a person's activity that has offended against the provisions of this law, the Law on Wildlife

Commented [Vishnu128]: Further research required into law(s) on evidence.

Commented [MQ129]: Clear and strong definition of "public benefit" and "easily spoilt" needed to ensure this cannot be used as a loophole.

Commented [MQ130]: Similar references are needed for plants, stones, etc.

Protection, Conservation and Management or breached the agreement until the case is resolved.

ARTICLE 65

For offences under this Law, the knowledge, intention, aim, purpose or agreement referred to in each offence may be inferred from objective factual circumstances.

ARTICLE 66 (52)

Any person who disagrees with the decision made by Ministry of Environment as outlined in this law, except transaction fines as stated in article (52, 56, 57) shall have the rights to make a written complaint to the Ministry of Environment within at most thirty (30) days as of the date a decision by the local Environmental Department or the court is received.

The Ministry of Environment shall make decisions on this complaint within at most thirty (30) days as of the date the complaint is received.

If upon the complaint, a decision made by the Ministry of Environment is still not acceptable by the plaintiff, he/she can file a complaint to court within thirty (30) days at most.

Any complaint made under this article shall not affect the authority of, or stay the process of enforcement by Ministry of Environment officers under this Law.

Chapter 10 Natural Resources Offences and Penalties

ARTICLE 67 (53)

Punishments for natural resource offences within protected areas include imprisonment, fines by court procedures, transaction fines, confiscation of evidence, payment of restoration damages, warning, termination or suspension of agreements or permits.

Decisions to suspend or terminate agreements or permits shall be the responsibility of the Minister of Environment.

All offences against wildlife inside or outside protected areas will be covered under the Title on Wildlife Protection, Conservation and Management and punishment under this Title will be applied.

Restoration for damages to wildlife, habitat, and ecosystem services, inside or outside protected areas will be covered under the Title on Restoration and Compensation for Harm in Book 9 on Environmental Offense, Enforcement and Remedies.

Commented [Vishnu131]: Vishnu is investigating options for allocating powers to community members.

Commented [Vishnu132]: Similar references are needed for Law on Protection of Plants---

Decisions to impose transaction fines, to pay restoration damages and to issue warnings shall be the responsibility of the Ministry of Environment.

If the offender refuses to pay the fines or restoration damages, then the Ministry of Environment may file a court proceeding on the offence.

Confiscation of equipment whether by the Ministry of Environment or by the court depends on each case determined by this law.

Three or more offences committed by an individual, group of individuals or legal entity, will receive a punishment from the next highest offense class. For example, three First Grade offences will be punished as a Second Grade offence.

ARTICLE 68 (54)

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

The procedures and rights to decide on transaction fines shall be defined by Prakas of the Ministry of Environment.

If the offender refuses to pay the fine or restoration damages, within the period as stated in this article then the Ministry of Environment may file a court proceeding on the offence.

ARTICLE 69 (55)

The fines imposed by court decision or revenue from selling of evidence shall go to the national budget.

The Royal Government may decide to pay reward to citizens or officers who had been actively participating in controlling natural resource offences within a particular protected area.

ARTICLE 70 (56)

A person who commits offence against the provisions of this law shall receive punishment as follows:

1. Natural resources offences of the first grade:

Commented [Vishnu133]: Need to research / determine appropriate fine structure and process for keeping up with inflation / accounting for economic growth.

Warning, payment of restoration damages, transaction fines, termination or suspension of agreements or permits. Fines from four hundred thousand riels (400,000) to two million riels (2,000,000) or payment of restoration costs where this exceeds the aforementioned fine.

2. Natural resources offences of the second grade:

One (1) month to one (1) year's imprisonment and/or fines from one and a half million riels (1,500,000) to fifteen million Riels (15,000,000)

3. Natural resources offences of the third grade:

One (1) year to five (5) years' imprisonment and/or fines from fifteen million riels (15,000,000) to one hundred and fifty million riels (150,000,000)

4. Natural Resource Offences of the fourth grade:

Five (5) to ten (10) years imprisonment plus fines from fifteen million Riels (15,000,000) to one hundred and fifty million Riels (150,000,000).

In case the offender is a legal entity the fines shall be from one hundred and fifty million riels (150,000,000) to two hundred and fifty million Riels (250,000,000) All evidence shall be confiscated as State property and managed in accordance with the procedures issued by the Ministry of Environment.

All offences against wildlife inside protected areas as stipulated in the Title on Wildlife Protection, Conservation and Management, shall receive penalties applied under the Title on Wildlife Protection, Conservation and Management.

All fines will increase in line with inflation every 3 years.

ARTICLE 71 (57) (FIRST GRADE)

The below situations are classified as First grade offences for the first time and a person(s) who commits the below offences in protected areas shall receive a written warning as punishment. A person or institution who commits the above offences more than two times, shall be subject to penalties under Article 58.

1. Entry into the Core Zone of the protected area (unless with an approved permit for research and law enforcement purposes)
2. Entry into the Conservation Zone of the protected area without permit or valid reason
3. Graze livestock in Core or Conservation Zones except as stated in chapter VI of this law
4. Access into protected area for the purposes of natural, scientific study and making a tour

Commented [MQ134]: Recommend increasing these penalties in line with inflation since 2008 and adding a clause to increase every 3 years in line with inflation, to ensure penalties are still and effective deterrent

Commented [MQ135]: Articles 71-76 have been re-worked to provide clearer provisions regarding first, second, third and fourth grade offences within PAs. Please refer to the PA Law and the supporting document to understand the changes made to this section - it was not possible to simply highlight additions in a different colour.

without permit

5. Causing unintentional fire within a protected area.

ARTICLE 72 (60) (SECOND GRADE)

Those who shall be punished for natural resources offences of the second grade with evidence being confiscated as State property are any persons who commit the following offences:

- Construction of any infrastructure including, but not limited to, roads, buildings, kilns, dams, channels, permanent camps, inside Sustainable Use or Community Zones of any protected areas unless prescribed within the Protected Area management plan and receiving approved Environmental Impact Assessment
- Intentionally causing forest fire unless as a prescribed management activity under the protected area management plan
- Collecting or transporting any timber, firewood, Non Timber Forest Products without correct permit within Sustainable Use or Community Zones of any protected areas
- Destroy, change, remove, or damage signage of all kinds
- Remove water from protected areas for irrigation or other means

ARTICLE 73 (61) (THIRD GRADE)

Those who shall be punished for natural resources offences of the third grade with evidence being confiscated as State property are any persons who commit the following offences:

- Construction of any infrastructure including, but not limited to, roads, buildings, kilns, dams, channels, permanent camps, inside Conservation or Core Zones of any protected areas unless prescribed within the Protected Area management plan and receiving approved Environmental Impact Assessment.
- Collecting or transporting any Timber, Firewood and Non Timber Forest Products without correct permit within Conservation or Core Zones of any protected areas
- Bring in hunting or any other dogs into Conservation or Core Zones of any protected areas unless for valid research or conservation purposes approved by the National Wildlife Advisory Board

- Possession or transport of snares, traps, home-made guns and other dangerous means of hunting, or the materials used to construct them, within Conservation or Core Zones of any protected areas
- Bring in chainsaw and other logging machinery and transportation equipment into a protected area without a permit
- Destroying (including but not limited to collecting, logging, uprooting, pruning, cutting, feeling trees to collect fruit) any non-threatened plant or tree species within Conservation or Core Zones of any protected area without a permit
- Clearing land <0.5 ha through removing or destroying vegetation within any protected area for any reason including to claim ownership, develop agriculture outside permitted community zones identified within protected area management plans
- Illegal fishing practice harmful to national resources, both marine and freshwater, flooded forests, mangroves, corals and seaweeds, rivers and wetlands in inside Sustainable Use or Community Zones of any protected areas
- Build or install boundary posts or markers, fences, putting signs for the purposes of ownership
- Cause obstruction, injury or interference to the Ministry of Environment in performing its functions and duty effectively

ARTICLE 74 (62). FOURTH GRADE

Those who shall be punished for natural resource offences of the fourth grade with evidence being confiscated as State property are any persons who commit the following offences:

- Destroying (including but not limited to collecting, logging, uprooting, pruning, cutting, feeling trees to collect fruit) any plant or tree species IUCN listed as Critically Endangered, Endangered, Vulnerable or Near Threatened in any protected area
- Transporting any plant or tree species IUCN listed as Critically Endangered, Endangered, Vulnerable or Near Threatened in any protected area
- Clearing land >0.5 ha through removing or destroying vegetation within any protected area for any reason including to claim ownership, develop agriculture outside permitted community zones identified within protected area management plans

- Illegal fishing practice harmful to national resources, both marine and freshwater, flooded forests, mangroves, corals and seaweeds, rivers and wetlands in inside Conservation or Core Zones of any protected areas
- Use of any poisonous substances that can have adverse impacts to natural resources and wildlife
- Hide, steal, sell, destroy, or damage evidence of offences
- Establishment of bases for processing Klem Chan (*Aquilaria crassna*), Mreah Prov (*Ocimum sanctum*), Vor Romeat (*Teramnus labialis*).
- Falsify legal documents or permits of relevant institutions to commit illegal activities
- Dig, move the soil, bulldoze, or remove soil, stone, pebbles, gravel, sand and minerals without permit & approved Environmental Impact Assessment

ARTICLE 75 (63)

Any person who threatens and causes obstruction, injury or interference to Ministry of Environment official in performing his functions and duty effectively shall receive a term of imprisonment between one (10) year to five (5) years and be fined from fifteen million riels (15,000,000) to one hundred and fifty million riels (150,000,000).

Accomplice or collaborator shall receive the same punishment as the offender.

ARTICLE 76 (64)

The officer, an inspection or environment officer for their negligence, carelessness or failure to abide by the order of the MOE, shall face administrative punishment or shall be prosecuted.

The officer, an inspection or environment officer, who conspires with the offender or facilitates the offences, shall receive the same punishment as the offender.

In accordance with the Law on Criminal Procedures (Article 82), all misconducts committed by civil servants and public agents during the performance of their duties shall be reported to the Prosecutor General of the Court of Appeal by a Prosecutor or an investigating judge. The Prosecutor General shall inform the Minister in charge of the civil servant or public agent to initiate disciplinary procedures. The Prosecutor General shall be informed of the aftermath of disciplinary procedures. A disciplinary sanction shall not be an obstacle for a criminal action, if an offense has

been committed.

CHAPTER 11 MONITORING AND EVALUATION OF EFFECTIVENESS

ARTICLE 77

Each and every Protected Area management plan must contain measurable conservation objectives for the protected area, which must be reported to the Ministry of Environment biennially i.e. every two years. This must include remotely sensed estimates of changes in forest cover (likely obtained from national database) and information on the status of priority species (identified from Management Plan and Species Management and Recovery Plans) inside the protected area.

ARTICLE 78

All Protected Areas must employ a system and database for managing and monitoring law enforcement effort and patrolling. Quarterly reports must be produced and sent to the Ministry of Environment national office and the Provincial Department of Environment.

The Ministry of Environment shall develop and implement a system for reporting and monitoring the success of law enforcement action in each protected area, including the number of confiscations, arrests, prosecutions and convictions related to protected area offences. The Director of each Protected Area is responsible to keep the database current, and each protected area Director must submit the database monthly to the Ministry of Environment.

All Protected Areas must undertake annual Management Effectiveness assessments facilitated by external parties. Annual results for each Protected Area will be publically disseminated.

ARTICLE 79

The National Wildlife Advisory Board will assess the status of every Protected Area, based on the information provided above, annually and rate the management of each Protected Area based on guidelines issued by the Ministry of Environment.

ARTICLE 80

In cases of a Poor Protected Area management assessment the National Wildlife Advisory Board can recommend to the Ministry of Environment the replacement of the Protected Area Director.

TITLE 3 COLLABORATIVE MANAGEMENT OF NATURAL RESOURCES

- This Title will examine options for community use of natural resources, hunting, community fishing and use of land for sustainable community needs.
- This Title will 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 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 Collaborative Management and the mechanisms and elements of Collaborative 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).

The Law on Nature Protection Areas 2008, the Law on Environmental Protection and Natural Resource Management 1996, the Law on the Administrative Management of the Capital, Provinces, Municipalities, Districts, and Khans 2008, the Law on Concessions 2007, the Law on Land 2001, and the Law on Land Management, Urban Planning and Constructions 1994 are hereby amended and clarified as follows:

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

DEFINITIONS

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

CHAPTER # ESTABLISHMENT OF COLLABORATIVE MANAGEMENT

ARTICLE #

All Landscape Conservation Areas, Protected Areas, Community Protected Areas, Community Forests, and other state public lands with ecosystem or conservation values shall be eligible to be managed according to the principles of Collaborative Management.

ARTICLE #

Community-based natural resources management mechanisms such as Community Protected Areas, Community Forests, and Community Fisheries, which already exist or under the approval process, shall be automatically recognized as Collaborative Management subject to Collaborative Management rules and regulations.

CHAPTER # IMPLEMENTATION OF COLLABORATIVE MANAGEMENT

ARTICLE #

Local communities, in collaboration with local authorities and directors of relevant protected areas, have the right to submit applications for the establishment of Collaborative Management Protection Zones (CPMZs) to (insert proper level of government).

The [proper level of government] shall review all CMPZ applications according to clear criteria and procedures.

All documents related to such application, review and approval, shall be publicly available.

ARTICLE #

Following specific procedures (see Article ____), local communities, local authorities, directors of relevant protected areas and national level institutions shall determine Collaborative Management arrangements, site-specific zoning for CMPZs, local community eligibility requirements for Collaborative Management, and other Collaborative Management requirements.

The precise roles and responsibilities of all stakeholders in a CMPZ shall be set forth in a Collaborative Management Agreement.

Implementation of Collaborative Management shall be subject to strict monitoring and oversight by the General Directorate of Local Community of Ministry of Environment. The Ministry of Environment shall have the right to revoke Collaborative Management rights in any CMPZ where it determines that Collaborative Management is not being implemented properly.

ARTICLE #

International partners, local civil society, and all other interested stakeholders are encouraged to participate in the implementation of Collaborative Management, and may have specified roles and responsibilities.

ARTICLE #

A special Collaborative Management Fund shall be created to provide support for Collaborative Management activities within each CMPZ. The Fund shall be under the control of the Collaborative Management Committee of each CMPZ. The Fund shall be transparently established and managed. The fund may receive Funds from the (insert name of national level fund) and other public and private sources.

ARTICLE #

The precise terms of Collaborative Management, including detailed roles and responsibilities, CMPZ zoning procedures, planning and management, funding mechanisms, member eligibility, benefit sharing, dispute resolution and other implementation steps, will be determined after review of relevant projects and experience, and after conducting pilot implementation of Collaborative Management at several sites.

Within 18 months after the enactment of this Code, the Ministry of Environment shall issue detailed regulations and guidelines on the implementation of Collaborative Management.

CHAPTER # COLLABORATIVE MANAGEMENT DURATION AND TENURE

ARTICLE #

Those CMPZs that are properly established shall remain for an unlimited duration, subject to satisfactory implementation of Collaborative Management responsibilities, as described in Article ____.

ARTICLE #

[Need to clarify this article with state public land characteristics]

Upon designation of a CMPZ according to Article ____, those communities located within the CMPZ shall receive a Collaborative Management Communal Right of (ownership Civil Code, Articles 137- perpetual lease civil Code Articles 243-254 or usufruct Civil Code Articles 255-269), which shall be eligible to automatic renewal for the duration of the CMPZ.

Regardless of any additional registration or requirements, such Collaborative Management Communal (ownership/perpetual lease/usufruct) Rights may not be infringed by any public or private entity without the community's free, prior informed consent.

The rights in this Article are in addition to any rights that indigenous communities may receive in accordance with (indigenous peoples' collective land titling procedures).

The Collaborative Management Communal Rights include the right for designated parties to conserve, manage and sustainably use natural resources according to an approved Management Plan. These rights do not include the right to sell or transfer the lands designated as CMPZs.

The Collaborative Management Communal Rights set out in this article are fixed to the duration of the CMPZ and are conditioned upon fulfilment of Collaborative Management responsibilities. The failure to comply with the Collaborative Management rules and regulations shall result in revocation of the Collaborative Management Communal Rights.

TITLE 4 SUSTAINABLE FOREST MANAGEMENT

The Law on Forestry 2002, the Law on Fisheries 2007, the Law on Concessions 2007, the Law on Nature Protection Areas 2008, and the Law on Environmental Protection and Natural Resource Management 1996 are hereby amended and clarified as follows:

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

DEFINITIONS

Best Management Practices

Biological Control Agents

Ecosystem Services

Environmental Impacts

Environmental Values

Environmental Values

Externalities

Forest Manager

Forest Unit

International Forest Product And Management Certification

Landscape Values

Local Genotypes

Commented [MQ136]: To be developed.

Mitigate
Non-Native Or Genetically Modified
Non-Timber Forest Products
Permanent Forest Estate
Processing, Services, And Value Adding
Protected Areas
Restore Ecosystem Services
Silvicultural
Sustainable Development
Sustainable Forest Management
Timber
Vegetation Structure And Composition

CHAPTER # GENERAL PROVISIONS

The Kingdom of Cambodia recognizes the provisional and cultural ties of Cambodian people to forests, and the ecological services it provides.

This Title addresses production forestry with the understanding that good production management is conducted in the context of forested landscapes, and that practices will be compatible with the goals of protected forests and other protected areas and landscapes, other managed areas including environmental quality, agriculture and freshwater and coastal fisheries, and all aspects of sustainable development.

This Title will define Sustainable Forest Management for the forest types defined in Article # Definition Of Sustainable Forest Management and provide a framework for the sustainable use and management of the forest resources from landscape to management sites.

All designations, development, harvest, or other type of activity which have an impact on natural resources in Forest Zones shall be subject to an EIA. The Ministry of Environment or delegated agency shall oversee and approve EIA for all such actions.

CHAPTER # JURISDICTION AND AUTHORITIES

ARTICLE #

This Title will be applied across Ministries and all levels of forestry governance

ARTICLE #

Commented [MQ137]: Language is included for consideration.

Directives from this Title, and Prakas and Ministry Programs developed through this Title shall be applied according to Decentralization and Deconcentration Reforms to ensure that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at Ministry and Province levels are justified.

CHAPTER # NATIONAL GOALS AND A PERMANENT FOREST ESTATE

ARTICLE #

A permanent forest estate will be designated for managing protected and production lands under permanent forest cover.

ARTICLE #

The Ministry of Environment shall apply International Agreements and National Development Goals to designate the permanent forest estate.

Designations shall address goals to reduce emissions from deforestation and forest degradation through the National REDD+ Strategy.

The permanent forest estate shall include representation of sufficient forest types to capture the range of forest diversity, identified by vegetation structure and composition as related hydric and substrate characteristics.

Commented [MQ138]: Refer to the Landscape Conservation Areas section.

Once the estate is established, the appropriate Ministries shall maintain and/or restore the components of the Estate, including the mosaic of species, sizes, ages, spatial scales and regeneration cycles appropriate for the landscape values in that region, and for enhancing environmental and economic conditions.

CHAPTER # SUSTAINABLE FOREST MANAGEMENT (SFM)

ARTICLE # DEFINITION OF SUSTAINABLE FOREST MANAGEMENT

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

Commented [MQ139]: Language from FAO. May refer to the Code's definition of Sustainability.

ARTICLE #

This Title shall apply to forested areas outside of landscape conservation areas (LCAs) and

protected areas (PAs). These forests will be further classified by the relevant institution as either a Production Forest, a Reserve Forest, or as Private Forested Land.

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

Commented [MQ140]: To be further defined and clarified, but they will include each of these topics: conservation, livelihood and ecosystem value criteria.

Stock Forests are forested areas that are held in reserve for future production and sustainable use, and include forested areas adjacent to Landscape Conservation Areas, old-growth forests, religious forests, forests for watershed protection, research forests, recreation forests, and all other non-designated State Public forested lands outside of LCAs and PAs. The designation of Reserve forests may be changed to Production Forest, as outlined in Article # below.

Private Forested Land refers to forested land that is either designated as State Private land that is not a Production Forest, land that has legal title, or land has been recognized under the 2001 Land Law as belonging to indigenous communities.

Commented [MQ141]: Under consideration is the implementing of an incentive plan based on the Costa Rica model to promote forest protection and sustainable use of private forested land.

ARTICLE #

In order to change the designation of a Stock Forest to a Production Forest, the relevant government institution must conduct a full Environmental Impact Assessment (EIA) and allow for public consultation on the possible change in designation. Where there may be impacts on wildlife, plants habitats or ecosystems, [the relevant government institution/applicant] must ensure compliance with Titles # (Wildlife Protection, Conservation and Management) and # (Threatened Plants, Habitats and Ecosystems) to guarantee the protection of wildlife, plants, habitats and ecosystems. Changes in designation must be accompanied by the proper permits for production activities to commence.

Commented [MQ142]: Whomever is requesting the Stock Forest to be re-designated as a Production Forest.

ARTICLE #

All forest designations must be published and made available to the public by relevant government institution. When any decisions to establish or change a designation is considered, communities must be notified through adequate and timely public notice of the application for change in designation, as well as of all decisions made throughout the change in designation process, in order

to ensure full public participation. A final notice must be made publically available when the designation decision is made.

ARTICLE # PRINCIPLES OF SUSTAINABLE FOREST MANAGEMENT

Sustainable Forest governance and practices shall be based on the core principles of sustainable development – economic, social, cultural, and environmental. Actions shall be integrated across these concepts and shall be applied across all levels of forestry governance

ARTICLE # DEVELOPMENT OF PRAKAS AND [PROGRAM AND TECHNICAL GUIDANCE]

The following Sections identify the actions required to achieve SFM and are applied through international consortia. The appropriate Ministry shall develop detailed directives on SFM based on these Sections (# - #) AND Articles (#s - #) of this Title (below)

Commented [MQ143]: Need to frame the need to develop each of the Articles that represent the steps to achieving SFM.

Commented [MQ144]: Combination of FSC and ITTO standards / criteria.

SECTION # LEGAL AND POLICY FRAMEWORK

The appropriate ministry shall comply with all applicable laws, regulations and international treaties, conventions and agreements. The ministry shall:

ARTICLE #

Demonstrate that the legal status of the forest unit, including tenure and use rights, and its boundaries, are clearly defined.

ARTICLE #

Develop and implement measures, and/or shall engage with regulatory agencies, to systematically protect the forest unit from unauthorized or illegal resource use, settlement and other illegal activities.

ARTICLE #

Publicize a commitment to transparency in all steps of the Sustainable Forest Management process.

ARTICLE #

Improve Forest Law Enforcement through

- a) Increased crime monitoring and reporting

b) Rapid response capacity on forest crime information

c) Engagement with local and indigenous communities

SECTION # MULTIPLE BENEFITS APPROACH TO SUSTAINABLE FORESTRY

ARTICLE #

The Institution shall efficiently manage the range of multiple products and services of the Forest unit to maintain or enhance long-term economic viability and the range of environmental and social benefits.

Commented [MQ145]: A further description of what these products and services may entail is being developed.

ARTICLE # WELL-BEING OF PEOPLE

The Institution shall engage with, and maintain or enhance the social and economic wellbeing of workers, local communities and Indigenous peoples, by these actions:

a) Identify and uphold Indigenous Peoples' legal and customary rights of ownership, use and management of land, territories and resources.

b) Use Social Impact Assessments, civic engagement and information-sharing

c) Contribute to maintaining or enhancing the social and economic wellbeing of local communities.

d) Address worker gender equity, safety, living wages, and mechanisms for resolving grievances.

e) Uphold the right of local communities to protect and utilize their traditional knowledge and shall compensate local communities for the utilization of such knowledge and their intellectual property

f) Uphold the legal and customary rights of local communities to maintain control over management activities within or related to the Forest unit to the extent necessary to protect their rights, resources, lands and territories.

ARTICLE # ENVIRONMENTAL VALUES AND IMPACTS

The appropriate Ministry shall maintain, conserve and/or restore ecosystem services and environmental values of the Forest unit, and shall avoid, repair or mitigate negative environmental impacts. These include:

Commented [MQ146]: Further language on restoration is being developed.

- a) Intact forests and waterways;
- b) Environmental quality of soils, water and air;
- c) Integrity of soil and ecosystems; and
- d) Viability of species, especially rare or endemic species.

Where especially rare or endemic species are found on production lands, Book 5 Titles 2-4 apply to determine land use status

ARTICLE #

Sustained Markets and Yields of Timber and Non-Timber Forest Products and Services. Forest managers shall seek to:

- a) Identify, produce, or enable the production of, diversified benefits and/or products, based on the range of resources and ecosystem services existing in the forest unit in order to strengthen and diversify the local economy.
- b) Harvest products at or below a level that can be permanently sustained.
- c) Include positive and negative externalities of operation in the management plan.
- d) Use local processing, services, and value adding where these are available.
- e) Participate in International Forest Product and Management Certification programs and implement chain-of-custody practices for products not used for local consumption.

SECTION # IMPLEMENTATION OF MANAGEMENT ACTIVITIES

ARTICLE #

Management activities conducted by or for the appropriate Ministry shall be selected and implemented consistent with National and local economic, environmental and social policies and objectives.

ARTICLE # MANAGEMENT PLANNING

The forest manager shall have a management plan consistent with its policies and objectives and proportionate to scale, intensity and risks of its management activities. The management plan shall be implemented and kept up to date based on monitoring information in order to promote adaptive

management.

ARTICLE # BEST MANAGEMENT PRACTICES

The Institution shall implement best practices in daily activities to achieve the aims of SFM, including:

- a) Restore or facilitate the recovery of degraded or harvested sites, using native species and local genotypes for regeneration, unless there is clear and convincing justification for using others.
- b) Use non-native or genetically modified species / organisms only when justified to address SFM goals and approved through an EIA approval.
- c) Use silvicultural practices that are ecologically appropriate for the vegetation, species, sites and management objectives.
- d) Minimize or avoid the use of chemicals, and apply integrated pest management.
- e) Minimize, monitor and strictly control the use of biological control agents in accordance with internationally accepted scientific protocols.
- f) Assess risks and reduce potential negative impacts from natural hazards.
- g) Manage infrastructure development, including roads so that environmental values are protected, and disturbance of and damages to these values are prevented, mitigated and/or repaired.
- h) Manage activities associated with harvesting and extraction of timber and non-timber forest products so that environmental values are conserved, merchantable waste is reduced, and damage to other products and services is avoided.

ARTICLE # MONITORING AND ASSESSMENT

The Institution shall implement quantitative monitoring and evaluate:

- a) Progress towards achieving the management objectives.
- b) Impacts of management activities and the condition of the Forest unit.
- c) The source and volume of all products that are marketed as certified under an approved International Certification program.

CHAPTER # REDD+

[or link this to a REDD + section]

CHAPTER # LINK MARKETS TO PRODUCTION FOREST DEVELOPMENT

Economic and Social values are diminished when natural forests and high value timber are used in low return markets. The chapter will address:

- Fuelwood (include discussion on charcoal),
- Construction material.

[Need to identify these two markets as large and a poor use of hardwoods – recommend multiple strategy to develop plantations, woodlots, etc. dedicated to species appropriate to these needs that may NOT be developed on intact, semi-intact natural forests.]

CHAPTER# FIRE

ARTICLE #

The appropriate Ministry shall develop a program to study the causes and effects of agricultural-driven and other human ignition patterns on forest loss, and tree and other species responses to fire. Outcomes of the work should identify common reasons for ignitions, fuel and fire management, and post-fire management, as well as effects on standing vegetation, soils, erosion, and seedbanks.

ARTICLE #

The appropriate Ministry shall develop field testing with farmers and foresters to identify and evaluate alternatives to current burn practices to minimize negative impacts to forests and environmental values.

ARTICLE #

The appropriate Ministry shall develop training and certification in fire management for public and private sectors.

CHAPTER # ENABLE SFM THROUGH POST-CONCESSION FOREST MANAGEMENT

To enable expansion of the SFM in production forest, it is a priority to review and clarify the future

Commented [MQ147]: REDD+ material under development.

Commented [MQ148]: From the National Forest Programme (Page 51).

of all remaining forest concessions.

ARTICLE #

The appropriate Ministry will, in collaboration with all relevant stakeholders, develop a transparent review-system and clarify the future of remaining concessions. The review will develop strategies and systems to make sure in the following:

- a) Production and protection forests inside concessions are defined based on a landscape approach to mitigate negative effects from non-sustainable activities on ecosystem services.
- b) Forests of high biodiversity value inside concession areas are defined for conservation.
- c) Any concessions that restart operations will fully comply with ecological, economic and social responsibilities through obligatory third-party certification.
- d) Forests within cancelled or inactive concessions are protected until the national review process is concluded and implemented.

CHAPTER # COMMUNITY FORESTRY (CF)

ARTICLE #

Forest-based communities and CF members in Cambodia lack sufficient knowledge regarding forest management rights and responsibilities, and natural resource access and use. In order to remedy this:

- o. The relevant government institution(s) shall oversee the development of Khmer and indigenous language community forestry management awareness-raising materials for community groups, and disseminate them widely. The institution(s) will regularly review and revise materials to reflect changing policies and regulatory environments.
- p. The relevant government institution(s) shall oversee the development and the dissemination of simple assessment and decision-making tools for forest-based communities, NGOs and local officials to systematically assess local-level land use priorities and aspirations. These tools should focus particularly on the needs and priorities of marginalized groups in order to address equity challenges.

Recommendations for sub-national forestry officials:

Sub-national forestry officials need to strengthen facilitation and community outreach skills.

- q. Require trainings and information-sharing networks on skills related to: participatory processes, assessing and supporting equity, negotiation skills, collaborative land use planning, and identifying interests as they relate to forest resources

Recommendations for national policymakers:

- National policymakers must work to improve coordination and collaboration across sectors and governmental line agencies. Without guidance and direction from ministerial levels, meaningful coordination in local-level planning is difficult. Therefore, institutional efforts should first be made to establish functional cross-sectoral working groups at the national level.
- A review and analysis of the national policy and regulatory frameworks that impact the forestry sector is needed, along with the identification of strategies to harmonize land use-related policies. Capacity development activities are required to facilitate needed legislative revisions and future implementation.

Commented [MQ149]: To be included in supporting documentation.

CHAPTER # SCIENCE AND TECHNOLOGY

ARTICLE #

Develop research priorities and identify funding sources and expertise to support the development of research infrastructure in Cambodia.

ARTICLE #

Identify and include population, demographic and forest product demands into strategies.

ARTICLE #

Identify and include Climate Change issues across the science and strategic planning portfolio, including the National Forest Programme.

ARTICLE #

Develop multi-sector scenario planning exercises to identify plausible futures and potential adaptation responses.

ARTICLE #

Apply remote sensing, geographic information systems, cellular, and global position system technologies to forest technicians and community stakeholders to enhance production and administrative monitoring of forest units.

CHAPTER # ENFORCEMENT

CHAPTER # FOREST ADMINISTRATION REVIEW AND OVERSIGHT

SECTION # FORESTRY OMBUDSMAN

ARTICLE #

The relevant government institution will have an Ombudsman, who will:

- a) Receive requests for information and clarification from stakeholders, monitoring the internal process of investigation of complaints related to the relevant government institution, and respond directly to stakeholders who will be informed within thirty (30) days of the measures taken;
- b) Ensure the quality of services provided by the relevant government institution and monitoring the internal process of investigation of complaints from users, whether against the action of the relevant government institution, or against the activities approved by the relevant government institution.

ARTICLE #

The Ombudsman will produce every six months, and when appropriate:

- a) A detailed report of its activities and submit it to the General Directorate of the FA and the Minister of the Environment;
- b) Assessments of the performance of the relevant government institution, forwarding them to the Board, the Ministers for Environment, Agriculture, Forests, and Fisheries, Interior, and other relevant government institutions; as well as publically publishing them for general knowledge.

Commented [MQ150]: This Chapter is under development. Reference may be made to the Brazil Forest Law.

ARTICLE #

The management of the Ombudsman will be as follows:

- a) The Ombudsman will advise the Board of Directors of the relevant government institution, without hierarchical subordination, and shall perform their duties without accumulation with other functions.
- b) The Ombudsman shall be appointed by the [to be determined] for a term of three (3) years, without the right to renewal.
- c) The Ombudsman will leave office only in case of resignation, judicial conviction or conviction in administrative disciplinary proceedings.
- d) Administrative proceedings against the Ombudsman can only be established by [to be determined].
- e) The Ombudsman shall have access to all issues and will have the administrative support they need from the relevant government institution.
- ⇒f) Provisions for allowable activities after the Ombudsman leaves his/her post are detailed in Article #.

Commented [MQ151]: To be developed.

TITLE 5 SOIL PROTECTION AND MANAGEMENT

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

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 archaeological 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 6 WILDLIFE PROTECTION, CONSERVATION AND MANAGEMENT

***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.

The Law on Forestry 2002 and the Law on Fisheries 2007 are hereby amended and clarified as follows:

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

DEFINITIONS

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

Animal part - any part, component or product of any wildlife, whether captive or wild, and includes an article or object in which the whole or any part of such animal has been used.

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

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

Captivity - the condition of being confined within an enclosure, cage, building or otherwise.

Commercial purposes - hunting/raising/selling/trading wildlife with the primary purpose of gaining income or economic benefits from such activities. In terms of hunting, any other use of wildlife other than direct consumption by the hunter and his/her immediate family (spouse and children) should be deemed commercial use.

Conservation breeding purposes - wild animals, or descendants of wild animals are raised or bred in captivity for the primary purpose of avoiding extinction of the species in the wild and not for commercial purposes, through establishing and maintaining a secure captive population of globally threatened species, which may involve reintroduction of captive-bred animals to the wild. Conservation breeding programmes are scientifically managed to ensure maximum genetic retention and are conducted under the auspices of accredited bodies such as regional zoological associations or IUCN Species Specialist Groups.

Customary use/ Subsistence Use - legal hunting to meet only the food security needs of the family, not for sale, gifting or trade. Only Least Concern species can be hunted for

Commented [MQ152]: Does not apply to FISH as this would have significant ramifications on aquaculture/fishing industry. FiA Law currently covers all AQUATIC species.

subsistence/customary use of local communities and indigenous ethnic minority groups, and only via a permit, which specifies the individual's name, address, age and protected area, or other area, in which they can legally hunt.

Disease - any impairment that interferes with or modifies the performance of an individual's normal functions. Diseases can be caused by an infectious agent (including virus, prion, bacterium, fungus, and parasites), physical causes, toxic chemical, biological toxins, and genetic or physiological causes.

Habitat - includes land, water, vegetation or air, which is the natural home of any wild animal.

Harassing - to disturb or otherwise interfere with the natural behaviour of any animal.

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

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

Local community and indigenous ethnic minority groups.

Meat - includes blood, bones, sinew, eggs, fat and flesh, whether raw or cooked of any animal.

Native - any wild animal which lived or still lives, or has any part of its distribution or regular migration in the geographic region of Cambodia and not as a result of introduction, whether or not intentional.

Non-native - any species not native to Cambodia but was introduced by humans either accidentally or deliberately, this definition includes live and dead wild animals and animal parts or trophies, including of species not introduced to Cambodia (e.g. trafficked wildlife and wildlife products).

Organised criminal group - a group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more offences to which this Title applies, in order to obtain, directly or indirectly, a financial or other material benefit.

Permit - a permit granted under this [legislation] or any rule made thereunder.

Commented [Vishnu153]: Will be "defined" in Code, but definition will refer to official process [to be developed in supporting/sub-legislation] for determining a "local community" for purposes of rights and responsibilities under the Code.

Commented [MQ154]: Need to define for a period of time. A prolonged or indefinite period of time", "Ongoing", "continuing" "systematically and persistently committed on a continuous basis", etc.

Permitted means of hunting - discriminate methods that target individual animals of a particular species slingshots, bows and arrows, crossbows.

Commented [MQ155]: Non-dangerous is how it is currently termed in the forestry law, but a better description would be "targeted" if this term here is not preferred.

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

Commented [MQ156]: Need to identify what other methods are permitted for local community members with hunting permits. Arms/weapon law prevents civilians from using firearms, explosives/ammunition and chemical weapons/poisonous substances that might harm humans or the environment. Need to permit methods that target individuals only, not multiple animals at any one time (e.g. prevent snares, baits, nets, etc.)

Prohibited means of hunting - indiscriminate methods that affect multiple individuals and species, or illegal weapons/equipment; including but not limited to snares, traps, guns, explosives, ammunition, poisons and chemicals (including pesticides outside of agricultural areas), nets used on land, bait, sound recordings or other lures, bird lime/glue, hunting with domestic dogs, any equipment that uses electrocution, for the purpose of catching, trapping, collecting, injuring or killing animals.

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

Trophy - the whole or any part of any captive or wild animal and includes but is not limited to: - rugs, skins and mounted specimens, including whole or part of animals and taxidermy specimens and all or part of animals in wine or other substance, - antler, horn, rhinoceros horn, ivory, hooves, feather, nail, tooth, musk, hair, eggs and nests.

Wildlife - any wild animal and aquatic or terrestrial vegetation which forms part of any habitat.

Commented [Vishnu157]: Refer to comment on "Animal" definition. But the Code must ensure that fish are adequately addressed.

Wild animal - An animal that is not domesticated. In this Title, "Wild Animal" may refer to wild species that are in the wild or captivity.

Commented [MQ158]: Similar to the definition of animals, no fish included. PA law needs to include references to Fish to ensure conservation of fish and other aquatic species

Wildlife farming - raising, keeping and breeding of wild animals in captivity with the primary purpose of selling, trading and gaining income from these animals and their parts or trophies

Wildlife health - the state of a wild animal or captive wildlife that is able to fulfil its physical, behavioural, and social needs and be resilient to natural or anthropogenic changes in biological and environmental determinants, including but not restricted to diseases.

Zoological institutions - facilities holding wild animals in captivity that are open to the public and typically operate primarily for commercial purposes

Zoonosis - any disease and/or infection that is likely to be transmitted between animals and humans.

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1

This Title defines the framework of management for all wildlife, within and outside of the protected area system, throughout the Kingdom of Cambodia. This Title includes all live, dead and captive wildlife and species non-native to Cambodia.

The purpose of this Title is the conservation of biodiversity, the protection and management of wildlife, and the prevention of wildlife crime.

All species of wildlife in the Kingdom of Cambodia are state property and a component of natural resources, including all mammals, birds, reptiles, amphibians, fish, invertebrates and their eggs or offspring. Such wildlife is under the management, research, protection and conservation of the Ministry of Environment, except for fish, which are under the management, research and conservation of the Fisheries Administration.

CHAPTER 2 RESPONSIBLE INSTITUTIONS

ARTICLE 2

All Ministries shall seek to conserve Scheduled wildlife and shall utilise their authorities in the furtherance of this Title.

The Ministry of Environment and the Ministry of Agriculture, Forestry and Fisheries, have the overall jurisdiction and responsibility for wildlife in the Kingdom of Cambodia.

The Ministry of Environment has the management jurisdiction for all wildlife in the Kingdom of Cambodia, whether inside or outside of protected areas.

The Ministry of Agriculture, Forestry and Fisheries, has the management jurisdiction to cooperate with the Ministry of Environment outside of protected areas in the prevention of wildlife crime and is the CITES Management Authority for the Kingdom of Cambodia.

The Biodiversity Centre of the National Council for Sustainable Development has the mandate to establish the national biodiversity advisory board, and its sub-committees of wildlife, plants, and ecosystem services to oversee the status of wildlife, plants, and ecosystems and to facilitate inter-

Commented [MQ159]: Need to also include responsibilities of sub-national government.

Commented [MQ160]: Jurisdiction for CITES needs to be considered.

Commented [MQ161]: Fisheries Law needs consideration here.

ministerial decisions related to biodiversity management and conservation.

Sub-national governments

Provincial, district, commune --

Commented [Vishnu162]: Content included for consideration. Roles and responsibilities to be defined.

ARTICLE 3

All relevant departments of the Ministry of Environment manage wildlife pursuant to the policies of the Royal Government of Cambodia.

The Ministry of Environment has the following main duties:

- To prepare guidelines and procedures for effective enforcement of this Title
- To develop and implement strategies, management plans and action plans to conserve threatened species in line with international conventions
- To prevent wildlife crimes both inside and outside of the protected area system, including at international import-export points, stocking, transportation and trading places
- To actively enforce this Title, laws and regulations, investigate, file and monitor complaints to the court on all wildlife offences committed in the Kingdom of Cambodia
- To create and manage accurate record keeping and databases on all wildlife crimes and criminals within the Kingdom of Cambodia
- To use existing counter wildlife trafficking networks, and develop additional strategies where necessary, in order to combat wildlife crimes occurring in other countries and wildlife criminals that may be using the Kingdom of Cambodia as a source, end destination or a conduit to other countries
- To develop and implement research, monitoring, protection and conservation programmes for wildlife, including on the status of threatened species, habitats and ecosystems
- To prepare guidelines and oversee the issuance and implementation of hunting permits within and outside of protected areas
- To provide oversight, monitoring and regulation of the operation of zoological facilities, conservation breeding centres, and commercial wildlife farming facilities
- To develop and maintain wildlife health surveillance strategies in collaboration with other

Commented [MQ163]: Fish and aquatic species?

Commented [MQ164]: Rescue centres?

relevant government agencies, and facilitate rapid responses to cases and outbreaks of wildlife diseases and other health issues

- To coordinate and collaborate with other government agencies, civil society, non-government organisations and participate in international cooperation in the fulfilment of this mission
- To promote public education and outreach programmes that demonstrate the importance of the protection, conservation and sustainable management of wildlife

ARTICLE 4

The Provincial Departments of Environment and Protected Areas staff, have the following main duties:

- To help develop and implement strategic plans, management plans and action plans to conserve wildlife
- To prevent wildlife crimes
- To enforce this Title through investigations, and file complaints to the court on all wildlife offences committed in the Kingdom of Cambodia
- To regularly maintain a database of all wildlife offences and offenders following guidelines from the Ministry of Environment
- To receive and consider hunting applications for local communities and indigenous ethnic minority groups in accordance with guidelines from [relevant department]
- To issue hunting permits for local communities and indigenous ethnic minority groups that meet the guidelines from [relevant department]
- To monitor the implementation of hunting permits and suspend or revoke the permits of persons caught in violation of this Title
- To regularly maintain a database of hunting permits and hunters, for the purpose of monitoring, evaluation and regulation, and to submit regular copies of the database to the Ministry of Environment
- To implement wildlife health surveillance strategies, in collaboration with other relevant government agencies, and respond rapidly to cases and outbreaks of wildlife diseases and

other health issues

- To coordinate and collaborate with other government agencies, civil society and non-government organisations in the fulfilment of this mission
- To manage and relocate all confiscated wildlife in accordance with approved procedures

ARTICLE # ON MAFF

ARTICLE # ON NCS

ARTICLE # ON SUB-NATIONAL ENTITIES

Commented [Vishnu165]: Content proposed by M Saito-Jensen. To be considered and developed as necessary.

ARTICLE 5

All agencies with a responsibility to prevent crime, including but not limited to: The Fisheries Administration of the Ministry of Agriculture, Forestry and Fisheries, The Forestry Administration of the Ministry of Agriculture, Forestry and Fisheries, The CITES Management Authority of Cambodia, The General Department of Customs and Excise of the Ministry of Economy and Finance, The National Police and Military Police of the Ministry of Interior, have the responsibility to coordinate, collaborate and share information, as required by Ministry of Environment guidelines, with the Ministry of Environment on offences involving wildlife throughout the Kingdom of Cambodia, including but not limited to:

- National and international investigations of wildlife crime and wildlife criminals, including offences committed by individuals, legal entities and organized criminal groups
- Seizures of wildlife, wild animals and animal parts and trophies, made under the Law on Customs, Law on Forestry, the sub-decree on prohibited and restricted goods and this Title
- All court cases involving wildlife, wild animals and animal parts and trophies

The Ministry of Environment has the right to establish and lead an inter-agency Wildlife Crime Taskforce, or similar, for the purpose of reducing and preventing wildlife crime and to coordinate collaborative efforts across law enforcement agencies, including internationally.

CHAPTER 3 CLASSIFICATION OF WILDLIFE SPECIES

ARTICLE 6 THE CLASSIFICATION OF WILDLIFE SPECIES BOTH NATIVE AND

NON-NATIVE TO CAMBODIA

Schedule 1 - All species, including those non-native to Cambodia, listed as Extinct in the Wild, Critically Endangered or Endangered on the IUCN Red List of Threatened Species, and species of natural or cultural heritage or significant economic importance to Cambodia (see annex # for list of species). All species non-native to Cambodia listed on Appendix 1 of CITES are also included in Schedule 1 (e.g. African elephants, rhinoceroses).

Commented [MQ166]: Lists to be developed.

Schedule 2 - All species, including those non-native to Cambodia, listed as Vulnerable, Near Threatened, Data Deficient or Not Evaluated, on the IUCN Red List of Threatened Species and all species non-native to Cambodia and listed as Appendix 2 of CITES (see annex # for list of species).

Schedule 3 - All species, including those non-native to Cambodia, listed as Least Concern on the IUCN Red List of Threatened Species, unless specified in Schedule 4, and all species non-native to Cambodia and listed on Appendix 3 of CITES (see annex # for list of species).

Schedule 4 - All species considered common in Cambodia as approved by the National Wildlife Advisory Board (see annex # for list of species)

In instances where a species may be classed under different schedules according to the IUCN Red List and CITES Appendices, the higher schedule applies. Any newly described species without an IUCN categorization will be assigned to Schedule 1 unless otherwise categorized by the National Wildlife Advisory Board.

Commented [MQ167]: "National biodiversity board" suggested, under the Biodiversity Centre of the National Council for Sustainable Development (NCSD), potentially instead of national wildlife board under the MoE. Having this sort of institution within NCSD will allow for inter-ministerial review and planning for managing biodiversity including wildlife, plants, and ecosystems. This national biodiversity board may therefore include the sub-committees dedicated to wildlife, plants and ecosystems.

ARTICLE 7 PROCESS FOR UPDATING THE CLASSIFICATIONS OF WILDLIFE SPECIES THAT ARE NATIVE AND NON-NATIVE TO CAMBODIA

The Ministry of Environment shall establish a National Wildlife Advisory Board composed of wildlife experts from the Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries, scientific and educational institutions and non-governmental organisations. This board will be established and its function further defined by [supporting legislation - prakas].

Commented [MQ168]: TBD. These species would essentially be exceptions to the IUCN Red List categorisation (likely widespread Least Concern species about which we are not too concerned re trade), e.g. rats, pigeons, doves, etc.

Commented [MQ169]: Biodiversity

Commented [MQ170]: NCSD?

Commented [MQ171]: Possible composition: 6 from government (GDANCP, GSSD, NCSD, FA, FIA, CITES MA), 6 NGO (IUCN, WCS, WWF, CI, WA, BL), 2 scientific (RUPP, RUA)

The National Wildlife Advisory Board shall meet no less than every year, to review and update the classifications of wildlife species that are native and non-native to Cambodia.

The updated classifications of wildlife species will be based on the categorization of species on the IUCN Red List of Threatened Species and on the Appendices of CITES.

Commented [Vishnu172]: Questions about 9 IUCN Red List of Threatened Species Classifications: Noting the discrepancy between Forestry Law and Protected Area Law in terms of threatened species classifications, the proposed law on wildlife recommends the use of 9 IUCN red list (e.g. extinct, extinct in the wild, critically endangered, endangered...). Will all recognized species in Cambodia have been classified according to the IUCN list? Otherwise, it may be technically challenging to classify species into the 9 categories in light of existing human and technical capacities. If so, it may be useful to consider simplifying the classifications.

Any species not automatically included on Schedule 1, based on their IUCN Red List status, could

be upgraded to Schedule 1 by the advisory board on the basis of:

- Important cultural or natural heritage value to the people and Kingdom of Cambodia
- Written request from Collaborative Management Teams of CMPZs
- High levels of threat to the Cambodian population of the species
- The status of the Cambodian population of the species meeting IUCN criteria for Critically Endangered or Endangered

These updates must be approved by Prakas and distributed to relevant ministries, sub-national law enforcement agencies, protected areas, and provincial courts.

No species can be down-listed from Schedule 1, 2, or 3, without a corresponding change in its current listing on the IUCN Red List of Threatened Species.

ARTICLE 8 THE NATIONAL WILDLIFE ADVISORY BOARD SHALL:

- Update the classifications of all wildlife species following the process outlined in article 7
- Review, make recommendations for necessary changes, and approve species management and recovery plans for implementation, on the basis of scientific reports and data
- Review, evaluate and make recommendations for necessary changes, all EIAs and SEAs that have identified adverse impacts on Schedule 1, 2 and 3 species, on the basis of scientific reports and data
- Help to resolve any conflicts or complaints around scheduled species and actions that might result in extinction
- Review and reject or approve applications for special exceptions on hunting of wildlife under articles 11-14 of chapter 5 of this Title.
- Review and reject or approve applications for non-lethal capture of wildlife for conservation breeding purposes
- Issue recommendations, based on scientific understanding, on hunting quotas for local communities/indigenous groups subsistence/customary use

Commented [MQ173]: The sub-committee of wildlife under the National Biodiversity Board.

- Review and reject or approve applications for keeping Schedule 1 and 2 species in captivity outside of licensed facilities as detailed in Chapter 11 of this Title

CHAPTER 4 PROHIBITIONS ON HUNTING

ARTICLE 9 PROHIBITIONS ON HUNTING IN ALL PUBLIC AND PRIVATE LANDS AND STATE LAND OUTSIDE OF THE PROTECTED AREA NETWORK

Hunting of all species listed on Schedules 1, and 2 is prohibited in all areas, including within protected areas, corridors, and in all areas outside of the protected area network, except under special circumstances defined under chapter 5 of this Title.

Hunting of all species on Schedules 1, 2, 3 and 4 using prohibited means is prohibited.

Production, possession, manufacturing, purchase, transport and use of snares, traps, home-made guns, poisons and other prohibited means of hunting is prohibited at all times in all locations, with the exception of the removal, seizure or confiscation of these items by law enforcement officers.

It is prohibited to hunt, pursue, or harass any wildlife from or by means of a vehicle, including but not limited to, on water or land, or by aircraft, or to use an aircraft, motor vehicle, boat or other mechanized vehicle for the purpose of driving or stampeding any wild animals.

Hunting of species listed on Schedule 3 and 4 outside of the protected area network is permitted by local communities for subsistence/customary use by persons holding a valid permit, in line with Chapter 6 of this Title.

Hunting of species listed on Schedules 1, 2, 3 and 4, for commercial purposes is prohibited.

ARTICLE 10 PROHIBITIONS ON HUNTING INSIDE PROTECTED AREAS AND CMPZS

All hunting of species listed on Schedules 1, 2, 3 and 4 is prohibited within the Core Zones and Conservation Zones of protected areas and CMPZs. These zones must remain inviolate to hunting to protect species populations and reduce disturbance to wildlife. These zones will act as a reservoir or source of animals, which may disperse into other zones.

Hunting of Schedule 3 and Schedule 4 species for customary use/subsistence use of local communities and indigenous ethnic minority groups living within or adjacent to protected areas and CMPZs is permitted in the Sustainable Use Zone and Local Community Zone only, using

Commented [MQ174]: USE OF SNARES: research and content needed re: effective enforcement and promoting alternatives.

permitted means only, and only by persons holding a valid hunting permit.

Hunting quotas for local communities and indigenous groups will be assigned by the Provincial Department of Environment and Protected Area Director, following guidelines issued by the Ministry of Environment. Quotas will be listed on individual hunting permits.

Commented [MQ175]: Roles of subnational government entities?

Hunting of Schedule 3 and 4 species, by any person or entity other than local communities and indigenous ethnic minority groups holding individual valid hunting permits, is prohibited inside protected areas at all times.

Hunting of any wildlife for commercial purposes is completely prohibited at all times in all protected areas and CMPZs.

Hunting using prohibited means is completely prohibited in all zones of Protected Areas and CMPZs.

Hunting of Schedule 3 and Schedule 4 species for crop protection purposes, within 20m of farmland, is allowed in the Community Zone only via permitted means of hunting, through the issuing of a permit from the Provincial Department Of Environment and Protected Area Director. Hunting of Schedule 1 and 2 species for crop protection purposes inside the Community Zone is prohibited.

It is prohibited to possess, erect, maintain, transport or bring any equipment that could be used to hunt animals via prohibited means into all zones of protected areas and CMPZs, including but not limited to wire, bicycle or motorbike brake cable, electrocution equipment.

Anyone transporting or in possession of a Schedule 3 or Schedule 4 species inside a protected area must have a valid hunting permit.

Capture of wildlife for the purpose of establishing or maintaining a wildlife farm, a zoological institution, private collection, is completely prohibited from protected areas and CMPZs.

Capture of wildlife for the purpose of establishing or maintaining a conservation breeding facility is permitted under Article 12 of this Title, which must be approved in advance by the National Wildlife Advisory Board and Ministry of Environment.

All domestic dogs, hunting dogs and livestock are prohibited from the Core Zones and Conservation Zones of protected areas and CMPZs.

CHAPTER 5 SPECIAL EXCEPTIONS ON HUNTING OF WILDLIFE

ARTICLE 11 LETHAL CONTROL

The Protected Area Director or official of the Nature Conservation and Protection Administration may, if he/she is satisfied that any wild animal has become dangerous to human life or is so injured or diseased as to be beyond recovery, by order in writing and stating the reasons therefore, permit an official of the Ministry of Environment or Department of Environment to hunt such animal.

A decision regarding lethal control shall follow established guidelines in consideration of safety, animal welfare, and value of the animal for species conservation.

Methods of lethal control shall follow established guidelines ensuring animal welfare and minimizing risks to other animal or human life.

Any wild animal killed or wounded due to danger to human life or being beyond recovery shall be the property of the State and must be destroyed following approved methods outlined in Chapter 12.

For a species listed on Schedule 1 or 2, authorisation for lethal control must be granted by the Director of the Administration for Nature Conservation and Protection.

For a species listed on Schedule 3 or 4, authorisation for lethal control must be granted by the Director of the Protected Area.

Non-native species to Cambodia listed under Schedule 1 or Schedule 2 and which pose a threat to native Cambodian biodiversity may be controlled in the wild, or on private property, if identified as a required action or threat under Species Management and Recovery Plans or following approval, in writing, from the National Wildlife Advisory Board.

ARTICLE 12 NON-LETHAL CAPTURE FOR CONSERVATION PURPOSES

Non-lethal capture of any wildlife listed on any Schedule of this Title, for conservation breeding or conservation management purposes ("special exceptions"), via any means must be approved by the National Wildlife Advisory Board and the Ministry of Environment via the issuance of a specific permit in writing. Permit applications must demonstrate the benefit(s) to the species in question and compliance with approved procedures, regarding animal welfare, capture, transportation and husbandry protocols.

Commented [MQ176]: Content to be developed regarding fees for permits.

Commented [MQ177]: Content to be developed re: fees for permits.

For the purpose of the above point, "conservation breeding or conservation management" refers to:

1. Translocation of any wild animal to an alternative suitable habitat, for the purpose of reintroduction, re-stocking or supplementation of wild populations or to prevent the inevitable extinction of a wild population
2. Research or population management of wildlife, without killing or destroying wild animals
3. Capture of wild animals for the explicit purpose of establishing and maintaining a secure conservation breeding population of a globally threatened species in a registered conservation breeding facility, and to produce captive bred animals for release back into the wild. Such capture must be endorsed by both the National Wildlife Advisory Board and the relevant IUCN-SSC Specialist Group Chair.

Translocation and capture of wild animals for conservation breeding or conservation management of Schedule 1 and Schedule 2 species will only be permitted by the Ministry of the Environment if these activities are in accordance with approved Species Management and Recovery Plans or recommendations of the National Wildlife Advisory Board.

Health monitoring and quarantine procedures for the translocation of wildlife or transfer of wild animals between a captive and wild population shall follow approved procedures.

ARTICLE 13 SPECIMEN COLLECTION

Hunting, taking or collection of any wildlife for education or collection of specimens for scientific research must be approved by the National Wildlife Advisory Board and by the Ministry of Environment following the issuance of a permit for the specified activity, including:

1. For museums, universities, non-profit organisations, and similar institutions
2. For development of biobanks

The method of specimen collection must follow guidelines established by the Ministry of Environment for the capture, handling and sampling of wildlife, and must ensure animal welfare and reduce the risk of disease.

ARTICLE 14 ZOOLOGICAL INSTITUTIONS AND PRIVATE COLLECTIONS

Commented [MQ178]: Content to be developed re: permit fees.

Commented [MQ179]: Fees for permits?

All zoological institutions, including private collections must hold a valid permit for the facility and all of the animals in the collection.

It is prohibited to hunt, capture or collect from the wild any species listed on Schedules 1 and 2 for zoological institutions or private collections, unless approved under article 12 of this Title.

Applications to capture from the wild any species listed on Schedule 3 or 4 for the purpose of zoological institutions or private collections will be reviewed and if appropriate, approved, by the National Wildlife Advisory Board and GSSD of the Ministry of Environment.

No permit will be issued to any zoological institution or private collection involved in illegal hunting and trade of wild animals, or without valid permits or legal documentation for the animals in their facility.

The Ministry of Environment has the right to suspend permits, close down facilities and confiscate animals if they do not comply with the provisions of this Title and regulations issued by the Ministry of Environment.

CHAPTER 6 HUNTING PERMITS

ARTICLE 15 HUNTING PERMITS APPLICATIONS AND ISSUANCE

Hunting of wildlife listed on Schedules 3 and 4 is prohibited without a valid permit. Hunting permits must be carried on persons at all times whilst hunting, and produced for inspection as required.

A hunting permit gives permission to the identified user to hunt in a particular location (i.e. in the Sustainable Use and Community Zones of a named protected area).

Only one hunting permit will be granted per household.

Individuals wishing to obtain a hunting permit must submit a written application to the Provincial Department of Environment.

Hunting applications for Sustainable Use Zones and Community Zones of protected areas and CMPZs will be reviewed, and if appropriate, approved and permits issued by the Director of the Provincial Department of Environment and Director of the relevant protected area.

Hunting applications for Sustainable Use Zones and Community Zones of protected areas and

Commented [MQ180]: Fees for permits?

Fees for all permits to be defined in supporting / sub-legislation / regulation / guidelines?

Commented [MQ181]: Under 2008 PA Law, permits are granted by Nature Protection and Conservation Administration, within MOE.

CMPZs will be reviewed, and if appropriate, approved and permits issued by the Director of the Provincial Department of Environment and Director of the relevant protected area.
Hunting applications for areas outside of the protected area network will be reviewed, and if appropriate, permits issued by the Director of the Provincial Department of Environment.
No hunting permit will be issued to any person involved in any incidents of illegal hunting.
No hunting permit will be issued to any person that the Provincial Department Of Environment or Protected Area Director has reasonable cause to believe, or evidence to prove, that the individual has participated in or had any involvement with commercial hunting and illegal trade of wildlife.

Commented [MQ182]: Roles for sub-national governments?

A hunting permit may be granted, revoked, or refused, or conditions or restrictions imposed as the Director of Provincial Department of Environment and Director of the Protected Area sees fit.
Transfer of hunting permits from one person to another is prohibited.

A hunting permit is valid for 1 year, thereafter it will be reviewed and renewed annually.

Where a hunting permit is lost, the holder of a permit must immediately inform the Provincial Department of Environment, and Director of the Protected Area if appropriate, and cease all hunting activities until a replacement permit is issued.

All Provincial Departments of Environment and protected areas will manage a database for hunting permits and hunters, for the purpose of monitoring and regulating these activities. Copies of the database will be sent to the Ministry of Environment every month.

Holders of a hunting permit may be required to provide samples or parts of the harvested wildlife to authorities, as part of wildlife health monitoring activities. No financial compensation shall be provided in exchange for wildlife samples or parts.

ARTICLE 16 SUSPENSION OR CANCELLATION OF PERMITS

The Protected Area Director or Director of the Provincial Department of Environment may suspend or revoke any hunting permit granted under this Title, to be recorded in writing.

A hunting offence against a Schedule 1 species will result in a hunting permit being revoked for 5 years, in addition to penalties applied in Chapter 16.

A hunting offence against a Schedule 2 species will result in a hunting permit being revoked for 1 year, or for the remaining period of the permit if less than 6 months with new permit applications being denied for the remaining time, in addition to penalties applied in Chapter 16.

Commented [MQ183]: No hunting permitted of Schedule 1 or Schedule 2 species.

A hunting offence against a Schedule 3 species will result in a hunting permit being revoked for 6 months, or for the remaining period of the permit with new permit applications being denied for

the remaining time, in addition to penalties applied in Chapter 16.

Any person involved in more than 3 cases of illegal hunting or trade of wildlife will result in the cancellation of the hunting permit indefinitely.

CHAPTER 7 PROHIBITION OF TRADE, TRAFFICKING OR COMMERCE IN WILD ANIMALS, TROPHIES, ANIMAL PARTS AND ALL DERIVATIVES OF WILD ANIMALS

ARTICLE 17 PROHIBITED ACTIVITIES

All trade, transport, shipment, import, export, re-export, possession, sale, purchase, transferral, storing, gifting, consumption, farming and any other commercial uses, of wildlife, wild animals, trophies, meat, animal parts and any other derivatives of species listed on Schedule 1, Schedule 2, Schedule 3 and Schedule 4 is prohibited.

Offering or advertising for sale any wildlife, wild animals, trophies, animal parts, meat or derivatives listed on Schedule 1, Schedule 2, and Schedule 3 is prohibited.

Counterfeit products advertised as being made from wildlife, wild animals, animal parts, meat or trophies is also considered an offence and will be treated the same as offences involving genuine wild animals, animal parts, meat or trophies.

No person, organisation, company or other entity, shall purchase, receive or acquire any wildlife or wild animals, on Schedule 1, Schedule 2, Schedule 3, or Schedule 4, or any animal parts, trophies, or meat, otherwise than from a person authorised to sell or otherwise transfer the same under the special exceptions outlined in chapter 5 of this Title.

No person, organisation, company or other entity, shall include in their business:

- a) a manufacturer of, or dealer, of wildlife, wild animals, trophies or animal parts listed on Schedule 1, 2, or 3
- b) a taxidermist with respect to any wildlife, wild animals or any animal parts or trophies of wild animals listed on Schedule 1, 2, or 3
- c) a dealer in trophies derived from any wildlife listed on Schedule 1, 2, or 3
- d) a dealer in any captive wild animals listed on Schedule 1, 2, or 3

e) a dealer, cook or server of meat derived from any wildlife or wild animal listed on Schedule 1, 2, or 3

f) an importer, exporter or re-exporter of wildlife, wild animals, animal parts, met or trophies listed on Schedule 1, 2, or 3

CHAPTER 8 CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

ARTICLE 18

Referring to the sub-decree on International Trade in Endangered Wild Animal and Plant Species (2006), CITES Management Authority of Cambodia, this chapter applies to

The species of flora and fauna listed in:

1. Appendix 1 of CITES, equivalent to a Schedule 1 species
2. Appendix 2 of CITES, equivalent to a Schedule 2 species
3. Appendix 3 of CITES, equivalent to a Schedule 3 species

ARTICLE 19 PROHIBITED ACTIVITIES

No person without a CITES permit may:

- Import or bring into the country from a foreign country a species of flora or fauna listed on the Appendices of CITES to which this chapter applies
- Export or take out of the country to a foreign country a species of flora or fauna listed on the Appendices of CITES to which this chapter applies
- Re-export, convey or transport through the country to a foreign country a species of flora or fauna listed on the Appendices of CITES to which this chapter applies

CHAPTER 9 INTERNATIONAL COOPERATION

ARTICLE 20

In order to carry out the provisions of this Title, the Ministry of Environment shall encourage:

- The entering into of bi-lateral and multi-lateral agreements to provide for such conservation of scheduled species.
- Cooperation with foreign countries and international organisations to develop personnel resources and programmes which promote the conservation of native wildlife and biodiversity.
- Cooperation with foreign countries and other law enforcement agencies for the purposes of carrying out research and investigations to prevent, identify and combat offences to which this Title applies.

ARTICLE 21

Notwithstanding any other law, the Ministry of Environment and other relevant ministries and sub-national governments may cooperate and provide personal or other information to a foreign law enforcement authority of another State and, where relevant, international regional organizations, for the purpose of preventing, identifying and combating the offences covered by this Title in either jurisdiction

ARTICLE 22

The Ministry of Environment and other relevant ministries and sub-national governments may also cooperate with a foreign law enforcement authority or international regional organization, with regard to:

- Providing items, substances, documents or records for analytical or investigative purposes,
- Seconding or exchanging personnel, including by making experts available and the posting of liaison officers,
- Joint investigations,
- Prosecution of judicial proceedings,
- Other administrative assistance.

The Ministry of Environment may negotiate and conclude agreements with foreign law enforcement authorities or international regional organizations, for the purposes of enhancing law enforcement cooperation to prevent, identify and combat the offences to which these legal provisions apply.

CHAPTER 10 SPECIES MANAGEMENT AND RECOVERY PLANS

ARTICLE 23

Species Management and Recovery Plans must be developed for all Schedule 1 species, and Schedule 2 species native to Cambodia where possible. Plans should cover a 10-year period and a single plan can cover multiple species e.g. large water birds, migratory shorebirds, vultures, bear spp. etc.

Species Management and Recovery Plans must define the necessary conservation and management actions required to ensure viable populations of these species remain in Cambodia including identification of threats (both direct and indirect) and the actions required to mitigate these threats and secure populations. Plans must identify important sites for the conservation of species and should prescribe site and landscape-specific management actions necessary to achieve the plan's goal for the conservation and survival of the species.

Species Management and Recovery Plans must include objective, measurable criteria which when met, would result in improved conservation status of the target species and estimates of the time and financial resources required to carry out those measures.

Actions under Species Management and Recovery Plans can include translocations, ex-situ conservation and conservation breeding, and conservation reintroductions. Plans should identify appropriate sites for the release of confiscated animals.

Species Management and Recovery Plans must be referred to in all Environmental Impact Assessments that impact sites identified as important for Schedule 1 and/or Schedule 2 species and must demonstrate that the project will not have a negative impact on the population of the species and implementation of the Species Management and Recovery Plan.

Species Management and Recovery Plans will be developed by relevant experts in collaboration with the Administration for Nature Conservation and Protection and GSSD, reviewed and approved by the National Wildlife Advisory Board.

ARTICLE 24

The Ministry of Environment, in cooperation with all relevant stakeholders, shall be responsible for the implementation of a monitoring system to monitor effectively the status of all Schedule 1 and Schedule 2 species which have recovered to a point which in accordance with the provisions of this Title, have been removed from Schedule 1 or Schedule 2.

Commented [MQ184]: Important to specify which level of government will lead this work.

Provincial Department Of Environment take the primary responsibility

How about the role of District/municipality and provincial/capital Governors through respective Unified Commanding Committee in this per circular no. 5?

GDANCP of the MoE and Biodiversity Centre will have oversight functions.

The Ministry of Environment shall report to the National Assembly on the status of Schedule 1 and Schedule 2 species.

ARTICLE 25

All Ministries responsible for granting permissions for any projects within the distribution range of species listed on Schedule 1 and Schedule 2 must refer to Species Management and Recovery Plans and Protected Areas Management Plans prior to granting any license or concession.

ARTICLE 26

The Ministry of Environment shall, in cooperation with other relevant stakeholders, monitor effectively, the status of all native species on Schedule 1 and Schedule 2, until no less than 5 years after the status of the species has been changed to Schedule 3 or 4 in accordance with the procedures outlined in Chapter 3 of this Title.

The Ministry of Environment shall report back to the National Assembly on the status of Schedule 1 and Schedule 2 species.

ARTICLE 27

The Ministry of Environment shall develop policies and guidelines on the compensatory payment to mitigate damage done to wildlife, by companies, individuals or other legal entities. Such payments will be used to implement species recovery and management plans.

CHAPTER 11 MANAGEMENT OF CONSERVATION BREEDING, WILDLIFE RESCUE CENTRES, PRIVATE COLLECTIONS AND ZOOLOGICAL INSTITUTIONS

ARTICLE 28

All conservation breeding facilities, wildlife rescue centres, private collections and zoological institutions must be registered with the Ministry of Environment or Ministry of Agriculture, Forestry and Fisheries, and hold a valid operational permit.

It is prohibited to keep in captivity (as pets, display, or working animals) any individuals of native Schedule 1 or Schedule 2 species outside licensed and managed conservation breeding, wildlife rescue centres or Zoological Institutions, unless the species is provided with specific exemption by the National Wildlife Advisory Board.

Species listed on Schedule 3 may be kept in captivity by individuals or organisations with valid permits issued by the relevant authorities and provided proper standards of care are met and animal

Commented [MQ185]: What is the existing process that enables reporting on the status of Scheduled 1 and 2 species?

Biodiversity Centre should also be referred to. Perhaps, the MoE can report to the Biodiversity Centre? Then status of the biodiversity can be reported during inter-ministerial meetings organized by NCSD.

Commented [MQ186]: Currently managed under MAFF, but is there any existing legislation??

Commented [MQ187]: Biodiversity

welfare is not compromised, in accordance with guidelines issued by the Ministry of Environment.

Schedule 4 species may be kept in captivity by individuals or organisations without permits provided proper standards of care are met and animal welfare is not compromised, in accordance with guidelines issued by the Ministry of Environment.

All conservation breeding facilities, wildlife rescue centres, private collections and zoological institutions wishing to keep multiple species must obtain the necessary permits for all species.

ARTICLE 29

All conservation breeding facilities, wildlife rescue centres, private collections and zoological institutions will be subject to regular inspections by regulatory authorities.

The Ministry of Environment, and other law enforcement agencies, reserve the right to temporarily suspend or revoke operational permits, and confiscate any wild animals in captivity, if satisfactory conditions for keeping wild animals are not being met.

Commented [Vishnu188]: And MAFF? But this title does not currently apply to fish (see definition of "Animal" at the end).

All conservation breeding facilities, wildlife rescue centres, private collections and zoological institutions, are responsible for recording births, deaths and transfers of all animals listed on Schedule 1, 2 and 3. This information must be shared with authorities during annual inspections and any individuals not accounted for will be considered illegally hunted.

The Ministry of Environment shall be notified in advance of any transfers or translocations of species listed on Schedule 1 and 2 between facilities, a Transportation Permit must be carried at all times. Movements of animals between breeding centres must be accurately recorded and traceable.

Commented [Vishnu189]: And MAFF?

Animal parts, meat or trophies from wild animals which have died in captivity need to be disposed of following the guidelines referred to in chapter 12 of this Title. Keeping whole bodies, or parts of dead animals at conservation breeding facilities, wildlife rescue centres, private collections, zoological institutions, or other facility is prohibited.

All wild animals held in captivity, including by individuals, zoological institutions, private collections, rescue centres and conservation breeding facilities, must be cared for in a humane and appropriate manner to ensure animal welfare is not compromised.

Where diet, cages and enclosures, husbandry, hygiene, health or other requirements of wild animals are not being adequately met following approved international standards where possible,

the Ministry of Environment, or other law enforcement agency, reserves the right to confiscate the wild animals in question.

Any facilities, undertaking breeding of Schedule 1 or Schedule 2 animals, must ensure maximum retention of genetic diversity and natural behaviour through: including but not limited to, the establishment of a studbook for the relevant species detailing all individuals of the breeding programme, provision of suitable husbandry and enclosures and acceptable standards of animal welfare in accordance with guidelines issued by the Ministry of Environment. All breeding events and bloodlines must be accurately recorded with founding animals and their offspring clearly identifiable. All individuals of these species are to be permanently marked in order to facilitate tracking of parentage and origin.

The Ministry of Environment shall develop and manage a national database for the monitoring and management of captive wild animals and facilities.

Commented [MQ190]: Also the biodiversity centre of NCS.

ARTICLE 30

It is prohibited to release captive-bred wild animals, or wildlife that has spent a considerable amount of time in captivity, back into the wild without permission from the Ministry of Environment. Doing so will be considered a hunting offence against the scheduled species in question.

Where animals have undergone a period of time in captivity or have been captive born and are subsequently being considered for release, IUCN protocols shall be upheld wherever possible. Health checks must be conducted prior to release, a suitable release site identified and prepared, acclimation of the animals to the release site, and post-release monitoring implemented if necessary.

Failure to comply with any provisions of this Chapter will be treated as per hunting or trading of the respective species.

CHAPTER 12 MANAGEMENT OF CONFISCATED WILDLIFE, WILD ANIMAL PARTS, MEAT AND TROPHIES

ARTICLE 31

All wildlife, wild animals, trophies, meat and animal parts confiscated under this Title must either be:

a) in the case of live, native wild animals, assessed for health and suitability prior to being released into its natural habitat if appropriate to do so, or sent to an approved rescue centre, or humanely

ethanized,

b) in the case of dead wild animals and animal parts, destroyed, maintained or stored following the approved procedures.

c) in the case of live non-native species, sent to an approved rescue centre pending repatriation where applicable.

ARTICLE 32

All staff involved in the confiscation of live wildlife, wild animals, meat, trophies and animal parts shall follow appropriate biosafety procedures to avoid any contamination of other animals or humans with dangerous infectious or non-infectious agents.

The transportation of confiscated wild animals shall follow approved procedures.

Confiscated items may be subject to sampling for wildlife health monitoring purposes, following health monitoring strategies and protocols established by the Ministry of Environment in coordination with other relevant government and non-government agencies.

ARTICLE 33

In instances where confiscated items need to be maintained as evidence for court cases, all dead wildlife, trophies, and animal parts or other derivatives of wild animals listed on Schedule 2, 3, and 4, must be kept secure at an institution deemed suitable by the Ministry of Environment following appropriate management and security protocols until such time as the court case is completed.

Once a court case has been completed, all dead wildlife, wild animals, trophies, animal parts and other derivatives of wildlife listed on Schedule 2, 3 and 4 maintained as evidence must be returned to the Ministry of Environment and destroyed in accordance with the approved procedures.

All seizures of wildlife, wild animals, trophies and animal parts listed on Schedule 1 must be immediately transferred to the responsibility of national level Ministry of Environment, to implement appropriate security and destruction protocols that meet government guidelines (e.g. ivory, rhinoceros horn, pangolin scales, tiger parts) and to maintain regularly updated national inventories of these products to help prevent illegal trafficking.

ARTICLE 34

Procedures and protocols for the confiscation, maintenance, security, storage, transportation and destruction, or repatriation of wildlife, wild animals, animal parts, trophies seized under this legal

instrument will be developed by the Ministry of Environment in supporting legislation, in coordination with other relevant government agencies.

CHAPTER 13 MANAGEMENT OF WILDLIFE FARMS

ARTICLE 35

It is prohibited under this Title or any other, to establish wildlife farms, or any other facility that will breed wild animals, without a permit from the Ministry of Environment.

It is prohibited, under any circumstances, to raise, keep, breed, stock and maintain any wild animals on Schedules 1 and 2 in wildlife farms or any other captive facility for commercial purposes.

It is prohibited, under any circumstances, to raise, keep, breed, stock and maintain any wild animals in wildlife farms or any other captive facility inside protected areas.

It is prohibited to introduce wild-caught animals into wildlife farms. Wildlife farms shall only obtain or purchase animals from other farms that have a valid permit.

Permitted operators shall only keep the species for which they obtained permission from the Ministry of Environment.

ARTICLE 36

The Ministry of Environment has the authority to develop, issue and enforce guidelines for the establishment, operation, maintenance, inspection, monitoring and regulation of all facilities in the Kingdom of Cambodia that raise, breed, keep, stock and maintain wildlife and wild animals for commercial purposes.

The Ministry of Environment has the authority to inspect, monitor, regulate, revoke the permits of, close and file cases to the court regarding any existing wildlife farms that may be engaged in hunting or trade offences as outlined in chapters 5, 7, and 8 of this Title, or that fail to satisfy the regulatory guidelines issued by the Ministry of Environment or other relevant government agencies.

ARTICLE 37.

All wild animals on wildlife farms must be individually identified at all times.

The wildlife farm operator shall maintain, accurate inventory records in a form acceptable to the

Ministry of Environment, indicating with respect to each animal kept:

- a) the animal's species;
- b) the animal's unique identification, including any changes in unique identification and the date the change occurred;
- c) the animal's sex;
- d) the animal's date of birth;
- e) if the animal was not born on the operator's wildlife farm;
- f) the date on which the wildlife farm operator acquired the animal;
- g) the name and address of the person from whom the animal was acquired; and
- h) the location of the farm from which the animal was acquired;
- i) the animal's date of death, the cause of death, if known, and any test results; and
- j) where the animal is removed from the operator's wildlife farm;
- k) the date of removal;
- l) the location to which the animal was moved; and
- m) the name and address of the person acquiring the animal.

ARTICLE 38

Regarding the sale of farmed wildlife and wild animal products:

1. No wildlife farm shall sell or trade live animals to anyone other than a permitted wildlife farm.
2. No wildlife farm shall purchase or trade live or slaughtered animals from anyone other than a permitted wildlife farm.
3. Any commercial transaction involving animals from wildlife farms shall be recorded and produced for inspection as required.

ARTICLE 39

Appropriate quarantine and health monitoring must precede any introduction of new animals to the farm.

If an animal is found dead on the farm, the wildlife farm operator shall immediately report the death to the Provincial Department of Environment. Dead animals shall be inspected, sampled and disposed of according to guidelines established by the Ministry of Environment in collaboration with other governmental and non-governmental agencies.

The Ministry of Environment may request mandatory surveillance of diseases of special concern.

1. The Ministry shall maintain and publish a list of diseases of special concern for which surveillance is mandatory in wildlife farms, and develop corresponding protocols in collaboration with relevant ministries,
2. The wildlife farm operator shall immediately report to the Provincial Department of Environment when a wild animal is known or suspected to carry a disease of special concern, and when a wild animal is known or suspected to have been in contact with another diseased animal.
3. No person shall keep, hide, transport, sell, give or consume any farmed wild animal that is known or suspected to carry a disease of special concern or have died of unknown cause on the farm.
4. The wildlife farm operator shall abide by the protocols established by the Ministry of Environment,
5. Failure to comply with the disease surveillance protocols may result in temporary or permanent closure of the farm

ARTICLE 40

The Ministry of Environment, in consultation with governmental and non-governmental agencies, shall establish minimum requirements for farm facilities and enclosure.

The Ministry of Environment may control at any time the compliance of a wildlife farm to these requirements

Operators who failed to comply with the established requirements may see their permit withdrawn

or cancelled and additional penalties applied under Article 59.

ARTICLE 41

The permitted wildlife farm operator shall at all times provide appropriate care to the farmed wildlife animals:

1. Every wildlife farm operator shall ensure the animals have adequate shelter, food and water.
2. The handling of animals shall be carried out in accordance with generally accepted practices in regard to management, husbandry, slaughter, and animal welfare.
3. In case the operator fails to provide adequate care and handling of animals, the Ministry of Environment and Provincial Department of Environment may withdraw or cancel a wildlife farming permit, and temporarily or permanently close the wildlife farm.

ARTICLE 42

No wildlife farm operator shall allow captive wild animals to roam free, escape from captivity or be released to the wild. In case of escape from captivity, the farm operator shall:

1. notify the Provincial Department of Environment within 24 hours;
2. make all reasonable efforts to restore the escaped animals to captivity.

ARTICLE 43

The slaughter of farmed wild animals shall be conducted in a humane manner. The Ministry of Environment shall produce guidelines for the slaughter of farmed wild animals in collaboration with the Department of Animal Health and Production.

ARTICLE 44

Every wildlife farm operator shall transport, or cause to be transported, all animals according to [relevant legal document and guidelines produced by the Department of Animal Health and Production].

ARTICLE 45

Despite anything in the Title or regulations,

- a) the Ministry of Environment shall not be liable for injury or property damage caused by farmed wildlife or by the escape from captivity of farmed wildlife; and
- b) the Ministry of Environment shall not be liable for the loss or death of any game animal through escape from captivity or death from disease, notwithstanding that the Ministry of Environment may have required a farmed wildlife animal to be destroyed due to escape or disease.

ARTICLE 46

Any wildlife farm operator on the date these regulations come into effect shall

- a) apply for a permit within [number of days] days;
- b) comply with the requirements of these regulations relating to the operation of wildlife farms.

ARTICLE 47

Any person who fails to comply with these regulations or hinders or obstructs a representative of the Ministry of Environment in carrying out their functions pursuant to these regulations is guilty of an offence and is liable on summary conviction to a fine of [fine amount].

CHAPTER 14 WILDLIFE HEALTH SURVEILLANCE

ARTICLE 48

The Ministry of Environment shall establish a strategy for wildlife disease surveillance and wildlife health monitoring in coordination with other governmental agencies and non-governmental organisations.

The Ministry of Environment shall investigate, document and respond to all wildlife mortality events and disease outbreaks in coordination with other governmental agencies and non-governmental organisations.

The Ministry of Environment shall communicate the outcomes and findings of wildlife health surveillance and disease outbreak investigations to counterparts in animal and public health in a timely manner, as well as to relevant international health organizations, particularly in the case of zoonotic diseases.

Commented [MQ191]: Alternatively could just add a provision providing MOE with the mandate to be responsible for Wildlife Health Surveillance, and more detailed regulations to be developed later.

Commented [Vishnu192]: And MAFF?

ARTICLE 49

Prior to wildlife translocation or any transfer of animals between captive and wild populations, wildlife animals shall be quarantined and inspected by an authorized person who will confirm in writing that:

- a) the animals have been held in quarantine for not less than fourteen days and inspected prior to release;
- b) the animals did not exhibit any signs of disease or injury;
- c) the animals have been positively and uniquely identified;
- d) the animals have been tested and are free from diseases of special concern for that species.

ARTICLE 50

he Provincial Department of Environment and the Ministry of Environment shall be informed immediately in case a wild animal becomes diseased or dies during the course of a quarantine.

CHAPTER 15 LAW ENFORCEMENT AND PROCEDURES TO RESOLVE OFFENCES

ARTICLE 51

Wildlife offences are criminal offences specifically defined by this Title.

Officials of the Ministry of Environment and Department of Environment having duties as Judicial Police officers have the authority to investigate, prevent, and crackdown on wildlife offences anywhere within Cambodia and to file such cases with the court.

Judicial Police officers of Ministry of Environment and Department of Environment have the duty to detect felonies, misdemeanours and crimes, to identify and arrest offenders, collect evidence and to conduct investigations.

Operations by Ministry of Environment and Department of Environment officials who are commissioned as Judicial Police officials shall be carried out in accordance with the law on criminal procedures of the Kingdom of Cambodia.

ARTICLE 52

After an arrest is made, any confiscated evidence shall be managed in accordance with the

Commented [MQ193]: And subnational government entities as well.

District/municipality and provincial/capital Governors through respective Unified Commanding Committee

procedures of the Ministry of Environment as outlined in chapter 12. Evidence must be stored securely and appropriately at an institution deemed suitable by the Ministry of Environment.

ARTICLE 53

Local authorities, armed forces, Customs officials, police, the Forestry Administration, Fisheries Administration, and the public shall facilitate the process of providing information, and assist in the investigation, prevention, and suppression of wildlife offences, or in the temporary custody of any seized evidence so that it can be made available at the request of the Ministry of Environment.

Officials of the Ministry of Environment and Department of Environment, or designated officials to enforce the law, in cooperation with local authorities and other enforcement agencies, shall take prompt action to investigate any case of offences against wildlife.

Commented [MQ194]: Also District/municipality and provincial/capital Governors through respective Unified Commanding Committee

ARTICLE 54

Officials of the Ministry of Environment and Department of Environment, in their role as Judicial Police Officials, shall have the authority to use weapons and authority to use self-defence against physical violence by offenders, while performing their mission. The weapons shall be managed by the Ministry of Interior.

ARTICLE 55

The filing of offences against wildlife shall be in accordance with the Criminal Procedures in force.

The Ministry of Environment and the Ministry of Justice shall make a joint Prakas on the procedures for recording offences against wildlife.

ARTICLE 56

Evidence or offending items of wildlife offences shall be defined as follows:

1. Wildlife, wild animals, trophies and other wild animal derivatives
2. Equipment and means of transport used for committing illegal activities, including materials that may be used for prohibited means of hunting
3. Equipment and records used in the business of wildlife crime (including, inter alia, telephones, financial records, bank records)
4. Assets considered likely to have been purchased through the proceeds of wildlife offences

5. Documents or other testimony by witnesses to the illegal activities or the intent to commit such an offense

Evidence as stated in point 1 above shall be seized and managed following the stipulations of Chapter 12 of this Title and any other guidelines issued by the Ministry of Environment. Evidence of equipment as stated in point 2, including inter alia, those identified as prohibited means of hunting, and means of transport, shall be seized and managed following the guidelines issued by the Ministry of Environment.

ARTICLE 57

Officials of the Ministry of Environment and Department of Environment have the authority to impose restrictions on the activities of a person, or temporarily stop a company's activity, that has offended against the provisions of this Title until the case is resolved.

ARTICLE 58

Any person, company or other entity who disagrees with a decision made by the Ministry of Environment, in exercising its powers under this Title or by virtue of the powers granted to it, has the right to make a written complaint to the Ministry of Environment within at most thirty (30) days as of the date a decision by the Provincial Department Of Environment or the court is received.

The Ministry of Environment shall make decisions on this complaint within at most thirty working (30) days as of the date the complaint is received.

Commented [MQ195]: Could be revised.

If upon the complaint, a decision made by the Head of the Ministry of Environment is still not acceptable by the plaintiff, he/she can file a complaint to court within thirty (30) days at most.

Any complaint made under this article shall not affect the authority of, or prevent the process of enforcement by Ministry of Environment officers under this Title.

CHAPTER 16 OFFENCES AND LEGAL PENALTIES

ARTICLE 59

Punishments for wildlife offences include imprisonment, fines by court procedures, transactional fines, confiscation of evidence, payment of restoration damages, termination and suspension of permits.

If the offender refuses to pay the fines or restoration damages, then the Department of Environment/Ministry of Environment may file a court proceeding on the offence.

Offences are divided into four categories:

- A Class 1 Offence is considered a serious crime and will receive the highest penalty possible of 5-10 years' imprisonment, and/or fines from fifty million riels (50,000,000) to two hundred million riels (200,000,000)
- A Class 2 Offence shall receive a penalty of 1-5 years' imprisonment and/or fines from ten million riels (10,000,000) to one hundred million riels (100,000,000)
- A Class 3 Offence shall receive a penalty of six months' to 1 year's imprisonment plus fines from two million riels (2,000,000) to ten million riels (10,000,000)
- A Class 4 offence shall receive a penalty of fines from four hundred thousand riels (400,000) to two million riels (2,000,000) or three times the value of the goods, where this exceeds the aforementioned fine

Commented [MQ196]: This prison term is consistent with the Forestry Law, stronger than the PA Law and fits UNODC's definition of a "serious crime" - at least 4 years in prison.

The fines named herein shall be increased every 3 years in line with inflation starting from the date this Title enters into force.

All offences against this Title shall result in the immediate confiscation of the offending items, and managed as specified in chapter 12 of this Title.

ARTICLE 60 HUNTING OFFENCES

All hunting offences listed under any or all of chapters 4, 5, 11, 13 of this Title against a Schedule 1 species is considered a Class 1 Offence.

All hunting offences listed under any or all chapters 4, 5, 11, 13 of this Title against Schedule 2 species is considered a Class 2 offence.

All hunting offences listed under any or all chapters 4, 5, 11, 13 of this Title against Schedule 3 species is considered a Class 3 offence.

All hunting offences listed under any or all chapters 4, 5, 11, 13 of this Title against Schedule 4 species is considered a Class 4 offence.

Production, possession, erection, maintenance, manufacturing, purchase and transport of snares, traps, home-made or manufactured guns, poisons and other prohibited means of hunting, including any materials that could be used to make equipment to hunt animals via prohibited means is prohibited and considered intent to commit an offence against a Schedule 1 species and is thus considered a Class 1 Offence

ARTICLE 61 PERMIT OFFENCES

Failure to carry or produce a valid hunting, or other, permit issued under Chapter 6 of this Title when within the Core Zones and Conservation Zones of a protected area is considered a Class 2 offence.

Transfer of a hunting permit to another person not named as the permit holder is considered a Class 4 offence and will result in the suspension of the permit for 1 year in addition to penalties applied under article 59 of this Title.

ARTICLE 62 TRADE, TRAFFICKING AND COMMERCE OFFENCES AGAINST WILDLIFE

Offences related to the trade, trafficking or commerce in wildlife, wild animals, trophies, animal parts and all derivatives of wild animals, as listed in chapters 7 and 8 of this Title, will be subject to the following penalties:

- Any and all trade, trafficking and commerce offences against Schedule 1 species is considered a Class 1 offence and shall be subject to the penalties outlined in article 59
- Any and all trade, trafficking and commerce offences against Schedule 2 species is considered a Class 2 offence and shall be subject to the penalties outlined in article 59
- Any and all trade, trafficking and commerce offences against Schedule 3 species is considered a Class 3 offence and shall be subject to the penalties outlined in article 59
- Any and all trade, trafficking and commerce offences against Schedule 4 species is considered a Class 4 offence and shall be subject to the penalties outlined in article 59
- **When a person, company or other legal entity is already convicted for a crime under this article of this Title and committed a new crime within a period of 5 years, the maximum term of imprisonment and fine imposed for the new crime is doubled**

Commented [MQ197]: Recidivism is in the Criminal Code, this is consistent with the appropriate articles.

ARTICLE 63 WILDLIFE FARMING, ZOOLOGICAL INSTITUTIONS, PRIVATE COLLECTIONS AND OTHER OFFENCES INVOLVING WILDLIFE IN CAPTIVITY

Offences related to the establishment, operation and maintenance of wildlife farms, zoological institutions, private collections and other captive facilities, including but not limited to the capture, keeping, raising, breeding, or maintenance of wildlife in captivity without a permit, or violation of government guidelines on such facilities, shall be subject to the penalties outlined in article 59, dependent on the Schedule of the species involved.

ARTICLE 64 ENFORCEMENT OFFENCES

Assaulting, obstructing, impeding or interfering with any enforcement officer in the performance of his/her functions under this Title, causing the disappearance, damaging or destroying of any item seized under the Title or destroying any item to prevent the seizure thereof, shall be considered a Class 1 offence.

Refusing an enforcement officer access to premises, hindering or delaying any enforcement officer in effecting entry, refusing an enforcement officer any information or failing to comply with an officer's request, relating to an offence under this Title or any other information shall be considered a Class 2 offence.

ARTICLE 65 OFFENCES BY COMPANIES

Where an offence against this Title has been committed by a company, every person who, at the time of the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Where an offence against this Title has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, supervisor, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Where an offence against this Title has been committed by a company, the penalties applied shall be double the provisions outlined in article 59, as well as the following additional penalties:

1. Dissolution
2. Placement under judicial surveillance

Commented [MQ198]: From the Criminal Code.

3. Banning from pursuing one or several activities
4. Expulsion from public market places
5. Closure of an establishment having served to prepare or to commit the offence
6. Prohibition against operating an establishment opened to the public or utilized by the public
7. Confiscation of instruments materials or any objects which are used to commit the offence or were intended to commit the office
8. Confiscation of objects or funds with which the offence was carried out
9. Confiscation of incomes or the properties earned by the offence
10. Confiscation of utensils, materials and moveable objects at the place where the offence was committed
11. Publication of the decision on the conviction in the media by all means of audio-visual communications

The making of additional penalties shall follow the guidelines of the Criminal Code of the Kingdom of Cambodia.

ARTICLE 66 OFFENCES BY ORGANISED CRIMINAL GROUPS

These provisions apply to preventing and combating serious crime where the offences involve an organised criminal group.

For the purposes of these provisions, an "organised criminal group" refers to a group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more offences to which this Title applies, in order to obtain, directly or indirectly, a financial or other material benefit.

Any person who takes an active part in criminal activities of an organised criminal group, knowing either the aim and general activity of the organized criminal group, or its intention to commit the crimes in question, commits an offence punishable by two times the penalties outlined in article 59.

ARTICLE 67 AIDING, ABETTING, ORGANIZING OR DIRECTING A SERIOUS

CRIME

A person who intentionally organizes, directs, aids, abets, facilitates, counsels or procures the commission of a serious crime involving an organized criminal group commits an offence.

The penalty for organizing or directing a serious crime shall be three times the penalties outlined in article 59.

The penalty for aiding, abetting, facilitating, counselling or procuring shall be two times the penalties outlined in article 59.

ARTICLE 68 CONSPIRACY

A person who agrees with one or more other persons to commit a crime under this legislation in order to obtain directly or indirectly, a financial or other material benefit, is subject to the provisions and penalties of this Title and is considered a Class 1 offence as outlined in article 59.

ARTICLE 69 PROOF OF INTENT THROUGH CIRCUMSTANTIAL EVIDENCE

For offences under this chapter, the knowledge, intention, aim, purpose or agreement referred to in each offence may be inferred from objective factual circumstances.

ARTICLE 70 PENALTIES AND SENTENCING CONSIDERATIONS

In sentencing a person convicted of an offence to which these provisions apply, a court may take into account the following:

- The seriousness of the offence
- Any previous convictions for an offence covered by this Title or in another country
- Any previous convictions for an offence of any other law in the Kingdom of Cambodia
- Any other criminal allegations against the defendant at the time of the proposed offence under this legislation
- Whether the person, company or other entity has voluntarily cooperated by providing information or otherwise assisted law enforcement authorities to investigate and prosecute other offences to which this Title applies

ARTICLE 71

Commented [MQ199]: Consistent with the Criminal Code.

Revenue collected from fines under this Title shall be used to support the conservation of wildlife and biodiversity in the Kingdom of Cambodia, including the implementation of Species Management and Recovery Plans, or any other use as approved by the National Wildlife Advisory Board and Ministry of Environment.

CHAPTER 17 REWARDS

ARTICLE 72

The [authorized person] may order such financial rewards he/she thinks fit to be paid to any person for services rendered in connection with the detection of any offence under this Title or any of its subsidiary legislation, or in connection with any seizures made under this Title.

Commented [Vishnu200]: To be developed.

CHAPTER 18 REGULATIONS

ARTICLE 73

The Minister may make such regulations as may be expedient or necessary for better carrying out the provisions of this Title or for prescribing anything that may be, or is required to be, prescribed under this Title.

Regulations may be made in respect of, but not limited to, the following:

- The administration and management of wildlife inside and outside of protected areas,
- Management of hunting applications and permits and issuance of quotas,
- The conditions under which wildlife may be kept in captivity, including zoological facilities, rescue centres, wildlife farms and conservation breeding centres,
- The establishment, operation, maintenance, inspection, monitoring and regulation of wildlife farms, zoos, rescue centres, conservation breeding centres and any other facilities keeping wildlife
- Procedures for the effective enforcement of this Title
- Management of evidence confiscated under this Title, including of appropriate security protocols for products from Schedule 1 species,
- The fees payable under this Title,

- Procedures for the translocation, transportation, capture, handling and sampling of wildlife.
- Procedures for ensuring wildlife welfare.
- Establishment, operation and responsibilities of the National Wildlife Advisory Board.
- Procedures for recording offences against wildlife.
- Methods for lethal control and humane slaughter of wildlife.
- Payment of compensatory mitigation for damage done to wildlife, by companies, individuals or other legal entities.
- Monitoring of offences and offenders under this Title.

TITLE 7 PROTECTION OF THREATENED PLANTS, HABITATS AND ECOSYSTEMS

The Law on Seed Management and Plant Breeders Rights 2008 is hereby amended and clarified as follows:

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

DEFINITIONS

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

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

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

Invasive Species: a plant or animal species that is not native to specific location or ecosystem, and

Commented [MQ201]: And fungi?

which has the ability and/or tendency to spread to a degree that can cause damage to the environment, economy, or human health.

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

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

Commented [MQ202]: And fungi?

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1

The Kingdom of Cambodia claims and will exercise sovereign rights and exclusive management authority over all threatened plants, habitats and ecosystems.

The appropriate ministry shall have the authority to oversee, regulate and enforce laws relating to the designation and management of threatened plants, habitats and ecosystems, as well as the management of invasive, non-native, or non-naturally occurring species of plants in Cambodia.

The conservation and management measures undertaken by the appropriate ministry shall be based on the best scientific evidence and shall prevent the loss of threatened plants, habitats, and ecosystems. To the extent possible, said threatened plants, habitats, and ecosystems shall be managed and maintained such that the dominant ecological characteristics of the plant, habitat, or ecosystem occur within their natural ranges of variation and can withstand and recover from most perturbations imposed by natural environmental dynamics or human disruptions.

CHAPTER 2: RESPONSIBLE INSTITUTIONS

ARTICLE 2

The Ministry of Environment has the overall jurisdiction and responsibility for designation, management and enforcement of threatened plants, habitats, and ecosystems in the Kingdom of Cambodia.

Commented [MQ203]: Roles and responsibilities of other ministries to be defined.

ARTICLE 3

All agencies with a responsibility to prevent crime, including but not limited to: The Fisheries Administration of the Ministry of Agriculture, Forestry and Fisheries (FiA), The Forestry

Administration of the Ministry of Agriculture, Forestry and Fisheries (FA), The CITES Management Authority of Cambodia, The General Department of Customs and Excise of the Ministry of Economy and Finance, The National Police and Military Police of the Ministry of Interior, have the responsibility to coordinate, collaborate and share information with, as required by Ministry of Environment guidelines, with the Ministry of Environment on offences involving threatened plants, habitats, and ecosystems, including but not limited to:

- National and international investigations of illegal plant or timber possession, trade or trafficking.
- Seizures of threatened plants or timber possessed illegally, made under the Law on Customs, Law on Forestry, the sub-decree on prohibited and restricted goods and this Environmental Code.
- All court cases involving threatened plants, habitats, and ecosystems.

ARTICLE 4

The Ministry of Environment shall establish a National Plant Habitat and Ecosystem Advisory Board composed of biological experts from the Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries, scientific and educational institutions, and non-profit organizations.

ARTICLE 5

The National Plant Habitat and Ecosystem Advisory Board shall meet no less than every 5 years, to review and update the classifications of threatened plant species, threatened plant habitats, threatened ecosystems, and invasive species in Cambodia, as set forth in this Title.

CHAPTER 3 CLASSIFICATION OF PLANT SPECIES

ARTICLE 6

The Ministry of Environment shall create and maintain a publicly available national list of threatened plant species occurring within the country of Cambodia. Upon passage of this law, The National List of Threatened Plant Species will adopt all plant species known to occur in Cambodia that are listed on the International Union for Conservation of Nature (IUCN) Red List. The National List of Threatened Plant Species will continually adopt any new plant species added to the IUCN Red List that are known to occur in Cambodia, effective immediately upon their listing with the IUCN Red List.

ARTICLE 7

The National List of Threatened Plant Species shall observe the same categories and definitions as set forth the IUCN Red List Categories and Criteria, version 3.1, second edition.

ARTICLE 8

At the time that any plant species listed on the IUCN Red List that was previously not known to occur in Cambodia is discovered to occur in Cambodia, it shall be added to The National List of Threatened Plant Species.

ARTICLE 9

Plant species that do not occur on the IUCN Red List may be added to The National Threatened Plant Species list by documenting the criteria set forth in the IUCN Red List Categories and Criteria, version 3.1, second edition. The required documentation for listing of a species shall be made publicly available by the appropriate ministry within 120 days of listing the plant species.

ARTICLE 10

Species listed on The National List of Threatened Plant Species will be further categorized into the following schedules:

Schedule 1 - All species, including those non-native to Cambodia, listed as Extinct in the Wild, Critically Endangered or Endangered on the IUCN Red List of Threatened species, or those species which have been added to the aforementioned categories on The National List of Threatened Plant Species. All species non-native to Cambodia listed on Appendix 1 of CITES are also included in Schedule 1 (see annex x for list of CITES species).

Schedule 2 - All species, including those non-native to Cambodia, listed as Vulnerable, Near Threatened, Data Deficient or Not Evaluated, on the IUCN Red List of Threatened Species, those species which have been added to the aforementioned categories on The National List of Threatened Plant Species, and all species non-native to Cambodia and listed as Appendix 2 of CITES (see annex x for list of CITES species).

Schedule 3 - All species, including those non-native to Cambodia, listed as Least Concern on the IUCN Red List of Threatened Species, and all species non-native to Cambodia and listed on Appendix 3 of CITES (see annex x for list of CITES species).

CHAPTER 4 PROHIBITIONS ON PLANT COLLECTION

ARTICLE 11

The collection, destruction, consumption, sale, trade or trafficking of any threatened plants, or derivatives thereof, that are listed on The National List of Threatened Plant Species except where provided for in Chapter 5 of this Title shall be prohibited.

ARTICLE 12

The collection or destruction of any plants inside of a protected area except where provided for in Chapter 5 of this Title or in proper accordance with a protected area management plan shall be prohibited.

CHAPTER 5 GRANTING PERMITS FOR SPECIAL PURPOSES

ARTICLE 13

The Ministry of Environment may grant special permission for the collection, sale, trade, or trafficking of threatened plants, or derivatives thereof, wherein the granting of these permissions stipulates appropriate restrictions on scale and timeframe such that the activities practiced under this permission will not diminish natural populations or hinder the rehabilitation of natural populations of the threatened plants, as determined by the best available science at the time of granting.

ARTICLE 14

The Ministry of Environment may grant special permission for the collection of threatened plants for scientific purposes unless such collection is determined to have the potential to cause the extinction of the threatened plant, or cause irreparable damage to the natural population of the threatened plant as determined by the best available science at the time of granting. Permits granted for scientific purposes may only be granted to those representing a recognized academic institution, research institution, herbaria, or botanical garden.

Commented [MQ204]: Permitting procedures to be developed. May be in sub-legislation to the Code.

ARTICLE 15

The Ministry of Environment may grant special permission for activities on or near a threatened plant species habitat, wherein the granting of these permissions stipulates appropriate restrictions on the activities such that the activities practiced under this permission will not diminish natural populations or hinder the rehabilitation of natural populations of the threatened plants within the habitat, as determined by the best available science at the time of granting.

ARTICLE 16

The collection, sale, trade, or trafficking of threatened plants for medicinal purposes except where granted special permission under this article shall be prohibited.

ARTICLE 17

The responsible authorities shall deny special permissions under this article where there is not sufficient scientific information as to make a determination of the impact of the activities on the threatened plant species or its habitat, with the exception of special permissions being granted strictly for scientific purposes. In such cases where special permissions are granted for scientific purposes, in the absence of sufficient scientific information to make a clear determination, restrictions on the scope of collection will be adequate so as to minimize the possibility that the activities will cause the extinction of the threatened plant, or cause irreparable damage to the natural population of the threatened plant.

CHAPTER 6 SUSPENSION OR CANCELLATION OF PERMITS

ARTICLE 18

The Ministry of Environment shall retain the authority to temporarily or indefinitely suspend, or cancel any permits granted under Chapter 5 of this Title based upon new data, scientific information, or newly identified threats to the threatened plant species or its habitat.

CHAPTER 7 CLASSIFICATION OF THREATENED PLANT SPECIES HABITAT

ARTICLE 19

The Ministry of Environment shall designate any natural habitat of a threatened plant species as a threatened plant species habitat.

CHAPTER 8 PROHIBITIONS ON ACTIVITIES AFFECTING THREATENED PLANT SPECIES HABITAT

ARTICLE 20

The destruction or alteration of the natural habitat of a threatened plant species that is determined by appropriate authorities to cause, directly or indirectly, the destruction of a threatened plant in its natural habitat except where provided for in Chapter 5 of this Title shall be prohibited.

CHAPTER 9 PLANT SPECIES MANAGEMENT AND RECOVERY PLANS

ARTICLE 21

The Ministry of Environment shall develop Species Management and Recovery Plans (SMRP) for all threatened plant species native to Cambodia listed on The National list of Threatened Plant Species. Plans shall cover a 10-year period and a single plan may cover multiple species, including wildlife species.

ARTICLE 22

The Ministry of Environment shall define within SMRPs the necessary conservation and management actions required to ensure ecologically functional populations of listed species persist in Cambodia. SMRPs shall include identification of threats (both direct and indirect) and the actions required to mitigate these threats and secure populations. Plans shall identify the important threatened species habitats for the conservation of species and should prescribe habitat-specific and landscape-specific management actions necessary to achieve the SMRP's goal for the conservation and survival of the species.

ARTICLE 23

SMRPs shall include objective, measurable criteria which when met, would result in improved conservation status of the target species and its habitat, and said SMRPs shall also include estimates of the time and financial resources required to carry out those measures.

ARTICLE 24

SMRPs shall be referred to in all Environmental Impact Assessments that impact known threatened plant species habitats and must demonstrate that the project will not diminish natural populations of threatened plants or hinder the rehabilitation of natural populations of the threatened plants through implementation of the SMRP.

ARTICLE 25

SMRPs shall be developed by relevant experts in collaboration with the relevant department of Ministry of Environment and FA, and reviewed and approved by the National Plant Habitat and Ecosystem Advisory Board.

CHAPTER 10 CLASSIFICATION OF CRITICAL ECOSYSTEMS

ARTICLE 26

The Ministry of Environment shall create and maintain a publicly available National List of Threatened Ecosystems occurring within the Kingdom of Cambodia, which will document ecosystems that are threatened irrespective of the presence or absence of threatened plants or

Commented [MQ205]: Could be consolidated with wildlife board. But need to ensure plants are not overlooked in this case.

wildlife within said ecosystem. Upon passage of the Environmental Code, The National List of Threatened Ecosystems will adopt all ecosystems that occur in Cambodia that are listed on the International Union for Conservation of Nature (IUCN) Red List of Ecosystems. The National List of Threatened Ecosystems will continually adopt any new ecosystems added to the IUCN Red List of Ecosystems that occur in Cambodia, effective immediately upon their listing with the IUCN Red List of Ecosystems.

ARTICLE 27

The National List of Threatened Ecosystems shall observe the same categories and definitions for The National List of Threatened Ecosystems as set forth in the Guidelines for the Application of IUCN Red List of Ecosystems Categories and Criteria, version 1.0.

ARTICLE 28

Threatened ecosystems in Cambodia that do not occur on the IUCN Red List of Ecosystems may be added to The National List of Threatened Ecosystem by documenting the criteria set forth in the IUCN Red List of Ecosystems Categories and Criteria, version 1.0. The required documentation for listing of an ecosystem shall be made publicly available by the appropriate ministry within 120 days of listing the plant species.

CHAPTER 11 CRITICAL ECOSYSTEM MANAGEMENT AND REHABILITATION PLANS

ARTICLE 29

The Ministry of Environment shall develop Ecosystem Management and Recovery Plans (EMRP) for all threatened ecosystems listed on The National List of Threatened Ecosystems. Plans shall cover a 10-year period.

ARTICLE 30

The Ministry of Environment shall define within EMRPs the necessary conservation and management actions required to ensure persistence and ecological integrity of listed ecosystems in Cambodia. EMRPs shall include identification of the geographical scope, the key focal ecological resources within the ecosystem, ecological threats (both direct and indirect), ecological indicators that can be actively monitored, and a range of acceptable and unacceptable values for each of the ecological indicators.

Commented [MQ206]: Will be defined, with examples.

Commented [MQ207]: Will be defined, with examples.

ARTICLE 31

Upon any ecological indicator having a value that is not “acceptable”, the appropriate ministries shall take mitigation steps determined by the best available science at that time that aim to achieve an acceptable value for the ecological indicator.

ARTICLE 32

EMRPs must be referred to in all Environmental Impact Assessments that impact listed Threatened Ecosystems and must demonstrate that the project will not diminish the ecological integrity of the ecosystem or hinder the rehabilitation and/or management of the threatened ecosystem through implementation of the EMRP.

ARTICLE 33

EMRPs will be developed by relevant experts in collaboration with the relevant departments of MoE and FA, and reviewed and approved by The National Plant Habitat and Ecosystem Advisory Board.

CHAPTER 12 PROHIBITIONS ON LAND CLEARING, LOGGING AND DISRUPTION OF NATIVE VEGETATION

ARTICLE 34

Land clearing, logging and disruption of native vegetation on any public lands without conducting an Environmental Assessment and gaining the permission of the appropriate ministries and/or authorities shall be prohibited.

CHAPTER 13 MANAGEMENT OF INVASIVE SPECIES

ARTICLE 35

The Ministry of Environment shall create and maintain a National List of Invasive Species that either currently occur in Cambodia or would pose a threat if introduced in Cambodia. The National Plant Habitat and Ecosystem Advisory Board will create and maintain The National List of Invasive Species.

ARTICLE 36

The Ministry of Environment shall develop an Invasive Species Management Plan (ISMP) to address all invasive species currently known to occur in Cambodia. The ISMP will seek to eradicate and/or minimize the impacts of invasive species on the environment, economy, and human health. An ISMP may address the management of more than one invasive species.

CHAPTER 14 MANAGEMENT AND APPROVAL OF GENETICALLY ENGINEERED SPECIES

ARTICLE 37

The appropriate ministries shall establish a National Counsel on Genetically Engineered Organisms (NCGEO) that will oversee for the approval and regulations for use of any genetically engineered organisms in Cambodia outside of a controlled laboratory environment. The council will be made up of relevant experts from the Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries, Ministry of Health, scientific and educational institutions, and non-profit organizations.

ARTICLE 38

The introduction of genetically engineered organisms into the natural environment or agricultural landscape, unless otherwise approved by the NCGEO, shall be prohibited.

ARTICLE 39

The NCGEO shall establish appropriate regulations for the use of any approved genetically engineered organisms so as to prevent any damage to the natural biodiversity of Cambodia, or to the health of its people.

CHAPTER 15 MANAGEMENT OF CONFISCATED THREATENED PLANTS OR DERIVATIVES THEREOF

ARTICLE 40

All threatened plants or derivatives thereof confiscated under this law must either be:

- a) in the case of living specimens, whenever possible, be appropriately re-introduced into the original habitat or given to an appropriate institution for propagation or research purposes (e.g. botanic garden, herbarium, research institute, or university).
- b) in the case of dead plants or non-propagative derivatives thereof, maintained or stored following the approved procedures.

ARTICLE 41

In instances where confiscated items need to be maintained as evidence for court cases, all high-value plant materials or derivatives thereof having a market value of more than one-hundred USD

Commented [MQ208]: Chapters 15-19 are modified from the proposed Wildlife section, perhaps there's possibility to consolidate?

must be kept secure by the Provincial Department of Environment following appropriate management and security protocols until such time as the court case is completed.

ARTICLE 42

Once a court case has been completed, all high-value plant materials or derivatives thereof maintained as evidence must be returned to the Ministry of Environment and either destroyed or sold at public auction.

Commented [MQ209]: How proceeds to be management to be determined.

CHAPTER 16 PROCEDURES TO RESOLVE OFFENSES

ARTICLE 43

Offenses regarding the destruction, sale, trade, or trafficking of threatened plants, and the destruction of threatened plant habitats offences are criminal offences specifically as defined herein.

Officials of MOE having duties as judicial police officers have the authority to investigate, prevent offences regarding threatened plants anywhere within Cambodia, and to file such cases with the court.

Judicial police officers of MOE have the duty to detect felonies, misdemeanours and crimes, to identify and arrest offenders, collect evidence, and to conduct investigations.

Operations by MOE officials who are commissioned as justice police officials shall be carried out in accordance with the law on criminal procedures of the Kingdom of Cambodia.

ARTICLE 44

After an arrest is made, any confiscated evidence shall be managed in accordance with the procedures of the [GDANCP?] as outlined in Chapter 15.

ARTICLE 45

Local authorities, armed forces, Customs officials, police, the Forestry Administration, Fisheries Administration, and the public shall facilitate the process of providing information, and assist in the investigation, prevention, and suppression of offences regarding threatened plants, or in the temporary custody of any seized evidence so that it can be made available at the request of MOE. Officials of MOE, in cooperation with local authorities and enforcement agencies shall take prompt action to investigate any case of offences regarding threatened plants.

ARTICLE 46

Officials of the MOE, in their role as Judicial Police Officers, shall have the authority to use weapons and authority to use self-defence against physical violence by offenders, while performing their mission. The weapons shall be managed by the Ministry of Interior.

ARTICLE 47

The filing of offences against plants shall be in accordance with the Criminal Procedures in force. The Ministry of Environment and the Ministry of Justice shall make a joint prakas on the procedures for recording offences against threatened plants.

ARTICLE 48

Evidence of offences regarding threatened plants shall be defined as follows:

- Plants, leaves, roots, timber, extracts, or other derivatives of a threatened plant that are the actual evidence of illegal activities;
- Equipment and means of transport used for committing illegal activities; and
- Evidence as stated in the first sentence above shall be seized and managed following the stipulations of chapter 15 and any other guidelines issued by the Ministry of Environment. Evidence of equipment and means of transport shall be seized and managed following the guidelines issued by the Ministry of Environment.

ARTICLE 49

Officials of MOE and Provincial Department of Environment have the authority to temporarily stop all or part of a person's or company's activity that has offended against the provisions of this law or breached an agreement until the case is resolved.

ARTICLE 50

Any person, company or other entity who disagrees with the decision made by MOE as outlined in this law, shall have the rights to make a written complaint to MOE within at most thirty (30) days as of the date a decision by the Provincial Department of Environment or the court is received.

The MOE shall make decisions on this complaint within at most thirty (30) days as of the date the complaint is received.

If upon the complaint, a decision made by the MOE is still not acceptable by the plaintiff, he/she can file a complaint to court within thirty (30) days at most.

Any complaint made under this article shall not affect the authority of, or stay the process of enforcement by MOE officers under this Environmental Code.

CHAPTER 17 OFFENSES AND LEGAL PENALTIES

ARTICLE 51

Punishments for offences regarding threatened plants include imprisonment, fines by court procedures, transactional fines, confiscation of evidence, payment of restoration damages, termination and suspension of permits.

If the offender refuses to pay the fines or restoration damages, then the DOE/MOE may file a court proceeding on the offence.

All offences against this legislation shall result in the immediate confiscation of the offending items, whether wildlife or equipment/transportation, in addition to the following:

A Class 1 Offence is considered a serious crime and will receive the highest penalty possible of 5-10 years imprisonment, and/or fines from fifty million riels (50,000,000) to two hundred million riels (200,000,000).

A Class 2 Offence shall receive a penalty of 1-5 years imprisonment and/or fines from ten million riels (10,000,000) to one hundred million riels (100,000,000).

A Class 3 Offence shall receive a penalty of six months to 1 year imprisonment plus fines from two million riels (2,000,000) to ten million riels (10,000,000).

A Class 4 offence shall receive a penalty of fines from four hundred thousand riels (400,000) to two million riels (2,000,000) or three times the value of the goods, where this exceeds the aforementioned fine.

The fines named herein shall be increased every 3 years in line with inflation starting from the date this Environmental Code comes into force.

ARTICLE 52

Offences regarding the collection or destruction of threatened plant species shall be classified as

follows:

- Any and all offences regarding the collection or destruction of threatened plant species or threatened plant species habitats listed under chapters 4 and 7 of the Environmental Code against a Schedule 1 species is considered a Class 1 Offence
- Any and all offences regarding the collection or destruction of threatened plant species or threatened plant species habitats listed under chapters 4 and 7 of the Environmental Code against Schedule 2 species is considered a Class 2 offence
- Any and all offences regarding the collection or destruction of threatened plant species or threatened plant species habitats listed under chapters 4 and 7 of the Environmental Code against Schedule 3 species is considered a Class 3 offence

ARTICLE 53

Failure to carry or produce a valid permit issued under Chapter 5 of the Environmental Code when within the Core and Conservation Zones of a protected area is considered a Class 2 offence.

ARTICLE 54

Transfer of a permit to another person not named as the permit holder is considered an offence and will result in the suspension of the permit for 1 year in addition to penalties applied under Article 51.

ARTICLE 55

Offences related to the trade, trafficking or commerce in threatened plants and all derivatives thereof, as listed in chapter 3 of the Environmental Code, will be subject to the following penalties:

- Any and all trade, trafficking and commerce offences against Schedule 1 species is considered a Class 1 offence and shall be subject to the penalties outlined in article 45
- Any and all trade, trafficking and commerce offences against Schedule 2 species is considered a Class 2 offence and shall be subject to the penalties outlined in article 45
- Any and all trade, trafficking and commerce offences against Schedule 3 species is considered a Class 3 offence and shall be subject to the penalties outlined in article 45

When a person, company or other legal entity is already definitively convicted for a crime under this article of the Environmental Code and committed a new crime within a period of 5 years, the

maximum term of imprisonment and fine imposed for the new crime is doubled.

ARTICLE 56

Assaulting, obstructing, impeding or interfering with any enforcement officer in the performance of his/her functions under the Environmental Code, causing the disappearance of, damaging or destroying any item sized under the Environmental Code or destroying any item to prevent the seizure thereof, shall be considered a Class 3 offence.

Refusing an enforcement officer access to premises, hindering or delaying any enforcement officer in effecting entry, refusing an enforcement officer any information relating to an offence under the Environmental Code or any other information shall be considered a Class 4 offence.

Failure to comply with an enforcement officer's requests shall be considered a Class 4 offence.

ARTICLE 57

Where an offence against the Environmental Code has been committed by a company, every person who, at the time of the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Where an offence against the Environmental Code has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, supervisor, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Where an offence against this Title has been committed by a company, the penalties applied shall be double the provisions outlined in Article 51, as well as include the following additional penalties:

1. Dissolution
2. Placement under judicial surveillance
3. Banning from pursuing one or several activities
4. Expulsion from public market places

5. Closure of an establishment having served to prepare or to commit the offence
6. Prohibition against operating an establishment opened to the public or utilized by the public
7. Confiscation of instruments materials or any objects which are used to commit the offence or were intended to commit the offence
8. Confiscation of objects or funds with which the offence was carried out
9. Confiscation of incomes or the properties earned by the offence
10. Confiscation of utensils, materials and moveable objects at the place where the offence was committed
11. Publication of the decision on the conviction in the media by all means of audio-visual communications

The making additional penalties shall follow the guidelines of the Criminal Code of the Kingdom of Cambodia.

ARTICLE 58

These provisions apply to preventing and combating serious crime where the offences involve an organized criminal group.

For the purposes of these provisions, an "organized criminal group" refers to a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more offences to which the Environmental Code applies, in order to obtain, directly or indirectly, a financial or other material benefit.

Any person who takes an active part in criminal activities of an organized criminal group, knowing either the aim and general activity of the organized criminal group, or its intention to commit the crimes in question, commits an offence punishable by two times the penalties outlined in article 45.

ARTICLE 59

A person who intentionally organizes, directs, aids, abets, facilitates, counsels or procures the commission of a serious crime involving an organized criminal group commits an offence.

The penalty for organizing or directing a serious crime shall be three times the penalties outlined

in article 45.

The penalty for aiding, abetting, facilitating, counselling or procuring shall be two times the penalties outlined in Article 45.

ARTICLE 60

A person who agrees with one or more other persons to commit a crime under this legislation in order to obtain directly or indirectly, a financial or other material benefit, is subject to the provisions and penalties of this law and is considered a Class 1 offence as outlined in Article 45.

ARTICLE 61

For offences under this chapter, the knowledge, intention, aim, purpose or agreement referred to in each offence may be inferred from objective factual circumstances.

ARTICLE 62

In sentencing a person convicted of an offence to which these provisions apply, a court may take into account the following:

- The seriousness of the offence
- Any previous convictions for an offence covered by this legislation or in another country
- Whether the person, company or other entity has voluntarily cooperated by providing information or otherwise assisted law enforcement authorities to investigate and prosecute other offences to which the Environmental Code applies.

CHAPTER 18 REWARDS

ARTICLE 63

The [authorized person] may order such financial rewards he or she thinks fit to be paid to any person for services rendered in connection with the detection of any offence under the Environmental Code or any of its subsidiary legislation, or in connection with any seizures made under the Environmental Code.

CHAPTER 19 REGULATIONS

ARTICLE 64

The Minister may make such regulations as may be expedient or necessary for better carrying out the provisions of the Environmental Code or for prescribing anything that may be, or is required to be, prescribed under the Environmental Code.

Regulations may be made in respect of the following:

- The administration and management of threatened plants, and threatened plant habitats
- The maintenance and preservation of threatened ecosystems
- The importation and use of invasive species
- The means of disposing of any high value confiscated plant products such as timber
- The fees payable under the Environmental Code.

TITLE 8 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

ARTICLE 1

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

ARTICLE 2

The appropriate ministry shall have the authority to manage natural resources of all waters and

lands, both emergent and submerged, in the Coastal Zone of the Kingdom of Cambodia, and to oversee and regulate all development or other activities affecting the waters, lands and associated natural resources of the Coastal Zone.

ARTICLE 3

- a) Consistent with the National Water Resources Policy for the Kingdom of Cambodia approved by Council of Ministers on 16 January 2004, the appropriate ministry shall:
- b) Take full account of and minimize the potential impacts to Coastal Waters by managing natural resources and human activity in the coastal watershed, consisting of the river basins that flow directly to the Gulf of Thailand.
- c) Manage natural resources and human activity in the Coastal Zone in a fully integrated way, in order to avoid or minimize unintended impacts to Coastal Waters.
- d) Actively and comprehensively manage all land-based and shoreline sources of solid, liquid and airborne environmental contaminants that may enter Coastal Waters.

ARTICLE 4

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

CHAPTER 2 COASTAL SUBZONES

ARTICLE 5

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

- a) Coastal Waters – Those waters extending seaward 5 km. from the shoreline, including the associated submerged lands.
- b) Coastal Lands – Those emergent lands extending inland from the shoreline for a distance of 5 km, including the intertidal zone.
- c) Coastal Watershed – The entirety of the combined watersheds draining to the marine waters of Cambodia.

ARTICLE 6

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

CHAPTER 3 COASTAL ZONE MANAGEMENT MANDATES

ARTICLE 7

Pursuant to this authority, the appropriate ministry shall:

1. Consistent with the responsibilities listed in Article 5 of the Royal Decree on The Establishment of a National Committee on Coastal Zone Management and Development of Cambodia [*The status of this committee needs to considered*], undertake the following roles and responsibilities:
 - a) Prepare policies, strategic plans, master plans, action plans, programmes, and various projects pertaining to coastal management and development.
 - b) Produce necessary regulation and guidance to ensure the transparent, equitable, and sustainable management of the Coastal Zone.
 - c) Review and take any necessary action in regard to any passive activities affecting the environment and natural resources of the Coastal Zone.
 - d) Review and evaluate every project proposed for development and implementation in the Coastal Zone to ensure compliance with guidelines for Coastal Zone development issued by the Royal Government.
 - e) Participate in checking and providing comments to competent institutions on investment proposals that may impact the Coastal Zone.
 - f) Review, monitor, and mediate all activities undertaken, or planned to be undertaken, by ministries, institutions, sub-national administrations, national and international organisations, non-government organisations, civil societies, and private sectors that may have impacts in the Coastal Zone so as to ensure that their activities are coordinated in a smooth, effective, and sustainable fashion.
 - g) Provide guidance on laws and regulations governing Coastal Zone development to the sub-national administration, the private sector, and all other relevant stakeholders.

- h) Submit a yearly report on Coastal Zone management activities for submission to the Royal Government.
2. Produce and openly distribute maps of the Coastal Zone and its subzones, so that all parties, both public and private, may clearly understand the areas in which special Coastal Zone regulations apply.
3. Ensure that all proposed developments in the Coastal Waters, Coastal Lands, and Coastal Watershed are consistent with the applicable zoning restrictions applying to these lands and waters. Development projects that are found to be inconsistent with such zoning shall not be allowed.
4. Consistent with the current Law on Fisheries, NS/RKM/506/11, ensure that coral reefs, sea grass and mangroves are designated Coastal Zone aquatic resources of special value, and are accorded protected status, and updated maps of the location and extent of these resources shall be prepared based on the existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014.
5. Ensure that any activity, construction, or other type of project that results in loss of coral reef, sea grass or mangroves shall be prohibited except under special permit from the appropriate ministry. In issuing such a permit, the following criteria must be applied:
 - a) It must be demonstrated that there is no practical alternative site for the proposed activity, construction, or type of project that would avoid the loss of coral reef, sea grass or mangroves.
 - b) If a certain degree of loss is unavoidable due to the requirements of the activity, construction, or other type of project, then best management practices must be specified in the permit issued by the appropriate ministry that will serve to minimize the total loss of coral reef, sea grass or mangroves. Failure to follow these best management practices shall be considered a permit violation, and the permittee subject to a fine set by the appropriate ministry.
 - c) If an unavoidable loss of coral reef, sea grass, or mangroves is permitted, then the permittee must enter into an agreement with the appropriate ministry to ensure that an area of the same ecosystem type, and of same or greater quality, be set aside in permanent protected status as a mitigation offset. Because the benefit stream from protection of the mitigation area is probabilistic, a function of the year by year likelihood the habitat would be lost if not protected and not certain to be lost otherwise, a ratio of three times shall be applied on

Commented [MQ210]: Link to process and system for access to and distribution of other environmental information, e.g., environmental information data repository.

an areal basis. Such mitigation offsets may be added to existing protected areas in order to satisfy this requirement.

6. Produce updated maps of Future Inundation Hazard Areas for the coastal lands of Cambodia, based on existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014. Such Future Inundation Hazard Areas shall consist of all areas of the Cambodian coastal lands that are projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.
7. Ensure that development of roads, resorts, industrial facilities and other major construction or infrastructure shall not be allowed in Future Inundation Hazard Areas unless it can be demonstrated to the appropriate ministry that such developments are specifically designed to withstand such future inundation. Construction of homes, landfills, and power plants shall not be allowed in such zones.
8. Regulate the discharge of dredged and fill material into the waters of the coastal watershed through a permitting system. Applicants for such permits must demonstrate that they have taken all reasonable steps to avoid and minimize impacts to streams, wetlands, and marine waters within the Coastal Zone.
9. Evaluate the effects of current and proposed hydropower development projects on the natural resources of the Coastal Zone, and provide recommendations for minimizing or mitigating such impacts.

CHAPTER 4 COASTAL ZONE MANAGEMENT DISCRETIONARY AUTHORITIES

ARTICLE 8

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

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

- a) A description and characterization of the watershed.
- b) A strategy to control sedimentation and pollution within the watershed.
- c) Proposed management measures.
- d) Monitoring and evaluation protocols to measure the success of the sedimentation and pollution controls.

2. Assist in education and development of human resources to properly address Coastal Zone management and development.

**CHAPTER # PLANNING FOR CLIMATE CHANGE IN COASTAL ZONE
MANAGEMENT**

CHAPTER # ROLES AND RESPONSIBILITIES OF MINISTRIES

CHAPTER # ROLES OF CITIZEN AND COMMUNITIES

CHAPTER # REQUIREMENTS FOR PUBLIC CONSULTATION

**CHAPTER # PROMOTION OF SUSTAINABLE DEVELOPMENT IN THE COASTAL
ZONE**

TITLE 9 SUSTAINABLE WATER RESOURCES MANAGEMENT

The Law on Pharmaceuticals Management 1996 and the Law on Water Resource Management of the Kingdom of Cambodia 2007 are hereby amended and clarified as follows:

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

DEFINITIONS

Aquifer - a geological formation where underground water accumulates permanently.

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

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

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

Demand management, for water, includes—

a) Reducing demand for water; and

- b) Increasing the efficiency of water supply works; and
- c) Increasing the efficiency of the use of water by end users; and
- d) Substituting a process that does not use a water resource for one that does use a water resource; and
- e) Substituting one water resource for another.

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

Ecosystem - A dynamic combination of plant, animal and micro-organism species and communities and their non-living environment and the ecological processes between them interacting as a functional unit.

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

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

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

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

Permit - A document with enforceable provisions which confers to a person the right to undertake activities which may affect water and water resources.

Person - Any physical or juridical person, whether private or public.

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

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

Public purpose - Urban and rural water supply, food production, hydro-power generation, navigation, industrial development, and the maintenance of minimum flows or water levels for

ecological, cultural and religious purposes and the preservation of aquatic life.

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

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

Sub-basin - A portion of a river basin as defined above.

Water - Surface, underground and atmospheric water.

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

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

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

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

CHAPTER 1 GENERAL PROVISIONS

SECTION 1 PURPOSE AND PRINCIPLES

ARTICLE 1

The purpose of this Title is to foster the sustainable management and efficient use of the country's water resources by establishing a system for the planning, allocation and use of water so as to support environmental protection, sustainable development and the welfare of the people.

ARTICLE 2

Consistent with the National Water Resources Policy for the Kingdom of Cambodia approved by Council of Ministers on 16 January 2004, this Title aims to:

- a) Determine the rights and obligations of water users;
- b) Define the fundamental principles of water resources management; and
- c) Ensure the participation of water users and their associations in the sustainable management of water resources.

ARTICLE 3

Water and water resources shall be managed and developed based on the following principles of integrated water resources management (IWRM):

- a) Social equity: ensuring equal access for all users (particularly marginalised and underrepresented groups) to an adequate quantity and quality of water necessary to sustain human well-being;
- b) Economic efficiency: bringing the greatest benefit to the greatest number of users possible with the available financial and water resources; and
- c) Ecological sustainability: requiring that adequate allocation be made to sustain the natural functioning of water-dependent ecosystems.

ARTICLE 4

In implementing IWRM, the Ministry of Water Resources and Meteorology (MOWRAM) shall take into account:

- a) All aspects of water resources;
- b) Linkages between water resources and other components of the natural environment, including land, fisheries, flora and fauna; and
- c) The requirements for effective and sustainable water use by human beings and the natural environment.

ARTICLE 5

The implementation of IWRM shall be carried out jointly and within a cooperative framework

including all relevant agencies with mandated responsibilities for water use, development, and sustainable management of living aquatic resources and their associated ecosystems.

ARTICLE 6

The Royal Government of Cambodia shall encourage the collaboration with and participation of the relevant agencies, private sectors, beneficiary groups, NGOs and International Organizations in all activities related to the management, investment, exploitation, conservation, and development of the water resources.

SECTION 2 OWNERSHIP OF WATER AND WATER RESOURCES

ARTICLE 7

All water and water resources are owned by the Kingdom of Cambodia.

ARTICLE 8

The diversion of water from the Kingdom of Cambodia territory shall be permitted and agreed only by the Royal Government of Cambodia with due ratification by the legislative bodies.

CHAPTER 2 WATER RESOURCES MANDATES

SECTION 1 LEAD MINISTRY MANDATES

ARTICLE 9

MOWRAM shall manage, lead and supervise the implementation of this Title, including conducting consultations with other concerned ministries and stakeholders in the course of carrying out its mandates.

ARTICLE 10

MOWRAM shall maintain a centralized inventory of the water resources of The Kingdom of Cambodia, including the location, quantity, and quality of the resources during each year.

ARTICLE 11

Data on quantity and quality, and any other water-related information collected by other institutions, whether at the national, provincial or district level, shall be submitted to the MOWRAM on MOWRAM's request in the format requested by MOWRAM.

ARTICLE 12

The above data and information shall be provided free of charge to all government agencies and other communities for the public interests, except for that information classified as confidential. MOWRAM may require the payment of a fee for data requested for commercial purpose.

ARTICLE 13

MOWRAM may establish sub-decrees to give effect to the objectives and provisions of this Title, including, but not limited to, the following:

- a) Areas where the take or interference of water, or the construction of infrastructure, is prohibited;
- b) The regulation of infrastructure to take or interfere with water resources;
- c) The creation and management of river basin authorities;
- d) Priority matters for inclusion in river basin water resources plans;
- e) Incentives for research on, or the development of, new technologies, that will contribute to the reduction of waste and improvement in water quality, and increase water use efficiency;
- f) Incentives and disincentives, including financial mechanisms such as use charges and inclining block tariffs, to encourage the efficient use of water resources;
- g) The creation and management of water user communities, including farmer water user communities;
- h) The regulation of the discharge, disposal or depositing of polluting substances which are likely to deteriorate the quality of water and to endanger human and ecosystem health;
- i) The declaration of protected water use zones;
- j) The designation and management of flood retention areas; and
- k) The imposition of fees and charges to cover the costs of managing water resources in accordance with this title.

SECTION 2 GOVERNMENT COORDINATION

ARTICLE 14

A National Committee of River Basin Planning and Management will be established by sub-decree under the Chairpersonship of MOWRAM, involving Secretaries of State from at least 15 key ministries and the Cambodia National Mekong Commission.

ARTICLE 15

The duties of the National Committee of River Basin Planning and Management include:

- a) Coordinating and overseeing the development of the National Strategic Water Plan;
- b) Monitoring and evaluating the implementation of the National Strategic Water Plan for the management, protection, conservation and development of river basins;
- c) Mediating and resolving any conflicts in management, protection, conservation and development of river basins; and
- d) Undertaking any other tasks as directed by the Royal Government of Cambodia.

ARTICLE 16

In case of need, the Royal Government of Cambodia shall set up a joint commission for addressing and coordinating works and activities among the Ministries concerned.

ARTICLE 17

The Kingdom of Cambodia has the right and duty to participate in the utilization, development and management of an equitable and reasonable share of the international river basins in its territory, consistent with the obligations arising from the international agreements to which Cambodia is a Party.

ARTICLE 18

MOWRAM shall pay particular attention to the optimum and effective use of the Mekong River Basin, consistent with the governing principles of the Cambodia National Mekong Committee.

CHAPTER 3 WATER RESOURCES PLANNING

SECTION 1 OBJECTIVES AND PRINCIPLES

ARTICLE 19

MOWRAM shall plan for the allocation and sustainable management of water to meet Cambodia's

future water requirements, by preparing national and river basin water resources plans.

ARTICLE 20

In preparing river basin water resources plans, MOWRAM must coordinate with all interested and relevant government entities including Commune Offices.

ARTICLE 21

The preparation and implementation of river basin water resources plans may be delegated from MOWRAM to river basin authorities established under sub-decree.

ARTICLE 22

A river basin authority preparing or implementing a river basin water resources plan in accordance with Article 20 must comply with the provisions of this Title.

ARTICLE 23

MOWRAM must collect, store, make available and use information for planning purposes by:

- a) Regularly measuring and keeping publicly available records of the volume and quality of water in Cambodia;
- b) Collecting information on the water requirements of, and impacts of water management on, natural ecosystems, including from other Ministries;
- c) Collecting information about future water requirements; and
- d) Continually upgrading the national monitoring network to ensure information under this Article can be collected.

ARTICLE 24

MOWRAM may establish a technical advisory group to advise on matters about:

- a) A proposed or draft river basin water resources plan;
- b) A proposed amendment to a river basin water resources plan; and
- c) The grant of authorisations under Chapter 4.

SECTION 2 NATIONAL STRATEGIC WATER PLAN

ARTICLE 25

A National Strategic Water Plan shall be prepared, in accordance with Article 15, to provide guidance for pursuing the:

- a) Objectives of this Title;
- b) Long-term water supply security within the Kingdom of Cambodia;
- c) Sustainability of the water resources of the Kingdom of Cambodia;
- d) Protection of water and flow dependent ecosystems; and
- e) Fair and effective allocation and utilization of water to prevent disasters and conflicts.

ARTICLE 26

The National Strategic Water Plan may include, but is not limited to, the following matters:

- a) Identification of key ecosystems that depend on water and environmental flows;
- b) Predictions of long term water demand;
- c) Identification of long term climate and weather trends;
- d) Predictions of future water availability and variability;
- e) Options for meeting future water requirements;
- f) Options for managing future water demand;
- g) Prioritization of water uses;
- h) Drought management strategies;
- i) Flood management strategies; and
- j) Water quality performance objectives.

SECTION 3 RIVER BASIN WATER RESOURCES PLANS

ARTICLE 27

MOWRAM shall prepare river basin water resources plans to:

- a) Define the availability of water for any purpose;
- b) Provide a framework for sustainably managing water and the taking of water;
- c) Identify priorities and mechanisms for dealing with future water requirements;
- d) Provide a framework for establishing water allocations; and
- e) Provide a framework for reversing, where practicable, degradation that has occurred in natural ecosystems, including, for example, stressed rivers.

ARTICLE 28

River basin water resources plans must also regulate the taking of groundwater if MOWRAM is satisfied that there is a risk that taking, or interfering with, groundwater in the area may significantly affect the:

- a) Availability of water for existing users;
- b) Water requirements of natural ecosystems;
- c) Quality of water; or
- d) Achievement of any of the other objectives or outcomes in a plan.

ARTICLE 29

When MOWRAM issues a notice of intent to prepare a river basin water resources plan, a moratorium takes effect and remains in force until either:

- a) The water resources plan is approved in the form of a sub-decree; or
- b) MOWRAM issues a notice that withdraws the intent to prepare a water resources plan and states the reasons for the withdrawal.

ARTICLE 30

While a moratorium under Article 29 is in effect:

a) No application under this Code will be accepted or dealt with (even if submitted before the moratorium came into effect) if granting the application would have one or more of the following effects on the water to which the application relates:

(i) Increase the amount of water that may be taken; change the location from which water may be taken;

(ii) Change the location from which water may be taken;

(iii) Increase the rate at which water may be taken;

(iv) Change the flow conditions under which water may be taken; or

(v) Change the purpose for which the water may be taken.

b) New works must not be physically started in the area covered by the moratorium;

c) Completed works in existence must not be raised, enlarged, deepened or changed;

d) Works that have been started may be completed only with the express written approval of MOWRAM and subject to any conditions, including a completion date, imposed by MOWRAM.

ARTICLE 31

Only one river basin water resources plan may be in effect at any given time, except when separate plans are prepared for surface water and groundwater resources.

ARTICLE 32

A draft river basin water resource plan must:

a) State the purpose of the draft plan;

b) Contain a map of the proposed plan area;

c) State the water to which the draft plan is intended to apply;

d) State the outcomes, including but not limited to, the ecological outcomes, for the sustainable management of the water;

- e) To the extent possible from the best scientific information available, state the strategies proposed to achieve the outcomes identified under subsection d), including but not limited to limits on total abstractions from the basin;
- f) State the strategies proposed for the establishment of water allocations for the proposed plan area;
- g) State the environmental management rules and water sharing rules for the water to which the draft plan is intended to apply;
- h) Identify any water infrastructure to which the draft plan is intended to apply and how it will be operated (including, but not limited to, dams, hydropower schemes, irrigation supply networks and major abstraction pumps);
- i) Identify the full supply levels for any dams included in the infrastructure identified in subsection h);
- j) State the water and natural ecosystem monitoring and reporting requirements to assist in assessing the effectiveness of the proposed management strategies in achieving the outcomes mentioned in subsection d);
- k) State the periodic reporting requirements for the draft plan;
- l) Include a schedule of proposed arrangements for implementing the draft plan;
- m) Include information about any unallocated water available for future consumptive purposes and the priorities and processes for allocating or reserving of the water;
- n) Establish a process for granting, reserving or otherwise dealing with any unallocated water to which the draft plan is intended to apply;
- o) State criteria for adjusting existing water access entitlements, if necessary to achieve the plan outcomes; and
- p) State criteria for addressing any degradation that has occurred in natural ecosystems.

ARTICLE 33

A river basin water resources plan that covers water resources of the Mekong River must also consider:

- a) Transboundary flows of water into the Kingdom of Cambodia;

- b) Any legal or equitable requirements for transboundary flows of water downstream of the Kingdom of Cambodia;
- c) Other transboundary environmental matters; and
- d) The existence, operations and requirements of intergovernmental agreements relating to the Mekong River.

ARTICLE 34

If the draft river basin water resources plan provides a framework for establishing water access entitlements, the draft plan must state the following:

- a) Environmental flow objectives;
- b) Water access entitlement security objectives;
- c) Performance indicators for environmental flow objectives and water access entitlement security objectives; and
- d) Priorities for the granting of water access entitlements.

ARTICLE 35

MOWRAM must consider the following when preparing a draft river basin water resources plan:

- a) The volume and quality of water in the plan area;
- b) National, provincial and local objectives and priorities for promoting sustainable development;
- c) Any regional plan for the area;
- d) The duration, frequency, size and timing of water flows necessary to support natural ecosystems as assessed using the best scientific information available;
- e) Any beneficial flooding necessary to support natural ecosystems;
- f) The underground water levels and underground water recharge processes necessary to support natural ecosystems;
- g) Existing entitlements to access, use or interfere with water;

- h) Cambodia's future water requirements, including cultural, economic, environmental and social requirements;
- i) Cultural, economic, environmental and social values;
- j) Technical assessments for the draft plan;
- k) The effects the draft plan will have on water not covered by the draft plan;
- l) The effects the taking, or interfering with, water not covered by the draft plan will have on water covered by the draft plan;
- m) The sustainable resource management strategies and policies for the river basin or underground water basin, including, any relevant coastal zone;
- n) All submissions about the proposed draft plan; and
- o) The public interest.

ARTICLE 36

MOWRAM must publish a notice when the draft river basin water resources plan has been prepared, stating:

- a) Where copies of the draft plan may be physically inspected and an internet site from which it may be downloaded;
- b) That written submissions may be made by any entity about the draft plan; and
- c) A day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.

ARTICLE 37

Any individual may make a submission to MOWRAM about any aspect of a draft river basin water resources plan, including any matters not included in that draft plan, by the date notified under Article 34.

ARTICLE 38

Before finalizing the river basin water resources plan, MOWRAM must consider all submissions made in accordance with Article 35 about the draft plan.

ARTICLE 39

A final river basin water resources plan does not have effect until it is approved by the Council of Ministers and takes the form of a sub-decree.

ARTICLE 40

An approved river basin water resources plan expires after 10 years unless:

- a) It is sooner repealed; or
- b) It is replaced by another water resource plan that has commenced and that states it is a replacement plan.

ARTICLE 41

MOWRAM may:

- a) Amend a river basin water resources plan; or
- b) Prepare a new river basin water resource plan to replace an existing plan.

ARTICLE 42

MOWRAM must act under Article 39 if it is satisfied that either:

- a) A river basin water resources plan's outcomes are not being achieved; or
- b) A river basin water resources plan's objectives, or the strategies for achieving the plan's outcomes, are no longer appropriate for its plan area.

ARTICLE 43

When amending an existing river basin water resources plan under Article 39, MOWRAM must comply with this Chapter as if it is preparing a new river basin water resources plan, unless the amendment is to make minor corrections to the existing plan that do not change its substantive effect.

CHAPTER 4 AUTHORISATIONS

SECTION 1 GENERAL PROVISIONS

ARTICLE 44

Every person has the right to take and use water resources, without the need for an authorisation under this chapter, for:

- a) Vital human needs, including drinking, washing, bathing, the irrigation of domestic gardens and orchards, and other domestic purposes; and
- b) Emergency purposes, including firefighting.

ARTICLE 45

Water can only be taken under Article 42 in a manner that will not affect any legal rights of any other person.

ARTICLE 46

Land owners and occupiers are entitled to collect and use rainwater and water naturally flowing over that land in accordance with 0 without authorization under this Chapter, unless the natural flow of water is hindered by the construction of roads, fences, dykes, impoundments or ponds.

ARTICLE 47

The following activities are prohibited unless allowed by an authorisation issued in accordance with this Chapter and undertaken in accordance with all conditions of the authorisation:

- a) Any interference, diversion, abstraction or use of water resources, other than in accordance with Article 42 and Article 44, and subject to Article 46;
- b) The construction or operation of any infrastructure to interfere with, divert or abstract water resources, other than in accordance with Article 42 and Article 44;
- c) The extraction of sand, soil, stones, gravel, petroleum and gas from the beds and banks of watercourses, lakes, canals and reservoirs and
- d) The filling, lining, channelling or alteration of any river, tributary, stream, natural lake, canal, or reservoir.

ARTICLE 48

MOWRAM may establish by sub-decree thresholds for the interference, diversion, abstraction or

use of water resources for certain purposes that do not require an authorisation under 0.

SECTION 2 INFRASTRUCTURE LICENCES

ARTICLE 49

MOWRAM must grant infrastructure licences to all infrastructure that is identified in a river basin water resources plan under h).

ARTICLE 50

Infrastructure licences must be granted in accordance with the river basin water resources plan under which the infrastructure is identified.

ARTICLE 51

An infrastructure licence authorises its holder to interfere with the flow of water to the extent necessary to operate the water infrastructure to which the licence applies.

ARTICLE 52

An infrastructure licence must state, but is not limited to, the following:

- a) Details of the licence holder;
- b) The river basin water resources plan to which the licence relates;
- c) The water infrastructure to which the licence applies;
- d) Any operating rules for the infrastructure identified under the relevant river basin water resources plan; and
- e) Any conditions the holder must comply with.

ARTICLE 53

The conditions of an infrastructure licence may include, but are not limited to, the following:

- a) A requirement to install a meter to measure the water taken or interfered with by the water infrastructure to which the licence applies;
- b) A requirement to carry out and report on a stated monitoring program;

- c) A requirement to report to MOWRAM information about the licence holder's performance under the licence;
- d) Payment of fees prescribed under a sub-decree; and
- e) A prohibition on altering the water infrastructure in such a way that would affect the achievement of the river basin water resources plan objectives.

ARTICLE 54

An application for a water licence under this section for any new infrastructure that may be developed in accordance with a river basin water resources plan must be accompanied by other development approvals required under this Code, including in relation to the environmental impact assessment processes.

SECTION 3 WATER ACCESS ENTITLEMENTS

ARTICLE 55

MOWRAM must maintain a register of all water access entitlements.

Article 56

Subject to Section 1, the abstraction, take or diversion of water resources can only be undertaken in accordance with a water access entitlement issued by MOWRAM.

ARTICLE 57

A person with a legal right to a parcel of land may apply to MOWRAM for a water access entitlement to take or interfere with water from:

- a) A watercourse, lake or spring on or adjoining any of the land;
- b) An aquifer under any of the land;
- c) Water flowing across any of the land; or
- d) Infrastructure operated under an infrastructure licence that can supply the water to the land.

ARTICLE 58

The application must be:

- a) Made to MOWRAM in the approved form; and

- b) Supported by sufficient information to enable MOWRAM to decide the application, including any additional information that may be requested by MOWRAM; and
- c) Accompanied by any fee prescribed under a sub-decree.

ARTICLE 59

Once MOWRAM is satisfied that it has sufficient information to decide the application, it must issue a public notice about the application stating:

- a) Details of the application;
- b) Where the application may be viewed; and
- c) A date, at least 20 business days after the public notice is issued, by which written submissions on the application may be made to MOWRAM.

ARTICLE 60

In deciding an application for a water access entitlement, MOWRAM must consider:

- a) The objectives of this Title;
- b) Any existing or planned river basin water resources plan for the area covered by the application;
- c) Existing water entitlements and authorities to take or interfere with water;
- d) Any information about the effects of taking, or interfering with, water on natural ecosystems;
- e) Any information about the effects of taking, or interfering with, water on the physical integrity of watercourses, lakes, springs or aquifers;
- f) Strategies and policies for the sustainable management of water in the area to which the application relates;
- g) The sustainable resource management strategies and policies for the river basin, including any relevant coastal zone and regional groundwater systems;
- h) Whether the applicant holds any necessary development approval under this Code or other law of the Kingdom of Cambodia for works required to take or interfere with the water.

including under the environmental impact assessment provisions of this Code;

- i) Any properly made submissions on the application;
- j) The public interest; and
- k) Whether the applicant has been convicted of any offence under this Code.

ARTICLE 61

For areas, and water resources, that are covered by a river basin water resources plan, MOWRAM must:

- a) Only grant water access entitlements in accordance with any process provided by the plan;
- b) Ensure that water access entitlements are consistent with the plan; and
- c) Not grant a water access entitlement if its nominal volume would cause the total abstraction limit under the plan to be exceeded.

ARTICLE 62

In deciding an application for a water access entitlement, MOWRAM:

- a) May grant the application in whole or in part, with or without conditions; or
- b) Refuse the application.

ARTICLE 63

Having decided the application, MOWRAM must:

- a) Provide the applicant with a written notice of the decision, including any reasons if the application is refused, within 10 business days;
- b) Issue a public notice of the decision within 10 business days;
- c) If the application is granted in whole or in part, issue a water access entitlement to the applicant within 20 business days; and
- d) Issue a written response to any properly made submission on the application within 20 business days.

ARTICLE 64

Water access entitlements must state:

- a) Its nominal volume in cubic meters;
- b) The location from which the water may be taken;
- c) The purpose for which the water may be taken;
- d) Any conditions relating to the access to, abstraction of, or use of water, which may include:
- e) Flow conditions under which the water may be taken;
- f) A maximum rate for taking water; or
- g) Any other conditions deemed necessary to achieve the objectives of this Title;
- h) Any river basin water resources plan under which it is managed;
- i) Any infrastructure licence under which it is managed; and
- j) Any priority group to which it belongs.

ARTICLE 65

The nominal volume stated on a water allocation is the maximum amount of water that may be taken during a particular period of time or in particular circumstances, subject to any water sharing rules established by a river basin water resources plan that applies to the water access entitlement.

ARTICLE 66

Prior to the start of each water year, MOWRAM must declare the announced entitlement that can be taken under a water access entitlement for that year, in accordance with the water sharing rules and priority groups established by a river basin water resources plan.

ARTICLE 67

The announced entitlement:

- a) Is a percentage of the nominal volume of a water access entitlement that may be taken in a water year;

- b) Must be decided before the start of the water year to which the announced entitlement relates;
- c) Is determined based on the actual seasonal availability of water from which the entitlement is accessed;
- d) May be increased during the water year
- e) May be different in different areas sub-area
- f) May be announced differently for each water access entitlement within a priority group; and
- g) Does not apply to authorisations with the purpose of urban or town water supply.

ARTICLE 68

For a water access entitlement that is managed under a river basin water resources plan:

- a) Water can only be taken in accordance with that plan;
- b) If there is a conflict between the plan and the water access entitlement, the plan prevails; and
- c) The water access entitlement cannot be changed in any way that would reduce the amount of, or negatively impact on the conditions under which, water can be taken for the duration of the plan, unless MOWRAM provides the entitlement holder with agreed compensation.

ARTICLE 69

The nominal volume of a water allocation, and any other conditions, may be adjusted at the end of the life of the river basin water resources plan under which it is managed, without any compensation payable.

ARTICLE 70

If a water access entitlement relates to water resources provided by infrastructure that is managed under an infrastructure licence, a supply agreement must exist between the water access entitlement holder and the infrastructure licence holder (unless they are the same legal entity).

ARTICLE 71

MOWRAM must prepare a standard supply agreement for the storage and/or delivery by infrastructure licence holders of water under water access entitlements, which:

- a) Must be publicly accessible in hard copy and electronically; and
- b) May vary for different locations.

ARTICLE 72

The standard supply agreement under Article 69 for the location to which the water access entitlement relates applies to the water access entitlement unless a separate supply agreement has been:

- a) Agreed between the infrastructure licence holder and the water access entitlement holder; and
- b) Submitted to MOWRAM in hard copy and electronic form.

SECTION 4 RIVERINE PROTECTION

ARTICLE 73

A person may apply to MOWRAM for a permit to do either or both of the following activities:

- a) Excavate in a watercourse, lake or spring;
- b) Place fill in a watercourse, lake or spring.

ARTICLE 74

The application must include the written consent of the registered owners of land, or demonstrate other legal authority to undertake the activity on the land:

- a) Wholly containing the length of the watercourse in which the activity is to take place or the part of the lake or spring where the activity is to take place; or
- b) Adjoining the watercourse, lake or spring where the activity is to take place.

ARTICLE 75

Once MOWRAM is satisfied that it has sufficient information to decide the application, it must

issue a public notice about the application stating:

- a) Details of the application;
- b) Where the application may be viewed; and
- c) A date, at least 20 business days after the public notice is issued, by which written submissions on the application may be made to MOWRAM.

ARTICLE 76

In deciding whether to grant or refuse the application, or what should be the conditions of the permit, MOWRAM must consider all of the following:

- a) The effects of the proposed activity on water quality;
- b) The quantity and type of material to be excavated or placed;
- c) The seasonal factors influencing the watercourse, lake or spring from time to time;
- d) The quantity and type of vegetation that would be destroyed as a necessary and unavoidable part of the proposed excavation or placing of fill (affected vegetation);
- e) The position in the watercourse, lake or spring of the proposed excavation or placing of fill and any affected vegetation;
- f) The reasons given by the applicant for wishing to carry out the activity;
- g) Whether, and to what extent, the activity that the permit would allow may have an adverse effect on the physical integrity of the watercourse, lake or spring;
- h) Any existing or planned river basin water resources plan for the area covered by the application;
- i) The implications of granting the permit for the long-term sustainable use of the river systems of Cambodia, and especially the cumulative effect of granting the application and likely similar applications;
- j) Any properly made submissions on the application;
- k) The public interest; and

l) Any other matters MOWRAM considers to be relevant.

ARTICLE 77

In deciding the application, MOWRAM may:

- a) Grant the permit, with or without conditions, and issue a written notice to the applicant within 30 days of the decision; or
- b) Refuse the permit, and issue a written notice to the applicant within 30 days of the decision.

SECTION 5 GROUNDWATER DEVELOPERS

ARTICLE 78

An individual may apply to MOWRAM to be a certified:

- a) Water bore driller;
- b) Water bore digger; or
- c) Groundwater pump installer.

ARTICLE 79

The application must:

- a) Be made to MOWRAM in the approved form; and
- b) State the class of licence prescribed under a sub-decree for which the applicant is applying; and
- c) Be supported by evidence that the applicant has the qualifications or experience prescribed under a sub-decree; and
- d) Be accompanied by the fee prescribed under a sub-decree.

ARTICLE 80

MOWRAM may require the applicant to give additional information about the applicant's experience or history in the water bore construction industry, including, for example if the applicant has:

- a) Been convicted of an offence against this Code, or any repealed laws; or
- b) Held a certificate to construct water bores that has been cancelled or suspended under this Code, or any repealed laws.

ARTICLE 81

In deciding the application, MOWRAM may:

- a) Grant the application, with or without conditions, and issue a written certificate to the applicant within 30 days of the decision, that states:
- b) The particular class of certificate; and
- c) Any conditions that apply; or
- d) Refuse the application, and issue a written notice to the applicant within 30 days of the decision.

ARTICLE 82

Certification under Article 76 is subject to any conditions:

- a) Prescribed under a sub-decree, including the period for which the certification has effect;
and
- b) MOWRAM may impose for a particular certification, including, but not limited to, the types of equipment and drilling methods the certificate holder may use.

ARTICLE 83

If MOWRAM is satisfied the certificate holder is no longer competent to carry out water bore construction activities authorised by the certificate, MOWRAM must give the holder a show cause notice as to why the certificate should not be cancelled or amended in the way stated in the notice.

ARTICLE 84

After considering any properly made submission in response to the show cause notice issued under Article 81, MOWRAM may cancel or amend the certificate.

ARTICLE 85

If MOWRAM decides to cancel or amend the certificate under Article 82, MOWRAM must give the holder a written notice, including reasons for the decision, within 10 business days of making the decision.

ARTICLE 86

An authorised officer may require an individual to produce the individual's certificate under this section for inspection, if the officer reasonably suspect the individual is—

- a) Drilling, digging, deepening, enlarging or casing a water bore; or
- b) Removing, replacing, altering or repairing the casing, lining or screening of a water bore;
- c) Decommissioning a water bore; or
- d) Installing, replacing, altering or decommissioning a pump.

ARTICLE 87

It is an offence to fail to produce a certificate for inspection under Article 84 without a reasonable excuse.

ARTICLE 88

Any person undertaking work in relation to water bores for professional or commercial purposes shall supply the MOWRAM with a detailed report on the work, including:

- a) The location of the work;
- b) Technical specifications for the work;
- c) Details of the authorization to undertake the work in accordance with this section
- d) Details of any water access entitlement associated with the work;
- e) Details of any river basin water resources plan for the location; and
- f) Other relevant information.

ARTICLE 89

A certificate holder must keep information prescribed under a sub-decree about any activity the holder may carry out under this Code, and provide this information to MOWRAM if requested.

SECTION 6 FORFEITURE OF AUTHORISATIONS

ARTICLE 90

MOWRAM may issue the holder of an authorisation under this Chapter a show cause notice as to why the authorisation should not be forfeited, if the holder of the authorisation:

- a) Violates any of the conditions imposed in the authorisation;
- b) Violates any provision of this Code or any related sub-decree;
- c) Is convicted of an offence against this Code;
- d) Takes water in a quantity that exceeds the amount authorized;
- e) Takes or interferes with water in a manner that is not authorized;
- f) Uses water for purposes other than those authorized;
- g) Transfers the authorisation without prior approval;
- h) Causes negative impacts on public health or the environment;
- i) Refuses to supply MOWRAM with any information reasonably requested about activities undertaken in accordance with the authorization, without a reasonable excuse; or
- j) Refuses, without justification, to pay any fees or charges under this Code.

ARTICLE 91

After considering any properly made submission in response to the show cause notice issued under 0, MOWRAM may forfeit the authorisation.

ARTICLE 92

If MOWRAM decides to forfeit the authorisation under Article 89, MOWRAM must give the holder a written notice, including reasons for the decision, within 10 business days of making the decision.

CHAPTER 5 OFFENCES

ARTICLE 93

A person must not take, supply or interfere with water to which this Title applies unless authorised to do so under the Title and unless the take, supply or interference is in accordance with the authorization.

ARTICLE 94

The holder of an authorization under this Title must not contravene a condition of the authorization.

CHAPTER 6 TRANSITIONAL ARRANGEMENTS

ARTICLE 95

MOWRAM must establish an implementation schedule, including a list of priority actions, for the preparation of river basin water resources plans in accordance with 0 within 12 months of the commencement of this Title.

ARTICLE 96

A water access entitlement is not required for the following purposes:

- a) Irrigation of land of a total area less than 10 hectares;
- b) Clean water supply, in which the water used is less than 40 cubic meters per day; or
- c) Run-of-river hydropower, or other hydropower techniques, that do not require the impoundment, diversion or abstraction of water.

ARTICLE 97

Article 94 only has effect until the earlier of the following dates:

- a) 1 January 2019; or
- b) The date on which a sub-decree, established in accordance with Article 46, takes effect.

ARTICLE 98

Any legal entity that has been undertaking activities covered by 0 without any prior authorisation from MOWRAM, or a municipal or provincial Department of Water Resources and Meteorology, shall take action to comply with 0 within 6 months of the commencement of this Code.

ARTICLE 99

The banks and shores of river basin components and features are measured as follows:

- a) Beach and Estuary are measured to be 100 meters from the shore and mouth (the highest tide);
- b) River is measured to be 50 meters from the river bank;
- c) Tributary is measured to be 30 meters from the tributary bank;
- d) Creek is measured to be 20 meters from the creek bank;
- e) Stream is measured to be 10 meters from the stream bank
- f) Main Canal is measured to be 10 meters from the external part of canal dikes;
- g) Sub Canal is measured to be 5 meters from the external part of canal dikes;
- h) Irrigated Canal is measured to be 3 meters from the external part of canal dikes;
- i) River Basin is measured to be 100 meters from the maximum setting of water level in the basin; and
- j) Lake is measured to be 50 meters from the maximum setting of water level in the basin.

ARTICLE 100

Article 97 only has effect until the earlier of the following dates:

- a) 1 January 2019; or
- b) The date on which a sub-decree established by MOWRAM to establish the measurements for features of river basins takes effect.

TITLE 10 SUSTAINABLE MARINE FISHERIES

The Law on Fisheries 2007, the Law on Water Resource Management of the Kingdom of Cambodia 2007, the Law on Fishery Management 2006, and the Law on Fisheries Management 1987 are hereby amended and clarified as follows:

[List of issues to amend and/or clarify, e.g., jurisdictional changes, decentralization /

deconcentration, land management / co-management]

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1

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

ARTICLE 2

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

ARTICLE 3

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

CHAPTER 2 MARINE FISHERIES MANDATES

ARTICLE 4

Pursuant to this authority, the appropriate ministry shall:

- 1) Require a license for all [subsistence or commercial?] fishing activities in the Marine Fishery Domain, consistent with Article 32 of the Law on Fisheries, NS/RKM/506/11. This license shall include an annual fee in order to help support the fishery research and management activities of the appropriate ministry. The amount of the annual fee shall be determined by the appropriate ministry. Fishing without obtaining such a license shall result in a notice of violation and fine.
- 2) Require that all motorized fishing vessels with motors greater than 5 horsepower, if used in whole or in part for fishing purposes in the Marine Fishery Domain, be registered with the appropriate ministry. This registration shall include an annual fee. The amount of the annual fee shall be determined by the appropriate ministry. Failure to register such a vessel shall result in a

notice of violation and fine. For vessels operating in the Marine Fishery Domain, this provision shall replace the registration requirement in Article 33 of the Law on Fisheries, NS/RKM/506/11.

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

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

5) In cooperation with the Ministry of Foreign Affairs, establish a system by which foreign fishing vessels may purchase fishing rights to harvest marine resources in the Exclusive Economic Zone of the Kingdom of Cambodia. The amount of the annual fee for obtaining such fishing rights shall be determined by the appropriate ministry. Continued retention of such fishing rights by any foreign fishing vessel shall be contingent upon the maintenance of a daily logbook detailing the number of daily gear sets, and the weight and type of daily catch, with the logbook open to examination by the appropriate ministry upon request; and the filing of a monthly catch report with the appropriate ministry detailing the individual types of marine fishery resources harvested (preferably identified to the level of species), the number of the total pounds of each type harvested, and the port or ports of landing for the catch. Foreign fishing vessels purchasing fishing rights in the EEZ of the Kingdom of Cambodia must also comply with the following terms and conditions:

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

Cambodia;

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

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

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

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

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

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

- 10) Ensure that fishery management in the Marine Fishery Domain is based upon the best available scientific information, and undertake fishery research that adds to this base of scientific knowledge.
- 11) Undertake a programme to produce updated maps of the distributions of species harvested and the location and extent of key marine fishery resources in the Marine Fishery Domain, with special reference to coral reefs, seagrass beds, and mangroves.
- 12) Monitor and issue an annual summary of changes to marine fishery resources, with special reference to coral reefs, seagrass beds, and mangroves, and analysing links to climate change and other driving factors.
- 13) Regulate aquaculture in the Marine Fishery Domain consistent with the provisions in Articles 53-58 of the Law on Fisheries, NS/RKM/506/11.
- 14) Regulate the landing, transport, and international trans-shipment of marine fishery resources harvested in the Exclusive Economic Zone of the Kingdom of Cambodia, consistent with the provisions in Articles 64-69 of the Law on Fisheries, NS/RKM/506/11.
- 15) Regulate the import into Cambodia of marine fishery resources harvested in the waters of a foreign nation, and require importers to certify that such resources have been harvested in accordance with the fishery laws prevailing in their countries of origin.
- 16) Undertake measures to combat illegal, unreported, and unregulated fishing, including market-based measures to prevent the trade or importation of fish or other marine life caught by vessels identified as having engaged in such unauthorized fishing;
- 17) Develop a National Fishery Management Plan as per Article 15 of the Law on Fisheries, NS/RKM/506/11. This plan shall be reviewed and amended as necessary every 5 years.
- 18) Undertake enforcement actions against those entities or individuals who violate fishery laws in the Marine Fishery Domain, as per Articles 72-85 of the Law on Fisheries, NS/RKM/506/11.
- 19) Assess penalties against those entities or individuals found guilty of violating fishery laws in the Marine Fishery Domain, as per Articles 86-107 of the Law on Fisheries, NS/RKM/506/11.

CHAPTER 3- MARINE FISHERIES DISCRETIONARY AUTHORITIES

ARTICLE 5

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

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

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

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

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

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

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

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

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

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

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

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

established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

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

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

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

4) Set limits on the number, size and type of vessels that may participate in any given fishery, or that may enter designated marine zones or marine managed areas, so as to adequately control fishing effort and ensure sustainability of harvest for any given stock or stock complex.

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

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

- (b) An estimate of optimum sustainable yield from the fishery and its probable future condition, including a summary of the information used in making this determination;
- (c) A description of the conservation and management measures that can be best applied to the fishery to prevent overfishing while achieving, on a continuing basis, the estimated optimum yield.
- 6) Enact measures to limit fishery bycatch of non-target species such as seabirds, marine mammals and sea turtles.
- 7) Create special licensing, vessel registration and catch reporting provisions for sport charter fishing vessels, with daily limits on catch of individual species, and daily special license fees for fishers. Such fees may be set higher at higher levels for citizens of foreign countries in comparison to those charged to citizens of the Kingdom of Cambodia.
- 8) Issue permits for marine fisheries research, and for the collection and export of specimens related to such research.

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 11 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.

The Law on Fisheries 2007, the Law on Water Resource Management of the Kingdom of Cambodia 2007, the Law on Fishery Management 2006, and the Law on Fisheries Management 1987 are hereby amended and clarified as follows:

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

CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FISHERIES INDUSTRY

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

CHAPTER # PROTECTION OF FISHERIES AND AQUATIC ECOSYSTEMS

CHAPTER # TENURE OF FISHERIES AND AQUACULTURE OPERATIONS

CHAPTER # IDENTIFICATION OF AQUATIC ORGANISMS

CHAPTER # PROHIBITION ON COMMERCIAL FISHING THAT IS NOT SUSTAINABLE

CHAPTER # ASSESSMENT OF APPLICATIONS FOR COMMERCIAL FISHING

CHAPTER # COMMUNITY FISHERIES

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

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

CHAPTER # SUSTAINABLE MANAGEMENT OF FISHERIES AND FISH BREEDING AREAS

CHAPTER # GOVERNMENT AND CITIZEN ROLES IN MONITORING AND

OVERSIGHT OF SUSTAINABLE FISHERIES MANAGEMENT OPERATIONS

CHAPTER # RESTORATION OF DAMAGED FISHERIES HABITATS OR AQUATIC ECOSYSTEMS

CHAPTER # MANAGEMENT OF ACTIVITIES THAT IMPACT FISHERIES AND AQUATIC ECOSYSTEMS

CHAPTER # ESTABLISHMENT OF FRESHWATER FISHERIES RESERVES

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

BOOK 5 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, Pre-Angkor, and pre-historic archaeological 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.

- It will regulate key activities in heritage areas, including tourism, research, archaeological digs and any other development activity. Also note new chapter on rescue archaeology and salvage archaeological surveys
- Other protection mechanisms will include anti-trafficking provisions, protections against intentional or accidental damage or demolition of known or unknown cultural or natural heritage, restoration and repair of damaged heritage, and financial incentives for heritage protection.

The Law on the Protection of the Cultural Heritage 1996 is hereby amended and clarified as follows:

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

CHAPTER 1 OBJECTIVE

ARTICLE 1

This Title 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 create the balance of nature and society.
- e) To promote the collaboration between the Ministry of Culture and Fine Arts and the Ministry of Environment and relevant institutions as well as National and International Organizations and development partners.
- f) To improve the livelihood, tradition, culture and custom of indigenous community.

CHAPTER 2 SCOPE

ARTICLE 2

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

CHAPTER 3 DEFINITION

ARTICLE 3

The cultural heritage of Cambodia includes both tangible and intangible heritage.

CHAPTER 4 OBLIGATION TO PROTECT THE NATIONAL HERITAGE OF CAMBODIA

ARTICLE 4

A person or legal entity must not take any action, or grant any permit or approval, that will, or is likely to have, a significant impact on the heritage values or an item or place in Cambodia.

CHAPTER 5 CREATION OF THE HERITAGE COUNCIL OF CAMBODIA

ARTICLE 5

The Royal Government shall create the Heritage Council of Cambodia.

ARTICLE 6

The members of the Heritage Council of Cambodia shall be nominated by the relevant Ministries and shall include:

- a) Representative of the Prime Minister
- b) Representative of the Minister for Culture and Fine Arts (Chair)
- c) Representative of the Ministry of the Environment
- d) Representative of the Ministry of Industry and Handicraft
- e) Representative of the Ministry for Urban Development
- f) Representative of the APSARA Authority
- g) Representative of the Governor of Phnom Penh City
- h) Two Representatives of NGOs involved in heritage protection and conservation

i) Two professionals with heritage qualifications or expertise

CHAPTER 6 PURPOSE OF THE HERITAGE COUNCIL OF CAMBODIA

ARTICLE 7

The purpose of the Heritage Council of Cambodia is to identify, protect, preserve, record and promote the protection of the cultural and built heritage of Cambodia for the present and future generations.

ARTICLE 8

Heritage shall include tangible as well as intangible heritage and shall include pre-historic, pre-Angkor, Angkor, Post-Angkor, Colonial and modern heritage of Cambodia.

CHAPTER 7 DUTIES OF THE HERITAGE COUNCIL OF CAMBODIA

ARTICLE 9

The Heritage Council of Cambodia work closely with all relevant authorities and ministries to develop policies and implement measures that will protect the heritage of Cambodia for the benefit of present and future generations.

CHAPTER 8 PROCEDURES

ARTICLE 10

The Heritage Council of Cambodia shall determine its meeting procedures subject to approval by the Minister and in accordance with international best practice.

ARTICLE 11

The relevant Ministries shall, in consultation with the Ministry of Finance provide for a budget to enable the Heritage Council to carry out its duties.

ARTICLE 12

The Heritage Council shall establish a web site for the business of the Council.

ARTICLE 13

The Heritage Council shall ensure that all documents relating to its meeting are placed on the web

site of the Council, including the Minutes of meetings and documentation relating to the decision of the Heritage Council.

CHAPTER 9 INVENTORY AND CLASSIFICATION

ARTICLE 14

The Heritage Council will establish a Heritage Register for Cambodia.

ARTICLE 15

The Minister for Culture and Fine Arts and the Minister of Environment may add items to the Heritage Register for Cambodia.

ARTICLE 16

The Heritage Council will determine the categories to be listed on the Heritage Register for Cambodia.

ARTICLE 17

All heritage items and any heritage area recorded on any draft list by the Minister of Culture and Fine Arts, the APSARA Authority, or any item recognised as an item of cultural heritage shall be place on the interim listing on the Heritage Register for Cambodia.

ARTICLE 18

Any heritage item, or heritage area, in immediate danger of destruction may be given emergency listing on the Heritage Register for Cambodia.

ARTICLE 19

All legal protection granted to items listed on Heritage Register for Cambodia shall all be granted to all items on the interim listing on the Heritage Register for Cambodia or any emergency listing on the Heritage Register.

ARTICLE 20

The Heritage Council will determine procedures for updating the Heritage Register for Cambodia in consultation with the Minister for Culture and Fine Arts and the Minister of Environment.

CHAPTER 10 APPOINTMENT OF HERITAGE PROTECTION OFFICERS

ARTICLE 21

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

ARTICLE 22

The duties of the Heritage Protection Officer shall be to protect heritage items and to assist in the implementation of this Book.

ARTICLE 23

The qualifications of Heritage Protection Officers shall be determined by the Ministry for Culture and Fine Arts.

ARTICLE 24

The Heritage Protection Officers may work with other Heritage Protection Officers in other Provinces and the MoE to protect heritage in Cambodia.

ARTICLE 25

The Heritage Protection Officers 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 11 ZONING OF HERITAGE PROTECTION AREAS

ARTICLE 26

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

a) Heritage Protection Areas

a)b) Historical Parks

b)c) Cultural Landscape (Historical Garden)

e)d) Cultural Village

e)c) Site Museum

e)f) Ancient Sites

៥១) Urban Heritage Zones

ARTICLE 27

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

ARTICLE 28

Any decision, project or activity that may adversely impact the heritage values of an area zoned heritage protection area must be required to prepare an Initial Environmental Evaluation.

CHAPTER 12-CRITERIA

ARTICLE 29

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 30

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 31

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 13 INVENTORY AND CLASSIFICATION

ARTICLE 32

Competent institutions shall prepare an inventory of cultural heritage property. This inventory shall be included on the Heritage Register of Cambodia.

ARTICLE 33

The Inventory of Cultural Heritage Property shall be updated every five (5) years.

ARTICLE 34

Inscription in the inventory shall place an obligation on the owner or holder of the property to inform the competent authority one month prior to taking any action to alienate, move, destroy, modify, alter, repair or restore the property. The competent authority may oppose such action only by initiating the procedure for classification.

ARTICLE 35

Inscription in the inventory shall be null and void unless it is followed by a proposal for

classification in the six months following notification thereof.

- a) Obligation of competent institutions
- b) Obligation of owners of cultural property
 - i) Sell to the State;
 - ii) Prohibition to any damage to the outside beauty;
 - iii) Do not have the right to build any new or additional construction)
- c) Preservation and usage of cultural property inventory
- d) Budget used for the work on cultural property inventory

ARTICLE 36

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

ARTICLE 37

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

ARTICLE 38

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

CHAPTER 14 PREVENTIVE AND SALVAGE EXCAVATION

SECTION 1 CHANCE DISCOVERIES

ARTICLE 39

Discovery of heritage items during demolition, construction or other activities: When construction work or any other activity bring to light cultural property such as monuments, ruins, ancient objects, remains of inhabited sites, ancient burial sites, engravings or any property likely to be of interest in the study of prehistory, history, archaeology, ethnology, palaeontology or other branches of science dealing with the past or of human sciences in general, the person finding the property and the owner of the site where it was discovered are obliged to stop the construction work and immediately make a declaration to the local police, who shall transmit it to the Governor of the province without delay. The Governor shall in turn in turn inform the competent authority

and shall take the measures necessary to ensure the protection of the objects and the site.

ARTICLE 40

Once the change discovery has occurred all work that may impact on the heritage item must halt.

ARTICLE 41

The owner or lessee of the land, the project proponent and any person aware of the chance find have an obligation to notify the local police, the Provincial Heritage Protection officer, or the Heritage Council.

ARTICLE 42

Within fourteen (14) days the Provincial Heritage Protection Officers of the Heritage Council will make a preliminary determination of heritage significance.

ARTICLE 43

The competent authority shall, within thirty (30) days of the preliminary determination, announce the temporary suspension of the work and the safeguarding measures to be taken. If no such measures are announced within that time limit, the effects of temporary halt to work shall no longer apply.

ARTICLE 44

If it is determined that the item is an item of heritage then specific permission is required before the removal or destruction of heritage item.

ARTICLE 45

The competent authority shall decide on the permanent measures to be taken concerning chance discoveries and any activities to salvage the heritage item.

ARTICLE 46

The owner or lessee of the land, the project proponent has an obligation to record and photograph heritage item in accordance any instructions from the Heritage Council of the Provincial Heritage Protection Officer.

ARTICLE 47

It shall be an offence to fail to comply with the provisions of this section. The failure to report a chance discovery or to destroy an item before the determination of heritage value will result in cancellation of any permits or approval and shall be treated as a criminal offence.

ARTICLE 48

The owner or lessee of the land, the project proponent and any management responsible for the project or activity will be all liable for the offence under this Section.

CHAPTER 15 IDENTIFICATION AND DESIGNATION OF NATURAL HERITAGE SITES

ARTICLE 49

The Heritage Council may recommend a site for designation as a heritage zone.

ARTICLE 50

The Heritage Council may require preparation of a plan for the heritage site and the classification of the site in accordance with these provisions.

CHAPTER 16 DAMAGE AND CONSERVATION STATUS CLASSIFICATIONS

ARTICLE 51

The Heritage Council may make an assessment and classification of the heritage site based on the damage and conservation status of the heritage site.

CHAPTER 17 SPECIAL CONSIDERATIONS IN EIA HERITAGE SITES

ARTICLE 52

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

ARTICLE 53

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

ARTICLE 54

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

ARTICLE 55

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

CHAPTER 18 PROTECTION FOR HERITAGE SITES FROM ACTIVITIES NOT COVERED BY EIA

ARTICLE 56

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

ARTICLE 57

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

CHAPTER 19 MANAGEMENT PLANS FOR SITES

ARTICLE 58

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 59

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

ARTICLE 60

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

ARTICLE 61

Ensuring sustainable use of cultural and natural heritage sites.

CHAPTER 20 ORDER TO HALT CONSTRUCTION OR CLEARING IF A HERITAGE SITE IS THREATENED OR ENDANGERED

ARTICLE 62

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

ARTICLE 63

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

ARTICLE 64

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

ARTICLE 65

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

CHAPTER 21 IMPACT OF HERITAGE SITE ON COMMUNITIES

ARTICLE 66

In developing the management plan for a heritage site the relevant authority must take into account the impact of the heritage site on the local community.

CHAPTER 22 ILLEGAL TRAFFICKING OF ARTEFACTS

SECTION 1 EXPORT OF CULTURAL PROPERTY

ARTICLE 67

The export of any cultural object from Cambodia is prohibited, unless the competent authority has granted a special export license for the purpose.

ARTICLE 68

The competent authority must announce its decision within three months of the declaration made to the competent authorities by the exporter.

ARTICLE 69

The export of cultural objects shall be subject to duties and fees. The amount of those export duties

and fees shall be set by law.

ARTICLE 70

Before granting an export license, the competent authority must ascertain that:

- a) the proposed export will not result in the impoverishment of the national cultural heritage.
- b) public collections contain a cultural object similar to the one for which an export license has been requested.
- c) the cultural object to be exported is not of irreplaceable importance for a study of a particular branch of study of the sciences of the past or of the human sciences in general. Procedures for export of cultural property, types of cultural property authorized for export, as well as types of cultural property of which export is prohibited shall be defined by sub-decree.

ARTICLE 71

The competent authority is required to grant a license for the exportation of cultural objects in the following cases:

- objects donated to a foreign scientific institution which holds an excavation permit in accordance with this Title;
- objects sent abroad temporarily for exhibition or for other scientific purposes;
- objects exchanged for other objects obtained from museums or similar foreign institutions;
- objects legally imported into Cambodia.

However, in a case provided for in paragraph XX (point XX) of this article, the temporary export shall be submitted to appropriate conditions that guarantee the conservation and the return of these objects.

ARTICLE 72

Any attempt to export cultural objects without a license shall entail the seizure and confiscation of these objects for the public collections.

ARTICLE 72

The competent authority may claim, in behalf of the public collections for the payment of a fair price decided by mutual agreement or fixed by an expert, any cultural object for which an export license has been denied, provided that there are strong indications that the cultural object may be the subject of a fraudulent export attempt.

ARTICLE 73

The import, export or transfer of ownership of cultural property contrary to the provisions of this law shall be prohibited.

ARTICLE 74

It shall be an offence to traffic in the import, export or transfer of ownership of cultural property with a permit issued by a competent authority and in accordance with that permit.

SECTION 2 ARCHAEOLOGICAL EXCAVATIONS

ARTICLE 75

No one may carry out excavations or surveys, on land or under water, for the purpose of bringing to light cultural property likely to be of relevance to the study of prehistory, history, archaeology, ethnology, palaeontology or other branches of science dealing with the past or of human sciences in general, without the prior authorization of the competent authority.

ARTICLE 76

Only scientific institutions whose expertise is recognized and which have the necessary experience and financial resources may be empowered to carry out excavations. Foreign scientific institutions that have been granted excavation authorization must associate national scientific institutions in their work.

ARTICLE 77

Any scientific institution that has been granted authorization for excavation must:

- a) Record the cultural objects discovered in a special register to be handed to the competent authority at the end of each field season.
- b) Protect the excavated site and the cultural objects found there, and take all necessary conservation measures.

- c) Inform the competent authority regularly of the progress of the excavation work.
- d) Submit a summary report, accompanied by an album containing photographs of all cultural objects discovered, at the end of each field season campaign.
- e) Submit a detailed scientific report on the findings of the excavations within a period not exceeding one year from the end of each field season.
- f) Allow inspectors to visit the excavations whenever they so wish and to consult the special register mentioned in paragraph (a).
- g) Grant interested researchers access to the excavations, on condition that they respect the scientific ownership rights of the excavator.
- h) Train national technicians and researchers.
- a)j) Publish the scientific findings of the excavations within five (5) years of completion of the work.

ARTICLE 78

Any scientific institution in possession of an authorization to carry out excavation shall be entitled to:

- a) scientific ownership of its discoveries.
- b) ownership of the cultural objects granted to it under the terms of Article XX, paragraph XX.
- c) first publication of the scientific findings of the excavations, on condition that those findings are published within the time limit specified in Article XX, paragraph (XX).

ARTICLE 79

Immovable and movable cultural property discovered by scientific institutions shall be the property of the State. The competent authority may donate to those institutions any object of which duplicates have been found and any object that is not indispensable to public collections owing to the fact that these collections already contain objects of the same type, style, material, method of production and scientific or artistic value. Any such donation can be made only on the condition that concerned objects be displayed in a scientific institution accessible to the public.

ARTICLE 80

The competent authority shall be responsible for the inspection of excavations and the monitoring of sites, and shall assist in establishing measures to protect sites under excavation.

ARTICLE 81

The competent authority may authorize excavations on privately owned land, after prior notification to the owner. An inventory of the site approved by all parties must be made at the beginning of the excavator's occupation of the site. The excavator may occupy the site for a renewable period of two (2) years.

ARTICLE 82

The owner of land covered by Article XX shall be entitled to return to the site, and to compensation for deprivation of use of the land and for damage caused if any.

ARTICLE 83

In the event of discovery of cultural immovables whose protection is in the public interest, the competent authority may exercise its right of expropriation in accordance with the legislation on expropriation in the public interest.

ARTICLE 84

If the authorized excavator fails to respect any one of its obligations as set out in Article XX, the competent authority may decide to withdraw authorization and/or scientific rights.

Excavations shall be suspended from the day that the holder is notified of the withdrawal of authorization.

ARTICLE 85

Once an excavation authorization has been withdrawn, the concerned party may not claim any compensation for eviction from the site or for any expenses incurred.

**CHAPTER 23 EDUCATION AND PUBLIC AWARENESS OF CULTURAL AND
NATURAL HERITAGE**

ARTICLE 86

The Ministry of Culture and Fine Arts together with other relevant ministries and institutions shall develop education and public awareness programs for the conservation and protection of heritage items and sites.

CHAPTER 24 INCENTIVES FOR CONSERVATION OF NATURAL HERITAGE

ARTICLE 87

The Ministry of Culture and Fine Arts may develop financial incentives for the conservation and protection of heritage items and sites.

CHAPTER 25 FUNDING MECHANISMS FOR NATURAL AND CULTURAL HERITAGE SITES

ARTICLE 88

Management Plans for Heritage Areas may include the provision of entrance fees and charges.

BOOK 6 WASTE AND POLLUTION MANAGEMENT AND SUSTAINABLE PRODUCTION

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

- This Book will include environmental controls on agricultural practices, including fertilizer, pesticide and herbicide use.
- Fees and charges will be provided in accordance with Book 8.
- 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 MANAGEMENT OF HAZARDOUS CHEMICAL SUBSTANCES

The Law on Land Traffic (Transportation of Chemicals and other Hazardous Materials) is hereby amended and clarified as follows:

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

CHAPTER # DEFINITIONS

Editorial note: The use of the terms “chemical substance,” “chemical product,” and “chemical” in the following articles needs to be analysed and rationalised. The definitions of the main technical terms related to hazardous chemicals will be provided in Book 1, Title 1, Chapter 1.

CHAPTER # GENERAL PROVISIONS

ARTICLE 1

This Chapter 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;

Commented [MQ211]: Per NGO Forum. Link to sections on planning for and management of extractive industries.

3. To enhance public awareness and access to information on safety and mitigation of risks throughout chemical life cycle, including production, storage, transportation, use and disposal;
4. To set up appropriate institutional coordination mechanism and information system for effective management and control of hazardous substances and hazardous chemical products in all stages of chemical life cycle;
5. To ensure an operational national system to incorporate cleaner production solutions in all manufacturing and service sectors, as well as in households.

ARTICLE 2

This 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.

CHAPTER # INSTITUTIONAL RESPONSIBILITY

ARTICLE 4

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

ARTICLE 5

The 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 6

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

CHAPTER # PROHIBITION ON HAZARDOUS SUBSTANCES

ARTICLE 7

No person shall undertake the following activities:

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

ARTICLE 8

No person can manufacture, use and distribute persistent organic pollutants (POP) totally banned by Stockholm Convention as listed in [relevant sub-legislation]. When the Royal Government of Cambodia becomes a Party to a decision of the Stockholm Convention Conference of the Parties to add a chemical to Annex A, B, or C of the POPs Convention, that chemical is added to this [relevant sub-legislation] list.

Commented [MQ212]: The POPs ban list for Cambodia will be included in supporting legislation to the Environmental Code. The proposed language provides for automatically adding a new POP to the list once Cambodia becomes a Party to a new listing via POPs Convention COP decision. The approach to POPs here should also be informed by the approach to Basel and MARPOL in other sections of the Code.

ARTICLE 9

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

Commented [MQ213]: POPs Convention: Annex A is the elimination list, Annex B is the restriction list, and Annex C is the reduce unintentional production list

<http://chm.pops.int/TheConvention/ThePOPs/ListingofPOPs/tabid/2509/Default.aspx>

ARTICLE 10

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

person shall manufacture, possess, handle, store, transport, import, export, distribute or use a hazardous chemical substance or hazardous chemical product in manner that is inconsistent with the conditions of its registration under the Sub-Decree dated October 2009 on “Management of Classification and Labeling of Chemicals.

ARTICLE 11

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 12

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 13

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 # RESEARCH, REGISTRATION AND INFORMATION DISCLOSURE OF HAZARDOUS SUBSTANCES

ARTICLE 14

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 15

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 16

Information on hazardous chemicals shall be reviewed and endorsed by the Ministry of Environment before submission to the respective ministry for approval. The Ministry of Environment in cooperation with respective agencies may conduct additional tests and consultation to verify the correctness of information provided. The Ministry of Environment shall endorse registration if it has been demonstrated that registration does not pose a significant risk to human health or the environment.

ARTICLE 17

The relevant ministries having the mandate to approve registration shall provide information on all hazardous chemical substances and products to the Ministry of Environment for inventory, monitoring, risk assessment and inspection purposes. If at any time a manufacturer or importer of a chemical has additional factual information regarding significant adverse effects of the chemical, the manufacturer or importer shall submit such information to the Ministry of Environment without delay.

ARTICLE 18

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

ARTICLE 19

The Ministry of Environment shall revoke registration of a chemical or of specific uses of a chemical if it determines [following appropriate administrative procedure] that the chemical or the use of the chemical poses a significant risk to human health or the environment, consistent with the Principles of the Environmental Code.

The Ministry of Environment shall suspend registration of a chemical or of specific uses of a chemical if it determines following expedited consideration that the chemical or the use of the chemical may pose a significant risk of imminent endangerment to human health or the environment, consistent with the principles outlined in the Principles of the Environmental Code.

CHAPTER # INVENTORY, CLASSIFICATION AND LABELLING OF HAZARDOUS SUBSTANCES

ARTICLE 20

Commented [MQ214]: This text is intended to provide a standard for MOE to apply in screening uses of chemicals for registration. The standard is health based ("significant risk"). The burden of demonstrating that the standard for registration has been met should fall on the proponent of registration.

Commented [MQ215]: Status of already registered hazardous chemicals?

Categories of hazardous chemicals (Sub-Decree 2009, in translation)?

Inter-ministerial advisory committee for registration?

Commented [MQ216]: This provision is intended to provide a mechanism for MOE to address information demonstrating risks of a chemical (or a use of a chemical) by authorizing MOE to take the chemical off the market, or to deregister a particular use, if warranted by information concerning risks. The type of procedure for reaching this determination could be rulemaking, hearing, alternative dispute resolution procedure, consultation with relevant agency, or other procedure, and can be specified in the Code or in sub-legislation. Details of the specific procedure could be elaborated in sub-legislation.

Commented [MQ217]: This provision is intended to provide a mechanism for MOE to address information demonstrating risks of a chemical (or a use of a chemical) by authorizing MOE to take the chemical off the market, or to deregister a particular use, if warranted by information concerning risks. The type of procedure for reaching this determination could be rulemaking, hearing, alternative dispute resolution procedure, consultation with relevant agency, or other procedure, and can be specified in the Code or in sub-legislation. Details of the specific procedure could be elaborated in sub-legislation.

Commented [MQ218]: This provision is intended to provide emergency suspension authority in cases of imminent endangerment.

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 # PRODUCTION, DISTRIBUTION, STORAGE, TRANSPORTATION, USAGE AND DISPOSAL

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:

1. Identify and take necessary measures to minimize potential incidents and remedy consequences if they take place, including training all staff involved in transportation in safety measures and response plans, and
2. Identify and notify the nearest local authorities and concerned ministries about the incident

if an incident occurs in 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.

ARTICLE 26

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

ARTICLE 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 on Water Pollution Control ANRK.BK dated 06 April 1999].

Commented [MQ219]: Will refer to sections in Book 6 on Waste Pollution Management and Sustainable Production.

Additional guidelines on disposal of hazardous chemical substances and chemical wastes shall be specified by a prakas [or other sub-legislation] of the Ministry of Environment.

ARTICLE 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 # HAZARDOUS SUBSTANCES SAFETY AND ACCIDENT PREVENTION, PREPAREDNESS AND RESPONSES

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.

ARTICLE 36

Organisations or individuals shall have the duty to:

1. Strictly follow technical specification, labelling and safety instruction defined by each hazardous substance;
2. Have prevention and emergency response measures (first aid, evacuation plan, fire elimination equipment) including personal protective equipment for workers at the work place;

3. Organize training on safe use and safe handling of hazardous substances, including a safe-drill toward the occurrence of hazard to human health and/or the environment;
4. Set up a chemical emergency response.

ARTICLE 37

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 38

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

CHAPTER # LIMITING LEAD IN PAINT

SECTION # DEFINITIONS OF REGULATED SUBSTANCES AND ACTIVITIES

"Children's products" means toys and other articles which are intended to be entrusted to or for use by children.

"Paint" may include: varnishes, lacquers, stains, enamels, glazes, primers or coatings used for any purpose; and is typically a mixture of resins, pigments, fillers, solvents, and other additives.

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

"Total lead concentration" is defined on a weight percentage of the total non-volatile portion of the product or in the weight of the dried paint film.

SECTION # BAN ON LEAD PAINT AND CHILDREN'S PRODUCTS BEARING LEAD

PAIN

ARTICLE 1

Paint that contains lead or lead compounds and in which the lead content (calculated as lead metal) is in excess of 90 ppm of the total non-volatile content of the paint or the weight of the dried paint film are banned products.

ARTICLE 2

Children's products bearing lead paint in which the lead content (calculated as lead metal) is in excess of 90 ppm by weight of the total non-volatile content of the paint or the weight of the dried paint film are banned products.

SECTION # EFFECTIVE DATES

ARTICLE 3

The use of lead and lead compounds shall be strictly prohibited in the following production / manufacturing of: Paints (as a pigment, a drying agent or for some intentional use) with more than 90 ppm threshold limit beyond three (3) years (2013-2016) for architectural, decorative, household applications and six (6) years (2013-2019) for industrial applications.

SECTION # CERTIFICATION AND TESTING

ARTICLE 4

Every manufacturer or importer of paint and similar surface-coating materials that contain lead or lead compounds and of children's products bearing lead paint shall issue a certificate which shall certify, based on a test of each product or upon a Reasonable Testing Program, that such product complies with the 90 ppm limit stated in [Section # Ban on Lead Paint and Children's Products Bearing Lead Paint].

ARTICLE 5

The testing required by Article 4 may be conducted in-house or by a third-party laboratory but in either case must be conducted using the following methods: [specify methods here – e.g., ASTM, ISO standards and provide for updating, perhaps via MoE website, to account for test methods changing/improving over time].

ARTICLE 6

In the case of a product manufactured in the Kingdom of Cambodia, the manufacturer must certify pursuant to Article 5.

ARTICLE 7

In the case of a product manufactured outside the Kingdom of Cambodia, the importer must certify pursuant to Article 5.

ARTICLE 8

Manufacturers and importers must:

- r. provide the certification to distributors and retailers and
- s. provide the certification to [relevant government institution] upon request.

ARTICLE 9

Each certification shall include:

- a) identification of the product covered by the certificate,
- b) identification of the manufacturer or importer certifying compliance of the product, and
- c) contact information for the individual maintaining records of test results.

SECTION # INSPECTIONS

ARTICLE 10

For purposes of implementing this law, officers or employees of [relevant government institution], upon presenting appropriate credentials and written notice from [relevant government institution] to the owner, operator or agent in charge, are authorized:

- a) to enter, at reasonable times, any factory, warehouse, or establishment in which paint and similar surface coating materials or children's products bearing lead paint are manufactured or held; and
- a)b) _____ to inspect and test, at reasonable times and in a reasonable manner, such paint and similar surface coating materials or children's products bearing lead paint to assess

compliance with this law.

SECTION # PROHIBITED ACTS

ARTICLE 11

It shall be unlawful for any person to:

- a) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the Kingdom of Cambodia any banned product as defined in [Section # Ban on Lead Paint and Children's Products Bearing Lead Paint];
- b) fail or refuse to permit entry or inspection and testing pursuant to [Section # Inspections];
- c) fail to furnish a certificate required by [Section # Certification and Testing] or issue a false certificate if such person in the exercise of due care has reason to know that the certificate is false or misleading in any material respect;
- Ⓜd) exercise, or attempt to exercise, undue influence on a third party laboratory with respect to the testing, or reporting of the results of testing of any product.

SECTION # CIVIL PENALTIES

ARTICLE 12

Any person who violates section [Section # Prohibited Acts] shall be subject to a civil penalty not to exceed [amount] for each such violation.

A violation of section [Section # Prohibited Acts] shall constitute a separate offense with respect to each banned product involved, except that the maximum civil penalty shall not exceed [X amount].

The maximum penalty amounts authorized in this Article shall be adjusted for inflation.

ARTICLE 13

The [relevant government institution or applicable court or administrative body] shall consider the nature, circumstances, extent, and gravity of the violation, including the severity of the risk of injury, the number of banned products distributed, the appropriateness of the penalty in relation to the size of the business of the person charged, including how to mitigate undue adverse economic impacts on small business, and other such factors as appropriate.

SECTION # CRIMINAL PENALTIES

ARTICLE 14

A violation of section [*Section # Prohibited Acts*] is punishable by:

- a) imprisonment for not more than [*X years*] for a knowing and wilful violation of that section;
- b) a fine of [*X amount*]; or
- c) both.

ARTICLE 15

Any individual director, officer, or agent of a corporation who knowingly and wilfully authorizes, orders or performs a violation of section [*Section # Prohibited Acts*] shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under [*above section*].

ARTICLE 16

“Knowingly” as used in Article 15 means:

- t. the having of actual knowledge, or
- u. the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

ARTICLE 17

In addition to the penalties provided by [*Section # Civil Penalties*], the penalty for a criminal violation of this Chapter of Title 4 of the Environmental Code may include the forfeiture of assets associated with the violation.

ARTICLE 18

The [*applicable courts / administrative body*] shall have jurisdiction to restrain any violation of section [*Section # Prohibited Acts*] and to authorize seizure of the banned product.

SECTION # PUBLIC INTEREST COMPLAINTS

ARTICLE 19

Any person or legal entity may bring an action in any [applicable court or administrative body] to enforce the ban in [Section # Prohibited Acts], to obtain appropriate injunctive relief, and to apply any appropriate civil penalties under [Section # Civil Penalties], payable to government of the Kingdom of Cambodia.

ARTICLE 20

A [court or administrative body] with jurisdiction over a public interest complain under this provision may order the defendant to pay the attorney's fees and reasonable litigation costs of the plaintiff bringing a good faith citizen suit under this provision.

CHAPTER # -- DIRECTIVE FOR PRTR

[To be included in titles on Hazardous Waste Management and Hazardous Substances Management]

The Law on the Establishment of the Ministry of Environment 1996 is hereby amended and clarified as follows:

[Prerogatives of MoE shall be expanded to be able to follow the procedures set in this Chapter.]

DEFINITIONS

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

“Extremely hazardous substance” means a substance on the list described in the relevant list.

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

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

“Material safety data sheet” means the sheet required to be developed under the relevant sub-

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

“Person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, government body, municipality, or commission.

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

“Toxic chemical” means a substance on the list described in this chapter.

“Manufacture” means to produce, prepare, import, or compound a toxic chemical.

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

SECTION 1 BASIC REQUIREMENTS

ARTICLE 1

The owner or operator of a facility subject to the requirements of this section shall complete a toxic chemical release form as published under section 7 of this chapter for each toxic chemical listed under the section 3 that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity established by section 6 of this chapter during the preceding calendar year at such facility. Such form shall be submitted to the MoE on or before [DATE], and annually thereafter and shall contain data reflecting releases during the preceding calendar year

SECTION 2 COVERED OWNERS AND OPERATORS OF FACILITIES

ARTICLE 2

The requirements of this chapter shall apply to owners and operators of facilities that have 10 or more employees and that are in [the relevant published list] and that manufactured, processed, or otherwise used a toxic chemical listed under section 3 of this chapter in excess of the quantity of that toxic chemical established under section 6 of this chapter during the calendar year for which a release form is required under this chapter.

ARTICLE 3

The MoE may add or delete Standard Industrial Classification Codes for purposes of article 2 of this title, but only to the extent necessary to provide that each Standard Industrial Code to which this chapter applies is relevant to the purposes of this chapter.

ARTICLE 4

The MoE, on his own motion or at the request of a stakeholder may apply the requirements of this chapter to the owners and operators of any particular facility that manufactures, processes, or otherwise uses a toxic chemical listed under section 3 of this chapter if the MoE determines that such action is warranted on the basis of toxicity of the toxic chemical, proximity to other facilities that release the toxic chemical or to population centres, the history of releases of such chemical at such facility, or such other factors as the MoE deems appropriate.

SECTION 3 TOXIC CHEMICALS COVERED

ARTICLE 5

The toxic chemicals subject to the requirements of this chapter are those chemicals listed in the relevant sub-legislation.

SECTION 4 REVISIONS BY THE MOE

ARTICLE 6

The MoE may by rule add or delete a chemical from the list described in section 3 of this chapter at any time.

ARTICLE 7

A chemical may be added if the MoE determines, in his judgment, that there is sufficient evidence to establish that the chemical is known to cause or can reasonably be anticipated to cause significant adverse human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or recurring, releases.

ARTICLE 8

A chemical may be added if the MoE determines, in his judgment, that there is sufficient evidence to establish that the chemical is known to cause or can reasonably be anticipated to cause in humans

- cancer or teratogenic effects, or
- serious or irreversible—
 - reproductive dysfunctions,
 - neurological disorders,
 - heritable genetic mutations, or
 - other chronic health effects.

ARTICLE 9

A chemical may be added if the MoE determines, in his judgment, that there is sufficient evidence to establish that the chemical is known to cause or can reasonably be anticipated to cause, because of:

- its toxicity,
- its toxicity and persistence in the environment, or
- its toxicity and tendency to bio-accumulate in the environment,

a significant adverse effect on the environment of sufficient seriousness, in the judgment of the MoE, to warrant reporting under this chapter. The number of chemicals included on the list described under section 3 of this chapter on the basis of the preceding sentence may constitute in the aggregate no more than 25 percent of the total number of chemicals on the list.

ARTICLE 10

A determination under articles 7 to 9 shall be based on generally accepted scientific principles or laboratory tests, or appropriately designed and conducted epidemiological or other population studies, available to the MoE.

ARTICLE 11

A chemical may be deleted if the MoE determines there is not sufficient evidence to establish any of the criteria described in articles 7 to 9.

ARTICLE 12

Any revision made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any revision made on or after December 1 of any calendar year and before January 1 of the next calendar 1 year shall take effect beginning with the calendar year following such next calendar year.

SECTION 5 PETITIONS

ARTICLE 13

Any person may petition the MoE to add or delete a chemical from the list described under section 3 of this chapter on the basis of the criteria in articles 7 and 8 of this title. Within 180 days after receipt of a petition, the MoE shall take one of the following actions:

- Initiate a rulemaking to add or delete the chemical to the list, in accordance with articles 7 to 11 of this title.
- Publish an explanation of why the petition is denied.

ARTICLE 14

A stakeholder may petition the MoE to add or delete a chemical from the list described under section 3 of this chapter on the basis of the criteria in articles 7 to 10 of this title. In the case of such a petition from a stakeholder to delete a chemical, the petition shall be treated in the same manner as a petition received under article 13 of this title to delete a chemical.

ARTICLE 15

In the case of such a petition under article 14 of this chapter to add a chemical, the chemical will be added to the list within 180 days after receipt of the petition, unless the MoE—

- initiates a rulemaking to add the chemical to the list, in accordance with articles 7 to 10 of this title, or
- publishes an explanation of why the MoE believes the petition does not meet the requirements of the articles 7 to 10 of this title for adding a chemical to the list.

SECTION 6 THRESHOLD FOR REPORTING

ARTICLE 16

The threshold amounts for purposes of reporting toxic chemicals under this chapter with respect

to a toxic chemical used at a facility are as follows, [NUMBER] of the toxic chemical per year.

ARTICLE 17

The threshold amounts for purposes of reporting toxic chemicals under this chapter with respect to a toxic chemical manufactured or processed at a facility are as follows:

- For the toxic chemical release form required to be submitted under this article on or before [DATE], [NUMBER] of the toxic chemical per year.
- For the form required to be submitted on or before [DATE], [NUMBER] of the toxic chemical per year.
- For the form required to be submitted on or before [DATE], and for each form thereafter, [NUMBER] of the toxic chemical per year.

ARTICLE 18

The MoE may establish a threshold amount for a toxic chemical different from the amount established by articles 16 and 17 of this title. Such revised threshold shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this chapter. The amounts established under this paragraph may, at the MoE's discretion, be based on classes of chemicals or categories of facilities.

SECTION 7 FORM

ARTICLE 19

Not later than [DATE], the MoE shall publish a uniform toxic chemical release form for facilities covered by this chapter. Such form shall:

- provide for the name and location of, and principal business activities at, the facility;
- include an appropriate certification, signed by a senior official with management responsibility for the person or persons completing the report, regarding the accuracy and completeness of the report; and
- provide for submission of each of the following items of information for each listed toxic chemical known to be present at the facility:

- Whether the toxic chemical at the facility is manufactured, processed, or otherwise used, and the general category or categories of use of the chemical.
- An estimate of the maximum amounts (in ranges) of the toxic chemical present at the facility at any time during the preceding calendar year.
- For each waste stream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved by such methods for that waste stream.
- The annual quantity of the toxic chemical entering each environmental medium.

ARTICLE 20

In order to provide the information required under this chapter, the owner or operator of a facility shall use readily available data (including monitoring data) collected pursuant to other provisions of law. In order to assure consistency, the MoE shall require that data be expressed in common units.

SECTION 8 USE OF RELEASE FORM

ARTICLE 21

The release forms required under this chapter are intended to provide information to the government and the public, including citizens of communities surrounding covered facilities. The release form shall be available, to inform persons about releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards; and for other similar purposes.

SECTION 9 MODIFICATIONS IN REPORTING FREQUENCY

ARTICLE 22

The MoE may modify the frequency of submitting a report under this chapter, but the MoE may not modify the frequency to be any more often than annually. A modification may apply, either nationally or in a specific geographic area, to the following:

- All toxic chemical release forms required under this chapter.
- A class of toxic chemicals or a category of facilities.

- A specific toxic chemical.
- A specific facility.

ARTICLE 23

A modification may be made under article 22 of this title only if the MoE makes a finding that the modification is consistent with the provisions under article 21 of this title, based on:

- experience from previously submitted toxic chemical release forms, and
- determinations made under article 24 of this title.

ARTICLE 24

The MoE shall make the following determinations with respect to a proposed modification before making a modification under the relevant article:

- The extent to which information relating to the proposed modification provided on the toxic chemical release forms has been used by the MoE or other agencies of the government, health professionals, and the public.
- The extent to which the information is readily available to potential users from other sources, such as reporting programmes.
- The extent to which the modification would impose additional and unreasonable burdens on facilities subject to the reporting requirements under this chapter.

ARTICLE 25

Any modification made under this chapter shall be reviewed at least once every 5 years. Such review shall examine the modification and ensure that the requirements of articles 22 to 24 of this title still justify continuation of the modification. Any change to a modification reviewed under this article shall be made in accordance with this chapter.

ARTICLE 26

Any modification made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any modification made on or after December 1 of any calendar year and before January 1 of the next calendar year shall take effect beginning with the calendar year following such next calendar year.

SECTION 10 EPA MANAGEMENT OF DATA

ARTICLE 27

The MoE shall establish and maintain in a computer data base a national toxic chemical inventory based on data submitted to the MoE under this chapter. The MoE shall make these data accessible by computer telecommunication and other means to any person on a cost reimbursable basis.

SECTION 11 REPORT

ARTICLE 28

Not later [DATE], MoE shall publish a report including each of the following:

- A description of the steps taken by the MoE and the States to implement the requirements of this chapter, including steps taken to make information collected under this chapter available to and accessible by the public.
- A description of the extent to which the information collected under this chapter has been used by the Environmental Protection Agency, the government, and the public, and the purposes for which the information has been used.
- An identification and evaluation of options for modifications to the requirements of this chapter for the purpose of making information collected under this chapter more useful.

SECTION 12 EXEMPTION

ARTICLE 29

This chapter does not apply to the transportation, including the storage incident to such transportation, of any substance or chemical subject to the requirements of this chapter, including the transportation and distribution of natural gas.

SECTION 13 REGULATIONS

ARTICLE 30

The MoE may prescribe such regulations as may be necessary to carry out this chapter.

TITLE 4 HAZARDOUS WASTE MANAGEMENT

The Law on Land Traffic (Transportation of Chemicals and other Hazardous Materials) is hereby amended and clarified as follows:

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

DEFINITIONS

Editorial note: The use of the terms “solid waste,” “industrial solid waste,” and “hazardous waste” in the following articles needs to be analysed and rationalized with Code Sections dealing with Solid waste (See 2015 Sub-decree 113).

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

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

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

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

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

Hazardous waste refers to solids, liquids, gases, radioactive substances, explosives, inflammable substances, infectious substances, or substances causing inflammation, rust, oxidation, pollution, cancer or other pollutants causing danger to humans, animals or destruction to plants, public

property and the environment. Sources of hazardous waste may be those from housing, markets, supermarkets, recreational sites, public buildings, educational institutions, business activities, services, handicrafts, factories, agricultural activities and mining activities.

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

Illegal disposal means the intentional or negligent disposal of hazardous waste onto the land or into water without a permit.

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

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

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

Reclamation: Is the process of taking an industrial solid waste that is a hazardous secondary material and hazardous waste in order to recover or reprocess to obtain a product of commercial value.

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

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

Transporter (“transporter”) is defined as any person or company engaged in the offsite transportation of hazardous waste by air, rail, highway, or water. This is includes, but is not limited to:

- a) Generators which transport hazardous waste from the site of creation to a TSD facility;

Commented [MQ220]: Broad exclusion based on household sources, vs. commercial/industrial sources will be easier to implement, with the hazardous waste requirements being on waste from commercial/industrial activities.

- b) A person or commercial carrier which takes physical possession of the hazardous material from the site of creation for the sole purpose of transporting it to a treatment, storage, or disposal facility; or
- c) A treatment, storage or disposal facility that has transportation capacity to physically remove and transfer hazardous waste from the site of creation to another facility.

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

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1

This Law has the following objectives:

1. To promote effective management, transportation, treatment and disposal of [industrial solid wastes] and hazardous wastes in Cambodia;
2. To ensure proper registration of generators and transporters of hazardous waste, and owners and/or operators of hazardous waste treatment, storage or disposal facilities in order to prevent improper disposal of such wastes and to protect human health and the environment;
3. To provide for monitoring the transportation of hazardous wastes until the proper disposal of such wastes;
4. To enhance public awareness and access to information on waste minimization and the reduction hazardous waste, including generation, transportation, treatment, storage, and disposal;
5. To set up appropriate institutional coordination mechanism and information system for effective management and control of industrial solid waste and hazardous wastes in all stages of waste life cycle;
6. To ensure an operational national system to incorporate cleaner production solutions that generate less [industrial solid waste] hazardous waste in all manufacturing and service sectors. To achieve this goal, this Title sets forth the criteria for reclaiming and recycling

Commented [MQ221]: The term "industrial solid waste" is from the 2015 sub decree on SW and is directly excluded from the scope of the 2015 sub decree. There are questions on the scope of this definition (see redline in Annex 1, definitions). A broad exclusion based on household sources, vs. commercial/industrial sources will be easier to implement, with the hazardous waste requirements being on waste from commercial/industrial activities.

To try to keep terms consistent, the same term (industrial solid waste) has been used, but with a broadened definition in Annex 1 to include both commercial and industrial wastes, but not household wastes. This will require conforming changes to the solid waste portions of the new Code, consistent with terms used in existing sub decrees.

hazardous wastes for beneficial use, while ensuring that hazardous by-products from such reclamation and recycling efforts are properly characterized and managed as hazardous wastes.

ARTICLE 2

This law has the goal of protecting the social infrastructure, human health, animals and the environment from risks and hazards caused by misuse and mishandling of [industrial solid wastes] hazardous wastes throughout the waste life cycle.

ARTICLE 3

This law covers all industrial solid wastes and hazardous wastes within the Kingdom of Cambodia and applies to all persons, entities, or organizations that generate, possess, transport, manage, store, treat and dispose of industrial solid wastes or hazardous waste at different stages of the waste's life cycle.

This law does not apply to [Add exclusions] household solid wastewater, non-industrial solid wastes, that are governed by separate law and sections of this Code.

ARTICLE 4

The definitions of the main technical terms related to industrial solid wastes and hazardous wastes are provided in the Definitions section at the head of this Title.

CHAPTER 2 INSTITUTIONAL RESPONSIBILITY

ARTICLE 5

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

ARTICLE 6

The Royal Government of Cambodia shall set up appropriate mechanisms for effective management and control of hazardous wastes from generation through final disposal or treatment, including for information sharing, inspection, classification, and hazard communication and risk assessment of waste streams. The Ministry of Environment may identify additional industrial waste streams as hazardous waste, by source or characteristics, through the issuance of sub decree

or guidance.

ARTICLE 7

The Ministry of Environment shall coordinate implementation of international treaties or conventions relevant to the management of hazardous waste, and the import or export of hazardous wastes.

CHAPTER 3 PROHIBITIONS

ARTICLE 8

No person shall undertake the following activities:

- a) The generation of industrial solid waste without determining whether the waste is a hazardous waste;
- b) The offer for transportation of a hazardous waste without the preparation of a Manifest in accordance with Annex 2 that accurately describes the characteristics and quantity of the hazardous waste being offered;
- c) The acceptance of hazardous waste for transportation, from the location or facility where the hazardous waste is generated or located or from another transporter, without a Manifest that contains the information described in Annex 2;
- d) The treatment, storage or disposal of hazardous waste except in conformance with the terms and conditions set forth in this Title or a permit issued by the Ministry of Environment;
- e) The disposal of any hazardous waste into any waterbody is expressly prohibited and may not be permitted under any circumstance;
- f) The disposal of any hazardous waste into any sewage system is expressly prohibited unless the Ministry of Environment has explicitly allowed for such a disposal by granting a permit for such disposal
- g) The use of hazardous waste in a manner that constitutes disposal by land application is prohibited, regardless of whether a person claims that such use is a legitimate use, unless that person has received prior approval or a permit from the Ministry of Environment.
- h) The use of hazardous waste by a person as an ingredient in fuel is prohibited, regardless of

whether a person claims that such use is a legitimate use, unless that person has received prior approval or a permit from the Ministry of Environment; and The importation or exportation of hazardous waste that is not accompanied by a Manifest as described in this Title is prohibited.

CHAPTER 4 IDENTIFICATION OF HAZARDOUS WASTES

ARTICLE 9

Industrial solid wastes shall be determined to be hazardous waste based on characteristics or hazardous constituents contained in such industrial solid wastes, or by the sources of the industrial solid waste, as described in Annex 1. The Ministry of Environment shall annually update Annex 1 to be consistent with the most recent identification of hazardous wastes subject to the Basel Convention or any other relevant provisions of international or Cambodian law. The Ministry of Environment may also independently add additional hazardous wastes to Annex 1 based on a determination of a threat to human health or the environment, pursuant to established procedures for such actions.

CHAPTER 5 NOTIFICATION OF HAZARDOUS WASTE ACTIVITY

ARTICLE 10

Not later than 90 days after the effective date of this Title, any person generating or transporting hazardous waste or owning or operating a facility for treatment, storage, or disposal of such substance shall file with the Ministry of Environment a notification that describes and states the location and general description of such activity and the identifies the hazardous wastes to be handled and possessed. When submitted to the Ministry of Environment, this notification shall provide the person interim authorization for the storage of hazardous waste, and/or for the treatment or disposal of hazardous waste, as described in the notification, until such time as the formal approval or a permit for these activities has been issued by the Ministry of Environment. Failure to provide the required notification shall result in the prohibition by such persons to engage in the storage of hazardous waste and/or the treatment or disposal of hazardous waste until such time as the formal approval or a permit has been provided by the Ministry of Environment. In the event that additional hazardous wastes are identified by the Ministry of Environment, to obtain interim authorization, a person managing such newly identified hazardous wastes must provide the required notification of hazardous waste activity prior to the effective date of the addition of such wastes to Annex 1 by the Ministry of Environment.

CHAPTER 6 RESPONSIBILITIES OF GENERATORS OF INDUSTRIAL WASTE AND HAZARDOUS WASTE

ARTICLE 11 – HAZARDOUS WASTE DETERMINATION

A person who generates an industrial solid waste must determine if that waste is a hazardous waste using the following method:

1. The person should first determine if the waste is excluded from regulation because it is properly defined as a household solid waste, as set forth in Title X of this Code.
2. The person must then determine if the industrial solid waste is described by characteristic or by hazardous constituent, or is listed by source as a hazardous waste in Annex 1. For hazardous wastes that are described by constituent or characteristic, the generator should reference the concentrations set forth standards or guidance established by the Ministry of Environment.
3. If the source or type of waste is not listed in Annex 1, the generator must then determine whether the waste has constituents or characteristics which will make the waste hazardous by either:
 - a. Testing or sampling the waste according to the methods approved by the Ministry of Environment; or
 - b. Applying knowledge of the waste in light of the materials or the processes used. Generators should refer to required registration of chemicals used in the production of goods or processes which created the waste to evaluate whether hazardous characteristics or constituents are present in the industrial solid waste.
4. Generators of industrial solid waste are responsible for properly identifying whether such solid waste is a hazardous waste. This obligation continues and applies to all by-products and residues that are generated from the reclamation of hazardous secondary materials which are also hazardous wastes. If a generator fails to accurately perform a required waste determination, this shall be a violation of this Article.
5. If an industrial solid waste is not found to be a hazardous secondary material or a hazardous waste it is a solid waste, and shall be managed according to Title [X] of this Code (So0.lid waste provisions)
6. The Ministry of the Environment reserves the right to take samples of all industrial solid waste at any given time to ensure proper sampling and waste determinations.

Commented [MQ222]: Currently Prakas No 387 (Standards of the Quantity of Toxins or Hazardous Substances Allowed to be Disposed)

ARTICLE 12 MANAGEMENT STANDARDS FOR GENERATORS OF HAZARDOUS WASTE

Commented [MQ223]: This language is taken from Chapter 4, Article 22/23 of the 2009 Sub-Decree.

A person who generates an industrial solid waste which has been determined to be a hazardous waste shall manage the hazardous waste in accordance with the following management standards:

1. Before offering hazardous waste for transportation off-site, a generator must safely package the waste in accordance with standards established by the Ministry of Environment;
2. Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with standards established by the Ministry of Environment;
3. Temporary Storage.

a. A generator of less than 1,000 kilograms of hazardous waste per month may accumulate hazardous waste on-site for up to 90 days without a permit from the Ministry of Environment, provided that:

- i. The waste is placed in containers and managed in a manner designed to prevent releases to the environment, in accordance with standards established by the Ministry of Environment (such as containers, drums, tanks, drip pads);
- ii. The generator has submitted the required notice of hazardous waste activity, as described in Article 10 above;
- iii. The onsite temporary storage of hazardous waste does not exceed 3,000 kilograms;
- iv. While stored on site, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each hazardous waste container or storage area;
- v. While stored on site, each hazardous waste container is labelled or marked clearly with the words, "Hazardous Waste" for as long as it remains on site; and
- vi. The generator maintains documentation that the onsite storage of hazardous waste for each hazardous waste container or storage area does not exceed 90 days.

b. For generators of more than 1,000 kilograms of hazardous waste per month, the

Commented [MQ224]: Can put in liquid volume standards, and different quantity criteria for extremely hazardous materials if requested.

Can establish an exemption for generators that generate below an established threshold for hazardous waste. For example. Generators of less than 100 kg/mo are subject to less stringent standards in the US in the U.S. code, 261.5.

time period for temporary storage without a permit from the Ministry of Environment is extended to 180 days, provided the generator does not accumulate more than 20,000 kilograms of hazardous waste on site, and the generator complies with all the conditions set forth in the preceding sections.

- c. The storage of hazardous waste in violation of the above conditions, and any,
- d. Hazardous secondary materials as a subset of hazardous waste, may be stored for later processing into a beneficial product at the location of generation, or at another location, for no more than 1 year, upon notice and written approval by the Ministry of Environment, subject to the condition that the owner or operator of the location of storage can demonstrate a bona fide market use for such hazardous waste. The burden of proof for this demonstration is on the generator.
- e. The storage of hazardous waste in violation of the above conditions, and any other temporary storage of hazardous waste by generators, requires a permit from the Ministry of Environment.

ARTICLE 13 MANIFESTING REQUIREMENTS FOR GENERATORS OF HAZARDOUS WASTE

A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest, in accordance with Annex 2.

CHAPTER 7 RESPONSIBILITIES OF TRANSPORTERS OF HAZARDOUS WASTE

ARTICLE 14

For each shipment of hazardous waste, it is the responsibility of the transporter to:

1. Collect and transport hazardous waste according to the volume and destination described in the accompanying Manifest prepared in accordance with Annex 2;
2. Communicate with the generator and the disposal facility in the event of a disruption in transportation;
3. Ensure safe passage of the hazardous waste from the generator to the TSD facility; and
4. Be equipped to handle emergencies in the event the hazardous waste is spilled or leaked.

ARTICLE 15

Before leaving the generator's property with the hazardous waste, the transporter must sign, date, and return a copy of Manifest to the generator. Both transporter and generator shall keep a copy of the Manifest for their own records and shall make all Manifest copies available to the Ministry of Environment upon request. The Ministry of Environment may establish procedures requiring transporters to send a copy of every Manifest to the Ministry of the Environment.

ARTICLE 16

Upon delivery to the location designated on the Manifest, the transporter shall obtain the handwritten signature from the representative of the facility indicated on the Manifest accompanying the hazardous waste. After obtaining the signature of the designated facility's representative, the transporter shall notify the generator that the waste has been properly delivered.

ARTICLE 17

In the event the hazardous waste cannot be delivered in accordance with the Manifest, the transporter must contact the generator for further instructions. If the generator cannot be reached, the transporter must contact the proper authority as designated by the Ministry of Environment.

ARTICLE 18

In addition to complying with Manifest requirements, all hazardous waste transporters must maintain their own record of transportation activities, including:

1. All dates of transport or temporary storage during transit;
2. Total volume transported per week
3. Location and date at which waste was deposited;
4. A description of all accidents that occurred during transport, regardless of whether hazardous was spilled or leaked.

ARTICLE 19

A transporter may not store hazardous waste for more than 30 days without obtaining a permit for storage from the Ministry of Environment.

CHAPTER 8 IMPORTATION AND EXPORTATION OF HAZARDOUS WASTE

ARTICLE 20

In the event hazardous waste is transported into the Kingdom of Cambodia from a foreign State, both the foreign transporter (“exporter”) and Cambodian importer shall comply with the provisions of the Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal (1989 Basel Convention) in addition to complying with the requirements of this Title. Before initiating transport, the exporter shall provide written notification to the Director of the Department of Pollution Control, Ministry of the Environment, in accordance with Annex 3. The Director must provide its written consent to the exporter before foreign hazardous waste may enter Cambodian territory. Without written consent of the competent authority and proper proof of notification, no foreign hazardous waste may enter the Kingdom of Cambodia.

Commented [MQ225]: This prior informed consent requirement is in accordance with the Basel convention, but if an adequate permitting process is already in place which reflects the written consent, then the latter formulation would be appropriate.

ARTICLE 21

The exporter must provide the Border Authorities with proof of contract between themselves and the Cambodia treatment, storage or disposal facility where the waste is to be managed and a Manifest that includes all information listed in Annex 3. If the exporter cannot provide proof of contract or the Import Manifest, the hazardous waste may not enter Cambodian territory. The Kingdom of Cambodia may as appropriate prescribe routes which are to be used for the transport of foreign hazardous waste.

Commented [MQ226]: Cambodian General Department of Customs and Excise.

CHAPTER 9 REQUIREMENT TO OBTAIN A PERMIT OR AUTHORIZATION FOR TREATMENT, STORAGE OR DISPOSAL OF HAZARDOUS WASTE

ARTICLE 22

A person may only treat, store or dispose of hazardous waste subject to permit or interim authorization issued by the Ministry of Environment. The treatment, storage or disposal of hazardous waste without such a permit or interim authorization is prohibited and is a violation of this Code, and shall be subject to the assessment of penalties by the Ministry of Environment. The obligation to obtain such a permit or interim authorization shall apply to the person conducting the treatment, storage or disposal, and shall apply to the location, or facility, at which the activity occurs.

CHAPTER 10 PERMITTING PROCEDURES FOR HAZARDOUS WASTE

ARTICLE 23

The Ministry of Environment may issue a permit to the owner or operator or person in possession of a facility where hazardous waste is stored, treated or disposed.

- a) Such permit must contain requirements consistent with this Title and any applicable Sub-Decrees and/or Prakas that are in force.
- b) Such permits generally expire after 1 year. The Ministry of Environment may issue permits for a longer period of time on a case-by-case basis.
- c) The Ministry of Environment may revise or revoke a permit for any subject facility at any time. The Ministry must provide its reasons to the facility in writing.
- d) The Ministry of Environment, in consultation with relevant ministries, may require facilities to pay a reasonable fee for each permit and/or permit renewal.
- e) The Ministry of Environment shall establish reasonable and effective procedures for persons to follow in applying or re-applying for a permit.
- f) Such permit must also contain, as deemed appropriate by the Ministry of Environment, requirements related to monitoring and reporting of conditions at the facility, including recordkeeping, as well as time frames for responses to address releases.
- g) Such permit must contain requirements to protect human health and the environment by controlling the potential for releases of hazardous waste or hazardous constituents into the environment based on the best available technology that is economically feasible, as determined by the best professional judgement of the Ministry of Environment.
- h) All disposal facilities shall only accept hazardous waste for disposal when the hazardous constituents contained in such waste is below the levels set forth in standards or guidance established by the Ministry of Environment.

**CHAPTER 11 AUTHORITY TO CONDUCT INSPECTIONS, REQUEST
INFORMATION AND TO REQUIRE OR PERFORM ENVIRONMENTAL STUDIES
OR ASSESSMENT**

ARTICLE 24

The Ministry of Environment shall have the authority to conduct inspections at any location where industrial solid waste or hazardous waste is located in order to determine any person's compliance with this Title or to determine whether a release of industrial waste, hazardous constituents or hazardous waste into the environment has occurred. This authority shall include the authority to take samples and to request information during such inspection. The refusal to comply with a request for inspection shall be subject to the assessment of penalties by the Ministry of

Commented [MQ227]: Currently Prakas No 387 (Standards of the Quantity of Toxins or Hazardous Substances Allowed to be Disposed).

Environment.

ARTICLE 25

The Ministry of Environment shall have the authority to make written request for the provision information from persons in order to determine any person's compliance with this Title or to determine whether a release of industrial waste, hazardous constituents or hazardous waste into the environment has occurred. The failure to comply with such requests shall be subject to the assessment of penalties by the Ministry of Environment.

ARTICLE 26

The Ministry of Environment shall have the authority to order a person who controls a location where industrial solid waste, hazardous constituents or hazardous waste are believed to have been disposed or released into the environment to conduct studies or sampling to determine whether such releases pose current or potential future threat to human health or the environment. The failure to comply with such an order shall be subject to the assessment of penalties by the Ministry of Environment.

CHAPTER 12 AUTHORITY TO ASSESS PENALTIES AND TO ISSUE ORDERS TO ACHIEVE COMPLIANCE AND TO ADDRESS THREATS TO PUBLIC HEALTH AND THE ENVIRONMENT

ARTICLE 27

The Ministry of Environment shall have the authority to issue orders to persons in violation of this Title, either directly or by mutual consent that will contain the terms and conditions for such persons to take the actions determined by the Ministry to be necessary to achieve compliance with this Title. This shall include the authority establish a schedule for actions and the authority to direct such persons to cease and desist illegal actions. The failure to comply with such Orders shall be subject to the assessment of penalties by the Ministry of Environment.

ARTICLE 28

The Ministry of Environment shall have the authority to issue orders to persons, either directly or by mutual consent, that will contain the terms and conditions for such persons to take actions determined by the Ministry to be necessary to address releases of industrial solid waste, hazardous constituents and hazardous waste that may pose a potential risk to human health or the environment. The failure to comply with such Orders shall be subject to the assessment of penalties by the Ministry of Environment.

ARTICLE 29

The Ministry of Environment shall have the authority to assess penalties to any person that is in violation of this Title as it deems appropriate, consistent with any guidelines that the Ministry may follow or develop in the future. Such guidelines may address:

- a) the seriousness of the violation;
- b) the conduct of the offender;
- c) the attitude of the offender regarding the harm caused;
- d) the nature of the violation;
- e) any economic benefit incurred by the offender; and
- f) discouraging the violator from repeat violation and/or others from taking similar actions.

ARTICLE 30

Any person who is not satisfied with assessment of penalty or the issuance of an Order by the Ministry of Environment has rights to file a complaint to the Ministry of Environment. The Ministry of Environment shall make a decision on the complaint within fifteen (15) days after receiving the complaint. Any person who is not satisfied with the decision made by the Ministry of Environment has rights to sue to the court based on procedure that is in force.

Commented [MQ228]: Modelled on 2015 Sub-Decree 113, Article 50.

ANNEX 1

CATEGORIES OF HAZARDOUS WASTES

(BASEL CONVENTION)

WASTE STREAMS

<u>Y1</u>	<u>Clinical wastes from medical care in hospitals, medical centres and clinics</u>
<u>Y2</u>	<u>Wastes from the production and preparation of pharmaceutical products</u>
<u>Y3</u>	<u>Waste pharmaceuticals, drugs and medicines</u>
<u>Y4</u>	<u>Wastes from the production, formulation and use of biocides and phytopharmaceuticals</u>
<u>Y5</u>	<u>Wastes from the manufacture, formulation and use of wood preserving chemicals</u>

- Y6 Wastes from the production, formulation and use of organic solvents
- Y7 Wastes from heat treatment and tempering operations containing cyanides
- Y8 Waste mineral oils unfit for their originally intended use
- Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions
- Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
- Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment
- Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
- Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
- Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
- Y15 Wastes of an explosive nature not subject to other legislation
- Y16 Wastes from production, formulation and use of photographic chemicals and processing materials
- Y17 Wastes resulting from surface treatment of metals and plastics
- Y18 Residues arising from industrial waste disposal operations

WASTES HAVING AS CONSTITUENTS

- Y19 Metal carbonyls
- Y20 Beryllium; beryllium compounds
- Y21 Hexavalent chromium compounds
- Y22 Copper compounds
- Y23 Zinc compounds
- Y24 Arsenic; arsenic compounds
- Y25 Selenium; selenium compounds
- Y26 Cadmium; cadmium compounds
- Y27 Antimony; antimony compounds
- Y28 Tellurium; tellurium compounds
- Y29 Mercury; mercury compounds
- Y30 Thallium; thallium compounds
- Y31 Lead; lead compounds
- Y32 Inorganic fluorine compounds excluding calcium fluoride
- Y33 Inorganic cyanides
- Y34 Acidic solutions or acids in solid form
- Y35 Basic solutions or bases in solid form
- Y36 Asbestos (dust and fibres)
- Y37 Organic phosphorus compounds

<u>Y38</u>	<u>Organic cyanides</u>
<u>Y39</u>	<u>Phenols; phenol compounds including chlorophenols</u>
<u>Y40</u>	<u>Ethers</u>
<u>Y41</u>	<u>Halogenated organic solvents</u>
<u>Y42</u>	<u>Organic solvents excluding halogenated solvents</u>
<u>Y43</u>	<u>Any congener of polychlorinated dibenzo-furan</u>
<u>Y44</u>	<u>Any congener of polychlorinated dibenzo-p-dioxin</u>
<u>Y45</u>	<u>Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)</u>

CATEGORIES OF WASTES REQUIRING SPECIAL CONSIDERATION

<u>Y46</u>	<u>Wastes collected from households</u>
<u>Y47</u>	<u>Residues arising from the incineration of household wastes</u>

HAZARDOUS CHARACTERISTICS

<u>UN Class¹</u>	<u>Code</u>	<u>Characteristics</u>
<u>1</u>	<u>H1</u>	<u>Explosive</u> <u>An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.</u>
<u>3</u>	<u>H3</u>	<u>Flammable liquids</u> <u>The word “flammable” has the same meaning as “inflammable”. Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.)</u>
<u>4.1</u>	<u>H4.1</u>	<u>Flammable solids</u>

¹ Corresponds to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1Rev.5, United Nations, New York, 1988).

		<u>Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.</u>
4.2	H4.2	<u>Substances or wastes liable to spontaneous combustion</u> <u>Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.</u>
4.3	H4.3	<u>Substances or wastes which, in contact with water emit flammable gases</u> <u>Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.</u>
5.1	H5.1	<u>Oxidizing</u> <u>Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.</u>
5.2	H5.2	<u>Organic Peroxides</u> <u>Organic substances or wastes which contain the bivalent-o-o-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.</u>
6.1	H6.1	<u>Poisonous (Acute)</u> <u>Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.</u>
6.2	H6.2	<u>Infectious substances</u> <u>Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.</u>
8	H8	<u>Corrosives</u> <u>Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.</u>
9	H10	<u>Liberation of toxic gases in contact with air or water</u> <u>Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.</u>
9	H11	<u>Toxic (Delayed or chronic)</u> <u>Substances or wastes which, if they are inhaled or</u>

9	<u>H12</u>	<u>ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.</u> <u>Ecotoxic</u> <u>Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.</u>
9	<u>H13</u>	<u>Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.</u>

TESTS

The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterise potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in the Annex, in order to decide if these materials exhibit any of the characteristics listed in this Annex.

ANNEX 2

INFORMATION TO BE PROVIDED ON THE MANIFEST DOCUMENT

1. Exporter of the waste ²
2. Generator(s) of the waste and site of generation ¹
3. Disposer of the waste and actual site of disposal ¹
4. Carrier(s) of the waste¹ /or his agent(s)
5. Subject of general or single notification
6. The date the transboundary movement started and date(s) and signature on receipt by each

The information required on the movement document shall where possible be integrated in one document with that required under transport rules. Where this is not possible the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

² Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.

person who takes charge of the waste

7. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated
8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)
9. Information on special handling requirements including emergency provision in case of accidents
10. Type and number of packages
11. Quantity in weight/volume
12. Declaration by the generator or exporter that the information is correct
13. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties
14. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal

ANNEX 3

EXPORTER NOTIFICATION REQUIREMENTS

1. Reason for waste export ¹
2. Exporter of the waste ¹
3. Generator(s) of the waste and site of generation ¹
4. Disposer of the waste and actual site of disposal ¹
5. Intended carrier(s) of the waste or their agents, if known ¹
6. Country of export of the waste, Competent Authority ³

¹ Full name and address, telephone, telex or telefax number, the name, address, telephone, telex or telefax number of the person to be contacted.

7. Expected countries of transit, Competent Authority²
8. Country of import of the waste, Competent Authority²
9. General or single notification
10. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit)⁴
11. Means of transport envisaged (road, rail, sea, air, inland waters)
12. Information relating to insurance⁵
13. Designation and physical description of the waste and information on any special handling requirements including emergency provisions in case of accidents
14. Type of packaging envisaged (e.g. bulk, drummed, tanker)
15. Estimated quantity in weight/volume⁶

TITLE 5 SOLID WASTE MANAGEMENT

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1

The goal of this Title is to enhance the management of garbage and solid waste with effectiveness, transparency and accountability, to ensure aesthetics, public health and environmental protection.

ARTICLE 2

Followings are objectives of this Title:

- Strengthen responsibilities of ministry, institution, skilled unit, sub-national administration and other relevant stakeholders for the management of garbage and solid waste.

Commented [MQ229]: Recommend not making the scope of solid waste regulation depend on where the waste is generated (downtowns), but who generates the waste. Accordingly, reference to downtown removed.

² Full name and address, telephone, telex or telefax number.

³ In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.

⁵ Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.

⁶ In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.

- Entrust function of the management of garbage and solid waste to municipal, city and district administrations and delegate function of the management of garbage and solid waste from municipal administration to khan administration.
- Determine necessary measures to improve efficiency and safety in the management of garbage and solid waste.
- Promote public education and citizens' participation in preparing and implementing measures relating to the management of garbage and solid waste.

ARTICLE 3

This Title covers separating, storing, cleaning, collecting, transporting, recycling and management of landfills of garbage and solid waste in the Kingdom of Cambodia.

This Title does not cover industrial solid waste and hazardous waste management.

ARTICLE 4

Vocabulary used in this Title is defined as in Definitions section of this Title.

CHAPTER 2 RESPONSIBLE INSTITUTIONS

ARTICLE 5

Ministry of Environment has roles in leading and pushing operation of the management of garbage and solid waste and duties as follows:

- In cooperation with relevant ministries, institutions and stakeholders, prepare policies, national strategic plans, legal instruments and technical guidelines relating to the management of garbage and solid waste;
- Provide technical advice and capacity building to sub-national administration on the management of garbage and solid waste;
- Take lead in coordinating with development partners, private or public sector to gather financial resources, means and materials supporting sub-national administration in the management of garbage and solid waste;
- Support and cooperate with relevant ministries and institutions and sub-national administration to promote formal and informal education and dissemination of

Commented [MQ230]: Proposing amendments to the definitions to be consistent with the proposed hazardous waste Code sections.

environmentally safe the management of garbage and solid waste, program to reduce, reuse and recycle (3R) and promotion of use of products from recycling garbage and solid waste; and

- Monitor, check and evaluate environmental work relating to garbage and solid waste.

ARTICLE 6

Ministry of Interior has roles in leading and pushing operation of the management of garbage and solid waste and duties as follows:

- Support and cooperate with ministry of environment and relevant stakeholders in capacity building and experience sharing with sub-national administration about the management of garbage and solid waste;
- Coordinate and seek any support for sub-national administration in effective promotion of the management of garbage and solid waste; and
- Intervene in monitoring, checking and evaluating the implementation of the management of garbage and solid waste.

ARTICLE 7

Provincial Administration shall provide support and facilitation as well as urge operation work regarding the management of garbage and solid waste has roles in leading and pushing operation of the management of garbage and solid waste implementing by municipal and district administration and has duties as follows:

- Prepare legal instruments necessary for advising and urging the implementation of legal measures and other relevant legal instruments regarding the management of garbage and solid waste;
- Advise municipal and district administration to prepare management plans and yearly action and budget plans for the management of garbage and solid waste;
- Urge and support the creation of cleaning, collecting and transporting services and service of garbage and solid waste;
- Collect resources, means and materials supporting municipal and district administration in the management of garbage and solid waste work;

Commented [MQ231]: Generally speaking, the description of division of duties in this sub decree is excellent and closely follows that found in the U.S.

- Support and push education and information dissemination in all kind of means to the public about importance of garbage and solid waste separation, program to reduce, reuse and recycle and promoting the usage of products from recycling garbage and solid waste;
- Coordinate preparation and joint use of the management of garbage and solid waste services for municipal and district administration;
- Monitor, check and assess the implementation of municipal and district administration pertaining to the management of garbage and solid waste work.

ARTICLE 8

Capital and Provincial Department of Environment shall play its role as the lead for capital and provincial administration regarding the management of garbage and solid waste work and have duties as follows:

- Promote citizens' education on environmental hygiene through education and information dissemination about storage, cleaning, separation, reduction, reuse and recycling and participation in using the management of garbage and solid waste services;
- Participate in preparing the management of garbage and solid waste plans of the sub-national administration;
- Participate in providing technical advice on proposals or projects of the management of garbage and solid waste services;
- Monitor, check and evaluate environmental work relating to the process of the management of garbage and solid waste services and garbage and solid waste recycling activities;
- Push the implementation of measures of laws and legal instruments that are in force and participate in the implementation fine measure on offenses relating to the management of garbage and solid waste; and
- Prepare semester and yearly reports on situation and process of the management of garbage and solid waste.

ARTICLE 9

Capital, municipal and district Administration have roles in the management of garbage and solid waste, within their territorial jurisdictions and duties as follows:

- Prepare management plans and yearly action and budget plans for the management of garbage and solid waste within its territorial jurisdiction;
- Prepare and implement any measure for the management of garbage and solid waste through issuing an order (Deika) or other legal instruments;
- Establish, control and manage cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction;
- Advice citizens relating to environmental hygiene cleaning and local cleaning, collecting and transporting services and garbage and solid waste services prepared; and
- Educate and disseminate information on garbage and solid waste separation with environmental safety, program to reduce, reuse and recycle and promoting the usage of products from recycling garbage and solid waste.

ARTICLE 10

Each capital, municipal and district administration may propose to establish a specific unit or office under control of its administration responsible for this task in compliance with principles and procedures that are in force to ensure effectiveness and precise responsibilities on the management of garbage and solid waste.

ARTICLE 11

Capital administration shall transfer one or whole part of its functions on the management of garbage and solid waste to khan or/and sangkat administration.

Municipal and district administration may delegate one or whole part of its functions on the management of garbage and solid waste to commune and sangkat administration within its territorial jurisdiction.

ARTICLE 12

Khan administration shall be responsible for implementing granted functions and fulfilling roles to support and coordinate the process of cleaning, collecting and transporting services and garbage and solid waste services at the capital and has duties as follows:

- Manage and implement the granted functions for the management of garbage and solid waste;

- Participate and cooperate in implementing programs of the management of garbage and solid waste; and
- Participate in monitoring the implementation of cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction.

ARTICLE 13

Commune administration shall be responsible for implementing delegated functions and fulfilling roles to support and coordinate the process of cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction and has duties as follows:

- Manage and implement the management of garbage and solid waste based upon delegation;
- Participate in broader education and information dissemination with regards to the use of cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction;
- Participate in providing advises on programs to cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction;
- Participate in resolving problems relating to cleaning, collecting and transporting services and garbage and solid waste services within its territorial jurisdiction; and
- Participate in cooperating to enforce the implementation of legal measures and legal instruments regarding to the management of garbage and solid waste.

ARTICLE 14

In necessary case, the minister of Ministry of Interior, the minister of Ministry of Environment and the minister of Ministry of Economy and Finance may issue legal instruments advising to the implementation of the management of garbage and solid waste.

Chapter 3 Separation, Packaging, Storage and Disposal of Garbage and Solid waste

ARTICLE 15

Owners of garbage and solid waste shall practice separating and packaging reusable and recyclable solid waste from garbage and solid waste which is to be disposed, consistent with guidance of capital, municipal, district and khan administration.

ARTICLE 16

Owners of garbage and solid waste shall be responsible for waste packaging by a plastic bag or keeping their waste in a private bin, without releases of wastewater or emission of stink within the period of storage awaiting discharge consistent with guidance of capital, municipal, district and khan administration.

ARTICLE 17

Owners of garbage and solid waste shall be responsible for maintaining waste packages and their rubbish bins inside their gates or premises of their houses, buildings or sites and shall discharge at the time determined by capital, municipal, district and khan administration.

Capital, municipal, district and khan administration shall take action to strictly check practices of packages discharge or rubbish bins on streets or in the public awaiting collection and transport at the time determined.

ARTICLE 18

Owners of garbage and solid waste using services of garbage and solid waste management shall pay for cleaning, collecting and transporting services and services of garbage and solid waste landfills determined by capital, municipal, district and khan administration.

ARTICLE 19

Capital, municipal, district and khan administration shall prepare orders (Deika) or other legal instruments to recommend the implementation of cleaning, separating, packaging, storing and discharging garbage and solid waste within its territorial jurisdiction in response to actual situation of each jurisdiction and shall ensure high efficiency of garbage and solid waste management and promote aesthetics, hygiene and the environment.

Above orders or legal instruments shall be prepared consistent with policies, national strategic plans, legal instruments and technical guidelines that are in force.

Capital, municipal, district and khan administration shall widely disseminate information regarding those orders or other legal instruments, as stipulated in the above paragraph, to citizens to ensure participation in responsible implementation.

CHAPTER 4 GENERAL MEASURES ON THE MANAGEMENT OF GARBAGE AND SOLID WASTE

ARTICLE 20

Any disposal or burning of garbage and solid waste on public streets, fields, in sewage system or public water sources or on privately-owned land is prohibited.

Capital, municipal, district and khan administration shall take measures to prevent any disposal or burning of garbage and solid waste on public streets, fields, in sewage system or public water sources or on privately-owned land.

ARTICLE 21

Any natural person and legal entity using a public site for celebrating or processing his or her ceremony shall be required to pay for fee of cleaning, collecting and transporting service of garbage and solid waste generated from the ceremony to the local service provider consistent with cost determined by capital, municipal, district and khan administration.

ARTICLE 22

Capital, municipal, district and khan administration shall manage to place public rubbish bins and prepare to have cleaning, collecting and transporting service of garbage and solid waste generated from selling on streets and public sites within its territorial jurisdiction.

Owners of managers of markets, business sites, service sites, companies, factories, enterprises, handicrafts, entertainment centres shall equip rubbish bins at their sites or premises for disposal of garbage and solid waste of their customers or staff.

ARTICLE 23

Owners or contractors for demolishing, repairing or constructing houses or buildings shall be responsible for garbage and solid waste from their constructing sites as follows:

- Keep their garbage and solid waste properly without causing impact to public order and the environment; and
- Clean, collect and transport their garbage and solid waste by their own to local landfills and shall a pay fee as determined by capital, municipal, district and khan administration.

ARTICLE 24

Capital, municipal, district and khan administration shall determine appropriate places for

temporarily storing garbage and solid waste when necessary to ensure the effectiveness in collecting and transporting.

Capital, municipal, district and khan administration shall determine time allowed for disposal of garbage and solid waste to temporary storage places and shall take action to prevent any disposal of garbage and solid waste to temporary storage places at the wrong time.

ARTICLE 25

Owners and managers of sites and housing gate community shall prepare appropriate places within their own management premises for storing garbage and solid waste waiting for being transported, which does not affect aesthetics, public order, safety and public health.

ARTICLE 26

Capital, municipal, district and khan administration shall take immediate action on cases of garbage and solid waste accumulation caused by inactiveness of cleaning, collecting and transporting service providers through all means possible to clean, collect and transport garbage and solid waste in order to deal with that accumulation.

Providers of cleaning, collecting and transporting service of garbage and solid waste are in charge of cost of the above operation in their jurisdiction.

ARTICLE 27

Pumping business, transport and disposal of sludge from septic tanks shall be permitted by capital, municipal, district and khan administration after receiving technical advice from capital and provincial Department of Environment.

ARTICLE 28

Ministry of Environment shall provide specific guidance on technical management for types of special classes of solid waste generated in houses, institutions or public buildings, commercial centres and tourism services, in consultation with national administration.

List of solid waste generated in houses, institutions or public buildings, commercial centres and tourism services has been determined as in annex 2 of this Title.

ARTICLE 29

Industrial solid waste and hazardous waste generated from production activities of business,

Commented [MQ232]: May not want to retain this specific provision for hazardous wastes in this Title. It is covered by the offered hazardous waste. There are possible variations of this Article 28 that could range from a general statement of MoE providing guidance to a more restrictive conditions, or direct prohibitions.

Commented [MQ233]: Conforming change to definitions found in Hazardous waste section of Code

commercial activities, factories, mineral exploitations and from other sources besides the sites or sources as stated in Article 28 of this Title shall be controlled by Ministry of Environment which is determined by Title [X] of this Code.

CHAPTER 5 SERVICES OF GARBAGE AND SOLID WASTE MANAGEMENT

ARTICLE 30

Within its territorial jurisdiction, Capital, municipal, district and khan shall be responsible for work regarding cleaning, collecting and transporting services and service of garbage and solid waste landfills with effectiveness, transparency, accountability and environmental safety.

ARTICLE 31

Regarding management of garbage and solid waste, capital, municipal and district administration may:

- a) Prepare and operate by its administration one part of or whole functions on cleaning, collecting and transporting services and service of garbage and solid waste landfills, within its territorial jurisdiction.
- b) Cooperate with other sub-national administration, boundary of which is next to each other, to provide joint services.
- c) Entitle rights to private sectors as responsible entities to provide cleaning or/and collecting or/and transporting services or/and service of garbage and solid waste landfills.
- d) Transfer one part of or whole functions on management of garbage and solid waste to khan, commune and sangkat administration or entitle rights to communities to implement any sub-function or some of functions on management of garbage and solid waste.

ARTICLE 32

Contract Rights established for cleaning or/and collecting or/and transporting services or/and service of garbage and solid waste landfills shall not longer than 10 years period for each contract and shall carried out in accordance with methods and procedure of procurement that are in force.

ARTICLE 33

Based upon maximum service fee determined by inter-ministerial prakas of Ministry of Interior, Ministry of Environment and Ministry of Economy and Finance, capital, municipal and district

administration shall determine fee for cleaning, collecting and transporting services and service of garbage and solid waste landfills to be carried out locally, compliance with following principles:

- Shall consult with citizens and relevant stakeholders within its territorial jurisdiction;
- Ensure effectiveness and quality of management of garbage and solid waste;
- Determine fee based on types of businesses, sites, income levels, quantity of garbage and solid waste to be discharged; and
- Shall seek for check and approval from its councils.

ARTICLE 34

Capital, municipal and district administration shall determine appropriate measures and procedure with transparency and effectiveness for collecting, managing and charging fee for management of garbage and solid waste within its territorial jurisdiction by consulting with khan, commune, sangkat administration, institution and relevant stakeholders.

Income generated from service of management of garbage and solid waste is personal income of capital, municipal and district administration per se.

Capital, municipal and district administration may utilize its budget or budget from other sources to additionally support expense on providing service of management of garbage and solid waste.

ARTICLE 35

In a case that there is a proposal from any community, organization or citizen to request a permit of collecting garbage and solid waste for any interest, capital, municipal and district administration, in cooperation with capital and provincial Department of Environment, may:

- a) Check permit of collecting garbage and solid waste for producing compost fertilizer and gas if activities of collecting those garbage and solid waste do not affect the management plans of garbage and solid waste and do have negative impacts to the living of surroundings and the Environment.
- b) Provide permit of collecting and transporting garbage.

CHAPTER 6 MEASURES ON MANAGEMENT OF GARBAGE AND SOLID WASTE LANDFILLS

ARTICLE 36

Within its territorial jurisdiction and consistent with actual geographical situational location, capital, municipal and district administration shall determine and choose places for garbage and solid waste landfill management plan. Municipal and district administration shall seek approval from provincial administration for the determination and selection of places for garbage and solid waste landfill management plan.

Every proposed project for installation of garbage and solid waste landfill shall be checked and approved by Ministry of Environment regarding techniques in preparing the landfill, measures to protect the Environment during operation and when that landfill is closed and duration of garbage and solid waste landfill use.

ARTICLE 37

Owners or operators of garbage and solid waste landfill shall operate their landfill in compliance with technical conditions and environmental protection measures determined by Ministry of Environment.

In a case that there is an environmental pollution incident caused by landfill operation the owner or operator of such a landfill shall take immediate action to prevent and provide information about this incident immediately to capital, municipal, district, khan administration and capital and provincial Department of Environment.

ARTICLE 38

Ministry of Environment and capital and provincial administration shall regularly monitor practices of owners of garbage and solid waste landfills with regards to prevention and reduction of environmental impact from landfill operation.

CHAPTER 7 PENALTIES

ARTICLE 39

Incompliance with what determined by capital, municipal, district and khan administration in terms of separating and packaging of reusable and recyclable solid waste as stipulated in Article 15 of this Title, owners of garbage and solid waste shall be subject to transactional fines in a certain amount of money as follows:

- 10,000 (ten thousand) riels for housing

Commented [MQ234]: This is a very detailed penalty framework, established in the Code. In the U.S., we establish general authority for penalties, and have agency policies (like a Prakas) for how penalties are to be calculated and assessed. The proposed hazardous waste section uses the approach of general authority, vs. the framework in this sub decree.

- 100,000 (one hundred thousand) riels for business sites, service sites, handicraft sites, condominiums, apartments and gate communities
- 200,000 (two hundred thousand) riels for industries, enterprises and companies.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 40

Any person who brings a package or bin of garbage and solid waste of jurisdiction to the street or public site not at permitted time to be discharged determined by capital, municipal, district and khan administration as stipulated in Article 17 of shall be subject to transactional fines as follows:

- 20,000 (twenty thousand) riels for housing
- 150,000 (one hundred and fifty thousand) riels for business sites, service sites, handicraft sites, condominiums, apartments and gate communities
- 400,000 (four hundred thousand) riels for industries, enterprises and companies.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 41

Any person who use services of management of garbage and solid waste and is not willing to pay for fee for cleaning, collecting and transporting services and services of garbage and solid waste landfills prepared or determined by capital, municipal, district and khan administration as stipulated in Article 18 of this Title shall be responsible for a transactional fine in double amount of fee to be paid per month.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 42

Any person who disposes garbage and solid waste at public sites, on streets, fields, possessed lands, or places prohibited for waste disposal by capital, municipal, district and khan administration as

stipulated in Article 20 of this Title shall be subject to transactional fines and penalties as follows:

- 20,000 (twenty thousand) riels for passengers, tourists and shall collect, clean and bring their waste to the public rubbish bins
- 50,000 (fifty thousand) riels for sellers on streets or public sites and shall collect, package and bring their waste to sites determined by the authority
- 200,000 (two hundred thousand) riels for sellers at homes, restaurants, entertainment sites and shall collect, package and bring their waste to sites determined by the authority
- 400,000 (four hundred thousand) riels for industries, enterprise, companies and shall be responsible for collecting, cleaning and transport their waste to the landfills.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 43

Any person who burn garbage and solid waste at public sites, on streets, fields, possessed lands, or places prohibited by capital or municipal and district administration as stipulated in Article 20 of this Title shall be subject to transactional fines and penalties as follows:

- 50,000 (fifty thousand) riels for passengers, tourists and shall collect and clean their waste
- 100,000 (one hundred thousand) riels for housing owners, sellers on streets or public sites and shall collect and clean their waste
- 200,000 (two hundred thousand) riels for sellers at homes, restaurants, entertainment sites and shall collect, package and bring their waste to sites determined by the authority
- 1,000,000 (one million) riels for industries, enterprise, companies and shall be responsible for collecting, cleaning and transport their waste to the landfills.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 44

Any person getting away from being responsible for garbage and solid waste generated from his or her ceremony conducted on street or public site as stipulated in Article 21 of this Title shall be subject to transactional fines, in addition to service fee of cleaning, collecting and transporting, as follows:

- 200,000 (two hundred thousand) riels for weddings, grand openings, and ceremonies except for funerals
- 600,000 (six hundred thousand) riels for forums
- 2,000,000 (two million) riels for public concerts

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 45

Any person who is the owner or manager of a market, business site, company, enterprise, handicraft, entertainment centre which is not equipped with rubbish bins at their sites or premises for disposal of garbage and solid waste of their customers or staff as stipulated in paragraph 2 of Article 22 of this Title shall be subject to a transactional fine in the amount of 400,000 (four hundred thousand) riels.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 46

Owners of construction sites who improperly keep garbage and solid waste from constructing work or materials as determined by capital, municipal, district and khan administration or their storage causing impact to public order, aesthetics or the environment as stipulated in Article 23 of this Title shall be subject to transactional fines and penalties as follows:

- 400,000 (four hundred thousand) riels for construction sites of housing and shall be responsible for collecting, cleaning and transporting to landfills
- 800,000 (eight hundred thousand) riels for big construction sites of building, gate communities and shall be responsible for collecting, cleaning and transporting to landfills.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 47

Any person who conducts pumping business of sludge from sewage system or septic tanks without a permit from capital, municipal, district and khan administration or transport and discharge that sludge outside places determined by the competent authority as stipulated in Article 17 of this Title shall be permitted shall be subject to transactional fines as follows:

- 400.000 (four hundred thousand) riels for family businesses
- 800.000 (eight hundred thousand) riels for company businesses.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 48

Any person who stores, packages or collects and transports garbage and solid waste mixed with industrial solid waste, medical waste or hazardous waste shall be subject to transactional fine as follows:

- 500.000 (five hundred thousand) riels for businesses, handicrafts and maternity hospitals
- 800.000 (eight hundred thousand) riels for factories, enterprises and companies
- 1000.000 (one million) riels for service companies for collecting and transporting garbage and solid waste.

In case of recidivism, the transactional fine shall be in a double amount of the previous transactional fine.

ARTICLE 49

If any person who does not pay for transactional fine within 30 (thirty) days from a day when he or she receives the fine receipt, he or she shall pay for a double amount of fine. If within 60 (sixty) days, he or she shall pay for fine thrice. If period of 90 (ninety) days is over, capital, municipal,

district and khan administration shall prepare documents and file a complaint to capital and provincial court of first instance.

ARTICLE 50

Any person who is not satisfied with decision on a transactional fine by any competent official of capital, municipal, district or khan administration has rights to file a complaint to capital, municipal, district or khan governor itself.

Capital, municipal, district or khan governor shall make a decision on the complaint within 15 (fifteen) days, the longest after receiving the complaint.

Any person who is not satisfied with the decision made by capital, municipal, district or khan governor has rights to sue to the court based on procedure that is in force.

ARTICLE 51

Capital, municipal, district and khan administration shall be responsible for preparing mechanisms for carrying out measures on transactional fines effectively.

Procedure of managing, allocating, and using income from transactional fines will be determined by inter-ministerial prakas of Ministry of Interior, Ministry of Environment and Ministry of Economy and Finance.

CHAPTER 8: TRANSITIONAL PROVISIONS

ARTICLE 52

Capital, provincial, municipal and district administration shall check the past contract implementation and consult with relevant ministries, institutions and service providers, as well as relevant stakeholders, for checking and revising contracts of providing garbage and solid waste services implemented under its territorial jurisdiction within 12 (twelve) months after this Title enters into force.

ARTICLE 53

Ministry of Interior, Ministry of Environment and Ministry of Economy and Finance shall establish an inter-ministerial working group for discussion and coordination with sub-national administrations concerning transfer of the management of garbage and solid waste implementation and responsibilities to municipal and district administration and delegation of the management of

Commented [MQ235]: This is an established example of the rights of citizens to petition and contest liability and penalties. This language was borrowed and copied into the proposed hazardous waste sections.

garbage and solid waste implementation and responsibilities from capital administration to khan administration.

TITLE 6 WATER POLLUTION CONTROL

CHAPTER # RESPONSIBLE INSTITUTIONS

[The precise jurisdictional arrangements as between the MOE and other institutions, particularly sub-national institutions shall be determined and inserted here.]

CHAPTER # DEFINITIONS

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

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

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

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

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

Ground water: Any water that is beneath the surface of the earth.

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

CHAPTER # MEASURES TO PREVENT WATER POLLUTION

ARTICLE #

The discharge of any pollutant by any point source into any surface water, ground water, or water collection system is prohibited except in compliance with this Title.

Commented [MQ236]: Needs to be verified.

ARTICLE #

The discharge of any pollutant by any nonpoint source into any surface water, ground water, or water collection system is prohibited except in compliance with this Title.

ARTICLE #

The owner or operator of the point source is responsible for the discharge of pollutants and any treatment operation to control the discharge of pollutants from the point source to a surface water, ground water, or water collection system, as well as any obligations that the Ministry of Environment may determine in the future in sub-decree, prakas, or other document.

CHAPTER # PERMISSION OF POLLUTANT DISCHARGE

ARTICLE #

A point source may discharge one or more pollutants into a surface water, ground water, or water collection system in compliance with a discharge permit issued by the Ministry of Environment for that point source.

ARTICLE #

A nonpoint source may discharge one or more pollutants into a surface water, ground water, or water collection system without a permit but only after implementation of applicable best management practices, as prescribed and updated over time by the Ministry of Environment.

CHAPTER # WATER POLLUTION POINT SOURCE CONTROL

ARTICLE #

The Ministry of Environment may issue a permit to any point source for the discharge of one or more pollutants into a surface water, ground water, or water collection system.

ARTICLE #

Such permit must contain requirements consistent with this Title and any applicable sub-decrees and/or prakas that are in force.

ARTICLE #

Such permits generally expire after one year. The Ministry of Environment may issue permits for a longer period of time on a case-by-case basis.

ARTICLE #

The Ministry of Environment may revise or revoke a permit for any point source at any time. The Ministry must provide its reasons to the point source in writing.

ARTICLE #

The Ministry of Environment, in consultation with relevant ministries, may require point sources to pay a reasonable fee for each permit and/or permit renewal.

ARTICLE #

The Ministry of Environment shall establish reasonable and effective procedures for point sources to follow in applying or re-applying for a permit.

ARTICLE #

Such permit must contain limits or requirements to control the discharge of any pollutant into a surface water, ground water, or water collection system based on the best available technology that is economically feasible, as determined by the Ministry of Environment.

ARTICLE #

Where the Ministry of Environment has previously developed limits or requirements based on the best available technology economically feasible for a point source in a certain sector, the Ministry must include limits and/or requirements as least as stringent as those in the earlier permit into such permit.

ARTICLE #

Where the Ministry of Environment has not previously developed limits or requirements based on the best available technology economically feasible for a point source in a certain sector, the Ministry must calculate such limits and/or requirements using its best professional judgment.

ARTICLE #

Such permit must also contain, as deemed appropriate by the Ministry of Environment, additional limits and/or requirements to control the discharge of any pollutant into a surface water, ground water, or water collection system to protect the quality of the receiving water and/or ecosystem and any other downstream water that may be affected by the discharge, including marine waters and/or transboundary waters.

Commented [MQ237]: Possible deletion because relates to jurisdiction of Ministry of Water Resources.

ARTICLE #

Such permit must also contain, as deemed appropriate by the Ministry of Environment, requirements related to monitoring of the discharge, monitoring of the receiving water and any other affected downstream waters, including marine waters and/or transboundary waters, reporting, recordkeeping, as well as time frames for responses from the Ministry.

CHAPTER # WATER POLLUTION NONPOINT SOURCE CONTROL

ARTICLE #

Nonpoint sources do not need a permit from the Ministry of Environment to discharge a pollutant into any surface water, ground water, or water collection system, but they must implement applicable best management practices, as prescribed and updated over time by the Ministry of Environment.

ARTICLE #

The Ministry of Environment shall prescribe, and update as appropriate over time, categories of nonpoint sources and best management practices to reduce water pollution that apply to each category.

CHAPTER # MONITORING

ARTICLE #

The monitoring of the permit and compliance with the permit is the responsibility of the holder of the permit.

ARTICLE #

The permit holder shall certify that the sampling and monitoring are done in accordance with the requirements of the permit and any conditions of the Ministry of the Environment.

ARTICLE #

The permit holder shall immediately inform the Ministry of the Environment if there is a breach of the permit, if there is a problem with the sampling, or if there is a failure in any pollution control equipment.

ARTICLE #

Commented [MQ238]: Per M. Baird.

The Ministry of Environment may, upon appropriate notice given to the point source, monitor and/or order an appropriate entity to monitor the discharge of any pollutant from any point source to any surface water, ground water, or water collection system.

ARTICLE #

The Ministry of Environment may also monitor the water quality of any surface water, ground water, or water collection system.

ARTICLE #

The Ministry of Environment may also receive and consider any monitoring samples taken by any person of any surface water, ground water, or water collection system.

Commented [MQ239]: Penalties for submitting false reports included to discourage.

ARTICLE #

All monitoring samples, regardless of who collected them, must be analysed by a Ministry of Environment laboratory or other laboratory that has been approved by the Ministry of Environment.

CHAPTER # INSPECTIONS

ARTICLE #

The Ministry of Environment may inspect any point source or nonpoint source with respect to the discharge of any pollutant from such source to a surface water, ground water, or water collection system. Such inspection need not be based on any report or evidence of any permit violation.

CHAPTER # SEWAGE SLUDGE OR BIO-SOLIDS

ARTICLE #

The Ministry of Environment may encourage the responsible, safe, and effective use of sewage sludge or bio-solids, which are the solid remains after treatment of wastewater by a sewage treatment plant, including but not limited to agricultural applications and energy generation.

ARTICLE #

The Ministry of Environment may establish requirements and/or guidelines related to sewage sludge or bio-solids, including but not limited to guidelines to encourage re-use.

CHAPTER # WATER CONSERVATION AND RE-USE

ARTICLE #

The Ministry of Environment shall encourage water conservation by all people throughout the Kingdom of Cambodia.

ARTICLE #

The Ministry of Environment shall encourage responsible, safe, and effective re-use of water.

ARTICLE #

The Ministry of Environment may establish requirements and/or guidelines related to water conservation and/or water reuse.

CHAPTER # EDUCATION AND OUTREACH

ARTICLE #

The Ministry of Environment may conduct education and outreach efforts to increase the understanding and participation of the public and private sectors regarding water pollution requirements.

CHAPTER # WETLANDS

ARTICLE #

In addition to requirements applicable to the discharge of a pollutant from a point sources and or nonpoint source that could affect wetlands, the Ministry of Environment may establish requirements or guidelines to limit or avoid the loss, destruction, or degradation of wetlands.

ARTICLE #

The Ministry of Environment may also develop and/or implement educational outreach programs to help the public and/or private sectors identify and understand the value of wetlands.

CHAPTER # OPERATOR CERTIFICATION

ARTICLE #

The Ministry of Environment may establish criteria and/or levels of certification for operators of point sources.

ARTICLE #

Commented [MQ240]: Details? How? Proposal for provisions? May parse out to other sections of the Code.

Commented [MQ241]: Will be moved during consistency review?

Such criteria and/or levels could include requirements for education, training, experience, and/or proficiency.

CHAPTER # VIOLATIONS AND PENALTIES

ARTICLE #

Any point source that discharges any pollutant into any surface water, ground water, or water collection system without a permit from the Ministry of Environment is in violation of this Title.

ARTICLE #

Any point source that obtains a permit from the Ministry of Environment but does not comply with any requirement of that permit is in violation of this Title and the permit.

ARTICLE #

Making false samples or providing false information to the Ministry of the Environment is a violation of this Title.

ARTICLE #

Failing to report a discharge in excess of a permit or failing to provide monitoring information in accordance with a permit and by the due date is a violation of this Title.

Commented [MQ242]: Per M. Baird.

ARTICLE #

Any nonpoint source that discharges any pollutant into any surface water, ground water, or water collection system without implementing any applicable best management practices prescribed by the Ministry of Environment is in violation of this Title.

ARTICLE #

In cooperation with other relevant government institutions, the Ministry of Environment may issue a warning or an order (with or without penalty fines) to any point source that is in violation of this Title and/or its permit, consistent with any guidelines that the Ministry may follow or develop in the future.

ARTICLE #

The Ministry of Environment may issue a warning or an order (with or without penalty fines) to any nonpoint source that is in violation of this Title as it deems appropriate, consistent with any

guidelines that the Ministry may follow or develop in the future.

ARTICLE #

Such guidelines may address:

- a) the seriousness of the violation;
- b) the conduct of the offender;
- c) the attitude of the offender regarding the harm caused;
- d) the nature of the violation;
- e) any economic benefit incurred by the offender; and
- f) discouraging the violator from repeat violation and/or others from taking similar actions.

CHAPTER # MARINE POLLUTION CONTROL

ARTICLE #

Regarding sources of pollution that discharge to or may affect marine waters [out to five (5) nautical kilometres from the coast], Title 5, entitled “Water Pollution Control,” applies and is hereby incorporated by reference.

ARTICLE #

Regarding marine water-based sources of pollution [beyond five (5) nautical kilometres from the coast], this Title applies.

ARTICLE #

The Ministry of Environment, in coordination with other relevant ministries, shall carry out its responsibilities, such as monitoring, evaluating, reporting, and taking other reasonable actions, consistent with any and all international conventions that the Kingdom of Cambodia has ratified that deal with marine water pollution control.

ARTICLE #

Application of MARPOL, the Basel Convention, and Other Relevant Conventions

ARTICLE #

Commented [MQ243]: USEPA researching options regarding marine pollution from ships/vessels/oil rigs beyond limit of MOE permitting jurisdiction.

Commented [MQ244]: Title 6 Marine Pollution Control revised as Chapter in Title 5 Water Pollution Control.

Commented [MQ245]: Needs to be verified.

Commented [MQ246]: STWG2 discussed and recommends this more basic language instead of more detailed language in articles below.

The International Convention for the Prevention of Pollution from Ships (MARPOL) is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes.

ARTICLE #

The Convention includes regulations aimed at preventing and minimizing pollution from ships - both accidental pollution and that from routine operations - and currently includes six technical Annexes. Special Areas with strict controls on operational discharges are included in most Annexes.

1. The Kingdom of Cambodia ratified MARPOL on DATE. [Will address application of MARPOL to Cambodia, which it appears Cambodia has ratified, and where it applies. It appears that Thailand and Vietnam have ratified MARPOL.]
2. The Basel Convention is meant to protect human health and the environment against the adverse effects of hazardous wastes. Its scope of application covers a wide range of wastes defined as “hazardous wastes” based on their origin and/or composition and their characteristics, as well as two types of wastes defined as “other wastes” - household waste and incinerator ash.
3. The Basel Convention aims to reduce hazardous waste generation and promote environmentally sound management of hazardous wastes, wherever the place of disposal; restrict transboundary movements of hazardous waste except where in accordance with principles of environmentally sound management; and define and regulate cases where transboundary movements are allowed.
4. The Kingdom of Cambodia ratified the Basel Convention in 2001. [Will address application of Basel Convention to Cambodia, which it appears Cambodia has ratified, and where it applies. It appears Thailand and Vietnam have ratified Basel.]
5. [Will address application of any other conventions regarding pollution of marine waters, and where they apply. UN Convention on the Law of the Sea? Ballast Water Convention? Ramsar Convention? Others?]

TITLE 7 AIR POLLUTION

This Title will revise and incorporate the Control of Air Pollution and Noise Disturbance 42 ANRK 2000, The Law on Environmental Protection and Natural Resource Management 1996, the Law on Administration of Factory and Handicraft 2006, and the Law on Land Management, Urban Planning and Constructions 1994 are hereby amended as follows:

Commented [MQ247]: STWG2 discussed and recommends deleting the detail in this and the following articles in favour of the more basic and general language of article above

[Penalties under this chapter shall be reviewed and updated. Air pollution considerations shall be included in the administration of factories. Prakas should be introduced to replace annexes of the sub-decree, which are referred to as “relevant sub-legislation” in the articles. Prakas should also be introduced to set the penalties. Environmental considerations shall be included into urbanism policies.]

DEFINITIONS

The meaning of technical terms used in this sub-decree shall be interpreted as follows:

“Sources of pollution” is divided into two types:

- A movable source refers to an emission source without permanent location such as an aircraft, ship, vehicle, machinery, and all kinds of loud speakers
- An immovable source refers to sources with a permanent location such as a factory, enterprise, warehouse, construction site, incinerator, loud speakers, handicraft, and all kinds of farms.

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

“Flammable substance” refers to fuel oil, coal, natural gas that may be flammable.

“Standard” means the maximum level of pollutant substances permissible in the environment or which may be emitted into the environment.

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1

The purpose of this title is to protect the quality of the environment quality and public health from air pollutants and noise disturbance through monitoring, curbing and mitigating activities.

ARTICLE 2

This title applies to all movable sources and immovable sources of air pollution.

CHAPTER 2 INDOOR AIR POLLUTION

CHAPTER 3 THE FLOW OF TOXIC AIR FROM MOBILE SOURCES

ARTICLE 3

Air quality standard shall be specified in the relevant sub-legislation.

The standard of maximum quality of hazardous substance permitted in the air shall be specified in the relevant sub-legislation.

ARTICLE 4

This standard of smoke emission from movable sources shall be specified in the relevant sub-legislation.

ARTICLE 5

The standards as stipulated in the relevant sub-legislation shall be reviewed every five (5) years and changed in necessary cases, based on a proposal of the Ministry of Environment.

ARTICLE 6

The emission of pollutants into the atmosphere, which exceeds the standard as stipulated in the relevant sub-legislation, shall be strictly prohibited.

ARTICLE 7

The importation, utilization, production of vehicle and all kinds of machinery in Cambodia, which emit pollutants exceeding the standard as stipulated in the relevant sub-legislation, shall be strictly prohibited.

CHAPTER 4 THE FLOW OF TOXIC AIR FROM FIXED SOURCES (AIR POLLUTION FROM IMMOBILE SOURCE)

ARTICLE 8

Air quality standard shall be specified in the relevant sub-legislation.

The standard of maximum quality of hazardous substance permitted in the air shall be specified in the relevant sub-legislation.

ARTICLE 9

The standard of maximum permissible polluting substances emitted from immobile sources into the atmosphere shall be specified in the relevant sub-legislation.

ARTICLE 10

The standards as stipulated in the relevant sub-legislation shall be reviewed every five (5) years and changed in necessary cases, based on a proposal of the Ministry of Environment.

ARTICLE 11

The emission of pollutants into the atmosphere, which exceeds the standard as stipulated in the relevant sub-legislation, shall be strictly prohibited.

CHAPTER 5 THE AIR POLLUTION IN BUILDINGS

CHAPTER 6 HAZARDOUS MATERIALS

Commented [MQ248]: This chapter may be redundant and with Title 4.

ARTICLE 12

The importation and production of flammable substances containing sulphur, lead, benzene and hydrocarbon shall be complied with as stipulated in the relevant sub-legislation.

ARTICLE 13

The discharge or leakage of various flammable substances, fuel-oil, radioactive or chemical substances into the atmosphere, water and land shall be strictly prohibited.

CHAPTER 7 THE TECHNOLOGY TO REDUCE AND PREVENT AIR POLLUTION

CHAPTER 8 THE REQUEST FOR APPROVAL OF A PERMIT

ARTICLE 14

The emission of pollutants from immovable source into the atmosphere shall be authorized by the Ministry of Environment and a copy such application shall be sent to the relevant ministries and institutions.

ARTICLE 15

The application for importation of flammable substances shall have attached analytic results indicating the quantity of pollutants, such as sulphur, lead, benzene, or hydrocarbon from the original source of importation or production.

ARTICLE 16

The application for authorization to discharge pollutant substances and noise as stipulated in Article 14 of this title shall be applicable to both new pollutant sources and existing and on-going activities, provided that there is an evaluation report of environmental impacts.

ARTICLE 17

The owner or person who is responsible for pollution sources as stipulated in the Article 14 of this title shall applied for authorization from the Ministry of Environment:

- 40 days before the project commencement in Phnom Penh;
- 60 days before the project commencement in the province or municipality.

CHAPTER 9 THE CONTROL AND MONITORING OF ATMOSPHERE QUALITY

ARTICLE 18

The monitoring of the quantity of flammable substances, air pollutant emissions caused by immovable sources shall be the responsibility of the Ministry of Environment.

ARTICLE 19

The monitoring of gas emissions from movable source is the responsibility of the Ministry of Environment with the cooperation of relevant ministries and institutions. The monitoring procedure shall be determined by a joint declaration among relevant ministries.

ARTICLE 20

The Ministry of Environment shall prepare technical guidelines on the method for monitoring pollution sources, sampling locations, and air quality analysis.

ARTICLE 21

The Ministry of Environment shall take a sample at all emission points of pollution sources. The owner or person who is responsible for a pollution source shall cooperate with and facilitate the work of environmental officials who conduct testing to fulfil their technical duty.

ARTICLE 22

During an environmental inspection or activity aimed at controlling at pollution sources, the Ministry of Environment inspectors may analyse the sample at such place or take them to an environmental laboratory for analysis.

ARTICLE 23

The owner or person who is responsible for pollution sources shall bear the cost of analysis of his/her own sample following the tariff determined by the Ministry of Environment and the Ministry of Economy and Finance. This income shall be transferred to the national budget in order to be allocated to the Environmental Endowment Fund Account.

ARTICLE 24

The owner or person who is responsible for pollution sources may ask to have his/her pollution sample tested at other public or private laboratories that are formally recognized when such laboratories carry out the same analytical method as those used in the Ministry of Environment's laboratory.

ARTICLE 25

The owner or person who is responsible for a pollution source shall:

- Be responsible for procurement and installation of any equipment to purify toxic substances in order to respond to air pollution standard;
- Be responsible for installing the equipment for measurement of the amount of pollutants contained in his/her pollution sources and maintain the result in its record, a report of which shall be sent to the Ministry of Environment every 3 months;
- Choose one environmental expert to be responsible for managing environmental affairs and preparing environmental protection plans for their institution for which the ministry of environment provides training at the request of the owner.

ARTICLE 26

If it is found that the discharge of toxic substances and noise from any pollution source fails to meet the standard as stipulated in the Articles 3 of this title, the Ministry of Environment shall:

1. Issue a written order requiring the owner or responsible person of such pollution source to correct the violation activities immediately within a specified period of time not exceeding [X] months;

2. Issue a written order requiring the owner or responsible person of such pollution source to stop his/her activities temporarily until the violation is corrected if the violation activities cause any harm to public health and environment quality.

ARTICLE 27

The Ministry of Environment shall regularly control and monitor the situation of the air quality within the in order to take measures to prevent and reduce air pollution.

ARTICLE 2827

The Ministry of Environment shall maintain data relating to the result of air quality testing and to assess the status of air quality and shall publicly disseminate the status of air quality and the situation concerning air pollution within the Kingdom of Cambodia.

ARTICLE 29

If it is found that any area is affected by air pollution which may threaten human life or environmental quality, the Ministry of Environment shall immediately notify the public about such danger and investigate to find out the sources of pollution and shall take measure to prevent air pollution and to restore the air quality.

CHAPTER 10 THE PROCEDURE OF INSPECTIONS

ARTICLE 30

During the course of inspection of pollution sources, the Ministry of Environment's inspector shall apply the following procedures:

- To present his/her identity card and mission letter when entering into the premise or any site of pollution for conducting inspection or sampling or checking records;
- Primary minutes and report of inspection or sampling shall be done at the site of inspection with the participation of a witness if necessary
- The inspectors may ask questions and require the owner or responsible person of the source of pollution to provide information and other relevant documents which are useful for report making and minutes as evidence;
- One copy of the minutes or report shall be given to the owner or the responsible person of the source of pollution and one copy to the representative of concerned ministries and

another copy shall be kept at the Ministry of Environment and be available to the public on demand.

ARTICLE 31

Where there is a complaint or report that any source of pollution discharges, air pollutant, which cause any harm to human health or public property, the Ministry of Environment, in collaboration with concerned ministries, is entitled to conduct inspection at such source of pollution and take samples for testing.

ARTICLE 32

In the case of serious incident or imminent danger resulting from air pollution, the Ministry of Environment shall make an urgent inspection of the above incident or serious danger and shall inform the concerned ministries and local authority of such problem.

ARTICLE 33

In the case of a clear offense that causes air pollution, the inspector of the Ministry of Environment shall:

- Take minutes, collect and withhold evidence of such offense and impose transitional fine if such offense does not cause any serious contamination or affect human health, public properties and environment quality.
- Collect and withhold evidence of such offense for making statement and forward the case to the competent agency, if this offense causes serious pollution or affect to human health or public properties and environment quality.

ARTICLE 34

Data and information collected under article 33 shall be made available to the public on demand.

CHAPTER 11 TRANSBOUNDARY AIR POLLUTION

CHAPTER 12 MEASURES TO PREVENT AND REDUCE AIR POLLUTION

ARTICLE 35

MoE, in cooperation with Ministry of Economy and Finance, shall facilitate development of beneficial tax policies towards environmentally friendly vehicles and facilities.

ARTICLE 36

MoE, in cooperation with the relevant ministries, and taking into consideration the economic circumstances, shall develop policies facilitating import of environmentally friendly vehicles and preventing import of vehicles that have a high environmental impact.

ARTICLE 37

MoE, in cooperation with the relevant ministries, shall develop environmentally friendly urbanism policies.

ARTICLE 38

MoE, in cooperation with the relevant ministries, shall facilitate development of public transportation.

CHAPTER 13 PENALTIES

ARTICLE 39

Violations of this title shall be fined and punished according to the relevant sub-legislation.

ARTICLE 40

The Ministry of Environment's official is responsible for making a report of prosecution for any person who violates any article of this title. The Ministry of Environment shall take legal action against any offense of this title.

ARTICLE 41

Any environmental inspection official or agent who is negligent, fails to pay attention to, fails to comply with the Ministry's regulations, or conspires with a violator or facilitates the commission of a violation, shall be subject to administrative sanction or face prosecution before the court.

TITLE 8 NOISE AND VIBRATION CONTROL

This Title will revise and incorporate the Control of Air Pollution and Noise Disturbance 2000. The Law on Environmental Protection and Natural Resource Management 1996, the Law on Administration of Factory and Handicraft 2006 are hereby amended as follows:

[Penalties under this chapter shall be reviewed and updated. Noise and vibration considerations shall be included in the administration of factories. Prakas should be introduced to replace annexes of the sub-decree, which are referred to as “relevant sub-legislation” in the articles. Prakas should also be introduced to set the penalties.]

DEFINITIONS

The meaning of technical terms used in this title shall be interpreted as follows:

"Source of pollution" is divided into two types:

1. A movable source refers to an emission source without permanent location such as an aircraft, ship, vehicle, machinery, and all kinds of loud speakers.
2. An immovable source refers to sources with a permanent location such as a factory, enterprise, warehouse, construction site, incinerator, loud speakers, handicraft, and all kinds of farms.

“Pollution” includes all kinds of vibration and noise disturbances.

“Standard” means the maximum level of pollution permissible in the environment.

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1

The purpose of this title is to protect the quality of the environment quality and public health from noise disturbance and vibration through monitoring, curbing and mitigating activities.

ARTICLE 2

This title applies to all movable sources and immovable sources of noise disturbance and vibration.

CHAPTER 2 NOISE EMISSION AND VIBRATION FROM MOBILE SOURCE

ARTICLE 3

The standards for noise emission and vibration from various mobile sources shall be specified in the relevant sub-legislation.

ARTICLE 4

Noise emission and vibration, which exceeds the standards stipulated in the relevant sub-legislation shall be strictly prohibited.

ARTICLE 5

The standards as stipulated in the relevant sub-legislation shall be reviewed every 5 years and changed in necessary cases, based on a proposal of the Ministry of Environment.

CHAPTER 3 NOISE EMISSION AND VIBRATION FROM IMMOBILE SOURCE

ARTICLE 6

The standard for noise emission and vibration from various immobile sources shall be specified in the relevant sub-legislation.

ARTICLE 7

Noise emission, which exceeds the standard as, stipulated in the relevant sub-legislation shall be strictly prohibited.

ARTICLE 8

The standards as stipulated in the relevant sub-legislation shall be reviewed every 5 years and changed in necessary cases, based on a proposal of the Ministry of Environment.

CHAPTER 4 NOISE EMISSION AND VIBRATION IN WORKPLACES/INSIDE BUILDINGS

ARTICLE 9

The standards for noise emission and vibration from various sources affecting workplaces and buildings shall be specified in the relevant sub-legislation.

ARTICLE 10

Noise emission, which exceeds the standard as, stipulated in the relevant sub-legislation shall be strictly prohibited.

CHAPTER 5 THE VOICE IN THE WORKPLACE

CHAPTER 6 THE TECHNOLOGY OF SOUND AND VIBRATION DEDUCTION

Commented [MQ249]: Could include mandatory preventive measures here.

CHAPTER 7 THE REQUEST FOR APPROVAL OF A PERMIT

ARTICLE 11

The emission of noise and vibration from immovable source shall be authorized by the Ministry of Environment and a copy such application shall be sent to the relevant ministries and institutions.

ARTICLE 12

The application for authorization to discharge noise and vibration as stipulated in Article 10 of this title shall be applicable to both new pollution sources and existing and on-going activities, provided that there is an evaluation report of environmental impacts.

ARTICLE 13

The owner or person who is responsible for pollution sources as stipulated in the Article 10 of this title shall applied for authorization from the Ministry of Environment:

- 40 days before the project commencement in Phnom Penh;
- 60 days before the project commencement in the province or municipality.

CHAPTER 8 CONTROLLING AND MONITORING OF SOUND DIFFUSION AND VIBRATION LEVELS

ARTICLE 14

The monitoring of the quantity of noise and vibration caused by immovable sources shall be the responsibility of the Ministry of Environment.

ARTICLE 15

The monitoring of noise emissions and vibration from movable source is the responsibility of the Ministry of Environment with the cooperation of relevant ministries and institutions. The monitoring procedure shall be determined by a joint declaration among relevant ministries.

ARTICLE 16

The Ministry of Environment shall prepare technical guidelines on the method for monitoring pollution sources, sampling locations, and noise and vibration quality analysis.

ARTICLE 17

The Ministry of Environment shall take a sample at all emission points of pollution sources. The owner or person who is responsible for a pollution source shall cooperate with and facilitate the work of environmental officials who conduct testing to fulfil their technical duty.

ARTICLE 18

During an environmental inspection or activity aimed at controlling at pollution sources, the Ministry of Environment inspectors may analyse the sample at such place or take them to an environmental laboratory for analysis.

ARTICLE 19

The owner or person who is responsible for pollution sources shall bear the cost of analysis of his/her own sample following the tariff determined by the Ministry of Environment and the Ministry of Economy and Finance. This income shall be transferred to the national budget in order to be allocated to the Environmental Endowment Fund Account.

ARTICLE 20

The owner or person who is responsible for pollution sources may ask to have his/her pollution sample tested at other public or private laboratories that are formally recognized when such laboratories carry out the same analytical method as those used in the Ministry of Environment's laboratory.

ARTICLE 21

The owner or person who is responsible for a pollution source shall:

- Be responsible for procurement and installation of any equipment to reduce noise and vibration in order to respond to air pollution standard;
- Be responsible for installing the equipment for measurement of the amount of noise and vibration contained in his/her pollution sources and maintain the result in its record, a report of which shall be sent to the Ministry of Environment every 3 months;
- Choose one environmental expert to be responsible for managing environmental affairs and preparing environmental protection plans for their institution for which the ministry of environment provides training at the request of the owner.

ARTICLE 22

If it is found that the noise or vibration from any pollution source fails to meet the standard as stipulated in the articles 3 and 7 of this title, the Ministry of Environment shall:

- Issue a written order requiring the owner or responsible person of such pollution source to correct the violation activities immediately within a specified period of time;
- Issue a written order requiring the owner or responsible person of such pollution source to stop his/her activities temporarily until the violation is corrected if the violation activities cause any harm to public health and environment quality.

CHAPTER 9 PROCEDURE OF INSPECTION

ARTICLE 23

During the course of inspection of pollution sources, the Ministry of Environment's inspector shall apply the following procedures:

- To present his/her identity card and mission letter when entering into the premise or any site of pollution for conducting inspection or sampling or checking records;
- Primary minutes and report of inspection or sampling shall be done at the site of inspection with the participation of a witness if necessary;
- The inspectors may ask questions and require the owner or responsible person of the source of pollution to provide information and other relevant documents which are useful for report making and minutes as evidence;
- One copy of the minutes or report shall be given to the owner or the responsible person of the source of pollution and one copy to the representative of concerned ministries and another copy shall be kept at the Ministry of Environment and be available to the public on demand.

ARTICLE 24

Where there is a complaint or report that any source of noise or vibration which cause any harm to human health or public property, the Ministry of Environment, in collaboration with concerned ministries, is entitled to conduct inspection at such source of pollution and take samples for testing.

ARTICLE 25

In the case of serious incident or imminent danger resulting from noise or vibration, the Ministry of Environment shall make an urgent inspection of the above incident or serious danger and shall inform the concerned ministries and local authority of such problem.

ARTICLE 26

In the case of a clear offense that causes noise disturbance, the inspector of the Ministry of Environment shall:

- Take minutes, collect and withhold evidence of such offense and impose transitional fine if such offense does not cause any serious contamination or affect human health, public properties and environment quality.
- Collect and withhold evidence of such offense for making statement and forward the case to the competent agency, if this offense causes serious pollution or affect to human health or public properties and environment quality.

ARTICLE 27

Data and information collected under article 27 shall be made available to the public on demand.

CHAPTER 10 MEASURES TO PREVENT AND REDUCE NOISE AND VIBRATION

ARTICLE 28

The importation, utilization, production of vehicle and all kinds of machinery in Cambodia, which emit noise or vibration exceeding the standard as stipulated in the relevant sub-legislation, shall be strictly prohibited.

CHAPTER 11 PENALTIES

ARTICLE 29

Violations of this title shall be fined and punished according to the relevant sub-legislation.

ARTICLE 30

The Ministry of Environment's official is responsible for making a report of prosecution for any person who violates any article of this title. The Ministry of Environment shall take legal action

against any offense of this title.

ARTICLE 31

Any environmental inspection official or agent who is negligent, fails to pay attention to, fails to comply with the Ministry's regulations, or conspires with a violator or facilitates the commission of a violation, shall be subject to administrative sanction or face prosecution before the court.

Title 8 TITLE 9 OZONE LAYER PROTECTION

1. Importing and exporting of ozone depleting substances control
2. Exportation and usage of ozone depleting substances control
3. Cleaning up, recycling and destructing of ozone depleting substances control
4. Cooling substances and tools control
5. Program to eliminate ozone depleting substances control
6. Monitoring, controlling and managing of ozone depleting substances control
7. Formality of registration and license application

Title 9 TITLE 10 ENVIRONMENTAL POLLUTION CHECK AND INSPECTION

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

ARTICLE 1

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

4. Suppress environmental pollution offenses
5. Fulfil other duties assigned by the minister of environment ministry.

ARTICLE 2

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

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

ARTICLE 3

Environmental pollution inspection officers shall have uniforms, labelling, and ranking signs determined by sub-degree.

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

ARTICLE 4

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

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

implementing inspection procedure or procedure to suppress environmental pollution offences continuously.

ARTICLE 5

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

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

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

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

ARTICLE 6

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

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

1. Take provisional action on any activity contributing to an environmental pollution offence.
2. Check, observe causes of an environmental pollution offence.
3. Bring and analyse a pollutant sample, an environmental sample, or a relevant sample which

is polluted for verification, assessment, and assertion.

4. Limit and evaluate scope of impact.
5. Collect evidences for making a complaint in consistence with law procedure.
6. Take immediate action to eliminate environmental pollution.

ARTICLE 7

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

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

ARTICLE 8

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

ARTICLE 9

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

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

ARTICLE 10

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

ARTICLE 11

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

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

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

BOOK 7 ENVIRONMENTAL EDUCATION AND AWARENESS

- Environmental Education (EE) has been defined as the process of helping people, through formal and non-formal/informal education, to acquire understanding, skills and values that will enable them to participate as active and informed citizens in the development of an ecologically sustainable and socially-just society. (ASEAN 2014-2018).
- Education for Sustainable Development (ESD), training and awareness are seen as processes for developing values, understanding and skills consistent with 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)

The Law on Education 2007 is hereby amended and clarified as follows:

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

TITLE 1 GENERAL PROVISIONS

ARTICLE 1

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

ARTICLE 2

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

ARTICLE 3

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

ARTICLE 4

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

ARTICLE 5

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

- a) Strengthen capacity of educational system and relevant processes to address environmental and development challenges of the Kingdom of Cambodia;
- b) Encourage sustainable development;
- c) Increase scientific and intellectual innovation;
- d) Assure provisions for continuous development of professional skills and knowledge of environment and sustainable development for all sectors including in education, industry, private sector, agriculture, transport and public administration, media, civil society

organizations;

- e) Assure inclusion of knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into education;
- f) Assure inclusion of latest achievement of science and technology into education and development;
- g) Assure that relevant EE content, methods and materials are provided for the trainings and learning;
- h) Assure variety of opportunities to engage in learning processes at the levels of communities, professional associations, interest groups;
- i) Ensure regulatory, policy and operational frameworks for the integration of EE an ESD into education at all levels.

ARTICLE 6

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

TITLE 2 POLICY MAKING

ARTICLE 1

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);

ARTICLE 2

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

TITLE 3 TRAINING

ARTICLE 1

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

ARTICLE 2

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

ARTICLE 3

Training should be provided to include environmental topics.

ARTICLE 4

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

ARTICLE 13

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

TITLE 4 AWARENESS

ARTICLE 1

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

ARTICLE 2

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

TITLE 5 FORMAL EDUCATION SYSTEM

ARTICLE 1

Relevant ministries and authorities shall:

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

- f) Ensure support for the development of environmental management systems at schools, institutions of higher education and other learning organizations.
- g) Stimulate and support integration of EE and ESD principles and approaches into education and training environment (whole-institution approach).
- h) Facilitate and support different approaches in education including an interdisciplinary and transdisciplinary approach, ways of including EE into different subjects, programmes and learning processes, draws on local context.

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

ARTICLE 1

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

- a) Assure that competences of educators that support education towards more sustainable development are defined as well as qualification criteria for educators in formal educational system;
- b) Assure development of programmes for training pre-service and training and retraining in-service educators as well as development of required educational materials.

ARTICLE 2

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

- a) Assuring development and support of national network on EE and ESD competencies, methodologies and approaches.
- b) Supporting and promoting results of research into EE and ESD including its content, teaching and learning methods, ways of integrating it into programmes and other educational activities, including methods of assessment.

TITLE 7 RESEARCH AND INNOVATION

ARTICLE 1

Relevant ministries and authorities:

- a) Should develop a process that implementation of in-service teacher training programmes based on latest scientific knowledge related to environment and sustainable development.
- b) Should support development and implementation of programmes that bring together education and research and aim at solutions for environmental challenges.
- c) Should regularly update educational and training materials ensuring based on the latest scientific knowledge.
- d) Should facilitate support for relevant research and education by providing resources for research as well as opportunities for studies and exchange.

ARTICLE 2

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

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

TITLE 8 REGULATION AND OPERATIONAL FRAMEWORK

ARTICLE 1

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

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

ARTICLE 2

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

BOOK 8 ENVIRONMENTAL INCENTIVES, FEES, TAXES AND FUNDING

- This 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.
- Environmental incentives, fees, taxes and funding mechanisms have been addressed to various extent for some issues directly within the draft text of the Titles for those issues.

These provisions will be incorporated into this Book on Environmental Incentives, Fees, Taxes and Funding for the next draft of the Code.

DEFINITIONS

Public Private Partnerships

Closure

Rehabilitation

Remediation

Restoration

Payment for Ecosystem Services

Co-Management/Collaborative Management

National Environmental Strategy and Action Plan (NESAP)

National Biodiversity Strategy and Action Plan

National Council

Cambodia Climate Change Strategic Plan (CCCSP)

Sustainable Energy Plan

Carbon credit

Natural Capital

This draft content is subject to analysis and review in collaboration with MEF and other affected Ministries.

TITLE 1 INCENTIVES AND TAXATION

CHAPTER 1 ECONOMIC INCENTIVES

ARTICLE 1 ECONOMIC INCENTIVES FOR GREEN INVESTMENT AND SUSTAINABLE FINANCING IN THE BANKING SECTOR

To encourage the inclusion of Environmental, Social and Governance Criteria into business or investment decisions relevant to the Cambodian finance sector, the Ministry of Environment, MEF and the National Bank of Cambodia shall develop financial incentives for implementing Cambodian Sustainable Finance Principles and promoting integration of environmental and social risk management principles in the business sector.

ARTICLE 2 ECONOMIC INCENTIVES FOR PUBLIC PRIVATE PARTNERSHIPS

The Ministry of Environment may issue requests for proposals for potential Public Private Partnerships in accordance with the Law on Concessions. The MoE shall follow the procurement

process as defined in the Public Private Partnership Procurement Manual. The MoE may require the proposal to include proof of financial resources and health; market study; use of sustainable sourcing plans; demonstration of the project's contribution to low-carbon resilient sustainable development; and capacity for providing ongoing technical support.

The ultimate responsibility for the management of forests, natural resources, mineral resources, marine resources and other sectoral resources shall be under the control of a Cambodian entity.

ARTICLE 3 ECONOMIC INCENTIVES TO PROMOTE CLIMATE CHANGE POLICIES AND ACTIVITIES

To assist with the promotion of the Kingdom of Cambodia's climate change policies and activities, including the National Biodiversity Strategy and Action Plan, the Cambodia Climate Change Strategic Plan, and the National Environmental Strategy and Action Plan, the relevant members of the National Council for Sustainable Development, including the Ministry of Environment; Ministry of Tourism; Ministry of Agriculture, Forestry, and Fisheries; Minister of Interior; and Ministry of Economy and Finance will develop financial incentives 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.

ARTICLE 4 ECONOMIC INCENTIVES FOR RENEWABLE ENERGY

To assist with the promotion of the Sustainable Energy Plan the relevant members of the National Council of Sustainable Development, including the MoE, MME and MEF will develop financial incentives for investment in renewable alternative energy production sources.

ARTICLE 5 ECONOMIC INCENTIVES FOR GREEN INDUSTRY

To assist with the promotion of green industry, MAFF, Ministry of Industry and Handicraft, MOE and MEF will develop financial incentives for using resource efficient and low-carbon modes of production.

CHAPTER 2 TAXATION

ARTICLE 6 TAX INCENTIVES FOR REVENUES ACCRUED FROM PARTICIPATION IN APPROVED CARBON OFFSET MECHANISMS

Revenues accrued through participating in carbon-offset mechanisms in a list to be determined by the NCSD are not subject to taxation. This list will be updated every three years, based on the

strength of the respective measuring, reporting and verification for the claimed emission reductions and Sustainable Development deliverables.

ARTICLE 7 CONDUCTING STUDY ON ENVIRONMENTAL TAXATION

The MoE and the MEF may commission a study to identify appropriate areas for environmental taxes and subsidies in accordance with the Polluter Pays Principle. The study shall consider extended producer liability, methods to promote avoiding the production of waste, methods to prevent activities that are likely harm the environment, meeting Cambodia's climate change commitments, and any other relevant issue.

ARTICLE 8 CHOOSING EVIDENCE-BASED METHODS AND INTERNATIONAL BEST PRACTICES

The MoE and the MEF shall determine methods of environmental taxation and subsidy in Cambodia with regard to Cambodia-relevant studies, evidence-based methods and international best practices.

CHAPTER # ECO-LABELLING

ARTICLE #

Financing for eco-labelling

ARTICLE #

Independent Certification for eco-labelling of products and services

ARTICLE #

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

ARTICLE #

Government conditions and procedures for eco-labelling products.

ARTICLE #

Government tax exclusions for eco-labelled products within the country and on export of these items.

ARTICLE #

Concessions by the Royal Government of Cambodia, on transport of eco-labelled within the country and export.

ARTICLE #

Description and registration of social enterprise that assist in conservation of biodiversity and forests.

ARTICLE #

Tax exemptions for entities that are registered as Social Enterprise Improving Conservation.

TITLE 2 VALUATION OF RESOURCES AND ECOSYSTEMS SERVICES

CHAPTER 1 SCOPE AND PROCEDURES FOR VALUATION OF RESOURCES AND ECOSYSTEM SERVICES, INCLUDING NATURAL CAPITAL ASSESSMENT

[Provisions be developed. Suggestions include provisions on:]

CO-OPERATION WITH LOCAL AUTHORITIES

Local authorities shall cooperate with MoE and MEF in developing locally-relevant streams of revenue derived from Environmental Services to complement current revenue streams in compliance with the Law on Public Finance and relevant laws on finance for sub-national authorities.

CHAPTER 2 PAYMENT FOR ECOSYSTEM SERVICES

[Provisions be developed. Suggestions include provisions on:]

PAYMENT FOR ECOSYSTEM SERVICES IN COLLABORATIVELY MANAGED AREAS

The Ministry of Environment shall cooperate with the relevant collaborative management administrative bodies and Ministries to develop a mechanism for managing and administering payment for ecosystem services in Collaboratively Managed areas. This mechanism shall establish principles, conditions and formats of payment; accounting and reporting requirements; audits,

inspection, supervision, and disclosure requirements; regular capacity building trainings; and guidelines per sector.

COMMISSIONING STUDY ON PAYMENT FOR ECOSYSTEM SERVICES

As part of the process of developing payment for ecosystem services, the MoE shall commission reports identifying and defining the ecosystem services, their beneficiaries and providers; a valuation of the services; and a marketing scheme for the services. The MoE shall use these studies to make a determination on appropriate mechanisms for Payment for Ecosystem Services in both Collaboratively Managed Areas and other areas.

TITLE 3 ENVIRONMENTAL FEES, FUNDS 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 1 ENVIRONMENTAL FEES

ARTICLE 1 RESPONSIBILITY FOR PAYMENT OF FEES

The Project Proponent shall be responsible for payment of any fees required by the MoE through the Environmental Code or any relevant regulations. Fees required by the MOE may be additional to any fees required through any other legislation.

ARTICLE 2 ENVIRONMENTAL PROTECTION FEE

Any Project Proponent requiring an EIA shall pay an Environmental Protection Fee calculated to be a [minimum of xx percent] of the total project costs. The Environmental Protection Fee shall be paid to the Environmental and Social Fund.

The MoE shall define the method of calculation of total project costs by prakas.

ARTICLE 3 EXEMPTIONS FROM THE ENVIRONMENTAL PROTECTION FEE

To assist with the promotion of the Sustainable Energy Plan any company developing renewable alternative energy sources in the form of wind, solar and sustainable biomass may apply for exemption of payment of the environment protection fee.

To assist with the promotion of NCS strategy Project Proponents able to prove that they have invested in climate proofing and/or resource efficiency measures may apply for exemption of payment of the environmental protection fee.

ARTICLE 4 OTHER FEES?

To be developed in collaboration with MEF and other relevant Ministries.

ARTICLE 5 PLASTIC BAG CONSUMPTION REDUCTION SCHEME

The Ministry of Environment shall develop a scheme to reduce plastic bag consumption, and to promote public awareness and participation in the implementation of the plastic bag reduction program in the Kingdom of Cambodia.

ARTICLE 6 OTHER FEES

The Project Proponent shall be responsible for any other fees required by legislation other than the Environmental Code.

CHAPTER 2 ENVIRONMENTAL FUNDS AND FUND MANAGEMENT

SECTION 1 ENVIRONMENTAL AND SOCIAL FUND

ARTICLE 7 ESTABLISHMENT OF ENVIRONMENTAL AND SOCIAL FUND

A special account, the Environmental and Social Fund, shall be established for the purpose of collecting, managing, organizing and using financial resources effectively to restore environment, protect the environment, conserve bio-diversity, use natural resources properly and sustainably, and promote sustainable living for the benefit of all Cambodian people now and generations yet to come. The Fund and its management shall be established by sub-decree.

ARTICLE 8 SOURCES OF INCOME

Sources of income for the Environmental and Social Fund shall include government sources; private and public development project proponents; international donor organizations; donations from national and international non-governmental organizations; income from environmental protection, ecosystem services and biodiversity conservation; fees, fines and penalties set by the MOE; and any other relevant sources. Any civil remedy arising out of a citizen's public interest complaint may also be deposited into this fund. This fund shall not be liable to taxes and duties.

ARTICLE 9 ENVIRONMENTAL AND SOCIAL FUND COMMITTEE

The Environmental and Social Fund Committee shall be responsible for the management and functioning of the Environmental and Social Fund. The Committee shall be comprised of 5 members, including the Minister of the Ministry of Environment as Committee Chief; a Secretary of State of the Ministry of Economy and Finance as Vice-Chief; a representative of the Ministry of Environment; a representative of the Ministry of Economy and Finance; and 1 representative of the Environmental Protection Department. Membership on the Environmental and Social Fund Committee shall be determined by Royal Decree.

ARTICLE 10 RESPONSIBILITIES OF THE ENVIRONMENTAL AND SOCIAL FUND COMMITTEE

The duties and responsibilities of the Environmental and Social Fund Committee shall be determined by sub-decree.

The Environmental and Social Fund Committee shall take into account the National Environmental Strategic Action Plan, and environmental, social and corporate governance criteria in managing the Environmental and Social Fund.

ARTICLE 11 TRANSPARENCY AND MANAGEMENT OF THE FUND

The Environmental and Social Fund Committee shall govern the fund in a transparent and accountable manner. The Committee shall provide quarterly financial and progress reports to the Royal Government. The Committee shall conduct audits on an annual basis and provide annual reports to the Royal Government.

ARTICLE 12 OPERATIONS OF THE ENVIRONMENTAL AND SOCIAL FUND COMMITTEE

The Environmental and Social Fund Committee shall have its own permanent secretariat at the Environmental Protection Department.

The Environmental and Social Fund Committee may appoint a director to manage the day to day functioning of the Environmental and Social Fund. The Environmental and Social Fund Committee shall establish the duties and powers of the Director. The Director shall be responsible to the Environmental and Social Fund Committee.

The organization and functioning of the secretariat shall be determined by Prakas of the Ministry of Environment.

ARTICLE 13 CRITERIA FOR GRANT-MAKING AND DISBURSEMENT FROM THE ENVIRONMENTAL AND SOCIAL FUND

Procedures and priorities for disbursement from the Environmental and Social Fund shall be determined by joint prakas of the MOE and the MEF.

The Environmental and Social Fund Committee shall develop a policy regarding strategy for procurement methods; management of the fund including capitalization and investment; administrative and legal measures to collect amounts determined by the EMP of EIA and EPA; and any other necessary policies to ensure the long-term health of the fund. The Environmental and Social Fund Committee may commission a study to support the drafting of this policy.

SECTION 2 THE ENVIRONMENT ENDOWMENT FUND

ARTICLE 14 CONTINUANCE OF THE ENVIRONMENT ENDOWMENT FUND

The Environment Endowment Fund as established by the 1996 Environmental Protection and Natural Resource Management Law shall continue to be administered by the Ministry of Environment in accordance with the Finance Law.

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

SECTION 3 AD HOC FUNDS

ARTICLE 15 ESTABLISHMENT OF AD HOC FUNDS

The MoE may request the creation of accounts on a project by project basis to fund projects/activities aimed at capacity development, institutional strengthening, conservation and environmental protection, and social responsibility in support of a community directly affected by development, and in support of the priorities and actions identified in national and local level environmental protection, sustainability and conservation plans. The accounts may be as special accounts or as commercial bank accounts at an international financial institution.

ARTICLE 16: SOURCES OF AD HOC FUNDS

The Ad Hoc Funds may be constituted from voluntary payments from private sector actors, grants from international organizations, donations from charitable individuals, and donations from non-

governmental organizations.

ARTICLE 17 AUDITING AND REPORTING OF AD HOC FUNDS

The Ad Hoc Funds shall each be independently administered and shall follow international best practices for auditing and reporting. All Reports shall be made accessible to the public.

ARTICLE 18 TRANSPARENCY AND GOVERNANCE PROCEDURES FOR AD HOC FUNDS

The organization and functioning of these project by project funds shall be determined by the MoE and the MEF in collaboration with the relevant project, and shall meet the following minimum requirements:

1. The MoE shall host the secretariat;
2. The Board shall be made up of government, donor, and community members if there is an affected community;
3. The chair of the Board shall be selected by consensus of the members;
4. The fund manager of the account may be an independent foundation created by the MOE or an independent third party with responsibilities delegated from the MOE.
5. Financial and progress reports shall be provided by the fund manager to the Board quarterly.
6. The fund manager shall conduct audits on an annual basis and provide to the Board an annual report.

Any entity acting as fund manager of an Ad Hoc Fund shall be accountable to its Board for the performance of its management responsibilities. The Fund Manager shall take the same care in its activities as Fund Manager as it would in conducting its own affairs.

CHAPTER 3 ACCESS TO CLIMATE FUNDING

[To be developed.]

CHAPTER 4 BENEFIT SHARING AGREEMENTS

[To be developed.]

Suggestions include including provisions to:

- a) implement the Kingdom of Cambodia’s obligations under the Convention on Biological Diversity
- b) provide key incentives for local communities to support REDD+ implementation
- c) clarify entitlements of communities and mechanisms through which such entitlements will be distributed in a fair and equitable way
- d) confirm that payments from REDD+ projects will consist of compensation for opportunity costs of land-use changes plus a “REDD rent”

CHAPTER 5 FINANCING FOR CLOSURE, REHABILITATION, REMEDIATION AND RESTORATION OF ACTIVITIES AFFECTING THE ENVIRONMENT

ARTICLE 19 FUND FOR CLOSURE, REHABILITATION, REMEDIATION AND RESTORATION

Any company required to provide a financial surety for closure, rehabilitation, remediation and restoration shall do so in the format and using the method prescribed by the relevant law or sub-decree. If no procedures are specified the procedures pursuant to this Code shall apply.

Any project proponent required to conduct an Environmental Impact Assessment and file an Environmental Management Plan shall include in the Environmental Management Plan an estimate of the cost of closure, to be approved by the Ministry of Environment. The estimated cost of closure shall form the basis of the amount required to be provided as financial surety.

The Financial Surety must produce enough income to meet the following closure requirements:

1. Decommissioning costs
2. Clean-up costs
3. Rehabilitation costs
4. Maintenance, monitoring and perpetual care costs
5. Administrative costs

6. 15% contingency on total costs

The amounts shall be calculated based on third party costs of restoring affected areas to the most appropriate economic and social value, taking into account inflation.

The full amount of the required financial surety must be lodged prior to the commencement of work on a project for projects with lifespans of 5 years or less or in exploration phase. Incremental payment may be arranged for projects with a lifespan of over five years or in exploitation phase such that the full amount of the required financial surety is lodged by the end of the fifth year of operation.

ARTICLE 20 FORM OF FINANCIAL SURETY

The financial surety may take the form of a letter of credit, a surety bond, a trust fund, or a cash fund.

The project proponent may request to provide a corporate guarantee in lieu of a financial guarantee. At minimum the Project Proponent should be able to show that it has sufficient funds to cover at minimum the costs of complying with the applicable closure requirements. In determining whether a corporate guarantee is appropriate the Ministry of Environment may take into account the financial history of the Project Proponent, evidence of current financial status of the Project Proponent, and any other factors the Ministry of Environment deems applicable.

ARTICLE 21 MANAGEMENT AND USE OF FUNDS FOR CLOSURE, REHABILITATION, REMEDIATION AND RESTORATION – TRUST FUND OR CASH FUND

If the financial surety is provided in the form of a trust fund or cash fund, the money shall be deposited into an interest-bearing account to be held by an entity independent of the Project Proponent. Following successful closure, the funds shall be returned to the Project Proponent.

The Project Proponent shall designate a qualified investment professional as fund manager to be responsible for maintaining the Closure, Rehabilitation, Remediation and Restoration Fund and ensuring that all transactions are properly recorded and made available for viewing online or in person.

ARTICLE 22 AUDIT AND REPORTING REQUIREMENTS

In addition to following the procedural requirements set out in any relevant laws or sub-decrees,

any Project Proponent required to provide financial surety to cover costs of closure, rehabilitation, remediation and restoration shall annually conduct and file a review of closure cost estimates with the Ministry of Environment. The estimates must be completed by a certified engineer. Failure to report is a violation with a fine of Riel [to be determined].

If the annual audit report indicates that the requirements for financial surety are no longer met, the project proponent must file a notification to the MOE and any other relevant Ministry. The project proponent shall meet their updated requirements for financial guarantee within 30 days of the filing of this notification. The MoE may require additional reports or documentation.

If the annual audit report indicates that there is a surplus in a financial surety required by the MoE, the MoE may authorize the release of excess funds upon request by the Project Proponent.

ARTICLE 23 GUIDANCE ON THE ESTABLISHMENT AND MANAGEMENT OF FUNDS FOR CLOSURE, REHABILITATION, REMEDIATION AND RESTORATION

The Ministry of Environment shall develop guidance on the calculation of closure costs, form of application and approval, requirements for review, procedures for return, and any reductions or exemptions in the form of a prakas.

ARTICLE 24 AUTHORITY OF THE MINISTER OF THE ENVIRONMENT TO RECOVER COSTS OF RESTORATION AND CLOSURE

Notwithstanding any other provision of the Code, the Minister of the Environment may undertake the necessary restoration of injuries to resources of Cambodia and may recover those costs and expenses in the manner provided under the Civil Code of Cambodia.

BOOK 9 ENVIRONMENTAL OFFENSES, ENFORCEMENT AND REMEDIES

- Offences, penalties, enforcement and remedies mechanisms have been addressed to various extent for some issues directly within the draft text of the Titles for those issues. These provisions will be incorporated into this Book on Environmental Offenses, Enforcement and Remedies for the next draft of the Code.

TITLE 1 ENVIRONMENTAL OFFENCES AND PENALTIES

- This Title will outline the Environmental Offences that will be subject to possible action under the Civil Code or Criminal Code.

- It will provide an outline for determining which breaches of the Code should be subject to criminal prosecution.
- The Title will identify specific offences and failures to comply with relevant provisions of the Code.
- It will provide options for penalties from fines to imprisonment and remediation orders. It will be based 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 INVESTIGATION, ENFORCEMENT AND ACCESS TO
REMEDIES**

DEFINITIONS

Project Proponent

Adverse Impacts of the Project

**Dispute Resolution Panel Decision - Decision to be developed by a three-member Environmental
Dispute Resolution Panel**

EIA Report

Final Resolution - The complete agreement of the Mediation participants in consultation with the Mediation Committee together with a completed certification of implementation.

Written Resolution

Technical Expert - An objective, independent person with education and learning on technical and scientific areas of environmental issues concerning water, waste, and air, degrees of harm, qualitative and quantitative measurements and other issues that the Mediation or Reviewing Arbitration Committee may require in order to understand the issues. A technical expert is required after a determination by the Tribunal finds the technical issues too complex to be deciphered without an expert.

Judicial Review

SLDPP Strategic Litigation to Deter Public Participation

CHAPTER 1 ENVIRONMENTAL COMPLAINTS

SECTION 1 CATEGORIES OF ENVIRONMENTAL COMPLAINTS

ARTICLE 1 CIVIL COMPLAINT

A civil complaint is a law suit with the objective to ensure that the right to compensation for physical, material, and/or psychological harms is reserved.

In a civil complaint under the Environmental Code, the parties shall follow the procedure as specified in the Environmental Code, and may use all rights as stipulated in Civil Code of Cambodia and Criminal Code of Cambodia, having regard to any special provisions in the Environmental Code.

ARTICLE 2 CRIMINAL COMPLAINT

A criminal complaint is a law suit to provide public order and common social benefits; thus, in the case that there is an offense against a provision stipulated in this Environmental Code, the victim reserves the right to bring a complaint to the relevant court authority.

All legal forms and procedures in bringing a criminal complaint to the court shall follow the Criminal Code of Cambodia, having regard to any special provisions in the Environmental Code.

ARTICLE 3 ADMINISTRATIVE COMPLAINT

An administrative complaint is a request to review any breach of law by state and social organizations or by staff of those organizations, including any action or inaction regarding the making of decisions pertaining to issuance of permits, approvals, licenses, and government land use decisions under the Environmental Code. Administrative complaints may also be brought by the government to enforce violations of the Environmental Code. In an administrative complaint the parties shall follow the procedure as specified in the Environmental Code.

ARTICLE 4 PUBLIC INTEREST COMPLAINT

A public interest complaint is a law suit to enforce certain offenses under the Environmental Code that affect the public interest. The natural or appropriate legal person need not be directly impacted to file a public interest complaint, and will not receive economic benefit from the complaint. In a public interest complaint under the Environmental Code, the complainant must follow the procedure as set out by the Environmental Code.

ARTICLE 5 REVIEW OF ENVIRONMENTAL IMPACT ASSESSMENT DETERMINATIONS

Within thirty (30) days of public disclosure that the Ministry has approved or rejected an EIA Report, any Project Proponent, natural person or legal person potentially affected by any Adverse Impacts of the Project, shall have the right to request a review with the Environmental Dispute Resolution Commission with respect to the approval or rejection, provided that

- a) a review of a decision by the Ministry to reject an EIA Report shall only be allowed where the complainant has specifically alleged that such rejection was not made in accordance with the Procedure set out in this Environmental Code or that such rejection was based upon an unsubstantiated or unjustified decision by the Ministry;
- b) only one (1) appeal on the same case shall be allowed with respect to a decision by the Ministry; and
- c) no condition prescribed by the Ministry shall be subject to appeal by a Project Proponent.

CHAPTER 2 FRAMEWORK FOR RESOLUTION OF ENVIRONMENTAL COMPLAINTS

SECTION 1 GENERAL PROVISIONS

ARTICLE 6 PURPOSE AND SCOPE

This chapter establishes dispute resolution mechanisms for the resolution of the environmental complaints in Chapter 1 of Book 10

ARTICLE 7 GENERAL PRINCIPLE

This Chapter shall be interpreted in accordance with the general principles of this Environmental Code.

ARTICLE 8 STANDING

Any natural person who is directly or indirectly affected by an environmental offence or decision under the Environmental Code shall reserve the right to file a complaint with the competent grievance mechanism body for resolution of their complaint.

Any legal person who is directly or indirectly affected by an environmental offence or decision under the Environmental Code shall reserve the right to file a complaint with the competent grievance mechanism body for resolution of their complaint.

Any community, indigenous community, or group of communities that is directly or indirectly affected by an environmental offence or decision under the Environmental Code may select an authorized representative to file a complaint with the competent grievance mechanism body for the resolution of their complaint. The authorized representative shall do so with relevant evidence to prove the right of representation granted by the affected community.

Any natural or legal person may file a complaint in the public interest with the Environmental Dispute Resolution Commission. Pursuant to the Principle of Generational Equity claims may be made on behalf of generations yet unborn.

SECTION 2 MEDIATION

ARTICLE 9 JURISDICTION OF COMMUNE/SANGKAT COUNCILS

The dispute resolution powers of the Commune/Sangkat Councils as described in the Law on Commune/Sangkat Administrative Management and other relevant laws shall include the resolution of civil environmental complaints under the Environmental Code occurring within the geographic area of the Commune/Sangkat. An Environmental Mediation Committee shall be established by each Commune Council for this purpose.

The Commune Council shall follow the procedures described in the Environmental Code and

existing procedure guidelines.

ARTICLE 10 DUTIES OF THE COMMUNE/SANGKAT COUNCILS

In addition to any existing duties, the duties of the Commune/Sangkat Councils shall include

- a) Referring environmental complaints within their jurisdiction to the Environmental Mediation Committee;
- b) Referring complaints outside of their jurisdiction to the Co-Management Conflict Resolution Council [not yet adopted], other local dispute resolution mechanism as required by the relevant law, or to the Environmental Dispute Resolution Panel;
- c) Facilitating the election of Environmental Mediation Committee members by secret voting ballots;
- d) Ensuring that membership on the Environmental Mediation Committee meets the established membership requirements;
- e) Serving as the central repository for Commune public access to information including environmental laws, regulations, and rules;
- f) Maintaining records of the Environmental Mediation Committee's process documents including forms and Resolutions;
- g) Creating and submitting to the Office of the Environmental Ombudsman [to be developed] an Annual Evaluation Report; and
- h) Cooperating with and accommodating the needs of the Office of the Environmental Ombudsman [to be developed] and Environmental Dispute Resolution Commission as required.

ARTICLE 11 MISSION OF THE ENVIRONMENTAL MEDIATION COMMITTEES

Upon referral by the Commune Council, the Environmental Mediation Committees shall provide voluntary, confidential, consultative mediation for environmental complaints under the Environmental Code within Commune areas. The final outcome is a Final Resolution which is comprised of a Written Resolution and the implementation of the Written Resolution.

ARTICLE 12 JURISDICTION OF THE ENVIRONMENTAL MEDIATION COMMITTEES

The Environmental Mediation Committees may only mediate on

- a) Environmental and natural resource issues affecting members of their commune for which there is no other alternative dispute resolution mechanism; and
- b) Civil issues under the Environmental Code for which there is no other alternative dispute resolution mechanism.

Local issues for which there is another alternative dispute resolution mechanism shall be referred to that mechanism. Non-local issues shall be referred to the Environmental Dispute Resolution Commission. In the alternative, parties may agree to resolve their dispute pursuant to a mutually agreed upon customary law procedure. The Environmental Mediation Committee shall not mediate on an issue after it enters into dispute resolution under customary law even if it may otherwise be within their jurisdiction.

Criminal issues shall follow the procedure required for criminal complaints pursuant to the Criminal Procedure Code.

ARTICLE 13 MEMBERSHIP

Each Environmental Mediation Committee shall be made up of five elected and rotating members in accordance with age, gender, diversity and other membership requirements to be determined by sub-decree. Members should be selected based on humility, frankness, equality, moderation and patience. Requirements encouraging the participation of women, spiritual leaders, monks, indigenous community leaders and representatives of vulnerable groups shall be included. Membership on the Environmental Mediation Committees shall be determined by secret ballot cast by community members residing in the villages of the Commune.

Each Environmental Mediation Committee shall elect a chair-person and vice-chairperson, to be determined by secret ballot.

Each Environmental Mediation Committee may use a Technical Expert if the Mediation Committee determines that scientific issues in a complaint require a Technical Expert.

Election procedures, rotational system, and other membership requirements shall be determined by prakas of the Ministry of Environment.

ARTICLE 14 PROCEDURAL REQUIREMENTS

The duration of the mediation process shall be a maximum of thirty working days but may be

extended by consensus of the parties. Each stage of the mediation process shall have specified timelines. If no Written Resolution has been filed after this time period the Environmental Mediation Committee shall refer the complaint to the Environmental Dispute Resolution Commission and request a Dispute Resolution Panel to be formed.

If no relevant procedures and rules exist each Commune Council shall follow the procedures and rules specifying initiation procedures; duration, stages, and other details of the process of mediation; confidentiality and reporting requirements; referral processes including timelines to a maximum of 3 months; and other processes as set out by prakas of the Ministry of Environment.

ARTICLE 15 TERMINATION OF MEDIATION

Mediation may be terminated at any time by consent of the parties, if the Mediation Committee determines that one party is unable to maintain appropriate levels of cooperation, if no Written Resolution has been filed after thirty days, or if the participants reach a Written Resolution and the Resolution can be shown to be implemented. Terminated mediations still requiring resolution may be referred to the Environmental Dispute Resolution Commission.

ARTICLE 16 WRITTEN RESOLUTIONS

The content of a Written Resolution to be filed with the Commune Council, with regard to confidentiality requirements, shall be determined by prakas of the Ministry of Environment.

ARTICLE 17 PUBLIC RECORD OF RESOLUTIONS

Each Mediation Committee shall keep a publicly available record of all written Resolutions in accordance with confidentiality requirements to be prescribed by sub-decree.

ARTICLE 18 REMEDIES

Remedies created in consultation between the Environmental Mediation Committees and mediation participants may include

- a) Determining compensation for environmental damage;
- b) Determining methods for restoration of the environment from existing damage;
- c) Determining measures to ensure that there will be no further harms done to the environment; and
- d) Determining measures to prevent environmental damage.

- e) The Environmental Mediation Committees shall implement the guidelines for the calculation of environmental damages written by the Environmental Dispute Resolution Commission.

SECTION 3 DISPUTE RESOLUTION COMMISSION

ARTICLE 19 MISSION OF THE ENVIRONMENTAL DISPUTE RESOLUTION COMMISSION

The Environmental Dispute Resolution Commission shall be established pursuant to the requirements of this Environmental Code. The Environmental Dispute Resolution Commission provides Dispute Resolution on non-local environmental and natural resource complaints under the Environmental Code, unresolved Mediations upon request by a Commune/Sangkat Council, upon request by a customary law decision-maker where parties have chosen a customary law mechanism and the issue remains unresolved, and public interest proceedings. All decisions of the Environmental Dispute Resolution Panels are decisions of the Environmental Dispute Resolution Commission.

ARTICLE 20 DUTIES

Duties include

- a) Creating and submitting to the Office of the Environmental Ombudsman [to be developed] an Annual Evaluation Report;
- b) Facilitating the selection of a 3-member, tri-partite panel for dispute resolution;
- c) Establishing internal regulations as required by the Environmental Code for the proper functioning of the Commission;
- d) Cooperating with and accommodating the needs of the Office of the Environmental Ombudsman [to be developed]

ARTICLE 21 MEMBERSHIP

Members of the Environmental Dispute Resolution Commission shall be chosen from among prominent figures known for their moral qualities and their competence and experience in environmental issues. These persons shall be included in a list prepared every five years by a Royal Decree or sub-decree.

The list of members of the Environmental Dispute Resolution Commission shall be compiled with input from environmental conservation organizations, the regulated community, and the Ministry

of Environment. Each stakeholder shall nominate one-third of the members to be appointed by the Ministry as members of the Commission, and who would operate on a 3-member tripartite panel at each hearing. Office holders of the regulated community, Environment Ministry officials, and Judicial Police Officers are ineligible for nomination.

ARTICLE 22 TERM

Each member of the Environmental Dispute Resolution Commission shall serve a 5-year term. The terms of appointment, removal, and any prohibitions or disqualifications shall be determined by an internal regulation of the Environmental Dispute Resolution Commission.

ARTICLE 23 JURISDICTION

The Environmental Dispute Resolution Commission may only examine issues specified in the mediation report, matters that are specified by the parties in a request for Dispute Resolution, and matters arising subsequently and directly connected to the dispute.

The Environmental Dispute Resolution Commission may decide on disputes concerning the interpretation and enforcement of laws or regulations except the Constitution or of a project agreement.

The Environmental Dispute Resolution Commission has the power to investigate and make inquiries into matters that would facilitate their determination of the dispute before them. The Environmental Dispute Resolution Commission has the power to require the parties to present any document or information that would be useful in determining the dispute before them. The Environmental Dispute Resolution Commission may also solicit the assistance of experts.

ARTICLE 24 DUTY OF CONFIDENTIALITY

The Environmental Dispute Resolution Commission shall keep the confidentiality of the information provided to them for examination.

ARTICLE 25 OBLIGATION OF CONCERNED AUTHORITIES TO COOPERATE WITH THE ENVIRONMENTAL DISPUTE RESOLUTION COMMISSION

When requested by the Environmental Dispute Resolution Commission, all levels of authorities, armed-force authorities, and all concerned ministries shall contribute to the smooth operation, coordination and support for upholding the provisions of the Environmental Code.

ARTICLE 26 RESOURCES

The Environmental Dispute Resolution Commission shall have a separate budget as an annex to the budget of the Ministry of Environment.

The Environmental Dispute Resolution Commission is authorized to receive, manage and use funds from various sources to perform its functions in accordance with the law.

ARTICLE 27 GOVERNANCE

The Environmental Dispute Resolution Commission shall be governed by the Environmental Dispute Resolution Foundation. The Environmental Dispute Resolution Foundation shall be established with members as follows

v. [Entities to be determined]

The procedures of the Environmental Dispute Resolution Foundation shall be determined by an internal regulation of the Environmental Dispute Resolution Commission.

ARTICLE 28 PUBLIC NATURE OF DISPUTE RESOLUTION PROCEEDINGS

Environmental Dispute Resolution Commission proceedings shall be public.

ARTICLE 29 INDEPENDENCE AND IMPARTIALITY OF THE ENVIRONMENTAL DISPUTE RESOLUTION COMMISSION

Members appointed to the Environmental Dispute Resolution Commission shall function in complete independence and within the scope of their authority as established in Article [xx] of this Environmental Code. No one shall give any instructions to the Environmental Dispute Resolution Commission or its members with regard to the settlement of disputes. Members of the Environmental Dispute Resolution Commission shall be impartial. Members shall not receive any additional incentives or rewards of any kind, monetary or otherwise for their work. Salaries given should be set by an outside agency not related to the Ministry of Environment. Members shall not receive any additional incentives or rewards of any kind.

The Environmental Dispute Resolution Commission shall operate in its own offices separate from the Ministry of Environment. Decisions of the Environmental Dispute Resolution Commission are independent of the Ministry of Environment.

The Environmental Dispute Resolution Commission has the authority to use its own logo and seal. The Environmental Dispute Resolution Commission shall issue an internal regulation determining provisions regarding disclosure of conflicts of interest.

ARTICLE 30 CONVENING AND CONCLUSION OF DISPUTE RESOLUTION PANEL

Within three days of the receipt of a complaint or a request, the Environmental Dispute Resolution Commission shall meet to convene a tripartite Dispute Resolution Panel. The Dispute Resolution Panel shall be convened within three days of the Commission meeting.

Within 30 working days of the convening of the Dispute Resolution Panel, the Dispute Resolution Panel shall communicate its decision and its reasoning to the Minister of Environment. The Minister of Environment shall take immediate action to notify the parties of the Dispute Resolution Panel's Decision.

The Environmental Dispute Resolution Commission shall issue an internal regulation determining the procedure and requirements for appointing decision-makers to the Dispute Resolution Panel, including procedures and consequences in circumstances of conflicts of interest.

ARTICLE 31 DISPUTE RESOLUTION PANEL DECISIONS

The Dispute Resolution Panel Decision shall be in the form of a written report with reasons connected to law. The Panel shall make all efforts to come to a consensus. All Dispute Resolution Panel Decision Reports that are not opposed shall be published on a central online repository of decisions to be developed by the Office of the Environmental Ombudsman [to be developed] and be made available in print at the Office of the Environmental Dispute Resolution Commission.

The Environmental Dispute Resolution Commission shall issue an internal regulation determining the proper format and substance of Dispute Resolution Panel Decision reports.

ARTICLE 32 OPPOSITION OF ARBITRAL DECISION

The parties shall have 15 working days from receipt of notice of the Dispute Resolution Panel's Decision to inform the Secretary General of the Environmental Dispute Resolution Commission Secretariat by registered mail or other reliable method of their opposition to the Dispute Resolution Panel's Decision. If after this time period no opposition has been received by the Secretary General, the Dispute Resolution Panel Decision shall be considered final and must be implemented immediately.

The Environmental Dispute Resolution Commission shall issue an internal regulation determining the procedure for notification of arbitral decisions and procedure for opposition.

ARTICLE 33 REMEDIES

The Environmental Dispute Resolution Panel may issue remedies in accordance with this Environmental Code. Remedies may also include the assurance of proper implementation.

ARTICLE 34 ENFORCEMENT OF DISPUTE RESOLUTION PANEL DECISION

If the period for opposition has lapsed and one party refuses to abide by the decision, the other party can request the competent court to recognize and enforce the decision. The Environmental Dispute Resolution Commission shall issue an internal regulation setting out grounds upon which a party can avoid the recognition and enforcement of a final and binding award of the Environmental Dispute Resolution Panel.

ARTICLE 35 PROCEDURE OF THE ENVIRONMENTAL DISPUTE RESOLUTION COMMISSION

The Environmental Dispute Resolution Commission shall issue an internal regulation to determine the procedures for the efficient and independent functioning of the Environmental Dispute Resolution Commission. In addition to any other requirements in this Section, the internal regulation shall include

- a) Requirement for the issuance of rules and guidelines by the Environmental Dispute Resolution Commission;
- b) Record-keeping and hearing procedures including standard of review; appropriate evidence; appropriate remedies; calculation of penalties; and
- c) Any other provisions in support of the efficient and independent functioning of the Environmental Dispute Resolution Commission.

ARTICLE 36 SECRETARIAT OF THE ENVIRONMENTAL DISPUTE RESOLUTION COMMISSION

The Environmental Dispute Resolution Commission shall have a permanent general secretariat for its daily operation housed at the offices of the Environmental Dispute Resolution Commission. The Environmental Dispute Resolution Commission Secretariat shall be led by a Secretary General who shall be assisted by deputies as required and shall be appointed by a Royal Decree or a Sub-decree.

The establishment and functioning of the Environmental Dispute Resolution Commission Secretariat shall be defined by a sub-decree.

SECTION 4 ENVIRONMENTAL JUDICIARY POLICE

ARTICLE 37 GENERAL PROVISIONS

The Ministry of Environment shall appoint civil servants to act as Environmental Judiciary Police for the purposes of

- a) Providing case-management assistance on criminal offenses, including receiving submitted complaints, fact-finding, preparing cases to be filed, and conducting inspections; and
- b) Monitoring, investigating, and gathering evidence on potential or actual environmental criminal offenses.
- c) Environmental Judiciary Police may not be a member of the Environmental Dispute Resolution Commission.

ARTICLE 38 COMPETENCE OF ENVIRONMENTAL JUDICIARY POLICE

A public civil servant shall fulfil the following requirements to be environmental judiciary police officers

- a) A staff member of Ministry of Environment who has been given the competence to be an environmental judiciary police officer in the sector of environmental protection and natural resource management.
- b) Other public civil servants determined by a separate law to be environmental judiciary police officer.

ARTICLE 39 PROCEDURES OF APPOINTMENT TO BE AN ENVIRONMENTAL JUDICIARY POLICE OFFICER

To receive the competence, the environmental judiciary police officers shall give an oath before the appeal court. The oath shall not be made again once a person has received the competence to be environmental judiciary police officers.

Forms and procedures of appointment to be an environmental judiciary police officer shall be made by an inter-ministerial prakas issued by the Ministry of Environment and other relevant institutions to environmental protection and natural resource management.

ARTICLE 40 RESPONSIBILITIES OF THE ENVIRONMENTAL JUDICIARY POLICE OFFICERS

Environmental judiciary police officers shall have the following responsibilities

- a) Receiving submitted environmental complaints;
- b) Monitoring environmental criminal offenses;
- c) Making requests for relevant information to investigating operation on environmental criminal offenses;
- d) Providing inspection on suspected sites of environmental criminal offenses;
- e) Confiscating all related materials to the allegation of environmental criminal offenses;
- f) Making requests for support from parties involved with the investigation of the potential environmental criminal offenses;
- g) Investigating all environmental criminal offenses; and
- h) Assisting with preparing environmental offense cases to be filed with the competent court.

Environmental judiciary police officers shall comply with the relevant requirements in the Criminal Procedure Code of Cambodia.

ARTICLE 41 INVESTIGATION PROCEDURES FOR ENVIRONMENTAL OFFENSES OF ENVIRONMENTAL JUDICIARY POLICE OFFICERS

Procedures for case preparation by Environmental Judiciary Police Officers shall follow the Criminal Procedures of Cambodia. Forms and requirements for evidence shall be determined by an inter-ministerial prakas of the Ministry of Environment and other relevant institutions to environmental protection and natural resource management.

ARTICLE 42 OBLIGATION OF CONCERNED AUTHORITIES TO COOPERATE IN INVESTIGATIVE OPERATION AGAINST ENVIRONMENTAL OFFENSES

When requested by the Environmental Judiciary Police Officer(s), all levels of authorities, armed-force authorities, and all concerned ministries shall contribute to the smooth operation, coordination and support for upholding the provisions of the Environmental Code.

ARTICLE 43 USE OF UNIFORM FOR THE INVESTIGATIVE OPERATION IN ENVIRONMENTAL OFFENSES

Public civil servants acting as Environmental Judiciary Police Officers shall wear a complete uniform when they are acting as a judicial police officer as proof of identity when participating in

an official mission.

SECTION 5 OFFICE OF THE ENVIRONMENTAL OMBUDSMAN

[To Be Developed]

SECTION 6 ENVIRONMENTAL ISSUES AT COURT OF APPEAL

ARTICLE 44 PROCEDURE

Appeals at the Court of Appeal on environmental issues pursuant to the Environmental Code shall follow the procedures in the Civil Procedure Code unless otherwise stated in the Environmental Code.

ARTICLE 45 MEMBERSHIP ON BENCH

Environmental issues at the Court of Appeal shall be reviewed three judges, at least one of which has been assigned to environmental issues by the President of the Court of Appeal and who has completed training in environmental law and adjudication.

ARTICLE 46 JUDICIAL REVIEW

Final Environmental Dispute Resolution Panel Decisions are subject to judicial review.

ARTICLE 47 SCOPE OF REVIEW

The Court of Appeal may adjudicate only on questions of law. The findings of fact of the Environmental Dispute Resolution Panel shall be assumed to be correct until proven otherwise. No independent determination of the facts shall be made. The right of appeal is limited to those issues raised during the course of the proceedings and by the Environmental Dispute Resolution Panel Decision.

However, if it can be shown that there was a clear abuse of discretion, or the Environmental Dispute Resolution Panel was clearly unreasonable in its findings, the Court of Appeal must overturn the decision and order an adjudication of the case de novo.

ARTICLE 48 TIMING OF REVIEW

The Court of Appeal shall have 20 days to review the Environmental Dispute Resolution Panel Decision.

ARTICLE 49 ARGUMENT BEFORE THE REVIEWING COURT

The Court of Appeal may, at its discretion, order oral argument on any or all issues in a proceeding.

ARTICLE 50 OTHER PROCEDURE AND PROCESS OF REVIEWING COURT

Other procedures of the Court of Appeal shall be in compliance with the Code of Civil Procedures.

SECTION 7 CITIZENS RIGHTS TO BRING PROCEEDINGS

ARTICLE 51 PUBLIC INTEREST PROCEEDINGS

Any natural person or legal person with the objective to protect the environment or conserve biodiversity shall reserve the right to file an environmental complaint with the Environmental Dispute Resolution Commission to oppose any violations of the Environmental Code, including the failure of a Minister to discharge a non-discretionary duty related to the environment. Pursuant to the Principle of Generational Equity claims may be made on behalf of generations yet unborn. The environmental complaint filed by the natural or legal person shall be in the public interest and the complainant need not be directly impacted, and shall not receive economic benefit.

An action under this Section shall not affect the rights of any natural or legal person to initiate a civil or criminal action arising from the same conduct as is the subject of an action under this Section.

Public interest proceedings shall be resolved by the Environmental Dispute Resolution Commission within one year of filing.

ARTICLE 52 NOTICE

Before any complaint is filed under Article [xx], the complainant must give notice to the relevant sub-national or national authority in which the violation or failure to comply has occurred, the relevant natural or legal person or Minister of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.

The relevant sub-national or national authority has 30 working days to commence a civil action in Court to require rectification of the offense. During this time no action may be commenced under Article 1, unless the violation or failure to comply represents a public health or environmental emergency.

ARTICLE 53 VENUE

The complaint must be filed with the Environmental Dispute Resolution Commission.

ARTICLE 54 PROCEDURE IN CASE OF PUBLIC HEALTH OR ENVIRONMENTAL EMERGENCY

If the complaint represents a public health or environmental emergency, and there is an apprehension that the enforcement of a claim pursuant to the Code will become impossible or extremely difficult by reason of alteration of the state of the environment, or significant damage or imminent risk will arise, in addition to following the procedures for public interest proceedings pursuant to this Code the complainant may also file at the Court of First Instance a request for preservative relief in accordance with Book Seven of the Code of Civil Procedures immediately after giving notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.

ARTICLE 55 REMEDY, AWARDS AND CIVIL PENALTIES FOR PUBLIC INTEREST PROCEEDINGS

The Commission may require any natural or legal person to perform its duty under the Code.

The Commission may require any Minister or Ministry to perform its nondiscretionary duty.

The Commission may have recourse to any appropriate civil penalties.

The Commission may require a defendant found to have violated the Environmental Code to pay

- a) a successful plaintiff's costs of litigation (including reasonable attorney and expert witness fees) to the plaintiff; and/or
- b) any fee established by law as a consequence of violating the Code into the Environmental and Social Fund, the costs of the Minister or Ministry as defendant in an action under Subsection 1(b), and other services; and/or
- c) any civil penalty to be paid into the Environmental and Social Fund specified in [section to be referenced].

The Commission may require that civil penalties, in lieu of being deposited in the Environmental and Social Fund, be used in beneficial mitigation projects which are consistent with this Code and enhance the protection of the environment.

The award of costs of litigation to a plaintiff is not considered an economic benefit to the plaintiff.

ARTICLE 56 PLAINTIFF'S COSTS

The Environmental Dispute Resolution Panel shall exempt an action under this Section from the payment of filing fees until either the complaint is proven to be without merit or a final order is issued, in which case such fees shall be included as part of a successful plaintiff's costs of litigation.

ARTICLE 57 STRATEGIC LITIGATION TO DETER PUBLIC PARTICIPATION (SLDPP)

Where a counter-suit is filed against a natural or legal person who has filed an action or given notice under this Section, the Environmental Dispute Resolution Commission must make a determination within ten working days from the commencement of the counter-suit on whether said counter-suit or action is intended to harass, vex, exert undue pressure, or stifle the resources of the entity filing under this Section. If the Environmental Dispute Resolution Commission makes such a determination supported by evidence, the Environmental Dispute Resolution Commission shall dismiss the counter-action and award attorney's fees and double damages to the SLDPP defendant.

CHAPTER # ESTABLISHMENT OF ROYAL ACADEMY OF RANGER PROFESSIONALS

CHAPTER# LOCAL COMMUNITY MONITORING RIGHTS

The Law on the Functioning of Prosecutors is hereby amended and clarified as follows:

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

ARTICLE#

Upon enactment of this Code, local community groups and citizens shall have the following rights in protecting forests, fisheries and other natural resources:

1. Conduct patrols, either organized independently or in collaboration with local authorities, police, rangers or military units.
2. Confiscate and destroy any material or equipment used in the illegal harvesting of forest, fisheries or other natural resources.

3. Confiscate and destroy any illegally harvested forest, fisheries or other natural resource products.
4. Provide evidence, reports and other information about forest, fisheries, or natural resources crimes to the Ministry of Environment and local authorities, and make such information publicly available.
5. Provide information and evidence to prosecutors. Upon receipt of such information or evidence, prosecutors shall be required to provide within 30 days of receipt to the local community group or citizens their proposed actions on the matter.

ARTICLE#

The community monitoring and rights set forth in Article ___ pertain to all public lands and waterways of the Kingdom of Cambodia, regardless of designation or jurisdictional arrangements, and all lands and waterways within CMPZs.

CHAPTER# COMMUNITY ENFORCEMENT OFFICERS

ARTICLE#

Upon designation of a CMPZ, a CMPZ management committee may select community members to be judicial police officers, with all the rights and responsibilities of Judicial Police Officers as set forth in articles [to be determined]. Such nominated community members shall receive training by the Ministry of Environment prior to certification as judicial police officers.

**TITLE 3 RESTORATION AND COMPENSATION FOR HARM TO
NATURAL, CULTURAL, HISTORIC AND
ARCHAEOLOGICAL RESOURCES**

- The provisions in this Title will establish a procedure for the assessment and restoration of environmental injury. The procedure establishes a negotiated and mediated approach to the restoration and compensation for actual environmental harm. This procedure is to provide an alternative to enforcement proceedings. It does not prevent the MoE from taking criminal proceedings for environmental harm.
- The Title provides for the creation of a Restoration Planning Council that will include all relevant stakeholders and the person or legal entity responsible for causing the environmental harm. The Restoration Planning Council will provide for the process for the parties to agree on the proposed compensation and method.

DEFINITIONS

“Act of nature” means an act occasioned by an unanticipated grave natural disaster.

“Resource or resources of Cambodia” means the natural, cultural, spiritual, historic, and archaeological resources of Cambodia, whether privately or publicly owned, including but not limited to land, whether terrestrial or submerged, all biota, wildlife, air, fresh and salt water, sediment, groundwater, drinking water, mineral resources, artefacts, real and personal property of government entities at all levels of government, and the subsistence needs and activities and quality of life of the people of Cambodia. It shall further mean the incomes and livelihood of individuals, corporations and civil society organizations to the extent that same have been adversely impacted or affected by a harm as defined herein.

“Harm” means damages to, destruction of, damage to, loss, loss of use, or impairment of any resource of Cambodia, and further including but not limited to ecosystem values or services, degradation of ecological connectedness or corridors, threats of or actual injury to any portion or aspect of a protected area, or area otherwise owned, managed or controlled by the Kingdom of Cambodia, and resulting loss of wages, income, profits, and lost taxes or governmental fees.

“Person” or “persons” includes: an individual or any legal entity.

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

CHAPTER 1 GENERAL PROVISIONS AND OBJECTIVES

ARTICLE 1

The Kingdom of Cambodia finds that there is a national interest in restoring and compensating for harm to the resources of Cambodia.

ARTICLE 2

In accordance with the polluter pays principle any person, found liable for any harm to any resources of Cambodia shall be required to restore all such harm, and or otherwise compensate for all losses resulting therefrom.

ARTICLE 3

All affected ministries, sub-national administration districts, indigenous groups, civil society organization, and individuals shall share relevant technical information, knowledge, interests and concerns to facilitate full, prompt and effective restoration of harm to resources of Cambodia. To achieve this, each of these parties must be appropriately involved in restoration and compensation decision-making and restoration implementation.

CHAPTER 2 LIABILITY

ARTICLE 4

Liability for environmental compensation shall not require proof of *mens rea* and shall apply to:

- a) any person or legal entity whose actions or failures to act are more likely than not to result in harm to any resource of Cambodia and
- a)b) any government official at any level of government who acts beyond his/her authority or in contravention of any law, sub-decree, prakas, or other requirement of Cambodian law which action is more likely than not to result in harm to any resource of Cambodia.

ARTICLE 5

Any instrumentality, including but not limited to a vessel, vehicle, aircraft, or other equipment that is more likely than not to have used in an activity may be seized and sold, with the proceeds used towards restoration of the harm (*liability in rem*).

ARTICLE 6

Officials of legal entities, such as directors and officers of corporations, shall be liable for environmental compensation in the same manner and to the same extent as their corporations are liable under Article 4.

ARTICLE 7

In the event there is or may be more than one person liable under this Chapter 2, each such person shall be jointly and severally liable for all resulting environmental compensation.

CHAPTER 3 DEFENCES AND EXCEPTIONS TO DEFENCES.

ARTICLE 9

A person is not liable under this Title if such person can establish that:

- a) the harm to the resource of Cambodia was caused solely by an act of nature or an act of war;
- b) the harm to the resource of Cambodia was caused solely by an act or omission of a third party, other than an employee or agent of such person;
- c) the harm to the resource of Cambodia was solely caused by an activity explicitly authorized by law; or
- a)d) the harm to the resource of Cambodia was solely caused by activity specifically authorized, and described with specificity as to both the types and quantum of harm, in an Environmental Management Plan, EIA, and/ or EIA Approval Certificate.

ARTICLE 10

The defences set forth in Article 9 shall be inapplicable and may not be raised if:

- a) the actions resulting in harm were, in whole or in part, undertaken in violation of any provision of the Environmental Code or any other law, sub-decree or prakas;
- b) the actions resulting in harm were undertaken pursuant to a concession, license, or other apparent authorization granted not in accordance with law, sub-decree or prakas, including authorizations by officials not empowered to provide said authorization;
- c) the action in question resulted in harm to the resource of Cambodia greater in quantity, magnitude, or different in type than were specifically identified, quantified, and authorized in an Environmental Management Plan, EIA, or EIA Approval Certificate;
- d) the harm resulted from negligence, malfeasance or illegal actions in the implementation, execution, or performance of an otherwise authorized activity; and
- a)e) activities in violation of any of the terms and conditions of a permit, concession, authorization or other such documents, including but not limited to failures to undertake specific actions required under the permit.

CHAPTER 4 ENVIRONMENTAL COMPENSATION

ARTICLE 11

The environmental compensation referred to in Chapter 3 consists of the following:

- a) the full cost to restore the resource of Cambodia to the condition existing prior to harm , or successful completion by the liable party of actions approved by the Restoration Planning Council achieving restoration to the condition existing prior to harm, to the extent such restoration is feasible to achieve; and
- b) the full cost to undertake additional restoration sufficient to offset fully harm not compensated by the restoration in (a) above, or successful completion by the liable party of actions approved by the Restoration Planning Council sufficient to offset fully said harm; and
- c) where restoration will be undertaken, but some portion or aspect of the harmed resources of Cambodia are not amenable to restoration, the value of said un-restorable resources, or
- d) the ecological and human value of any losses resulting from harm to the resources of Cambodia not otherwise fully compensated by (a), (b), and (c) above, including but not limited to total economic value, direct and indirect use values, and non-use values such as existence, option, altruistic, and bequest values, and
- e) all costs incurred by claimants acting under the authority of Book 10, Title 2 in the development and pursuit of claims for environmental compensation including but not limited to the actual costs and expenses of the Restoration Planning Council, costs of restoration compensation evaluation such as personnel costs, travel, contracted services be they technical, legal or otherwise, and further including all costs incurred by parties to the Restoration Planning Council and consultation process, and
- f) the costs to monitor, and insure the success of the restoration activities identified hereinbefore; and
- g) the cost to compensate for business and economic losses resulting from harm to the resources of Cambodia; and
- h) the cost to compensate for loss of subsistence use of any resource of Cambodia; and
- i) the net loss of , royalties, rents, fees, or net profit shares due to the harm; and
- j) the loss of profits or impairment of earning capacity due to the harm , and

- k) net costs of providing increased or additional public services in response to the harm to the resources of Cambodia; and
- l) all court costs, fees, and expenses incurred towards and in litigation, including but not limited to salaries and expenses of plaintiffs, their staff, witness fees and expenses, costs of lawyers, experts, consultants, and technical studies; and
- m) the net loss of taxes or other revenues to any unit of the Government of Cambodia.

CHAPTER 5 EXPEDITED RESTORATION REQUIREMENTS FOR ENVIRONMENTAL COMPENSATION

ARTICLE 12

Under the authority of the Environmental Code of Cambodia there shall be developed expedited restoration requirements and procedures which shall identify with specificity the type and quantity of restoration required to compensate for specified harm.

CHAPTER 6 PARTIES CLAIMANT

ARTICLE 13

Parties who can make claims for environmental compensation:

- a) The Minister of the Environment, through his/her authorized designee, in conjunction with representatives of other directly affected or impacted ministries, and in collaboration with the parties to the restoration Council as set forth in Article 13 shall have the right to seek the restoration compensation.
- a)b) Subsistence users of natural resources who have been harm shall have the right to seek the costs set forth in Article 11, at (i) and (m) without regard to the ownership or management of said resources at their election either using the dispute resolution procedures set forth at [add reference to the relevant portion(s) of the Environmental Code's dispute resolution procedures], or other avenues of legal redress under the Civil Code of Cambodia.

CHAPTER 7 RESTORATION PLANNING COUNCIL AND COMPENSATION EVALUATION PROCESS

ARTICLE 14

In the event of possible claims for restoration compensation as set forth in Article 11, subsections (a), (b), (c), (d), (e), (f), (j), (l), and (m), the parties identified in Article 12 as authorized to make claims, together with representatives of each level of sub-national administration whose lands or interests are directly impacted, representatives of civil society organizations whose geographic area of engagement, species, ecosystem, or focus of activity have been directly affected, or whose work or programmatic responsibilities have been directly impacted, or who possess technical skills and knowledge significant to the restoration compensation evaluation process, may request that the Minister of the Environment establish a Restoration Planning Council for the incident in question (“Council”). The Minister of the Environment or his/her authorized designee shall lead the Council, which shall endeavour to work through consensus.

ARTICLE 15

The duties and authorities of the Council are included below.

- a) The Council shall evaluate the probable nature and scope of harm using existing and, when appropriate, additional readily available data. Based on its evaluation, the Council shall determine whether to proceed with a claim for environmental compensation. The Council may choose to utilize expedited restoration requirements procedures, undertake a restoration compensation evaluation, or at the option of the Council apply that which is deemed most appropriate to each specific element of the harm.
- b) After a decision to proceed with a claim for environmental compensation, the Council shall:
 - i) develop a statement of intention to pursue a claim for environmental compensation that shall provide summary information about the incident and anticipated / potential harm, and
 - ii) determine whether to invoke the order authority of Article 21 in regard to the incident.
- c) The Council shall utilize the skills and expertise of Council members, and outside expertise and technical support as deemed necessary and appropriate, to evaluate harm and restoration compensation.
- d) The Council shall utilize the public participation procedures of [add reference to the relevant portion(s) of the Environmental Code’s public participation procedures] to invite public input and involvement to receive relevant local knowledge, and insure that local concerns are acknowledged and addressed.

- e) The Council shall identify and evaluate restoration options and alternatives.
- f) The Council shall determine the appropriate scale of restoration and / or payment of compensation.
- g) The Council shall determine the appropriateness of potentially responsible party implementation of approved restoration.
- h) The Council shall notify potentially responsible parties if a restoration compensation evaluation is initiated.
- i) The Council shall invite the potentially responsible parties to enter into a restoration consultation process or other mutually agreeable extra judicial process towards resolution of their liability through restoration work or payment of compensation.
- ↔j) The Council shall commence the collection of data likely to be relevant to the potential claim.

ARTICLE 16

In the event a decision is reached not to utilize expedited restoration requirements procedures, there shall be undertaken a restoration compensation evaluation, which shall:

- a) identify and quantify harm,
- b) identify restoration and /or monetary compensation alternatives constituting potential restoration compensation,
- c) establish a preferred alternative,
- d) demonstrate the nexus between the preferred alternative and the harm,
- e) establish the scaling of the restoration, the cost to implement the restoration if preferred, and/or calculation of monetary compensation to the harm, and
- ↔f) provide appropriate support for the conclusions reached and decisions made.

CHAPTER 8 RESTORATION CONSULTATION AND RESOLUTION

ARTICLE 17

The Council and potentially responsible parties shall enter into a restoration consultation process

directed at expeditiously achieving full and fair restoration compensation, which process should include, but is not limited to the following elements:

- a) meeting regularly to endeavour to come to agreement regarding appropriate restoration and/or compensation;
- b) utilize the dispute resolution procedures set forth at [add reference to the relevant portions of the Environmental Code's dispute resolution procedures], including the use of mediation and or facilitation as the parties deem appropriate;
- c) exchanging technical information and endeavour in good faith to resolve differences consistent with the Principles of this Environmental Code;
- d) in the event that the parties reach agreement resolving some but not all restoration compensation, the parties to any such partial resolution may settle those claim elements to permit timely restoration and /or compensation to occur;
- e) where a potentially responsible party has declined an invitation pursuant to Article 15 (i), or fails to participate in good faith in the restoration consultation process or other mutually agreeable extra judicial process towards resolution of its liability, parties claimant shall proceed utilizing expedited compensation determination and or restoration compensation evaluation as they deem appropriate.

CHAPTER 10 SETTLEMENT REQUIREMENTS AND JUDICIAL STANDARD OF REVIEW

ARTICLE 19

All settlement agreements must comply with the following substantive and procedural requirements to be binding and have any force and effect.

- a) Proposed settlement agreement shall be made available to the public for review and comment for a period of not less than 60 days, and furthermore shall comply with the public participation requirements of the Environmental Code.
- b) All persons, parties or groups which had participated in any public meeting, provided any input or comment to the Restoration Council, or expressed a desire to participate and/or receive information related to the matter shall receive a copy of any proposed settlement via both regular mail and email, if known.
- c) Notice of the proposed settlement agreement shall be provided to the general public in any

affected areas in a manner otherwise in accordance with law.

- d) Settlement agreements shall include the following provision explicitly reserving to plaintiffs the following rights, “plaintiff(s) reserve, and this settlement is without prejudice to plaintiff(s)’ right to institute proceedings against defendant at any time seeking restoration compensation if conditions are discovered or information is received relating to this matter which were not known at the time of resolution that indicate that there is harm of a type that is different or a magnitude greater than was known at the time of resolution.”
- e) Settlement agreements shall include appropriate and technically and ecologically sound monitoring and performance standards in any agreement in which settling responsible parties agree to undertake restoration. Such standards shall, absent specific findings establishing the appropriateness of lesser standards, require the use of appropriate native plants for revegetation, performance monitoring for a period of not less than 5 years, and include an obligation on the part of the responsible party to continue to undertake restoration activities until performance standards have been met. Agreements shall include such further monitoring and performance requirements as determined to be appropriate through the restoration compensation evaluation process. All monitoring data generated shall be made available to any members of the public requesting same.
- f) Settlement agreements shall include in any agreement a requirement that potentially responsible parties undertake or fund environmental education and awareness throughout the area of harm in a manner and of a type deemed reasonable in light of the harm.
- g) Settlement agreements may also include additional provisions as may be deemed necessary to effectuate full restoration.

CHAPTER 11 ADMINISTRATIVE ORDER AUTHORITY

ARTICLE 21

Upon a finding of a likelihood of significant harm to a resource of Cambodia, the Minister of Environment shall have the authority to order potentially responsible parties to provide immediate financial support for the work of the Restoration Planning Council, and the development of a restoration compensation evaluation.

ARTICLE 22

Upon a finding of urgent need to act to prevent further significant harm to a resource of Cambodia or to avoid losing the opportunity to undertake significant restoration, the Minister of Environment shall have the authority order potentially responsible parties to undertake emergency restoration

actions under the direction of the Ministry.

CHAPTER 12 AUTHORITY OF THE MINISTER OF THE ENVIRONMENT TO RECOVER COSTS OF RESTORATION

ARTICLE 23

Notwithstanding any other provision of this Environmental Code, the Minister of the Environment may undertake the necessary restoration of harm to resources of Cambodia and may recover those costs and expenses in the manner provided under the Civil Code of Cambodia.

ARTICLE 24

Monies recovered under the authority of this Title as payment towards or reimbursement of the costs and expenses of restoration compensation evaluation and Restoration Council activities shall be paid directly to the party incurring, or who will be incurring, said costs and expenses, and shall be used for that purpose only.

ARTICLE 25

Monies recovered by the Government of Cambodia under the authority of this Title for the implementation of restoration shall be held in a special account to be named the Restoration Implementation Fund, established pursuant to the authority of this Article, to be used only to undertake restoration and restoration planning and oversight, including public outreach and participation, monitoring, and environmental education. Additional funds recovered by the Government of Cambodia as compensation for harm shall be held in the Restoration Implementation Fund and used only to restore injures to natural, cultural, archaeological and spiritual resources of Cambodia. The Restoration Implementation Fund shall separately track funds received from each restoration compensation case or matter.

ARTICLE 26

Monies recovered by non-governmental claimants under the authority of this Title for the implementation of restoration shall be held by claimants and expended solely to undertake the implementation of the restoration.

ARTICLE 27

Monies recovered by non-governmental claimants under the authority of this Title for claims for other than restoration shall be held and expended by claimants.

ARTICLE 28

Funds in the Restoration Implementation Fund may be released only upon written authorization of the Restoration Council. A complete record of monies deposited and expended, including case, amount recovered disbursements by date, amount and recipient, shall be kept and shall be made available to be viewed online in real time.

ARTICLE 29

There shall be identified a fund manager, who shall be personally responsible for maintaining the Restoration Implementation Fund and insuring that all transactions are properly recorded and made available for viewing online. The fund manager shall be personally liable for any shortfall, missing funds, or disbursements not in accordance with Article 24.

CHAPTER 15 SCOPE OF TITLE AND RELATIONSHIP TO OTHER ACTIONS

ARTICLE 30

The provisions of this Title shall be separate and apart from any other liability which may arise under this Environmental Code or other laws of Cambodia. Monies paid or actions undertaken pursuant to this Title may not be credited against any such fines, penalties, or obligations and may not be considered during any other such administrative or judicial proceeding involving fines or penalties. However, good faith efforts to fully restore Cambodia's resources in a timely and proactive manner may be considered in subsequent judicial proceedings when considering punitive consequences.

CHAPTER 16 STATUTE OF LIMITATIONS

ARTICLE 31

An action under this Title may be commenced at any time up until the latter of

- a) five (5) years from the date a party with a right to claim for environmental compensation receives actual knowledge of the event resulting in the harm and has obtained all information necessary to establish the environmental compensation due therefrom, or
- b) if a restoration compensation evaluation is undertaken, five (5) years from the date of completion of the restoration compensation evaluation, or
- ~~a)c)~~ where there are multiple or continuing events causing harm, the time periods identified in (a) and (b) above shall begin to run after the cessation of further harm events.

Book 9-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 10-BOOK 11 FINAL PROVISIONS