

Annex 3-24
Cambodia National Report



Cambodia National Mekong Committee

**Report on the
Compilation and Analysis of National Practices and
Instruments on Addressing Inter-State Contentious Issues,
Differences and Disputes over Trans-boundary Water and
Related Natural Resources Management Issues**

Prepared for CNMC and FMMP

By

KHUON KOMAR

Under the Mekong River Commission Terms of Reference for Short-Term National Expert for
Compilation and Analysis of National Practices and Instruments on Addressing Inter-State
Contentious Issues, Differences and Disputes over Trans-boundary Water and Related Natural
Resources Management Issues

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Executive Summary

Cambodia was very well-known during 1960's as a peaceful island and neutral country in the Southeast Asia region. But from the beginning of 1970's until early 1990's, Cambodia went through a difficulty time, civil war, especially the devastation by the Khmer Rouge regime during April-1975 to January-1979, during which, Cambodia was isolated from international community, especially relationship with its neighboring countries. After the country was liberated from such devastation by the Khmer Rouge, everything need to be reconstructed from zero, even under zero, since all kinds of infrastructures were completely destroyed, no schools, no money, no markets, etc.

During 1980's, although it was liberated from the Khmer Rouge regime, it was still, due to war of ideology, isolated and was under the international community sanction. With the assistance from the international community, all parties to the conflicts signed the Paris Peace Agreement ending the civil war and a general election was held afterward in 1993, boycotting by the Khmer Rouge faction. It would be very difficult for anyone to understand the situation in Cambodia after the Khmer Rouge regime and how Cambodia has to stand up from such destruction period. Cambodia needs to join the international and regional community, and, especially to reconstruct and strengthen bilateral relations and cooperation with its neighboring countries for the country's rehabilitation.

Different regimes have different laws and practices. The first legislature, according to Nguon Nhel, 1st Vice-President of the National Assembly, reported at a Ceremony to handle medals to the parliamentary Members and the staff of the National Assembly. On 8 April 2008, there 90 laws were adopted at the first legislature; 96 laws adopted during the 2nd legislature, and 126 laws were adopted at the 3rd legislature of the National Assembly (Rasmei Kampuchea, no 4562 of 09 April 2008). On human resources side, there was a tremendous need for the reconstruction of the country as a small numbers survived the killing.

Within 15 years of its existence, the Kingdom of Cambodia has made a very good progress in terms of stability, security and economic development. Cambodia has reestablished its relationship with the international community and the relationship with its neighboring countries are stronger. As a member of the ASEAN or of the MRC, etc..., there were lots of things that Cambodia had to prepare itself to be an equal partner with other members of the organization, so that it can benefit from those organizations and serve the Cambodians' interests. In this context, government's policy and practices, in bilateral or multilateral relations have been set up aiming at facilitating the country development.

This compilation and analysis of instruments and practices applied within the context of Cambodia is to comply with the MRC terms of reference for Short-Term National Expert for Compilation and Analysis of National Practices and Instruments on Addressing Inter-State Contentious Issues, Differences and Disputes over Trans-boundary Water and Related Natural Resources Management Issues. This paper is one of the four national reports from all NMCs compiled for the preparation of explanatory note – manual to implement the MRC Working Paper under the Flood Management and Mitigation Programme (FMMP).

Abbreviations and Acronyms

- ACCSM : ASEAN Conference on Civil Service Matters
- ACMECS : Ayeyawadi-Chao Phraya-Mekong Economic Cooperation Strategy
- ADB : Asian Development Bank
- AFTA : ASEAN Free Trade Area
- AMBDC : ASEAN-Mekong Basin Development Cooperation
- AH : ASEAN Highway
- AMM : ASEAN Ministerial Meeting
- AEM : ASEAN Economic Ministers Meeting
- ASC : ASEAN Standing Committee
- ASEAN : Association of South East Asian Nations
- ASOD : ASEAN Senior Officials on Drug Matters
- ASOEM : ASEAN Senior Officials Economic Meeting
- ASOEN : ASEAN Senior Officials on Environment
- CCCO : Climate Change Office of Cambodia
- CDM : Clean Development Mechanism
- CNMC : Cambodia National Mekong Committee
- COCI : Committee on Cultural and Information
- COSD : Committee of Social Development
- COST : Committee on Science and Technology
- BDP : Basin Development Program
- EIA : Environmental Impact Assessment
- EP : Environment Program
- FMMP : Flood Mitigation and Management Program
- FP : Fishery Program
- GEF : Global Environmental Facility
- GHG : Green House Gases
- GMS : Greater Mekong Sub-region
- JCM : Joint Consultative Meeting
- JMM : Joint Ministerial Meeting
- LMB : Lower Mekong Basin
- LMO : Living Modified Organism
- LNMC : Laos National Mekong Committee
- MAB : Man and Biosphere
- MAFF : Ministry of Agriculture, Forestry and Fisheries
- MINE : Ministry of Industry, Mine and Energy
- MOC : Ministry of Commerce
- MOE : Ministry of Environment
- MOFA-IC : Ministry of Foreign Affairs and International Cooperation
- MOH : Ministry of Health
- MOWRAM : Ministry of Water Resources and Meteorology

- MOU : Memorandum of Understanding
- MRC : Mekong River Commission
- NGO : Non-Governmental Organization
- NMCs : National Mekong Committees
- NCDM : National Committee on Disaster Management
- RCAF : Royal Cambodian Armed Forces
- RGC : Royal Government of Cambodia
- SEOM : Senior Economic Officials Meeting
- SOM : Senior Officials Meeting
- UN : United Nations
- UNESCO : United Nations for Economic, Social & Cultural Organization
- UNFCCC : United Nations Framework Convention on Climate Change
- VNMC : Vietnam National Mekong Committee
- WEC : West-East Corridor
- WMO : World Meteorology Organization
- WTO : World Trade Organization
- WUP : Water Utilization Program

Chapter 1: Introduction

1.1 Overview

In 1991, the Paris Peace Agreement was concluded by the Cambodian parties to the conflicts with the support from international community. The general election was held in 1993 participating by all parties to the conflict, except the Democratic of Kampuchea, the Khmer Rouge faction, and fully supporting by international community, especially the United Nations. Cambodia could then get back its rights to sit at the UN and participate in other international forum and communities. Diplomatic relations with other countries have been re-established gradually. Cambodia steadily becomes a member of the regional and international grouping, such as Mekong River Commission (MRC), the Association of South East Asian Nations (ASEAN), the World Trade Organization (WTO), the Greater Mekong Sub-region (GMS), etc.....

As its national reconstruction and development become greater, Cambodia needs further increase its close cooperation with other countries, especially neighboring countries so that all kinds of activities to serve its development in the fields of politic, economic, security, culture, etc.,... It is also to note that among many trans-boundary issues, one of these to be resolved is its boundary demarcation with its neighbors. To have safe and security border, there is a need of clear border demarcation. It is believed that clear border demarcation would facilitate Cambodians in developing its countries. Prime Minister Hun Sen always affirms that, no peace, no stability and no security within the country, there will be, then, no development.

Cambodia signed with its neighboring countries, Laos, Thailand and Viet Nam, the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin on 5 April 1995. As a member of the MRC, Cambodia could participate in equal footing in all programs under the MRC umbrella, such as Basin Development Plan (BDP), Water Utilization Program (WUP), Fishery Program (FP), Environment Program (EP), Flood Management and Mitigation Program (FMMP), etc., giving good opportunity for Cambodia to discuss various development projects and mitigate some issues or difference/disputes to serve its interests.

As an annual phenomenon within the Mekong River Basin, flood brings both benefits and damage to the riparian countries. Severe floods of 2000, 2001 and 2002, caused very serious damages and loss of lives in Lower Mekong Basin (LMB). In each of these years, more than 1 million people were directly or indirectly affected by floods in Cambodia. Rapid population growth and in-migration to the flood-prone but productive areas makes these areas the most densely populated areas in the basin. More than 4.3 million people - 1/3 of the total Cambodian population - lives within and closer to the floodplains in Cambodia. In relation to flood the Cambodia expressed to the UN General Assembly that 2002 was a

“flood of the century”¹, since the world experienced mega-floods and serious droughts across continents, from Asia to Europe and from Africa to South America, causing far-reaching destruction, costing billions of dollars.

Based on the Terms of Reference for Short-Term National Expert for Compilation and Analysis of National Practices and Instruments on Addressing Inter-State Contentious Issues, Differences and Disputes over Trans-boundary Water and Related Natural Resources Management Issues (**Annex 2**) and the draft outlines for the national report as introduced by Senior Legal Advisor (**Annex 3**), who is responsible for compiling and analyzing these national practices and instruments on addressing inter-State contentious issues, differences and disputes over transboundary water and related natural resources management issues, in close collaboration with respective national expert, the paper will highlight some practices in dealing with issues/problems with neighboring countries, especially within Cambodian context. Since the issues related to flood issues had already been prepared in June 2007, (Report on Identification of Trans-boundary Flood Issues at National Level in Cambodia prepared by Messrs Sok Saing Im and Pech Sokhem), it is then not necessary to repeat these issues, but the focus on some practices that Cambodia resolved, being resolved and will be resolve issues, differences and disputes within its relations with countries, in particular neighboring countries will be stressed on.

To carry out the tasks as indicated in the above mentioned Terms of Reference and find out practices and instruments related to the said subject, the national expert drafted a work plan (**Annex 4**) and submitted it to the CNMC for assistance and facilitation. It was planned to have a national consultation meeting, but due to financial issue, the meeting would be cancelled, as the Regional Center for Flood Mitigation and Management has no budget available for such planned activity.

The report on the consultations made with some institutions and on the field trips to some provinces located along the border with Laos and Viet Nam appears in **Annex 5**. Some available legal instruments and information in English are appeared in **Annex 6**.

It is also need to note that, following the draft outlines for the national report introduced by the Senior International Legal Advisor (SILA) as appears in Annex 3, the draft was submitted to CNMC and FMMP prior to the regional meeting held on 6-7 June 2008 in Udorn Thani, Thailand. With the comments from SILA, the content outlines have been rearranged. The revised report then follows the content outlines as commented by SILA. This report will be used by the SILA in preparing the explanatory note – manual for the implementation of the FMMP Working Paper. The same report will be prepared by other three NMCs for this purpose.

¹ Ministry of Foreign Affairs and International Cooperation (MOFA-IC), 2002, Speech of Cambodian Foreign Minister to the 57th United Nations General Assembly, Phnom Penh Cambodia

1.2 Scope and content of report

The intention of the report is to compile and analyze national practices, instruments and mechanisms in addressing inter-State contentious, differences and disputes applied within the context of Cambodia. Different countries may have different ways of resolving problems pertaining to relations with other countries, in terms of both bilateral and multilateral. Cambodia borders with Thailand on the West, Laos on the North and Viet Nam on the East.

Among the three neighboring countries, it is found out that different practices have been similarly applied by Cambodia in dealing issues, problems or disputes with its neighbors. This paper will highlight some practices applied by Cambodia at central levels, as well as at provincial and local levels in terms of cooperation with Cambodia's neighboring countries in dealing with inter-state contentious issues, differences, disputes related transboundary water and related natural resources Management issues.

Chapter 1 is the introduction, while Chapter 2 will describe the transboundary issues, differences and disputes under the consideration of legal aspects. The next Chapter explains the principles, practices and mechanisms applied by the Ministry of Foreign Affairs and International Cooperation of Cambodia. Chapter 4 provides some practices and examples regarding bilateral and multilateral cooperation within the context of national levels and that of local with their neighboring counterparts. The conclusion and recommendations are in the last Chapter 5.

Chapter 2: TBIDDs under Consideration of Legal Aspect

2.1. Constitutional Provisions

Following the Paris Peace Agreement on Cambodia, the general election in Cambodia was held in July 1993 brought back all parties to the conflicts to work together, except the Khmer Rouge – the Democratic Kampuchea. The new Constitution (14 Chapters with 139 Articles) was adopted by the Constituent Assembly and promulgated by the King who shall reign, but not shall to govern (Article 7) on 24 September 1993, which becomes a national day for Cambodia. The Constitution becomes the supreme national law and all laws and decisions by the State institutions must be in strictly conformity² with the Constitution.

Article 51, Chapter IV, states that the Kingdom of Cambodia adopts a policy of Liberal Democracy and Pluralism. The Cambodian people are the masters of their own country. All powers belong to the people. The people exercise these powers through the National Assembly, the Royal Government and the Judiciary. The Legislative, Executive, and the judicial powers shall be separate. Any review or amendment to the Constitution (Article 151, Chapter XV) is prerogative to the King, the Prime Minister, and the Chair of the National Assembly at the suggestion of one forth of all assembly members.

² Article 131, Chapter XII, the Constitution of the Kingdom of Cambodia, 24 September 1993. This Constitution was amended in March 1999 adding some new Chapters and provisions regarding the establishment of the Senate to ensure the functioning of national institutions. Then Chapter XIII became Chapter XV.

Three ways of formulating the law have been stipulated under Article 91 of the Constitution. Those are the Deputies (both from the National Assembly and from the Senate) and the Prime Minister. Each of these institutions may initiate legislation by submitting the draft law to the relevant Commission of the National Assembly for further consideration, discussion and recommendations before its submission to the Plenary Session of the National Assembly. The plenary session will debate and adopt the proposal or the draft law, before further sending to the Senate for further discussion and adoption. Once the law passed the two legislative bodies, it should be promulgated by the King before its dissemination/publication. In addition, the Constitutional Council can control constitutionality of the law.

On the other hand, the Prime Minister, with the assistance from or the Ministry(ies) concerned, may initiate legislation. Once the law is drafted, it should pass the Council of Ministers before submitting to the Permanent Standing Committee of the National Assembly for further action in accordance with its Internal Rules of Procedures.

Another source of law is international treaties, conventions, agreements, accords, protocols, etc...which may also be enforced after they pass through an effective legal procedures; first the Royal Government who signed them when and where ever has the obligation to submit them to two legislative bodies for ratification, if required. Thus, before any international treaty/convention/ agreement is enforced as if whether it is a national law, it must be ratified by the National Assembly in accordance with Article 26 of the Constitution, which states that the King shall ratify international treaty/convention/agreement after the approval by the National Assembly. The promulgated laws dealing with international relations will be sent back to co-signatories State(s) or partners or international institution in accordance with the nature of the treaties and significant documents. Certain treaties/agreements, for example, those prepared by the UN are deposited at the UN Head Quarters. It is up to the State(s) to adopt and sign them. While signed, State(s) have obligation to respect them.

Some Examples:

- To be eligible for ASEAN membership, Cambodia signed on 28 July 1995 the Treaty of Amity and Cooperation in South East Asia which is considered as a major instrument of “regional engagement”.
- Within the framework of the Mekong family, the 1995 Mekong Agreement for the Sustainable Development was signed on 5 April 1995.
- Law on the adoption of the UN framework Convention on Climate Change. This law has been adopted by the National Assembly of the Kingdom of Cambodia on 24 October 1996 during the 7th Session of the 1st Legislature.
- Cambodia and Thailand signed a Treaty on Extradition in Bangkok on 06 May 1998. On 01 March 2001, Cambodian foreign Minister and Thai Ambassador Extraordinary and Plenipotentiary to the Kingdom of Cambodia signed the Protocol on the Exchange of Ratification Instruments of the said Treaty. It also is to note that the Treaty was ratified by Samdech Chea Sim, Acting Head of State of the Kingdom

of Cambodia, in the August Name of His Majesty the King of Cambodia, on 19 July 1999³.

2.1.1. Other Sources of National Laws

Chbab is a law voted by the National Assembly. This law is called an organic law if it refers to the creation or the organization of a State institution and its structures. For example, the law on the establishment of the Ministry of Agriculture, Forestry and Fishery, No NS/RKM/0196/13 dated 24 January 1996, the Ministry of Water Resources and Meteorology, No NS/RKM.0699/08 dated 23 June 1999. To reflect this, Article 127 clearly states that provinces, municipalities, districts, Khan, *Khum* and *Sangkat* shall be governed in accordance with organic law. Thach Reng affirmed that *Chbab* is usually being confused with *Reach Kram* which in reality is the Royal Decree of promulgating of such *Chbab* by the King⁴.

Royal Decree (*Reach Kret*) is issued by the King in the exercise of his constitutional powers; e.g. Article 100 states “..... the King shall issue a Royal decree (*Kret*) appointing the entire Council of Ministers.” It would mean that the power of appointments on proposals by the Council of Ministers and by the Supreme Council of the Magistracy.

Decree (*Kret*) is to be signed by the King upon proposals of the Prime Ministers after the adoption by the Council of Ministers and countersigned by the Prime Minister in charge of its execution.

Sub-Decree (*Anu Kret*) is issued by the Prime Minister and countersigned by the Minister(s) in charge of its execution after the adoption of the Council of Ministers. It can also be used by the Prime Minister in the framework of their own regulatory executive powers.

Decision (*Sechkdei Samrech*): individual decision of the Prime Minister or a Minister or a government in the framework of their own regulatory powers.

Circular (*sarachar*) is generally used by the Prime Minister, and by Minister(s) as official one of the ministry either to explain or clarify certain legal or regulatory measures or to provide any instruction.

Deika, at provincial level, is issued by the provincial governor(s) within a certain geographical limit of their provinces.

2.2. Important Policies, Laws and Regulations

³ Ministry of Foreign Affairs and International Cooperation, Cambodia-Thailand bilateral relations, Phnom Penh

⁴ Thach Reng, 2000, Water Utilization Programme, Phnom Penh, Cambodia.

The RGC focused, during its 3rd legislature of the National Assembly, on public administration reform, namely, services related to state's sovereignty, investment related services, basic services and services related to State's revenue and expenditures. Law on the organization and functioning of the Supreme Council of Magistracy was promulgated by the Royal Decree No 09 dated 22 December 1994. The law was amended and submitted to the President of the National Assembly for a debate and adoption from the legislative institutions. The Secretariat of this magistracy was constituted by the Royal Decree No 43 dated 24 May 2001. The Ministry of Justice, in cooperation with the French Jurists delegation had already completed the review and amendment to the draft law on Penal Code consisting of 818 articles. In collaboration with Japanese legal team had already put a final touch on the draft law on Civil Code consisting of 1,301 articles and civil procedures Code with 571 articles.

Regarding judiciary establishments, there are 21 provincial and municipal courts out of 24 municipalities/provinces. Apart from this one Military Court was also established. There is an Appeal Court and a Supreme Court. Through the end of 2002, there were 802 Court Clerks, 200 Judges and Prosecutors, 48 Discipline Judges and Prosecutors and 70 Transferred Court Clerks. To train judges and lawyers, the Royal School of Magistracy was formally established on 5 February 2002. 150 judges were selected to be trained for the first promotion. The lawyer Training School was constituted on 14 September 2001 and 60 lawyers were selected in 2002.

2.3. Water and Related Laws, Policies and Regulations

The Government envisaged the importance of establishing a legal framework for the water sector. The Ministry of Water Resources and Meteorology (MOWRAM) was set up in 1999 and the National Water Policy was adopted in 2004. The Law on Water Resources Management was promulgated by the King on 29 July 2007. Equitable water sharing and allocation among sectors and regions in the country is a backbone of the policy and provisions of legal framework on water pricing and to conserve the water resources in the country is stressed to be developed accordingly. In addition to the domestic measures on harmonious water sharing, international agreement in the use and allocation of water during periods of water shortage in rivers, streams along the border of neighboring countries is stressed to be pursued.

MOWRAM is the major government institution to manage water resources. It has handled total management of the water from meteorological and hydrological observation, water related infrastructure development in river works, irrigation, water supply and sanitation, water management and conservation and so on. The MOWRAM is the main institution to own and administer data generated by the government departments, project funded by international organization/institutions. The MOWRAM is the transformation of the General Directorate for Water Resources and Meteorology of the Ministry Agriculture. This directorate was assigned to collect, compile and maintain records/data concerning the investigation, use, control, protection, management and administration of water

resources/environment. It was the central data base for the country. All its databases belong to the MOWRAM which managed and operated them.

The RGC prepared a “national water resources policy for the kingdom, stipulating the following five national water resources policies”:

- To protect, manage and use water resources with effective, equitable and sustainable manner;
- To foresee and take measures to assist related institutions to settle the facing problems which might be occurred in water sector;
- To develop and implement the national strategy and formulate the national policy and sector policies on water resources management;
- To direct the water resources development, management and utilization in the Kingdom of Cambodia to all activities of institutions, private sectors and public sector;
- To improve and uplift the people living to achieve the national policy on poverty reduction and sustainable national economy development.

In the policy, two important concepts are described, namely, (1) river basin management and development, (2) appropriate management of freshwater resources. In addition, Article 4 of Chapter I (General Provisions), the law on Water Resources Management stresses the importance of implementing the Integrated Water Resources Management (IWRM) in terms of management and development of water and water resources in Cambodia⁵.

2.3.1. Legislation on Water Resources in Cambodia

Regarding water resources management between neighboring countries, the policy stipulated that by taking international agreements fully into account in the use and allocation of water during periods of water shortage in rivers, streams along the border of neighboring countries. Furthermore, it mentioned the following policies for international aspects of water⁶:

- to take necessary measures and to use all means to closely cooperate with other countries that use water from rivers and streams and assure effective and sustainable water use with respect of mutual benefit;
- to fully collaborate with neighboring countries to achieve the aims of the 1995 Mekong Agreement; and
- to integrate Cambodia into international arena in the water sector, and to use all available opportunities, particularly through international organizations and development banks such as UNESCO, WMO, ASEAN MDBC, ADB, World Bank,

⁵ Ministry of Water Resources and Meteorology, 2007, Law on Water Resources Management of the Kingdom of Cambodia, Phnom Penh, Cambodia

⁶ NIRE, J-Green & CTI Engineering International, 2007, Options for Joint Water Resources Development and Management between Cambodia and Viet Nam, Phnom Penh, Cambodia

GMS and ESCAP to promote cooperation and international understanding in water sector.

Regarding water resources management along the international border, the RGC adopts the following policy to delimit the land boundary with neighboring countries.

- To assure the official management and application internationally recognized on the boundary that followed the streams, for the delimitation, the limit of management by Cambodia along the land boundary:
 1. for the sector of the stream-boundary non-navigable, the water management limit of the Kingdom of Cambodia follows the median line of the principle course of the stream;
 2. for the sector of the stream-boundary navigable, the water management limit of the Kingdom of Cambodia follows the median line of the main channel navigable of the stream.
- To continue its full cooperation with the three neighboring countries that has streams as boundary as well as with CNMC, the MRC and the National Committee for boundary with view to reach the target fixed by the present policy.

In the strategic development for 2006-2010, principle areas to be carried out by the MOWRAM are set up as follows:

Principle area of work		Over-arching goal for 2006-2010
1	Water resources management and development	Cambodia's water resources are managed and developed in an effective, equitable and sustainable manner. This achieves the greatest possible benefit for the people while conserving aquatic ecosystems
2	Flood	The impact of water related hazards, particularly floods and droughts, on the lives, property and livelihoods of Cambodian people and on public property, are minimized/mitigated
3	Water related legislation and regulation	Cambodia has a sound legal foundation for water resources management and development. It is implemented effectively and fairly
4	Water resource information management	Cambodia's water resources are developed and managed confidently and wisely, on the basis of adequate information
5	Administration, management, and human resources development	The administrative and management systems, technical practices, facilities and human resources of MOWRAM, provincial DWRAMs, related sub-provincial institutions, and community-based organizations enable them to carry out their water resources management-related functions efficiently and effectively

Source: options for joint water resources development and management between Cambodia and Viet Nam, 2007, Phnom Penh, Cambodia

The table below shows some Cambodian laws related environmental management:

Laws	Scope	Responsible institution
National law on Biodiversity	<p>The objectives of the law are to:</p> <ul style="list-style-type: none"> - prevent adverse impact on the conservation of biodiversity and natural resources in the kingdom caused by the trans-boundary movement, development, handling, transfer, use, storage and release of living modified organisms resulting from modern biotechnology; - ensure effective conservation of biodiversity and sustainable use of biological resources, taking into account risks to human health; - provide a transparent process for making and reviewing decision on living modified organisms and related activities and operations; - develop biotechnology education while preventing environmental and health hazards associated with the use and release of living modified organisms; - implement the Cartagena Protocol on Biodiversity to the Convention on Biological Diversity to which Cambodia is a party. 	Ministry of Environment
Fishery Law	<p>The objectives of the law are aimed at ensuring the sustainable management of fishery for the economic, social and environmental benefit including biodiversity conservation and cultural heritage. The law gives a chance for the Ministry of Environment to manage its wetland biodiversity inside protected areas and Ramsar sites.</p> <p>Articles 65, 66, 67 and 68 are related to import and export of fishery products. This indicates that it is involved with the import of fish-based products but not really fish-based LMOs. However, the jurisdiction is not clear.</p>	Dept. of Fishery, Ministry of Agriculture, forestry and Fishery
Forestry Law	<p>The law regulates forest management framework, harvesting, use, development and forest conservation in the country. Its objective is to ensure forest is managed in a sustainable manner for social, economic and environmental benefits including biodiversity conservation and natural heritage.</p> <p>Its scope applies to all aspects of forest including natural species and plantation. Article 34 focused on export and import of wild seeds and plants which shall have an assessment from forest administration before issuing a permit from the Minister of MAFF. A certification from the scientific authority of the exporter country is also required. Although, this is quite related</p>	Dept of Forestry and Wildlife/MAFF

	to the import and export of LMOs, no clear jurisdiction for LMOs release is observed.	
Environmental Protection and Natural Resources Management	<p>The law is aimed at:</p> <p>Protecting and upgrading the environment quality and public health by means of prevention, reduction and control of pollution;</p> <p>Assessing the environmental impacts of all proposed projects;</p> <p>Ensuring rational and sustainable development and management and the use of natural resources;</p> <p>Encouraging public participation in the protection of natural resources and the environment; and</p> <p>Including any acts which may affect the environment. Articles 2 through 11 are related to biodiversity and biosafety conservation.</p>	Dept. of nature conservation and protection/MOE
Phyto-sanitary Inspection Sub-Decree	<p>It identifies and inspects phyto-sanitary measures to prevent the spread of diseases and dangerous pests, from one area to another in Cambodia. This could be brought about by all articles, which are imported into or transit in Cambodia. The Sub-decree is necessary to protect agricultural production and biological resources.</p> <p>The most relevant articles to biodiversity conservation and biosafety are 1, 2, 5, 6, 7-10, 20-23, and 27-29.</p>	Dept of Agronomy and Land Improvement/MAFF
Protected Areas Management	<p>The law aims at managing public domains in protected areas designated and new designated protected areas under MOE's jurisdiction. The objectives are to:</p> <p>Identify competent and administrative responsibility of the protected areas of MOE in protected areas management;</p> <p>manage and effectively implement the protected areas conservation of biodiversity and natural resources and their use in a sustainable manner;</p> <p>set standard and procedures for protected areas management;</p> <p>provide mechanisms and procedures for protected areas establishment or change the name of protected areas;</p> <p>identify responsibility and public participation in protected areas protection;</p> <p>implement international conventions, protocols and agreements on biodiversity and ecology protection in protected areas; and</p> <p>define liability and punitive measures for criminals who destroy resources and public properties in the protected areas. Articles 5-7, 20, 21, 23, 38, 46 and 48 are related to the protection of biodiversity and biosafety.</p>	Dept. of Nature Conservation and Protection/MOE

Sub-Decree on LMOs Management and Control	<p>The objective of this Sub-decree is to implement the law on Biosafety and to provide a transparent process for review and decision-making on LMOs and related activities.</p> <p>The sub-decree will regulate risk that might occur from handling, transfer, transport and use of LMOs in Cambodia</p>	MOE
Decision on Public Health	<p>The Decision is to:</p> <p>establish a basis for preparing the pharmacological procedures;</p> <p>choose the appropriate pharmacies to fulfill the important and needed health service;</p> <p>improve the management system and appropriate pharmacy supply;</p> <p>promote the local production of pharmaceutical products in order to improve the supply of pharmaceuticals so as to reduce imports;</p> <p>create a control system in order to guarantee the quality of pharmaceuticals including shelf-life or expiry dates so as to avoid waste and risk of using medicines which have expired and with reduced efficacy; and</p> <p>promote the consumption of the national traditional medicines including improving the quality of local pharmaceutical medicines. The law deals with policy issues such as risk assessment and management from LMOs which could produce medicines.</p>	MOH
Sub-Decree on Production of Import, Export and Commerce of Traditional Medicine in Public Sector	<p>The objective is to manage the import and export production and commerce of traditional medicines in Cambodia. It also covers the rights to run traditional medicine business, production, import-export and commerce. This is related to plants and animals, but may include the use of LMO-based products because the Sub-decree does specify the nature of traditional medicines.</p>	MOH
Sub-Decree on the Environmental Impact Assessment	<p>The Sun-decree has the following objectives:</p> <p>identify and carry out EIA on all private and public projects which are under the responsibility of MOE, before these are submitted to the government;</p> <p>define types, scale of the project proposed and existing activities in both private and public sectors that need to be assessed for environmental impact;</p> <p>Encourage public participation in the process of EIA as well as collecting comments and feedbacks for consideration in the adoption process.</p> <p>Articles 5—9, 14, 15 and 22 are related to the assessment of development projects that include the field trial and field release</p>	Dept. of EIA/MOE

	of LMOs.	
The Management of Quality and Safety of Products and Services	<p>The aims of the law were not clearly specified, but the scope was focused on all commercial enterprises, all manufacturing for commercial purposes, importers, exporters and merchants, service providers, advertisers of products, goods, and services and civic association and non-governmental agencies engaged in manufacturing, commerce or humanitarian relief activities.</p> <p>The law is related to biodiversity and biosafety in Articles 8, 10, 12, 13 and 21. Any import of GM foods might be subject to inspection for quality and safety control (i.e. expiry date)</p>	MOH
Sub-decree on Food Sanitary for Human	<p>The sub-decree aims at identifying hygienic measures for products to be used as human food including production facilities, employees, micro-organisms and cleanliness of the products.</p> <p>Article 2 covers the scope of the Sub-decree which addresses the need for inspection during handling, transporting, distributing, harvesting, fishing and so forth. However, the main objective of the Sub-decree is to ensure safety of foods and products for human.</p>	Dept. of Camcontrol/MOC
Marks and Trade Names and Acts of Unfair Competition	<p>The objective is to protect the marks and trade names that duly registered in the register marks in Cambodia and prevents acts of unfair competition on the creation, the utilization of marks and trade names.</p> <p>The law could be related to the protection of intellectual property rights related to discoveries and innovations in biotechnology. It is, however, not directly related biosafety and biodiversity, except in the trade of fauna and flora such as in marks and trade names. However, GM food might be subject to inspection for the appropriation of marks and trade name.</p>	Dept. of Camcontrol/MOC
Copy Right and Related Rights	<p>The law is aimed at providing the rights of the author and the right of related persons thereon with respect to works and protection of cultural products, performance, programme and transmission of broadcasting organization in order to secure a just and legitimate exploitation of those cultural products and thereby continue with the development of culture.</p>	Min. of Culture and Fine Arts
Water Resources Management	<p>The main objectives aim at enhancing effectiveness & sustainability of water resources management for socio-economic development and people wellbeing</p> <p>It also identifies the rights and obligation of water users, fundamental principles for water management and the participation of water user community in the development of water resources in a sustainable way.</p> <p>Water and water resources are belong to the State and should be managed and developed based on IWRM (Art. 4).</p> <p>Cambodia has the rights to use, develop and manage international</p>	MOWRAM

	river basin on her territory within her reasonable and equitable share, consistent with rights and obligations state in the international agreement to which Cambodia is a party, including the MRC principles (Article 34).	
Land law	The objectives of the law is to define the rights on any immobilized property in the Kingdom of Cambodia aiming at ensuring the rights to ownership and other rights on immobilized property in accordance with the 1993 Constitution of the Kingdom of Cambodia.	Min of Land Management, Construction
Sub-decree on Waste Solid Management	The purpose of this Sub-decree is to regulate the solid waste management with proper technical manner and safe way in order to ensure the protection of human health and the conservation of bio-safety. This sub-decree applies to all activities related to disposal, storage, collection, transport, recycling, dumping of garbage and hazardous waste. The sub-decree also states about the export of solid waste (Articles 9 & 20) from Cambodia, but it is strictly prohibited to import it from abroad (Art 10 & 21).	MOE
Sub-decree on Water Pollution Control	The objective is to regulate water pollution control in order to prevent and reduce water pollution of the public water areas so that the protection of human health and the conservation of bi-diversity shall be ensured.	Dept. Pollution Control/MOE
Sub-decree on Solid Waste Management	This sub-decree aims at regulating solid waste management with proper technical manner and safe way to ensure the protection of human health and the conservation of bio-diversity.	MOE
Law on Water Resources Management	The Law has the goal to promote effective and sustainable water resources management in the Kingdom of Cambodia to achieve socio-economic development and welfare of the people. The law defines: <ul style="list-style-type: none"> - The rights and obligation of water consumers; - Fundamental principles for water resources management; - Participation of water use communities in water development of water resources in a sustainable manner. 	MOWRAM

Source: Ministry of Environment, National Biodiversity Framework, Phnom Penh, 2004.

2.3.2. National Water Vision of Cambodia

According to FAO-ESCAP Pilot Project on National Water Vision⁷, the national water vision in Cambodia is:

- access for all to safe, adequate and affordable drinking water, hygiene and sanitation;
- freedom for all from the threat of loss of life and livelihood as a result of floods and droughts
- Sufficient water where it is needed, to provide for food security, people's livelihoods and economic activities;
- a water environment that is unpolluted, and supports healthy fisheries and aquatic ecosystems.

2.3.3. national reform policy of Cambodia

Administration Reform

After concluding the Paris Peace Agreement on 23 October 1991 and implementing "Win-Win" policy headed by Prime Minister Hun Sen, Cambodia had brought the civil war, which had lasted nearly three decades, to an end. All civil servants, staffs, institutions, and armed forces of all political parties including of the Khmer Rouge, have since been integrated into the society. The united public administration system was established in early 1999. It is believed that the administration reforms are strong, invaluable, and vital foundations and preconditions to ensure security, stability, safety, public order and the development of the country.

The RGC committed to strengthening the rule of law and to good governance through careful and gradual reform in the areas of administration, anti-corruption, legal and judicial reform, armed forces demobilization and natural resources management reform (land, forestry, fisheries), etc... All these reforms was prepared for and implemented during the 3rd legislature of the National Assembly. It should also be noted that administrative reform is one of the core priorities in the National Strategic Development Plan (2006-2010). Services relating to the State sovereignty are the exclusive responsibility of the State and are provided by the state agencies or legal entities to which, under public law, the State delegated the power to implement them. Those services include permits, licenses, civil status, certificates, birth certificates, vehicle identification cards, certificate of title, Khmer citizen identity cards, family registration, legalization, etc... Furthermore, the organization and execution of delivery are the responsibility of the State or State agents⁸.

Security, public order and social safety services will be provided within the competency of the competent authorities such as police, gendarmerie, and armed forces. These services are

⁷ Le Huu Ti & Thierry Facon, 2004, From Action to Vision: A Synthesis of Experiences in Least-Developed Countries in Southeast Asia, Bangkok, Thailand

⁸ Council for Administration Reform, 2006, Royal Government of Cambodia: Policy on Public Service Delivery, Phnom Penh, Cambodia

very important to protecting the environment for the development of the country, to poverty reduction, to people's happiness and tranquility; and to a certainty for investors and businessmen in doing their business⁹.

Services relating to justice and arbitration of the conflicts between citizen and citizen or citizen and civil service or citizen and private sector or civil service and private sectors are provided by two bodies:

- the Arbitration Council which is to coordinator in resolving minor litigation in order to bring together both parties outside the court system and to reduce the over-load of litigation within the court of law; and
- the court of law, in case the litigants do not accept the resolution made by the arbitration council.

In relation to the enhancement of trade matters, small and medium enterprises, the investment environment, and the participation of the private sectors in the construction and maintenance of infrastructure, the RGC is responsible for creating and environment conducive to enhancing private enterprises, considering private sector as the engine of growth. Appropriate and necessary measures have been taken to improve the environment and business environment, such as incentive policy, directive regulations, and promoting private sectors' participation in constructing and maintaining infrastructure. The development of physical infrastructures were focused on further construction of transportation system such as roads, bridges, railways, waterways, ports, airports, hospitals, schools, wells, clean water system, irrigation system, electricity, power, information technology, post & telecommunication, etc... The government promotes incentive policies by encouraging participation from all stakeholders, especially the private sectors.

According to the law on the Administration of Commune/*Sangkat* that promulgated by the Royal Kram RK/0301/05 of 19 March 2001, the commune/*Sangkat* administration has two roles:

- managing local affairs to serve the interest of the commune/*Sangkat* and its people; and
- being the State agent representative under the designation or delegation of the State authority.

With this, the commune/*Sangkat* administration has duties as stated in Articles 43 and 44 of the law on Administration of Commune/*Sangkat*.

Aiming at improving public services delivery, the improvement of existing legal frameworks or the establishment of the new legal frameworks to address real needs is very much necessary. Therefore, the RGC focused on:

⁹ Office of the Council of Ministers, 2006, Policy of Public Service Delivery, Phnom Penh, Cambodia

- keep checking for overlapping functions and for contradictions that are constraints and lead to uncertainty in the process of implementing the public service delivery and harmonize the procedures to make it more streamlined;
- simplify complicated modalities and procedures;
- modify the existing regulations that are necessary for further implementation to conform to real need and
- develop new regulations according to the category and type of public services.

In this context the concerned ministries/institutions have to cooperate closely with the Council for Administration Reform to ensure that those legal frameworks interact smoothly with policy on public service delivery.

National Defense

The objectives of the Kingdom of Cambodia's national defense are security, development and international cooperation. The Royal Cambodian Armed Forces (RCAF) has four primary roles, namely, (1) defending the country and national interests; (2) ensuring security, safety and social order contributing to national construction; (3) and enhancing international cooperation. Apart from their fundamental tasks in national defense, the RCAF has also continued to contribute to national reconstruction through the use of its capabilities, such as de-mining, road and bridges construction, irrigation system rehabilitation and relief operation, etc. The Defense White Paper further indicates that, while border disputes, threats from trans-national criminals and international terrorism remain a concern, Cambodia needs to strengthen its border protection capability to maintain peace, and stability with neighboring countries and to ensure security for the entire nation¹⁰.

2.3.4. System of Enforcement and Monitoring of Environmental Effects

The Law on Biosafety relates also to check for Living Modified Organisms (LMOs) import or export at the ports of entry/exit or to inspect field trials. It is not necessary to have environmental officers/agents to be stationed at those ports. However, the custom officers and the Camcontrol officers from the General Departments of Custom and Exercise and the Ministry of Commerce would, respectively, play an important role in checking for certificates of LMO import. Such check will include quality of other goods and commodities. Cooperation between line ministries such as Custom and Exercise General Department, MOE, MAFF, MOC, MOH and MINE in terms of LMOs identification and risk assessment is very much important.

The MOE is the national focal point (Article 7, National Law on Biosafety) to the Cartagena Protocol on Biosafety and is responsible for administrative functions required to implement this law. The functions include timely notification to other States and relevant international organizations of any event in Cambodia that may result from an unintentional transboundary movement of an LMO. Thus, enforcement is normally done by the Custom and Exercise

¹⁰ Ministry of Defense, 2006, Defense Policy of the Kingdom of Cambodia (Defense White Paper), Phnom Penh, Cambodia

officers who check for certificates, permits of export/import of goods and Camcontrol agents will work on quality of goods and commodities.

Regarding the EIA, according to Article 3 of the Sub-decree on EIA, “the MOE will monitor and take measures in order to ensure the project owners abides by the environmental management plan during the project construction, operation, and closure.” In practice, it has to be based on inter-ministerial coordination, cooperation and reporting system on any environmental effects and the nature of LMOs that ¹¹are involved with the appropriate line ministries. For the success, this will require committed cooperation from relevant line ministries, NGOs, universities, media and private sectors. It is to note that, besides immediate reports that concerned ministry(ies) or agency(ies) may report to competent national authority/MOE on any risk management and operation of an emergency plan, media very often provides a fast track information to the public.

Cambodia, as a least developed country, clearly recognizes that climate change is a serious environmental threat to the country and to the rest of the world. The RGC, with its limited capacity and available resources, has actively worked with global community to address this threat. Cambodia signed the United Nations Framework Convention on Climate Change (UNFCCC) in 1995, just two years after the establishment of the Ministry of Environment. In September 2002, Cambodia released its Initial National Communication under the UNFCCC, which presents the findings of the national GHG (Green House Gases) inventory for 1994, GHG projection for 1994 to 2020, GHG mitigation options and a vulnerability and adaptation of climate change. The GHG inventory indicates that in 1994 Cambodia was a net carbon sink country with a net total carbon removal of 5,142 million tones of CO₂-equivalent¹².

As a least developed country, Cambodia received funding from the Global Environmental Facility (GEF) to prepare national adaptation programme of action to climate change. The programme started in 2003 and completed in 2004. It was proposed that priority activities should focus on addressing urgent and immediate needs and concerns of Cambodia for adaptation to the adverse effects of climate change in agriculture, water resources, coastal zones, forestry and human health. On 4 July 2002, Cambodia signed the Instrument of Accession to the Kyoto Protocol, indicating its commitments to the global efforts in addressing climate change issues.

A Climate Change Office of Cambodia (CCCO) was established in June 2003 within the Ministry of Environment. Its main responsibility in relation to climate change-related activities is to planning and policy formulation, implementation of the country’s commitments under the UNFCCC, assessment of new technologies to adapt to the adverse

¹¹ Constitution of the Kingdom of Cambodia, 1993 (Article 126)

¹² Ministry of Environment, 2005, Climate Change and the Clean Development Mechanism, Phnom Penh, Cambodia

effects of climate change or to mitigate greenhouse gases emission and capacity building and awareness raising. This office serves also as the Secretariat of the UNFCCC, the Kyoto Protocol and the Clean Development Focal Points for Cambodia.

In 2003, the Ministry of Environment was designated as the Interim Designated National Authority for the Clean Development Mechanism (CDM), responsible for the assessing proposed CDM projects against the sustainable development objectives of the country. It has to work with all government ministries, private sector and NGOs to assess and approve projects, and serve as liaison office and focal point for national and international communication related to CDM, and promote and facilitate investment in CDM projects in Cambodia.

2.4. Administrative Laws, Provisions and Practices

With its area of 181,035 square kilometers, Cambodia borders the Kingdom of Thailand, the People's Democratic Republic of Lao and the Socialist Republic of Viet Nam. According to the Cambodian Constitution, the territory of the Kingdom of Cambodia has been divided into provinces and municipalities. There are twenty one provinces and three municipalities. The province has been divided into districts (*Srok*) and districts into communes (*Khum*). Municipalities have been divided into precincts (*Khan*) and Khan into quarters (Q) (*Sangkat*)¹³. The lowest level is villages. The statistics of provinces (P), municipalities (M), districts (D), precincts (Pr), communes (C), quarters (Q) and villages (V) are in the table below:

Year	P	M	D	Pr	C	Q	V
1999	20	4	170	14	1,499	110	13,216
2000	20	4	170	14	1,500	110	13,427
2001	20	4	171	14	1,510	111	13,707
2002	20	4	171	14	1,510	111	13,707
TOTAL	20	4	171	14	1,510	111	13,707

Source: Significant achievements made by the Royal Government of Cambodia, 30 November 1998-2002

It is reported that 57 political parties were registered at the Ministry of Interior. According to the National Elections Committee (NEC), for the 4th legislature, out of 57 political parties registered at the Ministry of Interior, there are only 12 political parties have been officially submitted their paperwork to compete in July's national election¹⁴. There were eight (8) political parties competed during the communal council elections which were held on 3 February 2002. Furthermore, since the operation of the civil society has been very free, the international opinion regards the Kingdom of Cambodia as heaven of the NGOs. According to the Royal Government of Cambodia, up to the end of 2002, there were 974 local

¹³ Thach Reng, 2000, Water Utilization Programme, Phnom Penh, Cambodia

¹⁴ The Cambodia Daily, 2008, Vol. 39 – issue 59, dated 13 May 2008, Phnom Penh, Cambodia

associations and non-governmental organizations and 230 international NGOs/organizations¹⁵.

Mass media is one of the key factors for promoting democracy in Cambodia. Up to the end of 2002, 13 daily news, 90 weekly news, 73 fortnightly news, 2 daily bulletins, 4 weekly bulletins, 24 monthly bulletins, and 59 magazines were registered at the Ministry of Information. There were 12 foreign news agencies and TV accredited to Cambodia. There were one state-run, 5 private-run and 2 foreign relay television stations in Phnom Penh. In addition, 3 cable-TV companies and 17 are and FM radio stations were operating in the capital city. For local areas, 14 TV stations and 31 relay television and cable TV stations were operating in 18 provinces¹⁶.

Chapter 3: Principles, Practices and Mechanisms Applied By the Ministry of Foreign Affairs

3.1 Key Principles, Standards and Mechanisms for Addressing IDD

3.1.1 Royal Government of Cambodia's Foreign Policy

For the third legislature of the National Assembly, the Royal Government of Cambodia (RGC) provided the guidance for its foreign policy as follows¹⁷:

- To enhance the reputation and prestige of the nation on international arena, promoting its participation in regional and global affairs, and strengthening national defense through widening international bilateral and multilateral cooperation;
- To uphold its foreign affair policy of independence, neutrality, and nonpartisan making its best to strengthen friendship and close cooperation with other countries in the region and throughout the world without discrimination in terms of political and social setting; without interference into each other's internal affairs and with respect of each other's own independence, sovereignty, and territorial integrity for mutual benefit in the development of economy, technology and science of each country;
- To protect its independence, sovereignty, territorial integrity and neutrality of Cambodia based on Article 55 of the Constitution and in accordance with the UN Charter as well as other international law, pushing its Border Committee to continue negotiation with neighboring countries to determine boundary lines, set up border

¹⁵ Office of the Council of Ministers, 2003, Significant achievements made by the Royal Government of Cambodia: 30 November 1998-2002, Phnom Penh, Cambodia

¹⁶ Office of the Council of Ministers, 2003, Significant achievements made by the Royal Government of Cambodia: 30 November 1998-2002, Phnom Penh, Cambodia.

¹⁷ Office of the Council of Ministers, 2004, Political Platform of the Royal Government of Cambodia for the 3rd Legislature of the National Assembly, Phnom Penh, Cambodia.

poles and demark the borders of both countries aiming at establishing a common border recognized internationally and, especially, by the two involved countries.

- To support and uphold the principle of peaceful coexistence in international relations, which is a solid foundation to ensure the process of protecting and strengthening peace, stability and security in the regional and the world over. In addition, it supports the process of dispute settlement in the region as well as in each country through politics and peaceful negotiation;
- To continue to participate in regional or international joint movement to resolve major issues recently occurred, including, peace, terrorism, food, health, environment, cross-border crime, and especially the traffic of women, children, drug and illegal weapons.

3.1.2 Diplomatic Relations

As the 1961 Vienna Convention on Diplomatic Relations becomes a basis for international relations, governing all diplomatic relations, including both the establishment and rupture of diplomatic relations between countries through out the world, all matters relating to disputes of diplomatic relations shall be resolved through negotiations and international court of justice. The Convention has been consulted as arguments and basis in interpreting the views. Cambodia became a party to this Convention in August 1965.

Regarding immunities and privileges as stated in Article 37 of the Vienna Convention on Diplomatic Relations, Cambodia expressed its reservation on paragraph 2 of this Article¹⁸. Paragraph 2, Article 37 of the Convention talks about immunities and privileges for the members of the administrative and technical staff of the mission, together with their members of their families shall enjoy the privileges and immunities specified in Articles 29 to 35 of the Convention. In this regard, all administrative and staff members of any foreign mission accredited to Cambodia will not enjoy immunities and privileges status as mention in Articles 29 to 35 and all Cambodian administrative and staff members who work in Cambodian mission abroad will receive the same treatment from the host country.

For instance, up to the end of 2002, Cambodia has established diplomatic relations with 121 countries, of which, due to financial difficulties and lack of human resources, Cambodia has only thirty two (32) missions accredited abroad. Of this number, there are twenty (20) Embassies, three (3) Permanent Missions, five (5) General Consulates and four (4) Honorary Consulates. However, seventy six (76) foreign diplomatic missions have been accredited to the Kingdom of Cambodia, of these only twenty four (24) are in

¹⁸ Dr. Sea Kosal, 1999, Diplomatic Law, Faculty of Law, Phnom Penh, Cambodia

Phnom Penh¹⁹. In addition, to facilitate and resolve some issues related to protection of its interests and trans-boundary matters, Cambodia opened a General Consulate in Ho Chi Minh City, Viet Nam, as well as in Aranh Prathet, Thailand. It is to note that, in ASEAN practice, to facilitate all kinds of cooperation among the member States, any ASEAN member has to open its embassies in other member countries and vis-versa.

As international practice, some key functions²⁰ of the Embassy in the host countries are:

- representing the sending State in the receiving State;
- protecting in the receiving State the interest of the sending State and of its nationals, within the limits permitted by the international law;
- negotiation with the government of the receiving State;
- ascertaining by all lawful means , conditions and developments in the receiving State, and reporting thereon to the government of the sending State;
- promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.

3.1.3 International Border Check-points

There are many international border checkpoints between Cambodia and its bordering country. It is a kind of bilateral agreement between the two sides for their local people, trade facilitation and other cross-border activities, as well as other nationals to legally cross the border.

Cambodia		Viet Nam	
Name of Checkpoints	Provinces	Name of Checkpoints	Provinces
Bavet	Svay Rieng	Moknay	Taining
Phnom Den	Takeo	Tien Bien	An Giang
Kaom Samnar-Koh Rokar	Kandal	Vinh Seun-Thoeun Pheuk	An Giang-Don Thap
Sam Rong	Svay Rieng	My Quy Tay	Long An
Cambodia		Thailand	
Poipet	Banteay Meanchey	Klong Lik	Sras Keo
Cham Yeam	Koh Kong	Hatlik	Trat

¹⁹ Office of the Council of Ministers, 2003, Significant Achievement made by the Royal Government of Cambodia, Phnom Penh, Cambodia

²⁰ Vienna Convention on Diplomatic relations, 1961, Article 3

O Smach	Uddor Meanchey	Chong Chorm	Surin
Daung	Battambang	Ban Laem	Chanthaburi
Choam Anlong Veng	Oddor Meanchey	Sa Gnam	Sisaket
Prum	Pailin City	Ban Pakkard	Chanthaburi
Cambodia		Lao PDR	
Dong Krolor	Stung Treng	Veun Kham	Champasak

Source: Significant Achievements made by the Royal Government of Cambodia, June 2003

To facilitate foreign tourists in accordance with its open sky policy, the Royal Government established some international checkpoints inside the countries. So far there are 5, namely, Sihanouk Ville International Port (seaport), Phnom Penh International Port (river), Phnom Penh International Airport, Siem Reap International Airport and Kang Keng International Airport in Sihanouk Ville. However, some national border points of entry-exit have been established between Cambodia and its neighbors to make easy to the nationals of both sides to cross the border. For instance, Prey Voir (Svay Rieng Province, Cambodia) - Binh Hiep (Long An Province, Vietnam); Banteay Chakrey (Prey Veng Province, Cambodia) - Dinh Ba (Dong ,hap Province, Vietnam); Chan Moul (Kompong Cham Province, Cambodia) - Ka Turn (Tay Ninh Province, Vietnam); Da (Kompong Chain Province, Cambodia) - Chang Riec (Tay Ninh Province, Vietnam); Sa Tum (Kompong Chain Province, Cambodia) - Tong Le Chan (Tay Ninh Province, Vietnam); etc.

On 29 April 2008, the portion of Road No 7 links between Kratie and Stung Treng Provinces through Cambodia - Lao PDR border, including a new bridge of 1,057m long across the Se San River, a tributary of the Mekong, was inaugurated under the auspice of the Cambodian Prime Minister and Chinese Ambassador to Cambodia. This new achievement becomes another access for tourists to visit both countries, Cambodia and Laos, through, respective, Dong Kralor/Veun Kham border checkpoint. In the regional framework, this new road fulfills the dream of ASEAN countries in establishing the ASEAN Highway 11 (AH). With this new link, Lao people can enjoy Sihanouk Ville beach in Cambodia whenever they wish to, as well as for the use of Cambodia sea port in Sihanouk Ville.

3.2 Regional Integration

To be eligible for ASEAN membership, Cambodia signed on 28 July 1995 the Treaty of Amity and Cooperation in South East Asia which is considered as a major instrument of “regional engagement”. That was the first step toward ASEAN membership. The second aim mentioned in the 1967 Bangkok Declaration is to promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of

the region and adhere to the principles of the United Nations Charters²¹. Chapter four of the Treat of Amity and Cooperation in South East Asia clearly deals with “*pacific settlement of disputes*”. In addition, it would obvious that within the grouping there would be a lot of possible intra-conflict that would occur among members. For instance, territorial disputes and racial tensions caused cause by recurring irritation and aggravated distrust between neighbors and prolonged fragmentation of South East Asia. In this regard, the principles state in Article 2(c) “*non-interference in the internal affairs of one another*” and 2(d) “*settlement of differences or disputes by peaceful means*” are very important for the ASEAN members in preventing from outside interference through the hands of ASEAN members and dealing internal disputes within the grouping as well as within individual country²².

3.3 International Community Integration

According to the Royal Decree of 1 November 1993, the 23 protected areas in Cambodia are classified into four categories²³ referring to the basic management objectives of the IUCN protected areas management categories, namely, national parks, wildlife sanctuaries, protected landscapes, and multiple-use areas. Natural parks are natural and scenic areas which are significant for scientific, education and recreation values (equivalent to IUCN category II - National Park). In total there are 7 national parks in Cambodia, 4 of which are coastal and marine protected areas (Phnom Bokor, Kep, Preah Sihanouk "Ream", and Botum-Sakor National Park).

Wildlife Sanctuaries are natural areas where nationally significant species of flora or fauna, natural communities, or physical features requiring specific intervention for their perpetuation (equivalent to IUCN category IV - Wildlife sanctuary). There are totally 10 wildlife sanctuaries in Cambodia, one of which is coastal and marine protected area (Peam Krasop Wildlife Sanctuary). Protected Landscapes are nationally significant in natural and semi-natural landscapes that must be maintained to provide opportunities for recreation and tourism (equivalent to IUCN category V - Protected Landscape). There are totally 3 protected landscapes in Cambodia. Multiple-Use Areas are the areas that provide for the sustainability of water resources, timber, wildlife, fish, pasture, and recreation with the conservation of nature primarily oriented to support these economic activities (equivalent to IUCN category VIII - Multiple Use Management Area). There are totally 3 multiple-use areas in Cambodia, one of which is a coastal and marine protected area (Dong Peng Multiple-Use Area).

In addition to the above four categories, some selected protected areas of special regional and/or international significance may be elevated to a more specific and important status if specific criteria are met: The Tonle Sap Multiple-Use Area was nominated as Cambodia's

²¹ www.aseansec.org, ASEAN Declaration in Bangkok on 8 August 1967

²² www.aseansec.org, Treaty of Amity n South East Asia

²³ Kol Vathana, Issues and Achievements of the Past Decade: lessons and Challenges for ensuring the contribution of Conservation Areas to Socio-economic Development in Cambodia, Phnom Penh, Cambodia

first Man and Biosphere (MAB) Reserve and was approved by UNESCO in 1997 (the Ministry of Environment serves as the National Focal Point for this MAB reserve). In addition, Cambodia is the 116th party of the Ramsar Convention, which places a general obligation on member countries to conserve wetlands of international importance. The Boeung Chmar portion of Tonle Sap Multiple-Use Area (28,000 ha), the Koh Kapik wetland and associated islets in the Peam Krasop Wildlife Sanctuary (12,000 ha), and the middle stretches of the Mekong River Area between Stung Treng and the border with Laos (14,600 ha) were designated as Ramsar Sites at the time of Cambodia's accession to the Convention.

ASEAN Heritage site - Candidate sites will be national parks and nature reserves that deserve the highest recognition so that their importance can be recognized regionally or internationally. Common co-operation is necessary to conserve and manage such parks and reserves including the setting up of regional conservation and management action as well as a regional mechanism complementary to and supportive of national efforts at implementation of conservation measures. As the newest member of ASEAN, Cambodia has not yet submitted a candidate as an ASEAN Heritage Site, but currently Cambodia is developing a List of National Heritage Sites.

Some relevant international agreements/documents (environment, water, natural resources and sustainable development) related to protected areas and biodiversity, of which Cambodia is a signatory are CITES (ratified in 1997), Ramsar Convention (ratified in 1999), Biodiversity Convention (ratified in 1996), The Natural and Cultural World Heritage Site Convention (ratified in 1998), The Man and the Biosphere (MAB) (ratified in 1997), Law on the adoption of the UN framework Convention on Climate Change (ratified in 1996), etc....

Chapter 4: Bilateral Mechanisms/Practices Currently Applied by National and Local Authorities

4.1 Legal Provisions and Practices in Applying ADR Mechanism to Address and Resolve IDD

Cambodia has signed many important bilateral agreements with neighboring countries to facilitate cross-border trade and transport, such as:

- The agreement (Cambodia-Laos and Cambodia-Vietnam) on transit goods signed in 2000 and the agreement on trade and exchange of goods and services in border areas signed in 2001.
- Moreover, the three countries have closely cooperated through the activities of the Cambodia-Laos and Cambodia-Vietnam joint committees that have met each year to consider various cooperation issues with political, security, economic, technical, socio-cultural, and environmental impacts. More importantly, the three countries are the signatories to the Agreement on the Facilitation of Transport of Goods and People under the GMS framework. This indeed reflects the agreement and good cooperation on a policy framework of bilateral and sub-regional trade and economic integration.

The exchange of visit of the Heads of Government is very often seen, such as in bilateral relations or multilateral discussion/cooperation. For bilateral relations, the head of government of one country (i.e., State A) pays an official visit to another State (i.e., State B) to strengthen their bilateral relations and cooperation. In response, in practice, State B will visit State A afterward on a convenient time and schedule. All concerned issues to be discussed/resolved and bilateral cooperation must be prepared by all concerned ministries/institutions for such high ranking official visit. In this regard, as the head of executive organ both sides can discuss on various issues of concerned, political, economic, cultural, scientific, education, security, etc. Both sides also exchange views on regional and international issues relating to politic, economic and security issues.

For instance, during the visit of²⁴:

- Dr. Thaksin Shinawatra, Prime Minister of the Kingdom of Thailand, to the Kingdom of Cambodia on 18-19 June 2001, both sides signed a Framework Agreement on Economic Cooperation and a Memorandum of Understanding regarding the area of their Overlapping Maritime Claims to the Continental Shelf.
- Samdech Hun Sen, Prime Minister of the Kingdom of Cambodia, to the Kingdom of Thailand on 13-15 November 2001, among others, both sides discussed and signed an agreement on visa exemptions, as first step, for diplomatic passports holders. For holders of official and normal passports will be signed in future. In addition, they also discussed on possibility to increase border trade cooperation along the border.

It is usually called the Summit of the Heads of State/Government when it deals with multilateral cooperation, for example ASEAN Summit, the GMS Summit, etc. During the Summit meeting, in practice, regional or multilateral issues of concerned were raised for discussion. It is not appropriate to discuss bilateral issues at this multilateral forum, but bilateral meetings can also be arranged by both sides with the assistance from the host country. This bilateral meeting will not affect the arranged Summit schedules/programs. For instant, the press release issued by MOFA-IC stated that on the sidelines of the 10th ASEAN Summit, Samdech HUN Sen had bilateral meetings with other Heads of State/Government. The Summit on Economic Cooperation Strategy among Cambodia, Laos, Myanmar and Thailand in Bagan, Myanmar on 11-12 November 2003 was one example in terms of economic cooperation among the four nations. The Summit on Cambodia-Laos-Viet Nam Development Triangle was held its 2nd Meeting in Ho Chi Minh, Viet Nam, on 26 January 2002 (the 1st Meeting was held in Vientiane, Laos on 20 October 1999).

4.2 Bilateral Relations

In terms of dealing with bilateral relations/cooperation, apart from the exchange of visit of the head of government and the Ministers of Foreign Affairs, there are also, with the agreement from both sides, a number of particular Commissions were established, such as:

²⁴ Ministry of Foreign Affairs and International Cooperation, Cambodia-Thailand bilateral relations, Phnom Penh, Cambodia

- Cambodia-Thailand Joint Cabinet Retreat was held and co-chaired by the Prime Ministers of both parties on 31 May – 01 June 2003, respectively in Siem Reap, Cambodia and in Ubon Ratchathani, Thailand, to discuss all issues pertaining to Cambodia-Thailand bilateral relations
- Joint Commission on Demarcation for Land Boundary will serve will land border demarcation with Lao PDR, Thailand and Vietnam.
- Joint Commission for Bilateral Cooperation between Cambodia and Thailand to co-chair by the Ministers of Foreign Affairs. The Agreed Minutes will be signed by both Foreign Ministers after the Meeting.
- Cambodia-Vietnam Joint Commission on Economic, Cultural, Scientific and Technological Cooperation is headed by the Deputy Prime Minister Sar Kheng, Minister of Interior
- Cambodia-Laos Joint Commission on Economic, Cultural, Scientific and Technological Cooperation is headed by the Deputy Prime Minister Sar Kheng, Minister of Interior, etc....

The Defense White Paper states that the presence of border protection forces does not mean confrontation, timely understanding and control of situation is important for a positive solution and confidence building. In addition, regular contact at the working level with partners will increase confidence and facilitate better relationship.

4.2.1 Practices at National Levels

Cambodia – Laos:

Reaffirming its external policy of good relationship with neighboring countries, bilateral relationship between Cambodia and Lao PDR seems very good. The exchange of visits of the Heads of State, Prime Ministers, Ministers of Foreign Affairs and other sectoral Ministers and working groups of the two countries have deepened their traditional bond of friendship, good neighborliness, and close relations existing between both countries Cambodia and Laos.

Cambodia-Laos Joint Commission for Bilateral Cooperation, co-chaired by the Foreign Ministers of both parties, is a forum to discuss a wide range of issues, including, national security, agriculture, industry, trade, tourism, health care and transport. As for national security and defense, both sides have implemented the MoU signed in Vientiane on 27 July 2002 and the Plan of Cooperation signed in Phnom Penh on 6 December 2005 by their Ministers of Interior²⁵. In terms of security issue, as indicated in the Joint Communique of the 9th Meeting of Cambodia-Laos Joint Commission for Bilateral Cooperation, both sides urged the provincial and district authorities along the border to meet regularly in order to enhance cooperation in combating transnational crime, terrorist activities and illegal trafficking of weapons.

²⁵ MOFA-IC, 2006, 9th Meeting of the Cambodia-Laos Joint Commission for Bilateral Cooperation

Both sides encouraged cooperation in the fields of agriculture, livestock and fisheries through exchange of information, visits, experiences sharing on protection of forestry resources, environment, renovation of bio-diversity and to take preventive measures to fight against illegal logging, illegal cross border trade in timber and wildlife. As for industry and energy sector, they agreed to encourage the linkage of power transmission project from Ban Hat, Laos to Stung Treng province and urged for the construction of post and telecommunication between the two countries. On the health sector, Laos agreed to continue providing health care services to Cambodian people living along the border. Both sides agreed to strengthen cooperation for the prevention of diseases such as SARS, avian influenza, tuberculosis, and other epidemics.

In order to facilitate and promote transportations, trade, tourism, and the exchange of visits between the two countries and within the region, both sides agreed to complete the construction of the existing national road No. 7 (Cambodia) linking national road No. 13 (Laos) at Trapaing Kreal, and the national road No. 13 (Laos) to join national road No. 7 (Cambodia) at the point of the border which would be agreed upon by both sides. It is to observe that the construction of National Road Number 7 of Cambodia, linking Kratie of Cambodia to Pakse of Laos, was finished and has been inaugurated by Samdech Hun Sen, Prime Minister of Cambodia on 29 April 2006, together with a new bridge of 1,057m long across the Sekong River. The Road is not crucial only for Cambodia but it will benefit both Cambodia and Lao and the whole region, as it facilitate the exchange of trade and economic activities of the two countries, the two people's movement and the flow of tourists in ASEAN as a whole – ASEAN Highway 11". This achievement supports the Cambodia-Laos-Vietnam Development Triangle as the three countries' Prime Minister stressed at their 3rd Summit "...giving priority to their cooperation in such specific areas as the construction and upgrading of transportation systems that connect the provinces in the Development Triangle;"²⁶.

They agreed that, in the fields of security, it is the cooperation between Ministry of Interior of Cambodia and Ministry of Public Security of Laos, while the cooperation between Ministries of Defense of both sides is dealing with border issues and drug issues. In addition, regarding cultural and social cooperation, such as Public Health, Education and Sports, Culture and Fines Arts and Cambodia-Laos-Vietnam Development Triangle were also reiterate at the 8th Meeting of the Joint Commission on Economic, Cultural, Scientific and Technology Cooperation held on 15 February 2005 in Phnom Penh, Cambodia. It is to note that the Cambodia-Laos Joint Commission hold alternatively its meeting once a year.

²⁶ MMOFA-IC, 2004, Press Release of the 3rd Summit Meeting of the Three Prime Ministers of Cambodia, Laos and Viet Nam on Development Triangle, on 21 July 2004, Phnom Penh, Cambodia

At the 6th Meeting of the Cambodia-Laos Joint Border Commission, held on 2-3 January 2003 in Phnom Penh²⁷, both sides agreed to hold regular consultations between provincial authorities, especially, the provinces along the common borders of the two countries in order to ensure safety and security along the border areas. Furthermore, they appreciated to the operational groups and border survey teams for their survey and demarcation done over 307 km and implanted 46 temporary border pillars, and also urged their Joint Border Commissions to endeavor to resolve the pending border issues between the two countries and to continue their operational survey in order to complete the permanent border demarcation as soon as possible. In addition, they were pleased about the implementation of the bilateral Agreement on the Cooperation in Narcotic Drugs, Psychotropic Substance and Precursor Chemicals Control signed in Phnom Penh December 1999 and tasked their competent authorities to further cooperate and share their experiences in combating cross border drug trafficking.

They agreed to cooperate closely and take preventive and immediate measures to fight against all illegal logging activities, illegal trading on fisheries, forestry products, and wildlife across their common border and to protect the natural environment including measures to combat trade in endangered species and the destruction of their natural habitat. The Public Work Ministry of the two countries agreed to hold consultations on the road constructions linking the province of Champassak to Preah Vihear and Siem Reap, and welcomed the rehabilitation road project from Kratie to Stung Treng and to the Cambodia-Laos border. Moreover, the two sides welcomed the ADB assistance program to assist Cambodia and Laos to establish the communication link under the framework of the Greater Mekong Sub-region (GMS).

Regarding Cambodia's concern over the impacts of Quadriparty Agreement on Commercial Navigation on Langcang-Mekong River between China, Laos, Myanmar and Thailand, to the downstream countries, Cambodia Foreign Minister, on 20 March 2002, conveyed to Lao Ambassador Extraordinary and Plenipotentiary, Mr. Thouane Vorasam, that Cambodia is concern over the impacts of such agreement, stressing that based on the assessment made by Cambodian and foreign experts there would be grave impacts of this agreement on environment, aquatic life, ecology, and other harmful effects. He also referred to the proposal made by Samdech Prime Minister Hun Sen to Laos Prime Minister during the Vietnam, Laos, and Cambodia Summit in Ho Chi Minh city early 2002, urging Lao government to re-examine this agreement as well as its impacts on Cambodia.

Cambodia – Thailand

Similar mechanism in dealing with bilateral cooperation between Cambodia and Thailand has also been established such as:

²⁷ MOFA-IC, 2003, 6th Meeting of the Cambodia-Laos Joint Border Commission, 2-3 January 2003, Phnom Penh, Cambodia

- The Joint Commission for Bilateral Cooperation with the Ministers of Foreign Affairs of both sides as the Co-chairperson is a forum for discussion on various issues of bilateral cooperation. For instance, at the 5th Meeting, held on 7-10 February 2006, they agreed to demarcate the Cambodia-Thai border as early as possible by 2006 and to launch ACMECS visa²⁸ from April onwards and to exchange information including voices, pictures and press articles between the two countries. Cambodia thanked her counterpart for giving permits to Cambodian labors employed in Thailand as legal workers. In addition, Cambodia requested Thai government to accelerate a study and make a master plan of hydro-electric plant at Stung Me Toeuk River. Thailand requested the Cambodian government to accelerate the de-mining in that area.
- Cambodia-Thailand Joint Committee between Provinces along the Border of both Sides was also established. For Cambodian side, Deputy Prime Minister and Minister of Interior Sar Kheng is the Chairperson. According to Mr. Var Kim Hong²⁹, Chairman of the National Border Committee for Cambodia, this committee meets once a year and there are a lot other committees or commissions. Thus, all bilateral issues can be resolved through discussion and negotiation. It means that we have mechanisms at all levels for discussion according to the signed MOU.
- Cambodia-Thai Cultural Commission³⁰ was established aiming at improving friendly relations and mutual understanding between peoples of both countries. At a meeting held from 19-22 May 2004, they agreed on two, projects within the commission's framework, firstly, to invite representatives of Cambodian journalists to visit Thailand, and secondly, to organize round table meeting or seminar in Cambodia. However, Mr. Tej Bunnag, Head of Thai Commission said that Thailand would support Cambodia's proposal to include Preah Vihear in the world heritage. In addition, according to Rasmei Kampuchea Newspaper, No 4584 of 09 May 2008, a composition of the Sub-Committee on Border between Cambodia and Thailand was officially established. The Sub-Committee will assist the Permanent Secretariat of the National Authority for Border Issues at the Office of the Council of Ministers. Its role and function is to facilitate (1) the work of the technical demarcation team, (2) construction and implantation of the border poles in cooperation with Thai counterpart, (3) maintaining the implanted born, in close cooperation with Thai counterpart, (4) making report to the national committee on the situation nearby the border, (5) maintaining all files relating to border issues assigned by the national authority, (6) collecting all information related to the border-crossing management,

²⁸ During the meeting with Cambodian Foreign Minister on 1 March 2006, Thai Ambassador, Mr. Piyawat Niyomreks, informed that, based on the agreement at the 5th Joint Commission meeting, visa requirement for Official Passport will be lifted from 10 March 2006.

²⁹ Rasmei Kampuchea Newspaper, No 4577 of 01 May 2008. Cambodian Officials clarify on Cambodia-Thailand MOU of 14 June 2000, Phnom Penh, Cambodia.

³⁰ MOFA-IC, 2004, Cambodia-Thailand Cultural Commission Meeting on 19-22 May 2004, Phnom Penh, Cambodia

- (7) implementing the task assigned by the Permanent Secretariat, and (8) making report on situation along the border, as well as on issues resolved or unresolved.
- Cambodia-Thailand Joint Cabinet Retreat³¹ Meeting, aiming at strengthening bilateral cooperation between the two parties, was held, respectively, in Siem Reap, Cambodia and Ubon Ratchatani, Thailand, on 31 May - 1 June 2003 and was co-chaired by Samdech HUN Sen, Prime Minister of the Kingdom of Cambodia, and H.E. Dr. Thaksin Shinawatra, Prime Minister of the Kingdom of Thailand. The Joint Cabinet Retreat discussed all issues pertaining to Cambodia-Thailand bilateral relations. During the discussion on the issue pertaining to border cooperation, both sides expressed their common desire to further strengthen their existing border cooperation including more effective border management. The Ministerial Group of the Joint Cabinet Meeting on Management and Security on the Border had extensively discussed the Concept Paper on Cambodia-Thailand Border Points of Entry: Ways toward New Order, Effective Border Management and Greater Bilateral Cooperation. The Joint Cabinet Retreat, after reviewing the principles and measures enumerated in the Concept Paper, endorsed the Concept Paper as a framework for implementing and further strengthening their cooperation in the border areas.
 - In the meantime, Ministers, Cabinet members of both countries, met and resolved issues based on their area of responsibility and expertise. The Retreat also provided the opportunity for Cabinet members of both Kingdoms to become acquainted and to discuss various issues of common interest in order to enhance bilateral cooperation in all fields. Subsequently, five Memorandum of Understanding (MOU), one Agreement and one Statement were signed:
 1. MOU on Bilateral Cooperation for Eliminating Trafficking; in Children and Women,
 2. MOU on Cooperation in Agriculture,
 3. MOU on Cooperation in Education,
 4. MOU on Cooperation in the Development of Road Numbers 48 and 67,
 5. MOU on the Cooperation in Employment of Workers.
 6. Agreement on Technical Cooperation on Sanitary and Phytosanitary Measures, and
 7. Joint Ministerial Statement on the Concept Paper on Thailand Cambodia Border Points of Entry: Ways toward New Order, Effective Border Management and Greater Bilateral Cooperation.
 - Joint Technical Commission for Cambodia-Thailand Economic Cooperation³²: On 26 September 2000, at the Ministry of Foreign Affairs and International Cooperation, HE Mr. UCH Kiman, Secretary of State of Foreign Affairs and International Cooperation, Deputy Head of the Technical Commission for Cambodia-Thailand Economic Cooperation, signed with His Excellency Dr. Pornchai Rujjirapa, Deputy Secretary-General Office of the National Economic and Social Development Board of Thailand,

³¹ MOFA-IC, 2003, Cambodia-Thailand Joint Cabinet Retreat, 31 May – 1 June 2003, Phnom Penh, Cambodia

³² MOFA-IC, 2000, Joint Technical Commission for Cambodia-Thailand Economic Cooperation Meeting on 25-26 September 2000, Phnom Penh, Cambodia

the Agreed Minutes of the Meeting on Terms of Reference of the Thai-Cambodian Economic Cooperation and Joint Development Plan between the Royal Government of Cambodia and the Royal Government of Thailand held on 25 September 2000 at the Ministry of Commerce. The discussion focused primarily on the overall framework of economic relations between both countries, the potential of developing economic areas especially along the common borders, means to link basic infrastructure development cooperation such as in the field of energy, tourism, telecommunications, agro-industry and human resources development, and improve procedures to support investment through long and short term plans.

- According to His Excellency Mr. Hem Saem³³, Advisor to the Deputy Prime Minister and Minister of Foreign Affairs and International Cooperation and Director of the Asia I Department, MOFA-IC, the Cambodia-Thailand Joint Commission for Bilateral Cooperation has been suspended due to the change in Thai politics after the 2006 bloodless military coup that ousted Prime Minister Thaksin Shinawatra from power. He further acknowledged that during the time of Prime Minister Thaksin's Administration, the relationship between Cambodia and Thailand was very good in all fields, but such bilateral relations were very slow after the 2006 military coup d'état.

Exchange of visit is very common in bilateral relations in order to exchange views on various or particular issues of concern relating to bilateral relations. The exchange of visit can be seen from the higher to the lower levels, as well as technical teams. Some examples:

- During the official visit of Thai Prime Minister Chuan Leekpai to Cambodia on 14-16 June 2000, both agreed to sign a number of documents, under the joint Presidencies of the two countries' Prime Ministers:
 1. The Agreement to Combat Against Illicit Trafficking and Cross-Border Smuggling of Movable Cultural Property and to Restitute it to the Country of Origin is aimed at adding to the effectiveness of the cooperation between the two countries in combating criminal activities which involve movable cultural property through the introduction of measures for impeding illicit transnational trafficking in movable cultural property, the imposition of appropriate and effective administrative and penal sanctions and the provision of means for restitution.
 2. The Agreement on Cooperation for the Return of Stolen or Embezzled Vehicles is intended to prevent the illicit trafficking and return such vehicles to their owners in the territory of the respective government.
 3. The MOU on the Survey and Demarcation of Land Boundary is directed to survey and demarcate the land boundary between the two countries and shall be jointly conducted on the basis of the Franco - Siamese Convention of 1904 and

³³ Interview on 29 March 2008 with HE Mr. Hem Saem, Ministry of Foreign Affairs and International Cooperation, Phnom Penh, Cambodia

the Treaty of 1907 and Protocol annexed to the said Agreements and the Maps of the Franco - Siamese Commission of Delimitation.

- On 28 August 2001, Cambodian Foreign Minister met with His Excellency Mr. Prakit Pachonpachanuk, Deputy Secretary General of the Office of the National Security Council of Thailand and Head of the Thai National Security Delegation, who was on a three-day visit to Cambodia from 27-29 August 2001, discussing various issues relating to security cooperation between both countries such as transnational crimes, drugs and arms trafficking and illegal immigration. Cambodia requested establishing a direct cooperation between local authorities of the two countries in order to fight against the transnational crimes, including drugs and arms trafficking, stating that the opening of more new border checkpoints would create favorable conditions enabling the local authorities of the two countries to control better the situation.
- On 01 March 2001, the Protocol on the Exchange of the Instruments of Ratification of the Treaty between the two parties was signed by His Excellency Mr. HOR Namhong, Senior Minister, Minister of Foreign Affairs and International Cooperation, and His Excellency Mr. Asiphol Chabchitrchaidol, Ambassador Extraordinary and Plenipotentiary of the Kingdom of Thailand to the Kingdom of Cambodia. This Treaty entered into force thirty days after the date of the exchange of the Instruments of Ratification. It should be noticed that the Treaty on Extradition was signed in Bangkok on 6 May 1998, and ratified by Samdech CHEA Sim, Acting Head of State of the Kingdom of Cambodia, in the August Name of His Majesty the King of Cambodia, on 19 July 1999, and by the Minister of Foreign Affairs of the Kingdom of Thailand on behalf of the Royal Thai Government on 19 December 2000.

According to HE Mr. Hem Saem³⁴, in general we have good relations with our neighboring countries since we have many mechanisms from the top to local levels in dealing with bilateral issues or problems. However, some difficulties have also been found. In negotiation or discussion there is a need of continuity of the head of delegation and of the progress made/agreed at the last meeting so that further discussion would be smooth and reached the objective of the meeting. But if our counterparts change their head of the delegation or the team, this may cause some difficulties or delay of the discussion.

Cambodia - Viet Nam:

Since the establishment of their diplomatic relations on 24 June 1967, Cambodia and Vietnam have consolidated, developed and expanded their bonds of friendship and cooperation in the political, economic, cultural, educational and other fields. These bilateral relations have been further developed on the basis of the principles contained in their Joint Communiqués of 1992 and 1995. In particular, during the visit to Cambodia in June 1999 by the General Secretary of the Communist Party of Vietnam, His Excellency Mr. Le Kha Phieu, the two countries have identified a guideline for bilateral relations in the 21st century,

³⁴ HE Mr. Hem Saem, Advisor to the Deputy Prime Minister and Minister of Foreign Affairs and International Cooperation, and Director of the Department of Asia I, MOFA-IC, Phnom Penh, Cambodia

namely, "traditional, stable, long-lasting bonds of friendship, solidarity, cooperation and good neighborliness".

In March 2005, after the visit of Vietnamese President, Tran Duc Luong, both sides issued a Joint Declaration on the Frameworks for Bilateral Cooperation, in which they reaffirmed that since the establishment of their diplomatic relations in 1967, they have consolidated, developed and expanded their bonds of friendship and cooperation in the political, economic, cultural, educational and other fields. For the 21st century, they agreed to further develop their relations based on the principles enshrined in the United Nations Charter and other universally recognized principles of international law, on the Five Principles of Peaceful Coexistence and on the principles set forth in the Treaty of Amity and Cooperation in South East Asia, especially the principles of respect for each other's independence, sovereignty and territorial integrity. They further reaffirmed their respect for the principles of noninterference into each other's internal affairs, of non-recourse to the use of force or threat of force, of peaceful settlement of all disputes, and not allowing one's country territory to be used by any political or military force against the others.

Both sides stressed that high-level meetings between the representatives of the two parliaments, governments, state agencies and military forces at various levels, continue to promote both the official and people-to-people contacts between the two countries. The two sides commit to strengthen cooperation and consultation between leaders of the two Ministries of Foreign Affairs of Cambodia and Viet Nam to exchange views on bilateral, regional and international issues of mutual interest. They also agree to work closely with each other in the development programs such as the Mekong sub-region, the less-developed areas along the West-East Corridor (WEC) and the "growth triangle".

The Cambodia-Vietnam Joint Declaration at the end of Vietnamese President Tran Duc Luong's official visit to Cambodia in March 2005, both parties reaffirmed:

- To strengthen their cooperation in the security and military fields including the exchange of delegations and the sharing of experience in science, technology, information and training;
- To combat terrorism and to prevent terrorist activities against their countries. They reaffirm their cooperation in carrying out the bilateral Agreement on search, excavation and repatriation of the remains of Vietnamese Army volunteers who sacrificed themselves in Cambodia during the wars. They will work closely with each other to combat trans-national organized crimes, drugs trafficking, trafficking in human beings and other crimes.
- To encourage their border provinces to further promote their cooperation and mutual assistance in all areas of mutual interests. The two sides re-affirm the importance of bilateral economic and commercial relations between themselves, and commit to take measures to set up stable and long-term mechanism to further promote bilateral trade and investment, to strengthen cooperation in custom fields, to expand cooperation in the financial and monetary matters and in other framework such as AFTA and WTO... For that end, they agree to further consolidate the existing mechanism for cooperation

between them, especially the Cambodia-Vietnam Joint Commission on Economic, Cultural, Scientific and Technological Cooperation.

- They agreed further to strengthen cooperation in the fields of agriculture, forestry, fishery, energy and hydro-meteorology; to exchange experience and expertise in the fields of forest resources management and in the protection of endangered species and of the environment, especially along the common land and sea borders; to upgrade land routes and develop railway lines between the two countries; to further expand:
 - o civil-aviation cooperation and to encourage their respective tourism industries to take full advantage of the framework of existing multilateral tourist cooperation;
 - o cooperation on public health, to share experience and to assist each other effectively in disease prevention and control along the border between the two countries;
 - o further their cooperation in the fields of education and training, to exchange students at university, post university levels, and to facilitate art, cultural and sport exchanges between them.

- They agreed to cooperate in resolving any problem that might arise along the border between the two countries, firstly by the local authorities, especially the concerned provinces of the two countries, in the spirit of good neighborliness, friendship and in accordance with the Joint Communiqué of 17th January 1995.

4.2.2 Practices at Local Levels

According to the field visits to the provinces bordering with Vietnam and Lao PDR, it is found that most of provinces have signed a sister agreement of cooperation on all field with their Vietnamese counterpart. This kind of twinning agreement for cooperation between provinces along the border of both sides, Cambodia and Viet Nam resulted from the outcomes agreed by of the Cambodia-Vietnam Joint Commission for Bilateral Cooperation on Cultural, Economic, Education, Scientific and Technique, and tourism. For instance, Kompot, Takeo, Prey Veng, Svay Rieng, Kandal and Kratie Provinces signed sister agreement for their cooperation, while nothing was signed for Kompong Cham, Ratanakiri and Stung Treng. It is reported that, for those who signed agreements, they implemented closely their cooperation with Vietnamese counterparts on various issues. Although, for the provinces that have no agreement they still carried out a good relationship with Viet Nam according to the agreement sign at national level by the Ministry of Interior.

According to the sister agreement signed, they alternatively conduct a meeting every six months to report each other on matters implemented, as well as, make a new plan or additional fields for future cooperation. Under the provincial level, there are also district levels which meet each other every six months in rotation. The Commune levels are the lowest ones. They meet quarterly and alternatively. They affirmed that based on these practices, all issues were resolved according to their competency. If any issue could not be resolved at their levels, they have to report to the immediate higher level for further

consideration and resolution. If no solution could be done at provincial level, the issue will be raised to national levels, or/government for further consideration.

It is to note that, based on the sister agreement, in Prey Veng and Svay Rieng, the cooperation between provincial departments concerned were also signed; for example, between the provincial Department of Water Resources and Meteorology of Cambodia with its Vietnamese counterpart, as well as the same Department for Agriculture, Forestry and Fisheries. It is observed that advantages were for both sides. In particular, in relation to the spread of insects damaging crops or plants in Cambodian side, the Vietnamese side sent their experts to help Cambodian in destroying the insect as well as providing training for Cambodian staff. Based on the close cooperation, if something happens they may inform each other in written form for their early information so that each side can take appropriate measures against any bad or disastrous event. They affirmed that good cooperation could be found also in other fields such health care, security issue, natural disaster, including flood and drought, water use.

4.3 Multilateral Relations

a. Cambodia-ASEAN

Cambodia was the last among the new ASEAN members to become full membership of ASEAN (1999). Within the framework of ASEAN various forum or mechanisms have been established for its member countries to discuss and resolve issues related to all fields, politic, economic, security, trade, etc. Some fora to note are as follows³⁵:

- ASEAN Summit meeting is the forum, every three years, for the Heads of State or Government to discuss on political matters and initiate new actions for ASEAN. The informal Summit was decided to hold in between the two Summits.
- ASEAN Ministerial Meeting (AMM) is a yearly meeting of the ASEAN Foreign Ministers dealing with preparation political guidance and coordination all ASEAN Activities. In case of needed, other ASEAN Ministers may be invited to participate. Both AMM and ASEAN Economic Minister will report to the Summit.
- ASEAN Economic Ministers (AEM) holds it formal (every year) or informal meeting to discuss economic cooperation.
- Sectoral Ministers Meeting is the forum for sectoral ministers to meet, when it is required, and provide advice on ASEAN cooperation. It is involved with Ministers of Energy, Agriculture and Economic.
- Other ASEAN Ministerial Meetings, relating to the field of their responsibility, are on Health care, Environment, Labor and Social Welfare, Education, Scientific and

³⁵ ASEAN Secretariat, website: www.aseansec.org

Technology, Information Technology and Justice. They organize the meeting if they required prepare cooperation action.

- ASEAN Joint Ministerial Meeting will be organized only if needed to discuss cross-sectoral coordination and ASEAN activities. The composition is the Ministers of Foreign Affairs and Ministers of Economic. Normally the meeting is organized prior to the Summit meeting.
- ASEAN Standing Committee (ASC) is a permanent political mechanism to coordinate all ASEAN activities between two AMM meetings. ASC, whose Chair is the Minister of Foreign Affairs of the ASEAN member that will host the AMM, will report to the AMM. Participants to the ASC meeting are, ASEAN Directors-General and the ASEAN Secretary-General. As an advisory body to all ASEAN permanent committees, ASC reviews all activities carried out by those committees in accordance with political guidelines set by the AMM.
- Senior Officials Meeting (SOM) is another mechanism in charge of ASEAN political and security cooperation. SOM directly reports to AMM.
- Senior Economic Officials Meeting has been established to deal with all ASEAN's economic cooperation aspects and report to the AMM.
- Other ASEAN Senior Officials meeting Committees can be found, such as ASEAN Senior Officials on the Environment (ASOEN), ASEAN Senior Officials on Drug Matters (ASOD), Committee on Social Development (COSD), Committee on Science and Technology (COST), ASEAN Conference on Civil Service Matters (ACCSM), and Committee on Culture and Information (COCI). These meetings will directly report to the AMM.
- Joint Consultative Meeting (JCM) was established at the ASEAN Summit in 1987 aiming at coordinating all ASEAN sectoral activities. The SOM, SEOM, the ASEAN Secretary-General and all ASEAN Directors-General will attend the meeting. The Secretary General will report the outcomes of the meeting to the AMM and AEM.
- ASEAN Committee in the Third Country was established in some dialogue partner countries to coordinate external relations of ASEAN with those countries as well as with international organizations. The Committee composes of the Head of mission of ASEAN member States accredited to the host country. The committee may organize a consultative meeting with the government of the host country. So far twelve Committees have been established in the third countries, namely, Bonn, Brussels, Canberra, Geneva, London, Ottawa, Paris, Seoul, Tokyo, Washington, Wellington and New Delhi. The report on their activities will send to ASC Chairperson.
- ASEAN National Secretariat needs to be established by all ASEAN member countries. This Secretariat is normally located within the Ministry of Foreign Affairs and deal with all ASEAN related affairs. Each National Secretariat leads by a Director-General.

b. Cambodia- ACMECS:

Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS) is a multilateral cooperation among the five ASEAN members along the Mekong River, Cambodia, Laos, Myanmar, Thailand and Viet Nam. The forum focuses on some priority areas of cooperation, namely, trade and investment facilitation, agriculture and industrial cooperation, transport linkage, tourism cooperation and human resources development. The ACMECS member countries noted that ACMECS and other regional triangular cooperation frameworks supplement and complement one another.

c. Cambodia - Development Triangle

Two Development Triangles for Economic Cooperation were established among, (1) Cambodia-Laos-Vietnam and (2) Cambodia-Laos-Thailand.

The Cambodia-Laos-Vietnam Socio-Economic Development Triangle focused on a wide range of issues relating to potential for economic cooperation and direction for the development in the three-country border zone (Rattanakiri of Cambodia, Attapeu of Laos and Kontum and Gia Lai of Vietnam), so as to make good use of each country's comparative advantages and capitalize on internal and external resources in the framework of development cooperation among the three countries, especially in communications, commerce, tourism, agro-forestry and energy. The forum further focused their discussions on the immediate and concrete measures to implement the "Vietnam-Cambodia-Laos Development Triangle", giving priority to their cooperation in some specific areas such as: constructing and upgrading of transportation system that connect the provinces in the Development Triangle; implementing projects to promote trade relations; enhancing cooperation in tourism with an aim to realized the idea of "Three Countries-one destination"; and setting up inter-connected electricity grids between the three countries. The Summit of the three countries' Prime Ministers is organized every two years.

In most bilateral or multilateral forum, it is found that cooperation within the framework of the GMS has been written or indicated by Cambodia high-level delegation. In his speech addressed to the 3rd Cambodia-Laos-Vietnam Summit on development triangle, Hun Sen gave priority to the multilateral cooperation within ASEAN, ASEAN + 3, GMS³⁶, etc... In addition in the political platform for the 3rd legislature of the National Assembly, the government also highlighted its commitment to actively participate in the implementation of GMS program³⁷, especially the flagship adopted at the 1st GMS Summit in 2002 in Phnom Penh.

³⁶ MOFA-IC, 2004, Speech by Prime Minister Hun Sen at the 3rd Cambodia-Laos-Vietnam Summit held on 21 July 2004 in Siem Reap, Phnom Penh, Cambodia

³⁷ Office of the Council of Ministers, 2004, Political Platform of the Royal Government of Cambodia for the 3rd legislature of the National Assembly, Phnom Penh, Cambodia

4.4 Practices and Efforts to Implement the 1995 Mekong Agreement

The Cambodia National Mekong Committee (CNMC) was established by the Sub-decree No 10ANKr-BK dated 04 February 1999 of the RGC. The CNMC is a national institution directly managed under the RGC. The members of CNMC are composed by nominated representatives from ten line ministries concerned (Public Works and Transport; Water Resources and Meteorology; Environment; Agriculture, Forestry and Fishery; Foreign Affairs and International Cooperation; Industry, Mines and Energy; Planning; Land Management, Urbanization and Construction; Rural Development; and Tourism).

Its mission is to assist and advise the government in all matters relating to the formulation of water policy, strategy, management, preservation, investigation, planning, restoration and development of the water and other related natural resources of the Mekong River Basin within the whole country contributing to the sustainable development of national economy and infrastructure for the benefit of the country and people.

The mandate and responsibilities of the CNMC are:

- to study and submit to the government on all matters relating to the planning and formulation of strategy for development, management and preservation of the Mekong River water and related resources;
- to coordinate and closely cooperate with other institutions concerned, including line agencies, provincial and municipal authorities in implementing all relevant decision of the government relating to the Mekong River; and
- to promote cooperation with other NMCs and donor community in the investigation, preservation, management and development of the Mekong water and related resources, in conformity with the principle of equitable and reasonable benefit for all member states of the MRC.

The CNMC is a coordinating mechanism of the line ministries and line agencies. In practice the MOWRAM plays the main role of the water resources uses in the Council of Ministers. The CNMC authority shall be the top authority which will be able to solve the eventual difference/conflict. But in the negative result, the question shall be brought to the Council of Ministers. In unresolved solution, the difference ought to be postponed and reported to the other time, let's time working for, instead of breaking the case. Never, the question will go to the court. The CNMC has the duty to create a good atmosphere of best understanding and good cooperation with junior officials. As the coordination institution at national level, the Head of Cambodian Delegation clearly confirmed other MRC members that, regarding the MRC Strategic Plan 2006-2010, CNMC submitted it to a central committee composed of representatives of relevant line agencies, including the Planning Departments³⁸ for consultation. The same practice were also carried out by CNMC prior to any Technical

³⁸ Mekong River Commission, 2006, Report of the Eleventh Meeting of the Donor Consultative Group, 14 December 2006, Vientiane, Lao PDR

Drafting Group meeting and other matters within the MRC family, in order to consult with line ministries' representative on relevant issues related to their particular fields of concerned.

Lessons learnt from bilateral Cooperation between CNMC and VNMC³⁹:

In accordance with the Sub-decree on the establishment of the Cambodia National Mekong Committee, CNMC has a role to coordinate with line ministries/institutions, as well as with the MRC Secretariat and all NMCs in the framework of the MRC family. With regard to projects to be carried out within the MRC framework, CNMC is the only government representative in coordinating with relevant parties. So far, CNMC has carried out its tasks in accordance with the law. Some positive and negative experiences can be illustrated regarding the role of CNMC within the national context:

- From the side of the development partners, who support the MRC projects, some partners did not recognize the coordinating role of the CNMC. They just implement the project by direct contact or work with the concerned line ministries/institutions. Seeing this lack of understanding and cooperation, CNMC invited Representative of the Embassy concerned for discussion and clarification, providing them with a clear advice on the coordinating role that CNMC would play. It is observed that the communication seems a bit change after such clarification, but not yet in a good way.
- Some bad practices on the line ministries/institutions side could also be seen when they communicate directly with the donor without using CNMC channel. They may say that it would save time if they directly communicate or discuss with the donor, ignoring the lawful roles of the CNMC. After some explanation to the concerned institutions, it is found that by the end of 2007, those concerned institutions know better about the coordination roles of CNMC.

Within the framework of cooperation with neighboring countries, some experiences can be highlighted as lesson learnt:

- All MRC programs are multilateral mechanisms in dealing with all relevant issues for the MRC members. Through the MRC programs, CNMC work closely as equal partner with other member countries. CNMC, then, has nominated officers as coordinators or team member as the programs required. Those coordinators or team will work, together with other MRC members, with MRC programs as agreed.
- To strengthen and consolidate the cooperation and relations with other NMCs, CNMC signed a Memorandum of Understanding (MOU) with Vietnam National Mekong Committee (VNMC). The MOU deals with issues relating to both bilateral and multilateral – within the MRC context. Based on the signed MOU, it is a good mechanism or basis for Cambodia (CNMC) to also discuss the Se San case.
- Cambodia proposed, as well, the same mechanism applied with VNMC to Laos National Mekong Committee (LNMC) if they are interested in concluding such MOU for the strengthening and consolidating of cooperation and relations between the two NMCs. No reply has been obtained, but it is to note that LNMC signed

³⁹ Interview with His Excellency Mr. Sin Niny, Vice-Chairman of CNMC, on 9 May 2008, CNMC Office, Phnom Penh, Cambodia

similar MOU with VNMC. However, they have cooperation at provincial level between Stung Treng Province of Cambodia and Champasak of Lao PDR. The meeting on Trans-boundary wetland management in Stung Treng and Champasak, relating to the issues/activities regarding natural resources and environmental protection, namely, the management on fisheries, tourism, Dolphin pool and development⁴⁰ was held on 24 March 2006 in Pakse, Lao PDR.

- In addition, the Government of Cambodia established a Joint Coordinating permanent Committee on Dams, Streams and Canals along the Border Areas (dealing with Laos, Thailand and Viet Nam). The objective of this particular committee was to assist the government in dealing with issues relating to the construction of dams, and other water-related works along the streams or channels at the border area. The Vice Minister for Economic and Finance is the Chair of this committee, to which CNMC is also a member. The committee is now preparing the draft law/regulations on water utilization along the Cambodia-Vietnam border for the consideration and perhaps discussion by both parties in future. It is observed that both sides satisfactorily implemented the signed MOU. The meeting is organized alternatively once every year. From Cambodian side, financial related issues may sometimes caused the delay of the planned meeting. Both sides need to improve their inter-ministerial communication for better cooperation in future.
- Viet Nam established the similar body as Cambodia's partner. The Chairmanship is the Electricity of Vietnam.
- Another existing mechanism is the Cambodia-Vietnam Joint Commission for Bilateral Cooperation on Cultural, economic, education, scientific and technology.
- Good lesson-learnt from CNMC-VNMC cooperation:
 - Based on reports from the province, as well as that from NGOs, regarding negative impacts to the area downstream of dams built in Vietnamese side, CNMC discussed with VNMC to find out a proper solution benefits to both sides. It is to note that Yali Dam was built before the signing of the 1995 Mekong Agreement. Thus, according to Article 36(A) stating about retroactive effect, the dam is an existing structure. But the release of water needs to follow the 95-Mekong Agreement. As agreed by both sides, Vietnamese needs to inform relevant Cambodian authorities (those are CNMC, MOWRAM, and DWRAM) one week prior to the date of any release of water from the reservoir.
 - Based on the MOU both sides agreed that whenever the upper stream country wishes to build the dam, it is suggested that the EIA at the downstream of the dam should also be carried out. Thus, a joint technical team was also established for this purpose with the participation of the Ministry of Environment, MOWRAM, CNMC, etc....
 - Regarding water fluctuation at the downstream below the Vietnamese dams, CNMC worked closely with VNMC to resolve the issue. With its goodwill, Viet Nam kindly spent its own budget to build a regulating reservoir before flowing into Cambodia to ease the fluctuation problems in Cambodian side. Cambodian delegation visited the site (regulating reservoir) hoping that once the reservoir is built the water fluctuation problems will be resolved.

⁴⁰ Minutes of the Meeting on Transboundary Wetland Management in Champasak (Lao PDR) and Stung Treng (Cambodia) on 24 March 2006 in Pakse, Lao PDR.

- In response to question raised regarding the notification on bridges building both between Laos and Thailand, and the bridges built and being built in Cambodia, it is observed that no notification made for the first bridge built across the Mekong mainstream in Laos. Following this practice, Cambodia, especially the Ministry of Public Work and Transport through CNMC, made no notification on the bridge built and being built across the mainstream.

In implementing the 1995 Mekong Agreement, up to early 2006, only one notification was recorded at the 14th MRC Joint Committee meeting held on 6-7 July 2001 in Phnom Penh regarding the Vaico irrigation project. It is further observed that in general there were no notifications in relation to bridges built across the Mekong mainstream within the LMB. It seems that it is a practice of the MRC member countries. There were three bridges built across the mainstream linking Lao PDR and the Kingdom of Thailand. Within Cambodia context, one bridge stretched out across the mainstream at Kompong Cham provincial town, one is being built by Chinese experts and another is planned to be built with the assistance from Japanese government at Prek Neak Luong town.

Chapter 5: Conclusion and Recommendations

It is examined that within Cambodia context many best practices at regional and national levels are being applied in relation to inter-state issues, differences and disputes over trans-boundary water and/related natural resources. Peace, stability and security are perhaps, main factors for the development of the country. In particular, the limit of the boundary between neighboring countries is most required, as it will facilitate both sides' authorities concerned in carrying out their duties. With this regard, the RGC and its neighboring countries are trying their best in resolving the demarcation of their land boundary.

It is further found out that to facilitate their bilateral cooperation, to prevent or to use as basis to address any issue/difference/problem the bilateral agreements signed by both parties are also legal basis for their cooperation. In addition, at national levels there are exchanges of visit between parties concerned, from higher down to lower levels, which are good forum for both sides to strengthen their understanding and to build confidence. Confidence building would be very important in the cooperation of all fields. But the dissemination of information, bilateral agreement signed is still very poor. It may reflect that many documents are still considered confidential which would allow only some high ranking officials to access.

The practice applied in Cambodia looks similar in its bilateral relations with the three neighbors. The higher levels of both parties discussed and agreed on the strengthening cooperation between provinces, as well as local authorities of the provinces along the border, leading to a more cooperative and understanding among the concerned local authorities along the border. Based on good cooperation, it would be helpful in any discussion to address issues/differences/disputes.

The MRC is one of the best mechanisms in dealing with issues/differences/disputes that may arise within the MRC context. Many dispute preventive instruments were agreed by the member countries – MRC procedures for water utilization, but there is a need for further strengthening the

implementation, as well as dissemination, of those agreements/instruments. In general, it is found out that the government pays more attention on the cooperation for development, in particular the GMS, which deals with economic development rather than on natural resources conservation alone. It would say that development and natural resources protection were discussed within one forum.

Within the national context, it would be most valuable if concerned authorities were further strengthened and cooperated with CNMC, as the coordinating role, on any issue/problem related to the Mekong River basin. In addition, cooperation between NMCs is also an additional way of cooperation in the framework of MRC which may provide another mechanism to strengthen their cooperation bilaterally as well as within the context of the MRC as the whole. Since the CNMC is the national coordinating body within the context of the MRC cooperation, it would be most valuable if the representative of the CNMC could be invited to any meeting/discussion/preparation of project within the Mekong River Basin, including border issues with Cambodia's neighbors, so that it can provide any information or share any idea regarding the project planning or implementation. On the other hand, CNMC should continue to closely cooperate with concerned institutions for the success of its responsibility.

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Glossary of TBIDD Key Terms, Definitions and Usages¹

TERM	DEFINITION	USAGE
Act of God *	Events outside of human control	Act of God or act of nature is a legal term ^[1] for events outside of human control, such as sudden floods or other natural disasters , for which no one can be held responsible. This does not protect those who put others in danger of acts of God through negligence. In the law of torts , an <i>act of God</i> may be asserted as a type of intervening cause, the lack of which would have avoided the cause or diminished the result of liability (e.g., but for the earthquake, the old, poorly constructed building would be standing).
Actual		
Acquiescence		
Address		
Adaptive management approach ⁺	A flexible system which is designed to cope with uncertainty and complexity in natural environmental and social systems, by enabling current information, obtained as part of the management process, to be taken into consideration.	It is often referred to as experimental management or "learning by doing".
Alluvion *	a legal term which describes the increase in the area of land due to sediment (alluvium) which is deposited by a river. This changes the size of a piece of land (a process called accession) and thus its value over time.	A common occurrence and problem on international rivers where the talweg is the boundary line between two concurrent riparian nations, affecting the land area of islands and banks of rivers.
Anticipated		
Arbitration		
Bad faith		
Civil society ⁺	A loose but useful term referring to those persons or organisations not directly involved in government, many of whom may be stakeholders in a transboundary issue.	

¹ Many of the terms and definitions or usages have been extracted from various dictionaries such as Black's Law Dictionary and the Wikipedia Dictionary or defined in subject reports. Other terms are defined based on their usage and application under the MA 95 and region.

* **Wikipedia**, the free encyclopedia ** Black's Law Dictionary *** Merriam-Webster

⁺ Glossary of Terms from Training course on the TDA/SAP approach in the GEF International Waters Programme for WUP in 2001

Climate change	A study dealing with variations in climate on many different time scales from decades to millions of years, and the possible causes of such variations.	1) In the most general sense, the term "climate change" encompasses all forms of climatic inconstancy (that is, any differences between long-term statistics of the <u>meteorological elements</u> calculated for different periods but relating to the same area) regardless of their statistical nature or physical causes. Climate change may result from such factors as changes in solar activity, long-period changes in the Earth's orbital elements (eccentricity, obliquity of the ecliptic, precession of equinoxes), natural internal processes of the climate system, or anthropogenic forcing (for example, increasing atmospheric concentrations of carbon dioxide and other greenhouse gases). 2) The term "climate change" is often used in a more restricted sense, to denote a significant change (such as a change having important economic, environmental and social effects) in the mean values of a meteorological element (in particular temperature or amount of precipitation) in the course of a certain period of time, where the means are taken over periods of the order of a decade or longer.
Conciliation		
Controversy		
De minimus		
Difference		
Distributary		
Due diligence		
Environmental impact ⁺	The adverse effect of a transboundary problem on the integrity of an ecosystem.	For example, loss of natural productivity and biodiversity as a result of the loss of an ecosystem.
Facilitation		
Facilitator ⁺	a trained and experienced expert capable of providing technical assistance during TB issue identification, negotiations, etc. including the stakeholder consultation.	The facilitator should be entirely neutral within the process, culturally sensitive and with proven negotiation skills.
Fact-Finding	(sometimes called Joint fact-finding ⁺) is the scientific and technical process of fact-finding (or diagnosing) the state of, threats to, or causes of an incident concerning transboundary/ shared waters	

Global Warming	an increase in the earth's atmospheric and oceanic temperatures widely predicted to occur due to an increase in the greenhouse effect resulting especially from pollution	
Good faith		
Governance analysis (GA) ⁺	describes the dynamic relations within political and social structures that underpin such aspects as legislative and regulatory frameworks, decision-making processes and budgetary allocations.	
Hotspot		Date: 1929 1: a place of more than usual interest, activity, or popularity; 2: a place in the upper mantle of the earth at which hot magma from the lower mantle upwells to melt through the crust usually in the interior of a tectonic plate to form a volcanic feature; <i>also</i> : a place in the crust overlying a hot spot3: an area of political, military, or civil unrest usually considered dangerous <global <i>hot spots</i> >
Human intervention		
Hydo-hegemony		
Immediate causes ⁺	(sometimes known as primary causes) are usually the direct technical causes of a transboundary problem.	They are predominantly tangible and with distinct areas of impact
Institutional analysis ⁺	Focuses on key institutions or organizations that either have direct mandates for environmental management or whose activities have environmental impacts.	Not limited to government agencies, but includes private sector organisations, community-based organisations, academic and research institutions.
Issue		
Incident		
Litigation		
Man-made		
Mediate		
Mediation		
Monitoring and Evaluation (M & E) ⁺	a management tool used to support decision-making, ensure accountability, measure results and impacts of projects, programmes, and activities, and extracts lessons from a given programme and its projects and activities.	
Perceived		
Potential		

Protocol	A protocol, in the context of treaty law and practice, has the same legal characteristics as a treaty. The term protocol is often used to describe agreements of a less formal nature than those entitled treaty or convention. Generally, a protocol amends, supplements or clarifies a multilateral treaty.	A protocol is normally open to participation by the parties to the parent agreement. However, in recent times States have negotiated a number of protocols that do not follow this principle. The advantage of a protocol is that, while it is linked to the parent agreement, it can focus on a specific aspect of that agreement in greater detail.
Real		
Relevance		
Resolve		
Ripe		
RIR	Rights, interests and responsibilities are mutually shared by all nations and in particular, riparians on an international river basin.	
Sovereign immunity		
Stakeholders ⁺	Anybody with an involvement in, or affected by the problem or its potential solutions.	This may include Government Ministries, Non-Governmental Organisations, Trade and Industry, Agriculture and Fisheries, Religious bodies, the local population and any other affected member of civil society.
Significant		
Substantial		
SWOT	SWOT Analysis , or sometimes known as the TOWS Matrix , is a strategic planning tool used to evaluate the Strengths , Weaknesses , Opportunities , and Threats involved in a project or in a business venture or in any other situation of an organization or individual requiring a decision.	
Territorial integrity		
Transboundary ⁺	Concerned with water-related environmental problems which transcend the boundaries of any one country, hence transboundary. For TBIDDs this definition is considered to narrow. Transboundary IDD may be more than environmental problems, to include social, economic, political or any other impact on the rights and interests of one riparian caused by action or activities within the boundaries of another riparian.	The environment includes marine and freshwaters (including wetlands, lakes, rivers and aquifers) that are shared by different countries. Transboundary includes any action or activity in one riparian that causes an impact or interference with the rights and interests of another riparian whether upstream/downstream/left bank or right bank.

Transboundary diagnostic Analysis (TDA) ⁺	TDA is a systematic scientific analysis of the root causes. A TDA is an objective assessment and not a negotiated document. It uses the best available verified scientific and technical information to examine the state of the environment and the root causes for its degradation.	The analysis is carried out in a cross sectoral manner, focusing on transboundary problems without ignoring national concerns and priorities. For example of application see Annex Black Sea TDA.
Transboundary problem ⁺	A transboundary problem is any form of anthropogenic degradation in the natural status of a water body that concerns more than one country.	Anthropogenic means caused by the activities of people rather than natural phenomena. A transboundary problem can originate in, or be contributed by, one country and affect (or impact) another.
Tributary		
Underlying causes ⁺	those that contribute to the immediate causes of a transboundary problem. They can broadly be defined as underlying resource uses and practices, and their related social and economic causes.	
Water	Surface water and ground water and water in the atmosphere	The term was defined in the Law on Water Resources of the Kingdom of Cambodia which was promulgated by the Royal Decree No 0607/016 NS-RKM of 29 June 2007.
Water resources	Means seas, rivers, streams, creeks, gully, rivulets, lakes, ponds, and reservoirs	The term was defined in the Law on Water Resources of the Kingdom of Cambodia which was promulgated by the Royal Decree No 0607/016 NS-RKM of 29 June 2007.
Underground water	Water which flows through rocks and may change its location from one place to another	The term was defined in the Law on Water Resources of the Kingdom of Cambodia which was promulgated by the Royal Decree No 0607/016 NS-RKM of 29 June 2007.
Aquifer	Ground water which is permanently located in the natural aquifer	The term was defined in the Law on Water Resources of the Kingdom of Cambodia which was promulgated by the Royal Decree No 0607/016 NS-RKM of 29 June 2007.
Solid waste	Hard objects, hard substances, products or refuse which are useless, disposed of, are intended to be disposed of, or required to be disposed of.	The term is defined in the sub-decree No 36 ANRK-BK of 27 April 1999 on Solid Waste Management
Household waste	Is the part of solid waste which does not contain toxin or hazardous substances and is discarded from dwelling, public building, factories, markets, hotels, business building, restaurants, transport facilities, recreation sites, etc ...	The term is defined in the sub-decree No 36 ANRK-BK of 27 April 1999 on Solid Waste Management

Hazardous waste	Radioactivity substances, explosive substances, toxin substances, inflammable substances, pathogenic substances, irritating substances, corrosive substances, oxidizing substances, or other chemical substances which may cause the danger to human (health) and animal or damage plants, public property and the environment. The hazardous waste may be generated from dwelling houses, industries, agricultural activities, business and services activities, mining, etc...	The term is defined in the sub-decree No 36 ANRK-BK of 27 April 1999 on Solid Waste Management
Public water area	Refers to water areas that are for public use such as, rives, streams, gully,lake, pond, well, sea, river mouth, and include canal irrigation system and other water ways that are for public use and ground water.	The term is defined in the sub-decree No 27 ANRK-BK of 06 April 1999 on Water Pollution Control
Source of pollution	Refers to any type of place such as dwelling house, public administrative building, premises, transport facilities, business areas or service places from which effluent, pollutants or hazardous substances are directly or indirectly discharged into public water areas or public drainage systems	The term is defined in the sub-decree No 27 ANRK-BK of 06 April 1999 on Water Pollution Control
Waste water	refers to water discharged from any source of pollution into public water areas or public drainage systems either it is treated of untreated	The term is defined in the sub-decree No 27 ANRK-BK of 06 April 1999 on Water Pollution Control
Sewage	refers to a contaminated water discharged from dwellings and public building	The term is defined in the sub-decree No 27 ANRK-BK of 06 April 1999 on Water Pollution Control
Solid waste	refers to disable used substances or objects that are disposed of from pollution source	The term is defined in the sub-decree No 27 ANRK-BK of 06 April 1999 on Water Pollution Control
Garbage	refers to disable use substances or objects that are disposed of from dwellings and public buildings	The term is defined in the sub-decree No 27 ANRK-BK of 06 April 1999 on Water Pollution Control
Pollutant	refers to solid or liquid or gaseous substances or all kinds of wastes that cause any change of component or characteristic of water such as physical, chemical or biological when it is intentionally or unintentionally released into the water (public water areas)	The term is defined in the sub-decree No 27 ANRK-BK of 06 April 1999 on Water Pollution Control

Pollution load	refers to the load of the content of pollutant and heat containing in waster water released from any source of pollution into public water areas or public drainage systems	The term is defined in the sub-decree No 27 ANRK-BK of 06 April 1999 on Water Pollution Control
Hazardous substance	refers to any substance that cause danger to living organisms, damage or break down any objects or building or adversely impact and damage the environment.	The term is defined in the sub-decree No 27 ANRK-BK of 06 April 1999 on Water Pollution Control
Pests	include any member of the animal kingdom(other than Homo Sapiens) or plant kingdom or pathogenic agents, whether dead or alive, which could in any stage of development injure, damage, destroy or be parasitic upon any plant or plant product. Such an expression also includes for the limited purposes of this Sub-decree, but is not restricted to, insects, arachnids, rats, moles, snails, birds, organisms causing plant diseases and weeds.	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Plant quarantine pest	means any pest of plants dangerous (potential economic important) to plant but not yet in existence in the Kingdom of Cambodia, and even though in existence, but not widely spread yet that need to be controlled	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Phytosanitary inspection	includes researching, investigating, observing, checking and sampling, analyzing and identifying plant quarantine materials to determine its infection status	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Dangerous pest	is pest causing or being able to cause large economical damage or seriously destroy plant resource and environment	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Infested	Means bearing or containing any pest	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Transit transport	means transit of goods and means of transport across the territory of the Kingdom of Cambodia when the passage is only a portion of a complete journey beginning and terminating beyond the frontier of the Kingdom of Cambodia across whose territory the traffic passes, transit transport may or may not include transshipment, warehousing, breaking bulk or change in the mode of transport	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection

Soil	means any earth, ground or naturally occurring mixture of mineral and organic material in which plant may be grown	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Epidemic area	is zone of existing one or several species of published plant quarantine or dangerous pests	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Goods	includes plants or part of plant, plant products, seed or seed materials, which is being moved for commercial or other purposes	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Epidemic nest	is place where one or several species of published plant quarantine or dangerous pest are existed	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Plant products	means unprocessed, semi-processed or processed material of plant origin that, by their nature and or that of their processing, may create a risk for the introduction and spread of pests	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Manufactured materials of plant origin	Mean unprocessed, semi-processed or processed material of plant origin that, by their nature and or that of their processing, may create a risk for the introduction and spread of pests. These products are not include the material, packaged in can or bottle and may be not created a risk for spreading the pests	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Phytosanitary officer	refers to any person appointed for phytosanitary inspection	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Plant	means all members of the plant kingdom, whether living or dead, at any stage of growth or development, any part or parts of such, but preserved fruits or vegetable imported in hermetically sealed cans, tins, bottles or other containers. Such an expression also include, but is not restricted to, seed, grain, tuber, corm, bulb, root, stem, branch, stock, bud wood, cutting, layer, slip, sucker, rhizome, leaf, flower and fruits of plant	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Phytosanitary requirement	means the requirement of plant quarantine authority of any country to prevent against the spread of pest into the country by means of importing activities. This requirement is in accordance with the international Plant Protection Convention of 1951	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection

Phytosanitary certificate	refers to an internationally accepted certificate issued by the Plant Quarantine Authority after due phytosanitary inspection of goods prior to export from country of origin in accordance with the model prescribed in the 1951 International Plant Protection Convention. A PC is required for importation, exportation and transit of all goods objected to plant quarantine	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Phytosanitary certificate for re-export	refers to internationally accepted certificate issued by the Plant Quarantine Authority after due phytosanitary inspection of goods not originally in that country prior to export to the third country. A PCR is in accordance with the model prescribed in the 1951 International Plant Protection Convention. A PCR is required for non-direct importation or exportation of or transit of all goods objected to plant quarantine which is not original, is being transhipped or warehoused or broken bulk or changed in the mode of transport or taken phytosanitary treatment in the second country	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Phytosanitary treatment	includes selecting, eliminating, re-processing, and cleaning decontaminating, retaining, returning back to the place of origin or destroying plant quarantine materials	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Beneficial organism	means an organism which benefits plant growth and development by infecting, parasitizing or preying on plant pests. Such an expression includes, but is not restricted to, insects, arachnids, nematodes, fungi, bacteria, viruses and other microbial organisms. These beneficial organisms are known to carry on or in them other undesirable organisms (e.g., hyper parasitoids and entomopathogenic organisms) detrimental to plant growth and development	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection

Plant quarantine authority	means an authority in charge in phytosanitary inspection and has clearly organizational structure from the middle level to the plant quarantine stations. This authority refers to Plant Protection and Phytosanitary Inspection Office (PP & PSO) under the supervise of the Department of Agronomy and Agricultural Land Improvement of the Ministry of Agriculture, Forestry and Fishery	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection
Infection status	is level and character of plant quarantine materials bearing or containing with pests	The term is defined in the sub-decree No 15 ANRK-BK of 13 March 2003 on Phytosanitary Inspection

MEKONG RIVER COMMISSION

Terms of Reference for Short-term National Expert for Compilation and Analysis of National Practices and Instruments on addressing Inter-State contentious issues, differences and disputes over transboundary water and related natural resource management issues

Position:	National Expert for compilation of national practices and instruments;
Duty Station:	Home Country, with travel and meetings as directed;
Duration:	40 working days;
Reporting to:	the FMMP Coordinator

BACKGROUND AND OBJECTIVES

The Flood Management and Mitigation Programme (FMMP) is one of the MRC core programmes. The overall development objective of the FMMP is *'people's suffering and economic losses due to floods are prevented, minimized, or mitigated, while preserving the environmental benefits of floods'*. It consists of five components: 1. Establishment of the Regional FMM Centre, 2. Structural Measures and Flood Proofing, 3. Enhancing Cooperation in Addressing Trans-boundary Flood Issues, 4. Flood Emergency Management Strengthening, and 5. Land Management.

The FMMP-C3 aims to strengthen cooperation and enhance capacities of the MRC in addressing contentious issues, differences and disputes related to trans-boundary flood and related issues by generation and dissemination of the related knowledge and information; ii) building capacity and raising awareness; and iii) development of toolbox.

Among knowledge and information to be compiled, reviewed and disseminated, the national practices and instruments are very important for reference, capacity and awareness building as well as development of administrative tools for facilitating process of addressing contentious issues, differences and disputes.

It is proposed that four short-term national experts would be recruited to compile and review the relevant national data and information. The terms of reference are developed to set-out the requirements for the experts from the four countries.

DUTIES AND RESPONSIBILITIES

The national expert will work under close technical guidance and facilitation of the senior international legal adviser recruited by the FMMP. The national expert has the following responsibilities:

- Prepare a detailed proposal of consultancy services and submit the proposal to the NMC for recommendation to the FMMP for approval;
- Collect and analyse the national laws, policies and regulations, related to water and related natural resources management¹ in light of transboundary matters;

¹ This scope of work is beyond transboundary water as normally the national laws and regulations do not explicitly govern the international/transboundary issues

- Compile information related to practices and instruments for addressing inter-States issues, differences and disputes (directly or indirectly related to natural resources issues) applied by the Ministry of Foreign Affairs, other national and provincial agencies, including judicial matters and possible alternative dispute resolutions (ADR);
- Explore and document information related to the bilateral mechanism/practices currently applied for cooperation, negotiation and resolution of the transboundary issues (e.g. cooperation between Vietnam and Cambodia on the Se San issues, water utilization along the border...; cooperation between Lao PDR and Thailand related to the issues along Mekong mainstream between two countries).

The National Expert will be provided with Guidelines for the implementation of the consultancy services, being part of this assignment, prior to the signing of this assignment. The national expert will strictly follow the Guidelines, unless he/she is otherwise instructed by FMMP.

ITINERARY:

A lump sum of 40 working days is allocated for this activity (including two national consultations and two regional consultations). The indicative schedule for the assignment is as follows:

- | | |
|---|-----------------|
| • A regional informal technical meeting on the outline and guidelines | Early Jan 2007; |
| • Submission of detailed proposal : | Mid Jan 2007; |
| • Submission of the first draft report | Mid Feb 2008; |
| • National consultations on the report | Mar 2008; |
| • Revision and submission of the report | Apr 2008; |
| • A regional consultation on the report | Jun 2008. |

WORKING PRINCIPLES:

The National Expert should report to the FMMP Coordinator. He / she will work closely with the national FMMP coordinator, FMMP CTA, FMMP Component 2 & 3 Manager and the senior international legal adviser.

EXPECTED OUTPUTS

- Report on compilation of national practices and instruments (with all collected documents, reports and information as annexes);
- PowerPoint presentations of findings and recommendations;
- Record of meetings with national agencies, institutions and individuals.

QUALIFICATIONS

- A post-graduate degree in law, international relations, water resources or similar with at least 10 years of active experience;
- Having practical experiences in transboundary environmental issues, bilateral cooperation and negotiation for addressing transboundary issues, differences and disputes;
- Having knowledge about MRC;
- Good ability to cooperate in a dynamic international environment;
- Fluent in both spoken and written English.

Project Officer

Consultant

Name: _____

Name: _____

Date: _____

Date: _____

**The Legal Aspects of the Mandate of the 1995 Mekong Agreement for
Enhancing Cooperation in Addressing Transboundary Flood and Related Issues
- Draft Outline for National Experts In Preparing National Reports for
Inclusion in Manual/Explanatory Note**

Prepared by Dr. George E. Radosevich, FMMP International Water Law Consultant

The objective of the exercise is to produce a manual/explanatory note on addressing flood water and related issues, differences and disputes that will not only elaborate on topics raised and addressed in the Working Paper (WP) for transboundary matters, but go beyond and include the policies, laws, regulations, rules and practices applied by each MRC member country at the national levels. The manual/note is envisioned as a complementary and supplementary document to the WP that was reviewed by the MRC Joint Committee and agreed for publication to facilitate the MRC and member countries as a reference document in addressing and resolving transboundary flood and related issues, differences and disputes in accordance with the relevant provisions of the 1995 Mekong Agreement.

The appointment of National Experts in each MRC member country to work closely with the International Consultant in preparation of the draft manual/ explanatory note is considered a major contribution to take into account the requirements and practices of each member country so that each member country can better understand these requirements and practices in the event a transboundary-multi-state issue, difference or dispute should arise that would facilitate a good faith, equitable and timely addressing and resolution of the matter. Each National Expert should thoroughly read the WP and keep in mind the range of issues and topics therein discussed as may be applicable to variations in interpretations and applications as well as provisions and practices in each member country.

Further, provisions in the ToR should be referred to for objective and scope of work activities. Specifically, the ToR identifies four areas of duties and responsibilities.

“The national expert will work under close technical guidance and facilitation of the senior international legal adviser recruited by the FMMP. The national expert has the following responsibilities:

- Prepare a detailed proposal of consultancy services and submit the proposal to the NMC for consideration and facilitation which will send to the FMMP for approval;
- Collect, review and analyse the national laws, policies and regulations, related to water and related natural resources management¹ in light of transboundary matters;
- Compile information related to requirements, practices and mechanisms for addressing inter-States issues, differences and disputes (directly or indirectly related to natural

¹ This scope of work is beyond transboundary water as normally the national laws and regulations do not explicitly govern the international/transboundary issues

- resources issues) applied by the Ministry of Foreign Affairs, other national and provincial agencies, including judicial matters and possible alternative dispute resolution (ADR);
- Explore and document information related to the bilateral mechanism/practices currently applied for cooperation, negotiation and resolution of the transboundary issues (e.g. cooperation between Vietnam and Cambodia on the Se San issues, water utilization along the border...; cooperation between Lao PDR and Thailand related to the issues along Mekong mainstream between two countries).

The National Experts, appointed because they meet the specifications of the Terms of Reference, are requested not to confine their attention to only flood issue resolutions within their country, but to explore all possible applicable constitutional provisions, policies, laws, regulations, rules and administrative and judicial practices available for administrative and/or judicial addressing and resolving issues, differences or disputes within their country. This would include not just the traditional administrative and judicial provisions and practices such as administrative hearings and decisions involving concerned parties, one of which could be the agency involved or filing a complaint for judicial determination. It would also include alternative dispute resolution opportunities and practices found at national and international levels of law, such as facilitation, conciliation, negotiation, mediation, and arbitration that may be available in each member country. In this context, the National Experts are request to take into account the rights, interests and obligations of government and of water users and civil society. It is anticipated that the initial research and analyses will produce a large amount of materials and information that may not be included in the advanced and final drafts of the manual/note. But by taking a broad brush approach in exploring what is available, there is likely to be a number of innovative applications identified to facilitate addressing and resolving both national and transboundary flood water and related issues.

The draft outline below is the initial attempt to identify topics and areas of research and analyses at the national levels. During discussions of the international and national consultants, this outline will be revised, expanded upon and refined to insure the four areas of responsibilities set out in the ToR are adequately covered to meet the objective and output of this activity; this process will also be carried over into writing and finalizing the text of the manual/note.

National Report Outline

on Identifying, Addressing and Resolving Issues, Differences and Disputes

- I. Overview** – Broad areas/topics in which Issues, Differences and Disputes (IDD) have or may arise in ____ (Cambodia, Lao PDR, Thailand, Viet Nam), particularly concerned water and related resources development and utilization and protection of the environment.
- II. Constitutional Provisions**
 - a. Administrative, Judicial and ADR approaches
 - b. Rights and Obligations of Governments Agencies
 - c. Rights and Obligations of Citizens, Water Users, Stakeholders
- III. Specific/Special Policies, Laws and Regulations to Address and Resolve IDD**s
- IV. Water and Related Resources Laws Provisions to Address and Resolve IDD**s
- V. Administrative Law, Provisions and Practices to Address and Resolve IDD**s
- VI. Judicial System Laws and Practices to Address and Resolve IDD**s
- VII. Legal Provisions and/or Practices in Applying ADR Mechanisms to Address and Resolve IDD**s
- VIII. Practices and Efforts to Implement Provisions of the 1995 Mekong Agreement, MRC ROPs, Procedures and Other Directives or Instructions of the MRC/MRC programmes to avoid, mitigate or address and resolve IDD**s
- IX. References**
- X. Contacts**



Cambodia National Mekong Committee

PROPOSED WORKPLAN

**For Compilation and Analysis of National Practices and
Instruments on Addressing inter-State Contentious Issues,
Differences and Disputes in Cambodia**

Prepared for CNMC and FMMP

By
Khuon Komar

**Under the Mekong River Commission Terms of Reference for Compilation and
Analysis of National Practices and Instruments on Addressing Inter-State
Contentious Issues, Differences and Disputes Issues over Transboundary Water
and Related Natural Resources Management Issues**

Phnom Penh, 5 March 2008

Proposal & Work Plan

CONTENTS

1. Introduction
2. Transboundary Flood Issues
3. Objectives & outputs of Consultancy Services
 - 3.1. Overall objective
 - 3.2. Specific objectives
 - 3.3. Expected Outputs
4. Approach & Methodology
 - 4.1 General Approach
 - 4.2 Data and Information Requirement
5. Detailed Implementation Plan

Annexes:

- I) Terms of Reference
- II) Schedule for information collection and collation mission
- III) Draft proposed national consultation

1. Introduction

After the democratically general elections of 1993, the Royal Government of Cambodia (RGC) continues to follow its foreign policy of neutrality and non-alignment, peaceful relations, friendship, good cooperation with its neighbours within the region, as well as throughout the world regardless political regime, mutual benefit equality, respect each other's independence, sovereignty, integrity and non-interferences each other's affairs.

The RGC expresses its determination in maintaining its independence, sovereignty integrity of the Kingdom of Cambodia as mentioned in Article 2 of its Constitution. In an interview with the Executive Intelligence Review on 18 January 1999 Prime Minister Hun Sen clearly stated that there are many priorities for the government, but the most important one is peace.

As a member of the Mekong River Commission (MRC) has tried every effort to implement the signed 1995 Agreement aiming at cooperating with other members to coordinate and promote cooperation in all fields of sustainable development, utilization, management and conservation of the water and related resources of the basin.

The MRC FMM Strategy was approved by the MRC Council in November 2001 after the abnormal floods in 2000 and 2001. This led to the formulation and approval of the Flood Management and Mitigation Programme endorsed by the Council in November 2003 for its importance in terms of regional cooperation, trans-boundary implications and highly demanding integrated flood management and mitigation.

In accordance with the TOR, the proposed work plan is for the national expert to carry out his activities in compiling and analyzing best practices and instruments in addressing contentious issues, differences and disputes on trans-boundary flood issues and related natural resources as advised by the Senior International Legal Advisor at the national consultation with CNMC on 29 February 2008 in Phnom Penh.

2. Transboundary Flood Issues

The MRC has carried out many works to identify transboundary impacts, including in Fishery Programme, Water Utilization Programme (WUP), Basin Development Plan (BDP) and Environment Programme (EP). To serve their specific objectives, each programme tends to define transboundary issues or impact slightly differently. For example, WUP (2002) defines it as: *a measurable impact originating from a place in another country. It is important to note that not all transboundary impacts are necessary negative.* With its broader basin planning and development objective, BDP defines transboundary issues as those development planning issues including development options and transboundary impacts which benefit and affect more than one country

and basin-wide,¹ stressing that the transboundary issues must be analyzed and addressed at the basin-wide level, but involving the provincial people and other key stakeholders of the sub-areas to provide their views.

The FMM Strategy categorizes the flood management issues basing on the extent of their impact (positive and negative) that can be of three types - National, Regional and Trans-Boundary Issues.² It further defines that national flood impacts are impacts generated and experienced solely in a single country – remain that country’s responsibility.

According to the Cambodia’s report on identification of trans-boundary flood issues at national level, the flood mechanism in the Cambodian floodplain can be summarized as follows:

- ◆ High discharge caused by heavy rains and/or swift release/movement of water from the upstream in excess of the river capacities;
- ◆ Heavy local rainfall synchronizing with the upstream high discharge;
- ◆ Reduced floodplain capacity (storage and conveyance efficiency) & flow obstruction (road and dykes, silting up of river bed...);
- ◆ Higher flooding risk if peak discharge from major tributaries & mainstream flow from consecutive depression and typhoons, and heavy local rainfall, are synchronized.³

The above observed factors in Cambodia are believed to have its both local and transboundary nature of cause and effect. The MRC BDP sector review (2002) maintains that, with respect to flood management and mitigation, areas that are most severely affected by flooding are Cambodia and Viet Nam, the downstream countries. In general, what happens in an upstream country may affect flooding conditions in its downstream neighbor. Land management, structural measures and in-stream modifications are believed to have the potential to influence flooding in the downstream and upstream portions of the MRB in Cambodia. For instance, water release from Yali dam project was believed to contribute to floods in Se San river in North-east of Cambodia⁴. Similar effects may be felt by the construction of flood control dikes in the Mekong Delta along Cambodia-Vietnam border, as construction might slow down the cross border outflow rate of the rivers and the floodplains. A report commissioned by ADB argued in that favour:

- The construction of flood control system along the Vietnam and Cambodia border, along the Vinh Te - Vinh An - Tan Thanh - Lo Gach canals as well as the “closed” areas with the year-round flood control embankment could cause increasing inundation depth and duration in the Cambodia side. At the same time, it could change partly flow regime in

¹ MRC, 2004. DRAFT BDP GUIDELINE Sub-area Transboundary Meeting, Basin Development Plan.

² Basin Development Plan, 2006. Summary: MRC Strategy on Flood Management and Mitigation, in Planning Atlas of LMB, MRC Secretariat.

³ Supra note 1.

⁴ MOWRAM & CNMC, 2003. National Sector Review 2003: Flood Mitigation and Management, Basin Development Plan, Mekong River Commission Secretariat.

the Cambodia side. These problems would be reduced if there were a good international cooperation.

- The construction of resident protection areas along the Vietnamese and Cambodia border would affect to the flow regime and fish migration current from Cambodia to Vietnam.
- The construction of irrigation and drainage along the border would reduce water levels on the Cambodia's side that is one of implicit contradiction in using of water resources.
- The construction of hydraulic works in main tributaries would change the ecosystem along the Mekong River as well as fresh water fishery immigration currents that would reduce sources of fishery for Cambodia.
- The increase of water abstraction of the upstream countries would affect to the low flow regime of the Cuu Long Delta in Vietnam that would cause more serious salinity intrusion and acid water problems than that of the present.⁵

3. Objectives & outputs of Consultancy Services

3.1. Overall objective

The FMMP overall development objective is *"people's suffering and economic losses due to floods are prevented, minimized, or mitigated, while preserving the environmental benefits of floods."* Many consultations with NMCs have been carried out by the FMMP on the approach and methodology to implement its Component 3.

Accordingly, the overall objective of this assignment is to assist the CNMC in compiling and analyzing the national best practices and instruments to address inter-State issues, differences and disputes over trans-boundary water and/or related natural resources issues.

2.2. Specific objectives

In line with the TOR for the National Transboundary Flood Issues Expert (**Annex I**), the national expert is commissioned to assist CNMC in elaborating and compiling national approaches for addressing the differences (between riparian states) that may arise from such issues.

It also details the main duties and responsibilities of this national consultancy services as follows:

- ✓ To develop proposal for the consultancy services and detailed work-plan to be endorsed by CNMC and approved by FMMP;
- ✓ Collect & analyze national laws, policies and regulations related to water & related

⁵ Sub-Institute of Water Resources Planning & VNMC, 2003. Report: Analysis of Sub-Area 10V - Basin Development Plan, MRC Secretariat

resources management in light of TB matters

- ✓ Compile information related to practices and instruments to address inter-States issues, differences and disputes; and
- ✓ Explore & document information related to bilateral mechanisms/practices currently applied for cooperation, negotiations and resolution of the trans-boundary issues

3.3. Expected Outputs

In line with the terms of the TOR, it is understood that the assignment would deliver the high quality outputs as follows:

- ✓ Report on compilation of national practices and instruments;
- ✓ Power point presentation of finding and recommendations; and
- ✓ record of meeting with national agencies, institutions and individuals.

4. Approach & Methodology

4.1 General approach

Cambodia went through three decades of civil war. The same methodological framework of this study was already designed by the SILA for the recruited national expert of relevant NMC. In line with the TOR, the present work would focus on the legal aspect and practices carried out by the member States in solving issues, differences, and disputes on concerned transboundary flood issues.

4.2 Data and Information Requirement

The study will be on policy analysis approaches including:

- i) the governmental level and provincial level using official documents and relevant policy documents;
- ii) Practices applied at governmental, provincial and local levels; and
- iii) relevant data and information collected through a series of field missions, extensive review of literatures, and interviews with key stakeholders. (The data and information collection is planned to be carried out in some provinces along the border with Viet Nam and Laos only as they are very much related to flood issues in the LMB.)

A series of literature reviews and field campaigns are carried out during the early stage of the consultancy services. The objectives of the review is to study the government's policy and available legal documents, as well as those related to the practices in solving issues,

differences and disputes on transboundary water related issues.

5. Detailed Implementation Plan

As the current assignment needs to be in many ways synchronized and coordinated with similar assignments in other four MRC countries, the work plan has been proposed as follows:

Assignment Log Frame

Indicators	Who is responsible	Duration
Purpose Indicator: compilation and analysis of national best practices and instruments on addressing issues, differences and disputes on, Transboundary flood issues and related natural resources under FMMP Component 3.	National expert (NE) in close consultation with CNMC management and FMMP national coordinator takes responsibility for producing high quality documents as required under Outputs.	40 days
Output indicator 1: National consultation to introduce the draft content outlines for the draft manual by Senior International Legal Advisor	The main idea on the duty of the NE has been guided to prepare the draft report on compilation and analysis of national practices and instruments.	01 day
Output indicator 1: Proposal and detailed work plan of the consultancy services	NE develops it for endorsement by CNMC and approval by FMMP	04 days
Output indicator 2: Synthesis Report on Data & information collection and analysis	NE assisted by FMMP NC conduct field mission to RCFMM, CNMC, LAs and selected provinces. NE analyses and synthesizes collated data (Annex II – Data/information collection field mission)	10 days
Output indicator 3: Draft report developed	NE prepares the draft report	12 days
Output indicator 4: National consultation on the proposed draft report	Three resource persons (RP) recruited to assist NE in (Annex III - draft national consultation workshop programme).	02 days
Output indicator 5: Revision of Draft Report	NE revises the draft report in lines with the outcomes of the national consultation	04 days
Output indicator 6: Final draft Report submission and revision completed.	NE submits the final draft to CNMC and FMMP for comment. NE then does the revision accordingly and makes final submission to CNMC and FMMP by first week of May 2008.	03 days
Output indicator 7: Assistance to CNMC delegation at bilateral/regional workshop on compilation and analyzing of national practices and instruments to address inter-States issues, differences and disputes over trans-boundary water and/or related natural resources issues.	NE develops debriefing notes & power point presentations for consulting & presenting at regional/bilateral meetings.	04 days

Data Collection and Analysis Mission

A	Name of traveler	Comments
1	Mr. Khuon Komar, national expert	
2	Mr. Hak Socheath, National FMMP coordinator	

B	Tentative Schedule	
Day/time	Activities Description in Phnom Penh	
Wed., 19 Mar 08	Review data and information at CNMC & MOFA	
14.00-15.30	Meet with MOFA	
Thu., 20 Mar 08		
08.00 - 09.30	Meet with MPWT	
10.00 - 11.30	Meet with Ministry of Environment	
14.30 - 15.30	Meet with Ministry of Land Use	
16.00 -17.30	Meet with Ministry of Agriculture	
Fri., 21 Mar 08		
08.00 - 09.30	Meet with MOWRAM	
10.00 - 11.30	Meet with Min Industry, Mines and Energy	
14.30 - 16.30	Meet with NCDM	
	Activities Description in Provinces	
Sun., 23 Mar 08		
06.00 - 18.00	Leave PNH for Ratanakiri (Banlung) by Car	
Mon., 24 mar 08		
07.30 - 10.30	Meet provincial, PCDM and MOWRAM key members in Banlung, Ratanakiri	
10.30 - 14.00	Leave Banlung for Stung Treng by Car	
14.30 - 16.00	Meet provincial, PCDM and MOWRAM key members in Stung Treng	
16.00 - 18.30	Leave for and overnight in Kratie	
Tue., 25 Mar 08		
08.00 - 11.30	Meet provincial, PCDM and MOWRAM key members in Kratie	
11.30 - 17.30	Leave Kratie for Kompong Cham	
	Overnight in Kompong Cham	
Wed., 26 Mar 08		
07.30 - 10.30	Meet provincial, PCDM and MOWRAM key members in Kompong Cham	
10.30 - 14.00	Leave for Prey Veng	
14.00 - 16.00	Meet provincial, PCDM and MOWRAM key members in Pey Veng	
16.00 - 18.30	Leave for Svay Rieng (overnight in Svay Rieng)	
Thu., 27 Mar 08		
08.00 - 11.00	Meet provincial, PCDM and MOWRAM key members in Svay Rieng	
11.00 - 14.00	Leave for Kandal	
15.00 - 17.30	Meet provincial, PCDM and MOWRAM key members in Kandal	

Work Plan Proposal: disputes resolution on flood Issues*Latest update: 5 March 2008*

	Leave for Takeo (overnight in Takeo)	
Fri., 28 Mar 08		
08.00 - 10.00	Meet provincial, PCDM and MOWRAM key members in Takeo	
Rest of the day	Return to Phnom Penh and view data and information at CNMC	
C	<i>Cost Estimates in US\$</i>	<i>Total</i>
DSA	US\$36 x 02 person x 05 days	360
Car	MRC RFMMC provides transport	
	<i>Grand total</i>	360

Draft National Workshop on Draft Report

A	Tentative National Workshop Schedules	<i>Resource person</i>
Day 1		
08.00 - 08.30	Opening Session	H.E. Sin Niny
08.30-09.00	Setting scene: Objectives of FMMP component 3; Purpose of Workshop, Progress since last national meeting	Hak Socheat
09.00-09.45	Role of 1995 and MRC in flood management	H.E. Sin Niny
09.45-10.15	Coffee Break	
10.15-11.30	Flood characteristics and Mechanism in MRB and Cambodia	Mr. Sok Saing Im?
11.30-12.00	General discussion	
12.00-13.30	Lunch break	
	Working Component of Workshop	
13.30-14.30	Presentation of findings	Khuon Komar
14.30-15.00	Group discussion: Flood management constraints & opportunities	
15.00-15.30	Coffee break	
15.30-16.30	Presentation of draft report	Khuon Komar
16.30-17.15	General discussion	
15.30-17.30		
Day 2		
08.00-08.15	Review of day 1	Hak socheat
08.15-10.00	Group Discussion: Cambodia's best practices in solving issues, differences and disputes	Khuon Komar
10.00-10.30	Coffee break	
10.30 - 11.30	Group presentation of outcomes	
11.30-12.00	General Discussion	H.E. Sin Niny (Chair)
12.00-13.30	Lunch break	
13.30-15.15	Summary of general discussion on the proposed draft	Khuon Komar
15.15-15.30	Next Step and closing workshop	H.E. Sin Niny

B	Proposed participants	
1	key officials of CNMC	6
2	officials from MOWRAM (Dept. of water utilization, DHRW)	3
3	officials from MAFF (Dept. of planning, Fishery Administration)	2
4	official from MPWT (infrastructure)	2

Work Plan Proposal: disputes resolution on flood Issues

Latest update: 5 March 2008

5	official from Ministry of Land use	3
6	official from MoE	2
7	official from MOFA	2
8	official from NCDM	3
9	official from MINE	2
10	official from planning	2
11	official from MRD	2
12	official of CDC	2
13	official from Min Justice	1
14	participant from FMMP	1
15	national consultant	1
16	Resource person	3
	Total	37

C	Cost Estimates	US\$
1	Bus transportation (40 seats) (PP - Kompong Cham and Back): US\$ 140 x 2	280
2	DSA: 36persons x US\$ 36 x 2 days	2,664
3	Coffee break: 14 persons x US\$ 2 x 4 times	296
4	Honorarium of resource persons (US\$50x2days x3persons)	300
5	Reproduction of workshop and training materials (US\$ 05x37 persons)	185
	Grand total	3,725

**Report on the Consultations Made with Some Institutions
And on the Fields Visits to Some Provinces**

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According to the Terms of Reference for short-term national expert for compilation and analysis of national practices and instruments on addressing inter-state contentious issues, differences and disputes over trans-boundary water and related natural resources management issues and the draft work plan to implement such terms of reference, the selected national expert have made some interviews with some institutions in Phnom Penh with the assistance provided by the Cambodia National Mekong Committee (CNMC). Apart from the interview made, the national expert further, accompanied by one representative from CNMC went to some provinces that border with Lao People's Democratic Republic (Lao PDR) and the Socialist Republic of Viet Nam. The transportation for the trip outside of the Capital City was provided by the Regional Center for Flood Management and Mitigation in Phnom Penh.

The trip to provinces was planned to be conducted one month earlier, but due to some misunderstandings, it was delayed until mid-April. The intention to have the report on trans-boundary flood issues consultative meeting (field trips and consultation report – Appendix III: Synthesized mission report) prepared by Sok Saing Im and Pech Sokhem as reference for this compilation and analysis is correct. The paper prepared by Mr. Sokhem and Mr. Saing Im in June 2007 was on identification of trans-boundary floods issues at national level within Cambodia. But it is necessary to be clear that the purpose of this TOR related to the practices and instruments regarding the resolution of inter-sate differences and disputes. In this regard, the interview or the consultation with concerned authorities may be difference. national report on identification the compilation and analysis of national practices and instruments on addressing inter-state contentious issues, differences and disputes over trans-boundary water and related natural resources management issues.

A- Meeting with some Institutions in Phnom Penh:

1. Ministry of Foreign Affairs and International Cooperation (MOFA-IC):

- a. Interview with HE Mr. Hem Saem, Advisor to the Deputy Prime Minister and Minister for Foreign Affairs and International Cooperation (MOFA-IC), and Director for the Asia-1 Department, MOFA-IC, on 19 March 2008.

The questions were focused, in general, on bilateral cooperation and relations with neighboring countries, and especially with individual countries Laos, Thailand and Viet Nam. How to resolve the issues or problems or differences between the two countries?

- foreign policy of Cambodia
 - Cambodia-Laos, Cambodia-Thailand and Cambodia-Vietnam relations
 - Lesson learnt from bilateral cooperation with neighboring countries in resolving issues or differences.
-
- In general, it follows the policy of the government as set out by Samdech Prime Minister Hun Sen based on international law and practices;
 - So far the relationship between Cambodia and Laos, as well as between Cambodia and Vietnam are good. We have never had any particular dispute since we have long

cooperation. Many cooperation agreements have been signed, in the field of economic, cultural, educational, etc...

- With Thailand, the relationship was very good, although we have some problem when the Thai Embassy in Phnom Penh was hit by demonstrators in 2003, during Prime Minister Thaksin Shinatwatra period. This relationship was down during the period of new Prime Minister Surayuth, the government established after the Coup d'Etat in 2006. Many activities of bilateral cooperation were slow or suspended.
 - Cambodia-Thailand Joint Commission for bilateral cooperation in the fields of economic, border issues, cultural and others were suspended due to Thai politics.
 - Issues along the border between the two countries occurred very often.
- The tri-party economic cooperation strategy initiated by Prime Minister Hun Sen in 1999 among Cambodia, Laos and Vietnam are on the right track. The cooperation is part of the Greater Mekong Sub-region Cooperation focusing on the provinces located along the border of the three countries (3 Cambodian provinces, 3 Lao provinces and 4 Vietnamese provinces) in the fields of economic, trade facilitation, tourism, clean water, education and small hydropower projects.
- The four-party cooperation, Ayayewady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS) was established in 2003 under the initiative of Thai Prime Minister Thaksin is another forum for the multilateral cooperation aiming at reducing the gap of development among the member countries. It was also planned to have a single visa, called ACMECS-single visa, for this sub-region as well. So far Cambodia and Thailand have already issued the visa for tourists as agreed at the ACMECS meeting.
- We also have the cooperation under the framework of the GMS to facilitate the economic development among the member countries.
- In bilateral relations we have different forum from national down to local levels, as well as the forum implemented by the ministry of defense. With Laos, we cooperate against the illegal log trafficking, drug trafficking, etc. On border issues, 86% of border demarcation has been made so far. The connection between road No 7 of Cambodia and Road No 13 of Laos was completed. With this good access, we observe that the numbers of tourist who cross the international border checkpoint, Don Kralor (Cambodia) - Veun Kham (Laos) are increasing.
- In the bilateral cooperation with Vietnam, we are now preparing the document related to the use of water by both sides along the border. The discussion, led by HE Mr. Sar Kheng, Deputy Prime Minister and Minister of Interior, was also involved with the provinces along the border with Vietnam. In addition, cooperation between the two provinces of both countries along the border is another key structure to facilitate the cooperation at provincial levels. They meet. Below provincial levels, there are also district and commune levels.

b. Meeting with Mr. Ker Vicseth, Deputy Director, Legal and Consular Department, MOFA-IC, on 19 March 2008.

The questions were raised in relations to practices made in international relations and agreements signed with neighboring countries, especially the way that Cambodia deals with its neighboring countries on issues or differences/disputes.

- Besides national levels which are the government level, MOFA-IC, or other related ministries, Cambodia established three steps of mechanism at local levels, Provincial, district and communal levels. Furthermore, the Royal Cambodian Armed

Forces established as well its cooperation with their Thai counterpart aiming at cooperation in the field of security matters along the border.

- The Cambodia-Thailand Joint Border Commission meet once a year in order to review activities carries out, discuss the present issue of concern and make future plan for further cooperation.
- The Cambodia-Thailand Meeting of the governors of the provinces along the border is under the leadership of Deputy Prime Minister and Minister of Interior Sar Kheng.
- Now MOFA-IC (Legal and Consular Department) is preparing an agreement on the use of water along the border between Cambodia and Vietnam to be discussed in near future.

2. Ministry of Environment

Consultation with Mr. Heng Nareth, Director of Department for Pollution Control, Ministry of Environment, on 29 March 2008.

The questions were focused on available practices and mechanisms applied by the Ministry and their local authorities to address issues, differences and disputes over transboundary environmental matters.

- The Law on Environmental Protection and Natural Resources Management was adopted by the National Assembly promulgated by the King on 24 December 1996. It became the basis for any work in relation to environment.
- Based on this law, some sub-decrees were signed by the Prime Minister such as sub-decree on:
 - Environmental Impact Assessment, signed on 11 August 1999;
 - Solid Waste Management, signed on 27 April 1999;
 - Water Pollution Control, signed on 06 April 1999, etc...
- The Department for Environment has also been established at provincial and municipal levels. At local levels, they work closely under the provincial/municipal authorities in implementing the tasks as set out by the government and the ministry.
- At regional level, we also work with other ASEAN member States in dealing with environmental protection.
- For the reference and research the available documents are provided for your further study.

3. Ministry of Water Resources and Meteorology (MOWRAM):

Interview with HE Mr. Bun Hean, Secretary-General in charge of technical affairs, Ministry of Water Resources and Meteorology (MOWRAM), on 29 March 2008.

The questions were raised in relation to mechanisms applied within the framework of MOWRAM and its provincial network to deal with issues, differences or disputes over trans-boundary water and related natural resources managements issues.

- MOWRAM prepared the policy on water resources and its development and conservation. In relation to the cooperation or any issue dealing with water and

related water resources within the framework of the MRC, we work through the Cambodia National Mekong Committee (CNMC) which is the coordinating body at national level for Cambodia. In this context it would be most useful if further question in relation to MRC be raised to CNMC.

- As well, the Se San case which needs discussion with Vietnam, CNMC has been instructed to conduct the discussion with its counterpart with good cooperation. After the discussion, CNMC reported the results to the Chair of the CNMC (who is currently the Minister of MOWRAM) for further report to the Council of Minister if required. In practice, the two sides meet once per year to discuss all issues of concern and try to find the way to resolve any difference or issue. The representative from the province concerned may be also invited to participate in the said delegation.
- Currently the issue regarding the use of water along the border between Cambodia and Vietnam is pending for further discussion. Both sides would like to have an agreement signed by both sides so that it would facilitate the implementation of the local authorities along the border. In this connection, we need to carefully study and prepare.
- The sister agreement between the Cambodia-Vietnam provinces along the border is currently only a temporary mechanism in dealing with water use along the border. Once the said agreement was agreed upon by the two parties it would be easier in terms of water use along the border.

4. National Committee for Disaster Management (NCDM):

Interview with HE Mr. Ponn Narith, General Secretary, National Committee for Disaster Management, on 24 March 2008.

- At national level, NCDM is chaired by Samdech Prime Minister Hun Sen and Mr. Nhim Vanda is the Vice-Chair. It is different from Viet Nam which put disaster issues under Ministry of Natural Resources and Environment. NCDM has five departments.
- At provincial levels, the governor of the province is the Chair of the Provincial Committee for Disaster Management (PCDM), with a permanent Secretary who is in charge of daily work of the committee.
- At district levels, the Chief of the district is the Chair of the committee. The chief of the district cabinet is the permanent secretary of the committee. The lowest level is commune level, where the Chair is the Head of the commune itself.
- The activities that NCDM has been involved so far are on drought and flood to mitigate the hazards, before, during and after the disaster. Two kinds of flood occurred, caused by the Mekong flood and by the rain (such as in Kompong Speu and Pursat). It is to note that the serious flood in history were in 2000, 2001 and 2002 which damaged people's property and others. Since those years not more serious flood observed.
- The low flood (2004) also affected the fish production. In general, people along the Mekong River believe that normal flood is good for their crop.
- Trans-boundary flood occurred Preah Vihear and Ratanakiri provinces of Cambodia in 2007. It was not from the Mekong, but from the rain from Laos. The release of water from the Yali Dam in Viet Nam cause also flood at the downstream in Ratanakiri province of Cambodia.
- Experiencing the damage caused by flood in 2000, Kandal Province of Cambodia and An Giang Province of Viet Nam have a close cooperation in building canals as mechanism to mitigate flood.

- For instance, Pre Veng province of Cambodia and Don Thap province of Viet Nam agreed to exchange information on transboundary disaster, including flood.
- In general, we have good experiences in exchanging of information between provinces along the border with Viet Nam. With this we never had any dispute or difference with our counterpart. According the protocol we have signed with Vietnamese counterpart, we meet every year alternatively.
- For the issues related to activities at local levels you may find out with the NCDM network at the place you will visit as NCDM already informed its network on your planned visit to their relevant offices. They would provide you more on how they work within the framework of the province.

5. Cambodia National Mekong Committee:

Interview with HE Mr. Sin Niny, Vice Chairman, Cambodia National Mekong Committee, CNMC office, Phnom Penh, Cambodia on 9 May 2008 at 9.00am:

Within the framework of the MRC, it would be most grateful if you can provide some views on:

- Bilateral relations with neighboring countries?
- Best practices and available mechanisms in dealing with issues, differences or disputes?
- Experiences, lesson-learnt, both negative and positive gained from such cooperation within the country as well as in the framework of the MRC family?

Some points taken from the interview:

- First we have to talk about the role of CNMC in accordance with the Sub-decree on the establishment of the Cambodia National Mekong Committee, in which its role in coordinating with line ministries/institutions, as well as cooperation with all NMCs in the framework of the MRC family.
- With regard to projects to be carried out within the MRC framework, CNMC is the only government representative in coordinating with relevant parties. So far, CNMC has carried out its tasks in accordance with the law.
- Some positive and negative experiences can be illustrated regarding the role of CNMC within the national context:
 - From the side of the development partners, who support the MRC projects, some partners did not recognize the coordinating role of the CNMC. They just implement the project by directly contact or work with the concerned line ministries/institutions. Seeing this lack of understanding and cooperation, CNMC used to invite the Representative of the Embassy concerned for discussion and clarification. We could then provide them with a clear advice on the role that CNMC would play. After receiving instruction, the communication seems a bit change, but not yet in a good way. The reasons behind, perhaps, the representative of the concerned project believes that it would take long process and time if they work through CNMC. To be short, they just go directly to the concerned institutions. This is not, for both the donor and the recipient, a good practice at all.
 - If we talk about projects within the framework of the MRC, CNMC, as mentioned in the law, is the only coordinating body within the country and with other MRC member countries. Bad practice on the line ministries/institutions side could also be seen when they communicate directly with the donor without using CNMC channel. They may say that it would save time if they directly communicate or discuss with the donor. Some may also believe that, as a

Ministry within the government, why should they have to do such work through CNMC. But they ignore the law or regulations in that case. For instant, one government institution (no need to mention the name), worked closely with donor ignoring the role and functions of CNMC. When CNMC complained, they did invite CNMC representative to attend the discussion/meeting as observer. We refused the invitation. When they came to us for clarification, we tried to explain them according the regulations set by the government. Since the end of 2007, they know the roles of CNMC better.

- Within the framework of cooperation with neighboring countries, some experiences can be highlighted as lesson learnt:
- All MRC programs are multilateral mechanisms in dealing with all relevant issues for the MRC members. Through the MRC programs, CNMC work closely as equal partner with other member countries. CNMC, then, has nominated officers as coordinators or team member as the programs required. Those coordinators or team will work, together with other MRC members, with MRC programs as agreed.
- To strengthen and consolidate the cooperation and relations with other NMCs, we have signed a Memorandum of Understanding (MOU) with Vietnam National Mekong Committee (VNMC). The MOU deals with issues relating to both bilateral and multilateral – within the MRC context. Based on the signed MOU we have also discussed the Se San case.
- Cambodia proposed, as well, to Laos National Mekong Committee (LNMC) if they are interest in concluding such MOU for the strengthening and consolidating of cooperation and relations between the two NMCs. No reply has been obtained so far. But it is to note that LNMC signed similar MOU with VNMC. However, we have cooperation at provincial level between Stung Treng Province of Cambodia and Champasak of Lao PDR. Both sides met and signed the Minutes of the Meeting on Transboundary Wetland Management in Champasak Province of Lao PDR and Stung Treng Province of Cambodia on 24 March 2006. The specific issues/activities regarding fisheries, tourism, dolphin pool and development managements.
- In addition, the Government of Cambodia established a Joint Coordinating permanent Committee on Dams, Streams and Canals along the Border Areas (dealing with Laos, Thailand and Viet Nam). The objective of this particular committee was to assist the government in dealing with issues relating to the construction of dams, and other water-related works along the streams or channels at the border area. Vice Minister for Economic and Finance is the Chair of this committee, to which CNMC is also a member. The committee is now preparing the draft law/regulations on water utilization along the Cambodia-Vietnam border for the consideration and perhaps discussion by both parties in future. We observe that both sides implement the MOU satisfactorily. The meeting is organized alternatively once every year. From Cambodian side, financial related issues may sometimes caused the delay of the planned meeting. Both sides need to improve their inter-ministerial communication for better cooperation in future.
- Viet Nam established the similar body as Cambodia's partner. The Chairmanship is the Electricity of Vietnam.
- Another existing mechanism is the Cambodia-Vietnam Joint Commission for Bilateral Cooperation on Cultural, economic, education, scientific and technology.
- Good lesson-learnt from CNMC-VNMC cooperation:
 - Based on reports from the province, as well as that from NGOs, regarding negative impacts to the area downstream of dams built in Vietnamese side, we discussed with VNMC to find out a proper solution benefits to both sides. It is

to note that Yali Dam was built before the signing of the 1995 Mekong Agreement. Thus, according to Article 36(A) stating about retroactive effect, the dam is an existing structure. But the release of water needs to follow the 95-Mekong Agreement. As agreed by both sides, Vietnamese needs to inform relevant Cambodian authorities (those are CNMC, MOWRAM, and DWRAM) one week prior to the date of any release of water from the reservoir.

- Based on the MOU both sides agreed that whenever the upper stream country wishes to build the dam, it is suggested that the EIA at the downstream of the dam should also be carried out. Thus, a joint technical team was also established for this purpose with the participation of the Ministry of Environment, MOWRAM, CNMC, etc....
- Regarding water fluctuation at the downstream below the Vietnamese dams, CNMC worked closely with VNMC to resolve the issue. With its goodwill, Viet Nam kindly spent its own budget to build a regulating reservoir before flowing into Cambodia to ease the fluctuation problems in Cambodian side. Cambodian delegation visited the site (regulating reservoir) hoping that once the reservoir is built the water fluctuation problems will be resolved.
- In response to question raised regarding the notification on bridges building both between Laos and Thailand, and the bridges built and being built in Cambodia, it is observed that no notification made for the first bridge built across the Mekong mainstream in Laos. Following this practice, Cambodia, especially the Ministry of Public Work and Transport, made no notification on the bridge built and being built across the mainstream.
- Before concluding the interview, he further provides some experience and lesson-learned from his 10-day visit to the Columbia River in the US during the end of April 2008. There are more than 400 dams along the Columbia River in the US. But when the dams were built, they based only on sectoral planning or interests. There was no integrated planning at those times. Although after the dams built the development was great, the negative impacts were also found greater, especially of fisheries. The built dams were spent at only millions dollars, but the recovery at billions dollars. In this regard, we need to develop our country through dam building, but integrated planning is needed.
- He further informed that the Government of Finland provides the MRC 1 million US dollars for a preparation a forum on Dams to be organized in 2008. It would a good forum for all institutions, organizations, private sectors and stakeholders to participate in the discussion.

B- Field visits to provinces:

1- Kompot Province (on 02 April 2008):

- Mr. Souk Sarath, (Tel. 012 685 769, Fax/Ph. 033 932 894) Chief of provincial cabinet, welcomed our team as scheduled. Based on the questions we raised, he informed that Kompot province of Cambodia and Qiang Giang province of Viet Nam has signed a sister agreement which facilitate the cooperation between the two parties on all fields. If there was something occurred that may cause a transboundary impact, such as bird flue, they agreed to inform each other for prevention or mitigation activities. With such information, the provincial authority further inform to the district concerned for their action and take appropriate measure to prevent or combat accordingly.
- As lessons learnt from the practice or implementation of such sister agreement, Kompot province of Cambodia received a lot of assistance from Vietnamese side, such as materials, technique and also training. To implement the government's policy in

prohibiting all traffic of birds and/or bird product across the border and based on their mutual understanding, both sides prohibited all traffic of birds and/or bird products from one side to another. We also appreciated the seriousness of our Vietnamese counterpart.

- Since the time of the State of Cambodia, the close cooperation between the two sides has been maintained and strengthened. If there is any important event in one side, the other side will send a delegation to felicitate its counterpart. For instance, before the Khmer New Year, on 12 April 2008, a delegation from Qiang Giang Province of Viet Nam will come to Kompot to felicitate its counterpart.
- On demarcation issues, we have never had any dispute with our counterpart. We observed that this matter went on smoothly. If there is something misunderstood, we sit together and discuss to find the resolution, based on the laws, friendly cooperation and mutual understanding.
- Flood may cause some negative impact to our side since in Viet Nam they built bank protection. When they close the gate, we may be affected by the flood until they open the gate. It may also take some time. That is the only one transboundary issue that I may observe in Kompot Province.
- It is to note that in Viet Nam, they manage their water resources in a scientific manner than in Cambodia. They can regulate and manage the water and its natural resources, while in Kompot we cannot.

2- Takeo Province (on 02 April 2008):

- We met Mrs Kea Sophou, Deputy- Chief of the provincial cabinet (Tel. 012 692730)
- Takeo province of Cambodia signed a sister agreement with An Giang province of Viet Nam for the bilateral cooperation on all fields. The two sides alternatively meet twice per year to review the activities carried out under the agreement and discuss issues of concern as well as future cooperation.
- It is to note that Takeo province received a lot of assistance from Vietnam on the agricultural and health care sectors. For instance when the spread of insects that destroyed the crop, especially rice in Kirivong district of Takeo province, Vietnam sent their experts and technical staff to assist us against such insect invasion. They also, besides some materials, provided with training to Cambodian staff and people on how to prevent and combat against such destructive insect.
- In the field of health care, Vietnamese experts and doctors came to help Cambodian people also, in particular, eye care and the operation of abnormal mouth.
- Regarding flood matter, both sides may have the same problem. In 2000, 2001 and 2002, the flood destroyed both sides, but Viet Nam has a lot of experts and technical staff to cope with such flood or other disaster event.
- At district levels, each district along the border signed also a cooperation protocol for their district level cooperation. They meet also twice per year with the participation of the head of the communes concerned. The districts that border with Viet Nam are Kirivong (bordering with two provinces of Viet Nam, An Giang and Qiang Giang), Mongkol Borei, Koh Andeth, and Borei Chulsa. After the meeting they report to the provincial level.
- Normally in terms of information exchange, both sides officially inform each other in written form. Each side may inform its counterpart on any event occurred in its areas so that the other side may take appropriate measures accordingly. So far we may say that our cooperation with Vietnamese side, based on the agreement signed, is very good in all fields, including security issues along the border.

3- Svay Rieng Province (on 03 April 2008):

- Mr Sam Vuth, Chief of provincial cabinet and Mr. Men Tha, permanent secretary for the Provincial Committee for Disaster Management (PCDM) met with our team on 3 April 2008 from 9am to 10.30am.
- The representative from PCDM kindly informed the team that the Chief and Vice-Chief of PCDM are respectively the Governor and Vice-Governor of the province. The Head of all departments in the province are member of the committee. At district levels, similar mechanisms have been established with the head of the district and deputy head of district are respectively chiefs and vice-chiefs of the committee at district level.
- The district which are bordering with Viet Nam are Svay Chhrum (5 communes), Kompong Ro (5 communes), Chantrea (2 communes). As practice, in terms of cooperation with neighboring counterpart, when any disaster or event which may be a transboundary concern takes place in the area, we keep informed each other for their preparation so that each side can take appropriate measure accordingly.
- In case of disaster event occurred (of course inside the province we have our own mechanism, both national and local) we may assist each other according to our possibility. In general we always receive the support from Vietnam as we are poor in terms of technique and material to cope with disaster event.
- Two ways of exchange of information have been used so far, in written form and by radio-communication or telephone. When Cambodia was hit by drought, Vietnamese side sent their team to assist us. The communication between peoples of both sides is also very good. They may cross the border to the other side to participate in any national and/or cultural event.
- At provincial level, we meet twice per year, as well as for the district levels. At communal levels, they meet quarterly and alternatively to discuss all fields of cooperation, security along the border, border issue, agriculture, etc... and other issues of concern.
- According to our observation, there are no serious flood in the part, only during the 2000 flood, during which both sides were affected the worse. In 2001 and 2002 the floods were not bad to this place. According to our good cooperation, during the dry season the Vietnamese allow us also to use water from the rivers located in their part along the border. Since the reservoir of Chub Pring was built in 2006-2007, we have now water available for the use in both seasons.
- In general, PCDM together with the Cambodian Red Cross (CRC) are ready for any eventual disaster event. The CRC has a close cooperation with the committee for disaster management throughout the local area. The CRC also has their volunteers at all levels through out the province.

4- Prey Veng Province (on 03 April 2008):

- Our team was welcomed by Mr. Hul Chamreoun (Tel. 016 954 013 or 092 640 207), Deputy Permanent Secretary, PCDM of Prey Veng Province.
- In terms of cooperation with neighboring province of Viet Nam we have learn good experience from Kandal Province. In the sister agreement between Kandal Province of Cambodia and its Vietnamese counter, the authority of both sides also include the disaster issues as a trans-boundary matter of concern into the newly signed agreement. This would facilitate the cooperation between the two parties in case of any eventual disaster related issue. In this context, we (Prey Veng Province) plans also to include the same issue into the sister agreement to be signed with our Vietnamese counterpart, Don Thap Province.

- According to the sister agreement for bilateral cooperation at provincial level, we signed with Don Thap Province of Viet Nam, we meet alternatively twice a year focusing the discussion on many fields, including security issue along the border, agriculture, especially on the use of water along the border, trade across the border, and health care.
- The meeting between the two sides at provincial and district levels will be held on the other hand twice par year, while the meeting at communal levels is alternatively organized quarterly. We also agreed that we may organize a special meeting if required to discuss any particular issue of concern.
- We have no serious flood so far, except during the years of 2000, 2001 and 2002. Normally when flood occurred, we report to NCDM as well as to CNMC for their further action. We also have a close cooperation with the ACDP (Asian Center for Disaster Preparedness).
- With our neighboring counterpart, we also have, so far, no official exchange of information. It means that we did not include this issue in the agreement yet, but we did inform each other in written for or radio communication if any eventual issue of concern occurred in one side. In past practice, we informed each other on the issues related to flood, drought and storm.
- Within the context of the PCDM, we have three groups, the emergency team, the search and rescue team, and the team in charge of health and sanitation issues. For instance, when the time when the destructive insects spread in this area, we got a lot of support from Vietnamese counterpart, in terms of materials and technique against the insect. Furthermore the training was also provided by our counterpart for our staff to get more understanding and know-how to protect the crops.
- We feel that base don our real practice, we need material to be installed in both sides for the improvement of our information exchange when any eventual disaster event take place.
- We also plan to include in the next agreement to be signed with our counterpart health care services issue for the people living along the border areas. We have to acknowledge that our health care service in Vietnamese side is more sophisticate than us. If we include this issue in the agreement, Cambodian people living along the border area can also cross the border for treatment in Don Thap Province of Viet Nam.
- We also discussed the issue related to border crossing for people living within the border areas, such as transit period, what kind of paper the people need to prepare, etc...
- We plan also to discuss on issue related to information exchange regarding the digging of rivers along the border. We observed that, according to their possibility, Vietnamese counterpart developed the area along the border which may provide good facility against flood in the future as well as for the people's living condition.

5- **Ratanakiri Province** (07 April 2008 at 8.30am)

- The meeting in Ratanakiri was not so helpful since the person who will welcome us was in Vietnam due to his family urgent problem. We were met with Mr. Chen Long, Deputy-Chief of provincial cabinet.
- There are three main rivers which flow through Ratanakiri Province. The first one is Sre Pok River (one of the tributaries of the Mekong River) that goes through Mondulkiri, Ratanakiri and Stung Treng Provinces. Se Kong River, another tributary of the Mekong River, flows from Laos and Se San River, another Mekong tributary, has its source from Viet Nam. It was reported that there are 6 dams on the Vietnamese sides.
- The serious flood was in 1996, perhaps due to the release of water from the reservoir of Yali Dam in Viet Nam. Currently the fluctuation of water along the Se San River is

between 0.50m to 1.0m. which affect two districts which situated along the river, Andaung Meas close to the border and Veun Say farther downstream.

- According to Mr. Chen Long, the agreement for bilateral cooperation at provincial level between Ratanakiri Province of Cambodia and its Vietnamese counterpart, Kon Tum Province, was signed on 3 April 2000. Two districts of Ratanakiri Province, O Yadoa and Andaung Meas, are bordering with Gia Lay Province of Viet Nam. Regarding Laos, the border areas are dense forest and we have never had any contact with Lao counterpart.
- We have cooperation with our Vietnamese counterpart, but it seems that not so fruitful. We used to be affected by flood, perhaps from the release of water from the storage at upstream of Se San River in Viet Nam. No information exchange. Sometime, we received the information one week later, which was not useful at all since we were already flooded.
- According to Mr. Chan Buntheoun, Vice-Director for Provincial Department of Water Resources and Meteorology (PDWRAM), we were disturbed by serious flood, which most people believed that because of the water release from the Yali dam in Viet Nam. In the report of PDWRAM (the report was addressed to the CNMC, No 60/2000 PDWRAM-RK of 18 April 2000), the negative impacts of the Yali Dam in Viet Nam to the Cambodian people living in three districts (Andaung Meas, Ta Vern and Veun Say) along the Se San River were serious in late 1999 and early 2000.
- With the instruction from the Governor of Ratanakiri Province, a study was carried out by PDWRAM. It was found out that the abnormality of the Se San River was the cause of the destruction. The report further concluded that, due to the abnormality of the Se San River, the destruction to the three districts along the Se San River was caused by the upper stream manmade activities. The fast change of water levels between 1m to 2m disturbed very much the people living along the river.
- The minutes of the meeting between the Representatives of the Department for Water Resources and Meteorology of Ratanakiri Province and the Representatives of the Yali Dam Authority, Electricity of Viet Nam on 12 September 2000 in Ratanakiri, both sides agreed to exchange information relating to the release of water and water situation at the downstream, as well as information relating to meteorology, including storm, heavy rain and flood. In case of emergency, exchange of information can be done through telephone (to Ratanakiri Provincial office and/or PDWRAM). The written information should be sent afterward. They agreed to meet twice per year so that both sides can discuss all water related issues.

6- **Stung Streng Province** (on 07 April 2008 at 14.30pm)

- Mr. Chheang Sin Ho (Te. 012 274 772), Chief of provincial cabinet and permanent member of the PCDM.
- No mechanism available regarding differences or disputes over trans-boundary water and related natural resources managements issue, including flood issue. There is only mechanism in relation to border issue. In Stung Treng, due to its special geographic situation, we either don't have any sister agreement signed with neighboring countries. In addition, along the border with our neighboring countries the forest was very dense and there not much people living at those areas. With Lao PDR, we have an international border checkpoint at Don Kralor of Cambodia and Veun Kham of Laos. The traffic can be done by water, the Mekong River and by land through the said border checkpoint. With Laos, we have cooperation in terms of tourism.
- The concern in Stung Treng is flood issue, but not the drought. We have, within the context of the province and to the national institution, implemented information

exchange through Department of Water Resources and Meteorology (DWRAM) as it has its network throughout the province down to village level. Normally, information exchange was made through private mobile telephone.

- Experience we learnt from past practice is we have to meet every year to prepare for any eventual disaster event or adverse transboundary issue. In addition we will meet again when the event was occurring and after the event so that we can task the department concerned according to their specific field. In summary we carried out preventive measure, responsive measures and remedial measures after the event.
- The serious flood was in 2000 which was considered as the worse one. We learnt also that we got the support a bit late from all concerned institution and partners. Since then no more serious floods.

7- **Kratie Province** (21 April 2008 at 9.am)

- Mr. Chen Hong Sri, Deputy-Chief, provincial cabinet kindly welcome the team for the discussion although he was very busy with the preparation of Samdech Prime Minister Hun Sen to inaugurate a library in the province on the next day. It is a big event and great honor for all the staff and people in the province to welcome the head of government in their area. With this understanding we went straight to the issues to be discussed so that we leave them for their busy works.
- Kratie Province of Cambodia has a close cooperation with its Vietnamese counterpart, Loc Ninh Province. We have only mechanisms at provincial and district levels, no communal levels currently. We meet alternatively every six months. In addition, the armed forces have their own cooperation with their Vietnamese counterpart as well. We also agreed that we may organize a special meeting if needed.
- So far we don't have any official exchange of information with the Vietnamese counterpart, but when we meet any disaster event, the Vietnamese side always sends their assistance to us, for example when the drought occurred, they provide us with gas and with shelters when we have flood.
- Transboundary issues relate very much to security issue and illegal trafficking of as the downstream we never had any negative impact from the upper part. We did also agree that in order to build road along the border of both sides, the party concerned needs to inform its counterpart prior to the construction.
- In a simple way we may say we have good cooperation with Vietnamese counterpart. In our views, it would be good for Cambodian side to build good road and wells for the people living along the border as they may facilitate their living and movement, especially for the development the areas a long the border.

8- **Kompong Cham Province** (21 April 2008 ant 14.30pm)

- Mr. Yim Yun, Director, Department of Water Resources and Meteorology of the province, Mr. Sophea, Permanent Secretary of PCDM, and other three staff of the DWRAM were present at the discussion.
- As requested, the structure of the PCDM is spread through out the province down to village level. We have good chance to also participate in the discussion organized by the ADPC both in Phnom Penh as national level and at regional level.
- In practice, all head of Department within the province are involved with disaster management. Regarding flood, we have organized some safe areas (about 300 places) for the nearby people to move in temporarily. With the established network we have good cooperation within the context of Kompong Cham Province in dealing with or mitigating flood and other disaster event.

- For the cooperation with neighboring provinces, we need the instruction from the top, especially from the Ministry of Interior which governs all provinces.
- Experiencing the floods in 2000, 2001 and 2002, which cause serious damage to the infrastructures and people's properties, we built small dikes around the provincial town so that it may prevent or mitigate flood disaster. Since then no more serious floods were met, but new issue can be found. The bank erosion becomes serious for the provincial town. We observed that from Kratie down to Kandal Provinces. In addition, according to our observation, below the newly built bridge, assisted by Japanese Government, the bank erosion becomes also serious, especially on Koh Pen. It seems that the erosion of Koh Pen caused by the new bridge across the Mekong River which may change the flow of the river.
- In this regard, since you are from the CNMC and MRC, We would also like to ask you to convey this matter to your relevant institution for any instruction or study, if possible to take appropriate measure to counter this bank erosion in Kompong Cham Town. According to the record we made, the serious bank erosion was in December 2007. we did inform relevant national institutions on this matter, but no answer so far.
- Regarding water use along the border, we have met eight times with Vietnamese counterpart, no clear outcomes were made. We are now preparing a draft law on the use of water along the border with Viet Nam. The Ministry of Interior, in close cooperation with Ministries concerned and the Council of Ministers' Office, led the discussion.
- Another issue related to transboundary issue to be noted is the construction small dam in Vietnamese side in Tay Ninh Province. Viet Nam wishes to build a small dam, to be assisted by ADB, to store water which flows from Ponhea Krek district of Cambodia. Viet Nam need to discuss the issue carefully with Cambodia prior to the construction of such infrastructure as it may cause negative impact to the upper stream areas.
- In 2005, a Cambodia delegation from MOWRAM (), led by HE Mr. Bun Hean, General-Secretary for Technical Affairs, visited Viet Nam and discussed the issue. Both sides very well understood the issue, but no agreement upon this issue made yet. It further needs the decision from the Council of Ministers.
- In practice, any construction of structure along the border, both sides need to inform each other prior to start of the construction. But, when we built small dam and water sluice gates in Kop Village, a village close to the border, Vietnamese side kept silence. The MOWRAM and PWRAM teams went there to conduct their study. The Vietnamese side also sent their team to observe the activities, but no reaction at all. According to my understanding, perhaps because of the project was supported by Samdech President of the National Assembly Heng Samrin who wished to help his native village.
- If we want to build road along the border we need to discuss first with Vietnamese side. We agreed that any construction of infrastructure on either side along the border, both sides need to inform each other aiming at preventing any misunderstanding from the other side.
- We wish to return to the bank erosion around the provincial town issue. We did carry out the study on the possibility of building of concrete embankment. The cost would be 200,000US\$ approximately. We used to include this into the BDP project (10C) as well, but so far no information on this matter from MRC.
- Regarding water use, according to our geographic situation, we have never requested the use of water from Vietnamese side.

Phnom Penh, 28 April 2008

- Constitution of the Kingdom of Cambodia
- Sub-decree on Phytosanitary Inspection
- Law on Environmental Protection and Natural Resources Management
- Sub-decree on Environmental Impact Assessment
- Sub-decree on Solid Waste Management
- Sub-decree on Water Pollution Control
- Sub-decree on the Organizing and Functioning of the Ministry of Environment
- Sub-decree on the Creation of the Ministry of Water Resources and Meteorology
- Sub-decree on the Organizing and Functioning of the Ministry of Water Resources and Meteorology
- Circular on Irrigation Guidelines
- Minutes from the Meeting on Transboundary Wetland Management in Champasak and Stung Treng
- Cambodia-Vietnam Joint Declaration of 30 March 2005
- Opening Address by Samdech Prime Minister Hun Sen at the ASEAN Environment Year 2003
- Statement by the Senior Minister Hor Namhong at the 57th United Nations General Assembly
- Speech by Samdech Prime Minister Hun Sen at the opening ceremony of the 6th ASEAN informal meeting of the ASEAN Environment Ministers, 05 January 2001, Phnom Penh
- Address by Samdech Prime Minister Hun Sen at the Summit on Cambodia-Laos-Myanmar-Thailand Economic Cooperation Strategy (ACMECS), Bagan, Myanmar, 11 November 2003
- Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy Ministerial Joint Retreat Statement, 01 November 2004, Krabi, Thailand
- Joint Press Statement on Cambodia-Thailand Bilateral Cooperation, 11 November 2003
- Joint Ministerial Statement on the Concept Paper on Cambodia-Thailand Border Points of Entry, 31 May 2003
- Joint Statement by Cambodian-Thai Governments on the Normalization of Diplomatic Relations at Ambassadorial Level, 11 April 2003
- Remarks by Senior Minister Hor Namhong on Economic Cooperation Strategy between Cambodia, Laos, Myanmar and Thailand, 01 August 2003
- Remarks by Senior Minister Hor Namhong on the Emerald Triangle Development Cooperation (Cambodia-Laos-Thailand), 02 August 2003
- Fourth Meeting of the Cambodia-Thailand Joint Commission, 25 December 2002
- Joint Communique on the Occasion of the Official Visit to the Kingdom of Cambodia of His Excellency Dr. Thaksin Shinawatra, Prime Minister of the Kingdom of Thailand, 18 June 2001
- Thai Foreign Minister Visited to Cambodia, 04 June 2001
- Cambodia-Thailand Cooperation Boosted, 14 June 2000

- Joint Press Release of the Meeting of the Cambodia-Thailand Joint Commission on Demarcation of Land Boundary, 5-7 June 2000
- Speech of Senior Minister Hor Namhong at the 50th Anniversary of Cambodian-Thai Diplomatic Relations, 19 December 2000
- Message from Thai Foreign Minister to Senior Minister Hor Namhong
- Second Meeting of the Prime Ministers of Cambodia, Laos and Vietnam on the Building of Development Triangle, 26 January 2002, Ho Chi Minh City
- Press Release of the 3rd Summit Meeting of the Three Prime Ministers of Cambodia, Laos and Vietnam on Development Triangle, 21 July 2004, Siem Reap
- Cambodia-Vietnam Border Commission Meeting, 14 June 2002

THE CONSTITUTION

OF THE KINGDOM OF CAMBODIA

PREAMBLE

WE, THE PEOPLE OF CAMBODIA

Accustomed to having been an outstanding civilization, a prosperous, large, flourishing and glorious nation, with high prestige radiating like a diamond,

Having declined grievously during the past two decades, having gone through suffering and destruction, and having been weakened terribly,

Having awakened and resolutely rallied and determined to unite for the consolidation of national unity, the preservation and defense of Cambodia's territory and precious sovereignty and the fine Angkor civilization, and the restoration of Cambodia into an "Island of Peace" based on a multi-party liberal democratic regime guaranteeing human rights, abiding by law, and having high responsibility for the nation's future destiny of moving toward perpetual progress, development, prosperity, and glory,

WITH THIS RESOLUTE WILL

WE inscribe the following as the Constitution of the Kingdom of Cambodia:

CHAPTER I SOVEREIGNTY

Article 1 - Cambodia is a Kingdom with a King who shall rule according to the Constitution and to the principles of liberal democracy and pluralism. The Kingdom of Cambodia shall be an independent, sovereign, peaceful, permanently neutral and non-aligned country.

Article 2 - The territorial integrity of the Kingdom of Cambodia shall absolutely not be violated within its borders as defined in the 1/100,000 scale map between the years 1933-1953 and internationally recognized between the years 1963-1969.

Article 3 - The Kingdom of Cambodia is an indivisible State.

Article 4 - The motto of the Kingdom of Cambodia is: "Nation, Religion, King."

Article 5 - The official language and script are Khmer.

Article 6 - Phnom Penh is the capital of the Kingdom of Cambodia. The national flag, anthem and coat-of-arms shall be defined in Annexes I, II, and III.

CHAPTER II: THE KING

Article 7 - The King of Cambodia shall reign but shall not govern. The King shall be the Head of State for life. The King shall be inviolable.

Article 8 - The King of Cambodia shall be a symbol of unity and eternity of the nation. The King shall be the guarantor of the national independence, sovereignty, and territorial integrity of the Kingdom of Cambodia, the protector of rights and freedom for all citizens and the guarantor of international treaties.

Article 9 - The King shall assume the august role of arbitrator to ensure the faithful execution of public powers.

Article 10 - The Cambodian monarchy shall be an appointed regime. The King shall not have the power to appoint an heir to the throne.

Article 11 - If the King cannot perform His normal duties as Head of State due to His serious illness as certified by doctors chosen by the President of the Assembly and the Prime Minister, the President of the Assembly shall perform the duties of Head of State as "Regent."

Article 12 - In case of the death of the King, the President of the Assembly shall take over the responsibility as Acting Head of State in the capacity of Regent of the Kingdom of Cambodia.

Article 13 - Within a period of not more than seven days, the new King of the Kingdom of Cambodia shall be chosen by the Royal Council of the Throne. The Royal Council of the Throne shall consist of: -The President of the National Assembly -The Prime Minister -Samdech the Chiefs of the Orders of Mohanikay and Thammayut -The First and Second Vice-Presidents of the Assembly. The organization and functioning of the Council of the Throne shall be determined by law.

Article 14 - The King of Cambodia shall be a member of the Royal family, of at least 30 years old, descending from the blood line of King Ang Duong, King Norodom or King Sisowath. Upon enthronement, the King shall take the oath of allegiance as stipulated in Annex IV.

Article 15 - The wife of the reigning King shall have the royal title of QUEEN of Cambodia.

Article 16 - The Queen of the Kingdom of Cambodia shall not have the right to engage in politics, to assume the role of Head of State or Head of Government, or to assume other administrative or political roles. The Queen of the Kingdom of Cambodia shall exercise activities that serve the social, humanitarian, religious interests, and shall assist the King with protocol and diplomatic functions.

Article 17 - The provision as stated in the first clause of Article 7, "the King of Cambodia shall reign but shall not govern," absolutely shall not be amended.

Article 18 - The King shall communicate with the Assembly by royal messages. These royal messages shall not be subjected to discussion by the National Assembly.

Article 19 - The King shall appoint the Prime Minister and the Council of Ministers according to the procedure stipulated in Article 100.

Article 20 - The King shall grant an audience twice a month to the Prime Minister and the Council of Ministers to hear their reports on the State of the Nation.

Article 21 - Upon proposals by the Council of Ministers, the King shall sign decrees (Kret) appointing, transferring or ending the mission of high civil and military officials, ambassadors and Envoys Extraordinary and Plenipotentiary. Upon proposals by the Supreme Council of the Magistracy, the King shall sign decrees (Kret) appointing, transferring or removing judges.

Article 22 - When the nation faces danger, the King shall make a proclamation to the people putting the country in a state of emergency after agreement with the Prime Minister and the President of the assembly.

Article 23 - The King is the Supreme Commander of the Royal Khmer Armed Forces. The Commander-in-Chief of the Royal Khmer Armed Forces shall be appointed to command the Royal Khmer Armed Forces.

Article 24 - The King shall serve as Chairman of the Supreme Council of National Defense to be established by law. The King shall declare war after approval of the National Assembly.

Article 25 - The King shall receive letters of credentials from ambassadors or envoys extraordinary and plenipotentiary of foreign countries accredited to the Kingdom of Cambodia.

Article 26 - The King shall sign and ratify international treaties and conventions after a vote of approval by the National Assembly.

Article 27 - The King shall have the right to grant partial or complete amnesty.

Article 28 - The King shall sign the law promulgating the Constitution, laws (Kram) adopted by the National Assembly, and sign decrees (Kret) presented by the Council of Ministers.

Article 29 - The King shall establish and confer national medals proposed by the Council of Ministers. The King shall confer civil and military ranks as determined by law.

Article 30 - In the absence of the King, the President of the Assembly shall assume the duties of Acting Head of State.

CHAPTER III: THE RIGHTS AND OBLIGATIONS OF KHMER CITIZENS

Article 31 - The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women's and children's rights. Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations

regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status. The exercise of personal rights and freedom by any individual shall not adversely affect the rights and freedom of others. The exercise of such rights and freedom shall be in accordance with the law.

Article 32 - Every Khmer citizen shall have the right to life, personal freedom and security. There shall be no capital punishment.

Article 33 - Khmer citizens shall not be deprived of their nationality, exiled or arrested and deported to any foreign country unless there is mutual agreement on extradition. Khmer citizens residing abroad enjoy the protection of the State. The Khmer nationality shall be determined by law.

Article 34 - Khmer citizens of either sex shall enjoy the right to vote and to stand as candidates for the election. Citizens of either sex of at least eighteen years old, have the right to vote. Citizens of either sex of at least 25 years old, have the rights to stand as candidates for the election. Provisions restricting the right to vote and to stand for the election shall be defined in the Electoral Law.

Article 35 - Khmer citizens of either sex shall have the right to participate actively in the political, economic, social, and cultural life of the nation. Any suggestions from the people shall be given full consideration by the organs of the State.

Article 36 - Khmer citizens of either sex shall have the right to choose any employment according to their ability and to the needs of the society. Khmer citizens of either sex shall receive equal pay for equal work. The work by housewives in the home shall have the same value as what they can receive when working outside the home. Every Khmer citizen shall have the right to obtain social security and other social benefits as determined by law. Khmer citizens of either sex shall have the right to form and to be members of trade unions. The organization and conduct of trade unions shall be determined by law.

Article 37 - The right to strike and to non-violent demonstration shall be implemented in the framework of a law.

Article 38 - The law guarantees there shall be no physical abuse against any individual. The law shall protect the life, honor and dignity of the citizens. The prosecution, arrest, or detention of any person shall not be done except in accordance with the law. Coersion, physical ill-treatment or any other mistreatment that imposes additional punishment on a detainee or prisoner shall be prohibited. Persons who commit, participate or conspire in such acts shall be punished according to the law. Confessions obtained by physical or mental force shall not be admissible as evidence of guilt. Any case of doubt shall be resolved in favor of the accused. The accused shall be considered innocent until the court has judged finally on the case. Every citizen shall enjoy the right to defense through judicial recourse.

Article 39 - Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by State and social organs or by members of such organs committed during

the course of their duties. The settlement of complaints and claims shall reside under the competence of the courts.

Article 40 - Citizens' freedom to travel, far and near, and legal settlement shall be respected. Khmer citizens shall have the right to travel and settle abroad and return to the country. The right to privacy of residence and to the secrecy of correspondence by mail, telegram, fax, telex and telephone shall be guaranteed. Any search of the house, material and body shall be in accordance with the law.

Article 41 - Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society, to violate public law and order and national security. The regime of the media shall be determined by law.

Article 42 - Khmer citizens shall have the right to establish associations and political parties. These rights shall be determined by law. Khmer citizens may take part in mass organizations for mutual benefit to protect national achievements and social order.

Article 43 - Khmer citizens of either sex shall have the right to freedom of belief. Freedom of religious belief and worship shall be guaranteed by the State on the condition that such freedom does not affect other religious beliefs or violate public order and security. Buddhism shall be the State religion.

Article 44 - All persons, individually or collectively, shall have the right to ownership. Only Khmer legal entities and citizens of Khmer nationality shall have the right to own land. Legal private ownership shall be protected by law. The right to confiscate possessions from any person shall be exercised only in the public interest as provided for under law and shall require fair and just compensation in advance.

Article 45 - All forms of discrimination against women shall be abolished. The exploitation of women in employment shall be prohibited. Men and women are equal in all fields especially in marriages and matters of the family. Marriage shall be conducted according to conditions determined by law based on the principle of mutual consent between one husband and one wife.

Article 46 - The commerce of human beings, exploitation by women prostitution and obscenity which affect the reputation of women shall be prohibited. A woman shall not lose her job because of pregnancy. Women shall have the right to take maternity leave with full pay and with no loss of seniority or other social benefits. The State and society shall provide opportunities to women, especially to those living in rural areas without adequate social support, so they can get employment, medical care, and send their children to school, and to have decent living conditions.

Article 47 - Parents shall have the duty to take care of and educate their children to become good citizens. Children shall have the duty to take good care of their elderly mother and father according to Khmer traditions.

Article 48 - The State shall protect the rights of the children as stipulated in the Convention on Children, in particular, the right to life, education, protection during wartime, and from economic or sexual exploitation. The State shall protect children from acts that are injurious to their educational opportunities, health, and welfare.

Article 49 - Every Khmer citizen shall respect the Constitution and laws. All Khmer citizens shall have the duty to take part in the national reconstruction and to defend the homeland. The duty to defend the country shall be determined by law.

Article 50 - Khmer citizens of either sex shall respect the principles of national sovereignty, liberal multi-party democracy. Khmer citizens of either sex shall respect public and legally acquired private properties.

CHAPTER IV: ON POLICY

Article 51 - The Kingdom of Cambodia adopts a policy of Liberal Democracy and Pluralism. The Cambodian people are the masters of their own country. All powers belong to the people. The people exercise these powers through the National Assembly, the Royal Government and the Judiciary. The Legislative, Executive, and the Judicial powers shall be separate.

Article 52 - The Royal Government of Cambodia shall protect the independence, sovereignty, territorial integrity of the Kingdom of Cambodia, adopt the policy of national reconciliation to ensure national unity, and preserve the good national traditions of the country. The Royal Government of Cambodia shall preserve and protect the law and ensure public order and security. The State shall give priority to endeavours which improve the welfare and standard of living of citizens.

Article 53 - The Kingdom of Cambodia adopts a policy of permanent neutrality and non-alignment. The Kingdom of Cambodia follows a policy of peaceful co-existence with its neighbors and with all other countries throughout the world. The Kingdom of Cambodia shall not invade any country, nor interfere in any other country's internal affairs, directly or indirectly, and shall solve any problems peacefully with due respect for mutual interests. The Kingdom of Cambodia shall not join in any military alliance or military pact which is incompatible with its policy of neutrality. The Kingdom of Cambodia shall not permit any foreign military base on its territory and shall not have its own military base abroad, except within the framework of a United Nations request. The Kingdom of Cambodia reserves the right to receive foreign assistance in military equipment, armaments, ammunitions, in training of armed forces, and other assistance for self-defense and to maintain public order and security within its territory.

Article 54 - The manufacturing, use, storage of nuclear, chemical or biological weapons shall be absolutely prohibited.

Article 55 - Any treaty and agreement incompatible with the independence, sovereignty, territorial integrity, neutrality and national unity of the Kingdom of Cambodia shall be annulled.

CHAPTER V: ECONOMY

Article 56 - The Kingdom of Cambodia shall adopt market economy system. The preparation and process of this economic system shall be determined by law.

Article 57 - Tax collection shall be in accordance with the law. The national budget shall be determined by law. The management of the monetary and financial systems shall be defined by law.

Article 58 - State property notably comprises land, mineral resources, mountains, sea, underwater, continental shelf, coastline, airspace, islands, rivers, canals, streams, lakes, forests, natural resources, economic and cultural centers, bases for national defense and other facilities determined as State property. The control, use and management of State properties shall be determined by law.

Article 59 - The State shall protect the environment and balance of abundant natural resources and establish a precise plan of management of land, water, air, wind, geology, ecological systems, mines, energy, petrol and gas, rocks and sand, gems, forests and forestial products, wildlife, fish and aquatic resources.

Article 60 - Khmer citizens shall have the right to sell their own products. The obligation to sell products to the State, or the temporary use of private or State properties shall be prohibited unless authorized by law under special circumstances.

Article 61 - The State shall promote economic development in all sectors and remote areas, especially in agriculture, handicrafts, industry, with attention to policies of water, electricity, roads and means of transport, modern technology and a system of credit.

Article 62 - The State shall pay attention and help solve production matters, protect the price of products for farmers and crafters, and find marketplace for them to sell their products.

Article 63 - The State shall respect market management in order to guarantee a better standard of living for the people.

Article 64 - The State shall ban and severely punish those who import, manufacture, sell illicit drugs, counterfeit and expired goods which affect the health and life of the consumer.

CHAPTER VI: EDUCATION, CULTURE, SOCIAL AFFAIRS

Article 65 - The State shall protect and upgrade citizens' rights to quality education at all levels and shall take necessary steps for equality education to reach all citizens. The State shall respect physical education and sports for the welfare of all Khmer citizens.

Article 66 - The State shall establish a comprehensive and standardized educational system throughout the country that shall guarantee the principles of educational freedom and equality to ensure that all citizens have equal opportunity to earn a living.

Article 67 - The State shall adopt an educational program according to the principle of modern pedagogy including technology and foreign languages. The State shall control public and private schools and classrooms at all levels.

Article 68 - The State shall provide free primary and secondary education to all citizens in public schools. Citizens shall receive education for at least 9 years. The State shall disseminate and develop the Pali schools and the Buddhist Institute.

Article 69 - The State shall preserve and promote national culture. The State shall protect and promote the Khmer language as required. The State shall preserve ancient monuments, artifacts, and restore historic sites.

Article 70 - Any offense affecting cultural and artistic heritage shall carry a severe punishment.

Article 71 - The perimeter of the national heritage sites as well as heritage that has been classified as world heritage, shall be considered neutral zones where there shall be no military activity.

Article 72 - The health of the people shall be guaranteed. The State shall give full consideration to disease prevention and medical treatment. Poor citizens shall receive free medical consultation in public hospitals, infirmaries and maternities. The State shall establish infirmaries and maternities in rural areas.

Article 73 - The State shall give full consideration to children and mothers. The State shall establish nurseries, and help support women and children who have inadequate support.

Article 74 - The State shall assist the disabled and the families of combatants who sacrificed their lives for the nation.

Article 75 - The State shall establish a social security system for workers and employees.

CHAPTER VII THE ASSEMBLY

Article 76 - The Assembly consists of at least 120 members. The deputies shall be elected by a free, universal, equal, direct and secret ballot. The deputies may be re-elected. Khmer citizens able to stand for election shall be the Khmer citizens of either sex who have the right to vote, at least 25 years of age, and who have Khmer nationality at birth. Preparation for the election, procedure and electoral process shall be determined by an Electoral Law.

Article 77 - The deputies in the Assembly shall represent the entire Khmer people, not only Khmers from their constituencies. Any imperative mandate shall be nullified.

Article 78 - The legislative term of the Assemble shall be 5 years and terminates on the day when the new Assembly convenes. The Assembly shall not be dissolved before the end of its term except when the Royal government is twice deposed within a period of twelve months. In this case, following a proposal from the Prime Minister and the approval of the Assembly President, the King

shall dissolve the Assembly. The election of a new assembly shall be held no later than 60 days from the date of dissolution. During this period, the Royal government shall only be empowered to conduct routine business. In times of war or other special circumstances where an election cannot be held, the Assembly may extend its term for one year at a time, upon request of the King. Such an extension shall require at least a two-thirds vote of the entire Assembly.

Article 79 - The assembly mandate shall be incompatible with the holding of any active public function and of any membership in other institutions provided for in the Constitution, except when the assembly member(s) is(are) required to serve in the Royal Government. In these circumstances, the said Assembly member(s) shall retain the usual assembly membership but shall not hold any position in the Permanent Standing Committee and in other assembly commissions.

Article 80 - The deputies shall enjoy parliamentary immunity. No assembly member shall be prosecuted, detained or arrested because of opinions expressed during the exercise of his(her) duties. The accusation, arrest, or detention of a member of assembly shall be made only with the permission of the assembly or by the Standing Committee of the Assembly between sessions, except in case of flagrante delicto. In that case, the competent authority shall immediately report to the assembly or to the Standing Committee for decision. The decision made by the Standing Committee of the assembly shall be submitted to the assembly at its next session for approval by a 2/3 majority vote of the assembly members. In any case, detention or prosecution of a deputy shall be suspended by a 3/4 majority vote of the Assembly members.

Article 81 - The assembly shall have an autonomous budget to conduct its function. The deputies shall receive a remuneration.

Article 82 - The assembly shall hold its first session no later than sixty days after the election upon notice by the King. Before taking office, the assembly shall decide on the validity of each member's mandate and vote separately to choose a President, Vice-Presidents and members of each Commission by a 2/3 majority vote. All assembly members must take the oath before taking office according to the text contained in Annex V.

Article 83 - The assembly shall hold its ordinary sessions twice a year. Each session shall last at least 3 months. If there is a proposal from the King or the Prime Minister, or at least 1/3 of the assembly members, the Assembly Standing Committee shall call an extraordinary session of the assembly. In this case, the agenda with the conditions of the extraordinary session, shall be disseminated to the population as well as the date of the meeting.

Article 84 - Between the assembly sessions, the assembly Standing Committee shall manage the work of the assembly. The Permanent Standing Committee of the assembly consists of the President of the Assembly, the Vice-Presidents, and the Presidents of assembly commissions.

Article 85 - The assembly sessions shall be held in the royal capital of Cambodia in the Assembly Hall, unless stipulated otherwise in the summons, due to special circumstances. Except where so stipulated and unless held at the place and date as stipulated, any meeting of the assembly shall be considered as illegal and void.

Article 86 - If the country is in a state of emergency, the assembly shall meet every day continuously. The Assembly has the right to terminate this state of emergency whenever the situation permits. If the Assembly is not able to meet because of circumstances such as the occupation by foreign forces the declaration of the state of emergency must be automatically extended. During the state of emergency, the assembly shall not be dissolved.

Article 87 - The President of the assembly shall chair the assembly sessions, receive draft bills and resolutions adopted by the assembly, ensure the implementation of the Internal Rules of Procedure and manage the assembly relations with foreign countries. If the President is unable to perform his/her duties due to illness or to fulfill the functions of Head of State ad interim or as a Regent, or is on a mission abroad, a Vice-President shall replace him. In case of resignation or death of the President or the Vice-President(s), the Assembly shall elect a new President or Vice-President(s).

Article 88 - The assembly sessions shall be held in public. The assembly shall meet in closed session at the request of the President or of at least 1/10 of its members, of the King or of the Prime Minister. The assembly meeting shall be considered as valid provided there is a quorum of 7/10 of all members.

Article 89 - Upon the request by at least 1/10 of its members, the assembly shall invite a high ranking official to clarify important special issues.

Article 90 - The assembly shall be the only organ to hold legislative power. This power shall not be transferable to any other organ or any individual. The assembly shall approve the national budget, the State Planning, the Loans, the Lending and the creation, changes or annulment of tax. The assembly shall approve Administrative Accounts. The assembly shall approve the law on amnesty. The assembly shall approve or annul treaties or international conventions. The assembly shall approve law on the declaration of war. The adoption of the above-mentioned clauses shall be decided by a simple majority of the entire assembly membership. The assembly shall pass a vote of confidence in the Royal Government by a 2/3 majority of all members.

Article 91 - The deputies and the Prime Minister shall have the right to initiate legislation. The deputies shall have the right to propose any amendments to the laws, but, the proposals shall be unacceptable if they aim at reducing public income or increasing the burden on the people.

Article 92 - Laws adopted by the Assembly which run counter to the principles of preserving national independence, sovereignty, territorial integrity, and affect the political unity or the administration of the nation shall be annulled. The Constitutional Council is the only organ which shall decided upon this annulment.

Article 93 - Any law approved by the Assembly and signed by the King for its promulgation, shall go into effect in Phnom Penh 10 days after signing and throughout the country 20 days after its signing. Laws that are stipulated as urgent shall take effect immediately throughout the country after promulgation. All laws promulgated by the King shall be published in the Journal Officiel and published throughout the country in accordance with the above schedule.

Article 94 - The Assembly shall establish various necessary commissions. The organization and functioning of the assembly shall be determined by the assembly Internal Rules of Procedure.

Article 95 - In case of death, resignation, or dismissal of an assembly deputy at least 6 months before the end of the mandate, a replacement shall be appointed in accordance with the Internal Rules of Procedure of the National Assembly and the Electoral law.

Article 96 - The deputies have the right to put a motion against the Royal Government. The motion shall be submitted in writing through the President of the assembly. The replies shall be given by one or several ministers depending on the matters related to the accountability of one or several ministers. If the case concerns the overall policy of the Royal Government, the Prime Minister shall reply in person. The explanations by the ministers or by the Prime Minister shall be given verbally or in writing. The explanations shall be provided within 7 days after the day when the question is received. In case of verbal reply, the President of the assembly shall decide whether to hold an open debate or not. If there is no debate, the answer of the minister or the Prime Minister shall be considered final. If there is a debate, the questioner, other speakers, the ministers, or the Prime Minister may exchange views within the timeframe not exceeding one session. The assembly shall establish one day each week for questions and answers. There shall be no vote during any session reserved for this purpose.

Article 97 - The assembly commissions may invite any minister to clarify certain issues under his/her field of responsibility.

Article 98 - The assembly shall dismiss a member or members of the Royal Government or the whole Cabinet by the adoption of a motion of censure by 2/3 majority of the entire Assembly. The motion of censure shall be proposed to the Assembly by at least 30 assembly members in order for the entire Assembly to decide.

CHAPTER VIII THE ROYAL GOVERNMENT

Article 99 - The Council of Ministers is the Royal Government of Cambodia. The Council of Ministers shall be led by one Prime Minister assisted by Deputy Prime Ministers, and by State Ministers, Ministers, and State Secretaries as members.

Article 100 - At the recommendation of the President and with the agreement of both Vice-Presidents of the Assembly, the King shall designate a dignitary from among the representatives of the winning party to form the Royal Government. This designated dignitary shall lead his colleagues who shall be members of the Assembly or members of the political parties represented in the Assembly, to ask for a vote of confidence from the Assembly. After the Assembly has given its vote of confidence, the King shall issue a Royal decree (Kret) appointing the entire Council of Ministers. Before taking office, the Council of Ministers shall take an oath as stipulated in Annex VI.

Article 101 - The functions of members of the Royal Government shall be incompatible with professional activities in trade or industry and with holding of any position in the public service.

Article 102 - Members of the Royal Government shall be collectively responsible to the Assembly for the overall policy of the Royal Government. Each member of the Royal Government shall be individually responsible to the Prime Minister and the Assembly for his/her own conduct.

Article 103 - Members of the Royal Government shall not use the orders, written or verbal, of anyone as grounds to exonerate themselves from their responsibility.

Article 104 - The Council of Ministers shall meet every week in plenary session or in a working session. The Prime Minister shall chair the plenary sessions. The Prime Minister may assign a Deputy Prime Minister to preside over the working sessions. Minutes of the Council of Ministers' meetings shall be forwarded to the King for His information.

Article 105 - The Prime Minister shall have the right to delegate his power to a Deputy Prime Minister or to any member of the Royal Government.

Article 106 - If the post of Prime Minister is permanently vacant, a new Council of Ministers shall be appointed under the procedure stipulated in this Constitution. If the vacancy is temporary, an acting Prime Minister shall be provisionally appointed.

Article 107 - Each member of the Royal Government shall be punished for any crimes or misdemeanors that he/she has committed in the course of his/her duty. In such cases and when he/she has committed serious offenses in the course of his/her duty, the Assembly shall decide to file charges against him/her with the competent court. The Assembly shall decide on such matters through a secret vote by a simple majority thereof.

Article 108 - The organization and functioning of the Council of Ministers shall be determined by law.

CHAPTER IX THE JUDICIARY

Article 109 - The Judicial power shall be an independent power. The Judiciary shall guarantee and uphold impartiality and protect the rights and freedoms of the citizens. The Judiciary shall cover all lawsuits including administrative ones. The authority of the Judiciary shall be granted to the Supreme Court and to the lower courts of all sectors and levels.

Article 110 - Trials shall be conducted in the name of the Khmer citizens in accordance with the legal procedures and laws in force. Only judges shall have the right to adjudicate. A judge shall fulfill this duty with strict respect for the laws, wholeheartedly, and conscientiously.

Article 111 - Judicial power shall not be granted to the legislative or executive branches.

Article 112 - Only the Department of Public Prosecution shall have the right to file criminal suits.

Article 113 - The King shall be the guarantor of the independence of the Judiciary. The Supreme Council of the Magistracy shall assist the King in this matter.

Article 114 - Judges shall not be dismissed. The Supreme Council of the Magistracy shall take disciplinary actions against any delinquent judges.

Article 115 - The Supreme Council of the Magistracy shall be established by an organic law which shall determine its composition and functions. The Supreme Council of the Magistracy shall be chaired by the King. The King may appoint a representative to chair the Supreme Council of the Magistracy. The Supreme Council of the Magistracy shall make proposals to the King on the appointment of judges and prosecutors to all courts. The Supreme Council of the Magistracy shall meet under the chairmanship of the President of the Supreme Court or the General Prosecutor of the Supreme Court to decide on disciplinary actions against judges or prosecutors.

Article 116 - The statutes of judges and prosecutors and the functioning of the judiciary shall be defined in separate laws.

CHAPTER X THE CONSTITUTIONAL COUNCIL

Article 117 - The Constitutional Council shall have the duty to safeguard respect for the Constitution, to interpret the Constitution, and the laws passed by the Assembly. The Constitutional Council shall have the right to examine and decide on contested cases involving the election of assembly members.

Article 118 - The Constitutional Council shall consist of nine members with a nine-year mandate. One-third of the members of the Council shall be replaced every three years. Three members shall be appointed by the King, three members by the Assembly and three others by the Supreme Council of the Magistracy. The Chairman shall be elected by the members of the Constitutional Council. he/she shall have a deciding vote in cases of equal vote.

Article 119 - Members of the Constitutional Council shall be selected among the dignitaries with a higher-education degree in law, administration, diplomacy or economics and who have considerable work experience.

Article 120 - The function of a Constitutional Council member shall be incompatible with that of a member of the Royal Government, member of the assembly, President or Vice-President of a political party, President or Vice- President or a trade-union or in-post judges.

Article 121 - The King, the Prime Minister, the President of the Assembly, or 1/10 of the assembly members shall forward draft bills to the Constitutional Council for examination before their promulgation. The Assembly Rules of Procedure and various organizational laws shall be forwarded to the Constitutional Council before their promulgation. The Constitutional Council shall decide within no more than thirty days whether the laws and the Internal Rules of Procedure are constitutional.

Article 122 - After a law is promulgated, the King, the Prime Minister, the President of the Assembly, 1/10 of the assembly members or the courts, may ask the Constitutional Council to examine the constitutionality of that law. Citizens shall have the right to appeal against the

constitutionality of laws through their representatives or the President of the Assembly as stipulated in the above paragraph.

Article 123 - Provisions in any article ruled by the Constitutional Council as unconstitutional shall not be promulgated or implemented. The decision of the Council is final.

Article 124 - The King shall consult with the Constitutional Council on all proposals to amend the Constitution.

Article 125 - An organic law shall specify the organization and operation of the Constitutional Council.

CHAPTER XI THE ADMINISTRATION

Article 126 - The territory of the Kingdom of Cambodia shall be divided into provinces and municipalities. Provinces shall be divided into districts (srok) Municipalities shall be divided into Khan and Khan into Sangkat.

Article 127 - Provinces, municipalities, districts, Khan, Khum and Sangkat shall be governed in accordance with organic law.

CHAPTER XII THE NATIONAL CONGRESS

Article 128 - The National Congress shall enable the people to be directly informed on various matters of national interests and to raise issues and requests for the State authority to solve. Khmer citizens of both sexes shall have the right to participate in the National Congress.

Article 129 - The National Congress shall meet once a year in early December at the convocation of the Prime Minister. It shall proceed under the chairmanship of the King.

Article 130 - The National Congress shall adopt recommendations for consideration by State authorities and the Assembly. The organization and operation of the National Congress shall be defined by a law.

CHAPTER XIII: EFFECTS, REVISION AND AMENDMENTS OF THE CONSTITUTION

Article 131 - This Constitution shall be the Supreme law of the Kingdom of Cambodia. Laws and decisions by the State institutions shall have to be in strict conformity with the Constitution.

Article 132 - The initiative to review or to amend the Constitution shall be the prerogative of the King, the Prime Minister, the President of the Assembly at the suggestion of 1/4 of all the assembly members. Revision or amendments shall be enacted by a Constitution law passed by the Assembly with a 2/3 majority vote.

Article 133 - Revision or amendment shall be prohibited when the country is in the state of emergency, as outlined in article 86.

Article 134 - Any revision or amendment affecting the system of liberal and pluralistic democracy and the regime of Constitutional Monarchy shall be prohibited.

CHAPTER XIV: TRANSITIONAL PROVISIONS

Article 135 - This Constitution, after its adoption, shall be declared in force immediately by the Head of State of Cambodia.

Article 136 - After the entry into force of this Constitution, the Constituent Assembly shall become the National Assembly. The Internal Rules of Procedure of the assembly shall come into force after adoption by the assembly. In the case where the assembly is not yet functional, the President, the First and Second Vice-Presidents of the Constituent Assembly shall participate in the discharge of duties in the Throne Council if so required by the situation in the country.

Article 137 - After this Constitution takes effect, the King shall be selected in accordance with conditions stipulated in articles 13 and 14.

Article 138 - After this Constitution takes effect, and during the first legislature, the King of the Kingdom of Cambodia shall appoint a First Prime Minister and a Second Prime Minister to form the Royal Government after securing the consent of the President and the two Vice-President of the assembly. The Co-Presidents existing before the adoption of this Constitution shall participate as members of the Committee and in the Throne Council as stipulated in articles 11 and 13 above.

Article 139 - Laws and standard documents in Cambodia that safeguard State properties, rights, freedom and legal private properties and in conformity with the national interests, shall continue to be effective until altered or abrogated by new texts, except those provisions that are contrary to the spirit of this Constitution.

THE END This Constitution was adopted by the Constitutional Assembly in Phnom Penh on September 21, 1993, at its 2nd Plenary Session. Phnom Penh, September 21, 1993

The President, Signed: Son Sann

Annex 5: Principles for a New Constitution for Cambodia

1. The constitution will be the supreme law of the land. It may be amended only by a designated process involving legislative approval, popular referendum, or both.
2. Cambodia's tragic recent history requires special measures to assure protection of human rights. Therefore, the constitution will contain a declaration of fundamental rights, including the rights to life, personal liberty, security, freedom of movement, freedom of religion, assembly and association including political parties and trade unions, due process and equality before the law, protection from arbitrary deprivation of property or deprivation of private property without just compensation, and freedom from racial, ethnic, religious or sexual discrimination. It will prohibit the retroactive application of criminal law. The declaration will be consistent with the provisions of the Universal Declaration of Human Rights and other relevant international instruments. Aggrieved individuals will be entitled to have the courts adjudicate and enforce these rights.
3. The constitution will declare Cambodia's status as a sovereign, independent and neutral State, and the national unity of Cambodian people.
4. The constitution will state that Cambodia will follow a system of liberal democracy, on the basis of pluralism. It will provide for periodic and genuine elections. It will provide for the right to vote and to be elected by universal and equal suffrage. It will provide for voting by secret ballot, with a requirement that electoral procedures provide a full and fair opportunity to organize and participate in the electoral process.
5. An independent judiciary will be established, empowered to enforce the rights provided under the constitution.

The constitution will be adopted by a two-thirds majority of the members of the constituent assembly.

THE KINGDOM OF CAMBODIA

CONSTITUTIONAL PROVISIONS

The relevant constitutional provisions appear in Articles 54, 58 and 59 of the Constitution of the Kingdom of Cambodia of 21 September 1993. The provisions read as follows.

Article 54

The manufacturing, use and storage of nuclear, chemical or biological weapons shall be absolutely prohibited.

Article 58

State property notably comprises land, mineral resources, mountains, sea, underwater, continental shelf, coastline, airspace, islands, rivers, canals, streams, lakes, forests, natural resources, economic and cultural centers, bases for national defense and other facilities determined as State property.

The control, use and management of State properties shall be determined by law.

Article 59

The State shall protect the environment and balance of abundant natural resources and establish a precise plan of management of land, water, air, wind, geology, ecological system, mines, energy, petrol and gas, rocks and sand, gems, forests and forestry products, wildlife, fish and aquatic resources.

* * * * *

Kingdom of Cambodia

Nation King Religion

Royal Government of Cambodia

No 15 ANK-BK

Sub-Decree

on

Phytosanitary Inspection

Royal Government

- Having seen the Constitution of the Kingdom of Cambodia;
- Having see Royal Decree No .../1198/72 dated 30 November 1998 on the formation of the Royal Government of the Kingdom of Cambodia;
- Having seen the Royal Kram No. 02/NS/94 dated on 20 July 1994 on the promulgation the law for organization and function of the Council of Ministers;
- Having seen the Royal Kram No. NS/RKM/0196/13 dated 24 January 1996 on the promulgation the law for the establishment of the Ministry of Agriculture, Forestry and Fishery;
- Having seen the Royal Kram No. NS/RKM/0600/001 dated 21 June 2000 on the promulgation of the law on the management of quality and safety of products and services;
- Having seen the Sub-decree N0 17 ANK dated 07 April 2000 on the organization and function of the Ministry of Agriculture, Forestry and Fishery;
- Pursuant to the meeting of the Council of Ministers dated 14 February 2003;

Decided

Chapter I

General Provisions

Article 1.

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

Article 2.

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

Article 3.

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

Article 4.

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

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

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

to, insects, arachnids, nematodes, fungi, bacteria, viruses and other microbial organisms. These beneficial organisms are known to carry on or in them other undesirable organisms (e.g., hyper parasitoids and entomopathogenic organisms) detrimental to plant growth and development.

- u. **Plant Quarantine Authority** means an authority in charge in phytosanitary inspection and has clearly organizational structure from the middle level to the plant quarantine stations. This authority refers to Plant Protection and Phytosanitary Inspection Office (PP & PSO) under the supervise of the Department of Agronomy and Agricultural Land Improvement of the Ministry of Agriculture, Forestry and Fishery.
- v. **Infection Status** is level and character of plant quarantine materials bearing or containing with pests.

Chapter II

Phytosanitary Inspection

Article 5.

The Ministry of Agriculture, Forestry and Fishery shall nominate phytosanitary and animal-sanitary officers to implement the inspection following their duties in international check points, international border-check points, regional border-check points and sea-border check points throughout the Kingdom of Cambodia, where are stated by the Royal Government's Sub-decree.

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

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

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

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

Article 6.

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

Article 7.

Plant quarantine materials are:

- Plants, parts of plant, plant products, and agricultural products that are not certified free of pests;
- Packaging materials or wooden boxes, palettes or any means of transport and storage;

- Soild or soild attached to root or part of plant;
- Live or dead pests or beneficial organisms;
- Any other items that may not be of plant origin but yet may provide a habitat for pests.

List of plant quarantine materials shall define by *Prakas* of the Ministry of Agriculture, Forestry and Fishery, Ministry of Commerce, Ministry of Industry, Mine and Energy, and Ministry of Health.

Article 8.

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

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

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

Article 9.

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

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

Article 10.

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

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

Article 11.

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

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

Article 12.

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

Article 13.

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

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

Article 14.

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

Phytosanitary inspection fee and pest control fee shall be issued by *Prakas* of the Minister of Agriculture, Forestry and Fishery and Minister of Economic and Finance.

Article 15.

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

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

Article 16.

During operation the plant quarantine officer shall wear the uniform with together with badges of Plant Quarantine Authority and accompanied by the mission order issued by the Ministry of Agriculture, Forestry and Fishery.

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

The Ministry of Agriculture, Forestry and Fishery shall develop a *Paraks* on procedure of plant quarantine inspection and other regulations for implementing this sub-decree effectively.

Article 17.

All *Prakas* or other egulations that concerned with plant quarantine inspection shall be published through National Information System.

Chapter III

Domestic Plant Quarantine

Article 18.

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

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

Article 19.

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

Chapter IV

Plant Quarantine for Import and Monitoring

Article 20.

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

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

Article 21.

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

1. the material must be accompanied with a plant quarantine certificate issued by Plant Quarantine Authority of country-exporter in model stipulated in International Plant Protection Convention of 1995.
2. the materials must be free from plant quarantine pests and other dangerous pests of the Kingdom of Cambodia. In case of materials have damaged by the above pests, the phytosanitary treatment shall be taken place prior importing.

Article 22.

Inspection formalities of imported plant quarantine materials are as follows:

1. any physical or juridical person who import plant shall inform to the plant quarantine check point ten days (10 days) before the arrival of the materials.
2. in arrival to the first point of border's entry, owner of plant quarantine materials must declare and apply for inspection. The plant quarantine check point shall indicate concretely the proper place for plant quarantine inspection.

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

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

Article 23.

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

Chapter V

Plant Quarantine for Export

Article 24.

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

Article 25.

The conditions for exporting plant quarantine materials are as follows:

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

Article 26.

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

Chapter VI

Plant Quarantine for Transits

Article 27.

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

- accompanied with a phytosanitary certificate issued by country-exporter;
- pack the materials in good package and load in container, which could avoid leakage or spillage the materials while being transported;

- the means of transport must be free from plant quarantine or dangerous pests, which could be spread out along the way of transit.

Article 28.

Phytosanitary inspection formalities for transit are as follows:

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

Article 29.

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

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

Chapter VII

Authority of Plant Quarantine Officer

Article 30.

The Plant Quarantine Officer has the authorization as follows:

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

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

Article 31.

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

Chapter VIII

Penalty Provisions

Article 32.

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

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

Article 33.

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

- fails to plant quarantine procedures prescribed in Article 8, point 4 of this Sub-decree;
- violates to Article 13, paragraph 2 or Article 18 paragraph 2 or Article 19 or Article 22 paragraph 2 or 3 of this Sub-decree.

Article 34.

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

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

Article 35.

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

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

Article 36.

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

The rewarded to encourage the officer and the expenditure for this mission will be defined by *Prakas* of the Minister of Agriculture, Forestry and Fishery and Minister of Economic and Finance.

Chapter IX

Final Provisions

Article 37.

The Sub-decree No 98 ANK dated 08 October 1983 on Phytosanitary Inspection on Importing and Exporting plant products and other previous provisions which are contradictory to this Sub-decree shall be repealed.

Article 38.

The Minister of the Council of Minister, the Minister of Agriculture, Forestry and Fishery, the Ministers and Secretaries of all Ministries and Authorities concerned shall implement this Sub-decree upon signing.

Phnom Penh, 13 March 2003

Prime Minister

Signed: Hun Sen

Cc:

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

LAW ON ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT

CHAPTER I

GENERAL PROVISIONS

Article 1

The purposes of this law are:

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

CHAPTER II

NATIONAL AND REGIONAL ENVIRONMENTAL PLANS

Article 2

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

Article 3

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

The National Environmental Plan shall:

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

Article 4

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

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

Article 5

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

CHAPTER III

ENVIRONMENTAL IMPACT ASSESSMENT

Article 6

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

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

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

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

Article 7

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

CHAPTER IV

NATURAL RESOURCE MANAGEMENT

Article 8

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

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

Article 9

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

Article 10

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

Article 11

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

CHAPTER V

ENVIRONMENTAL PROTECTION

Article 12

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

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

Article 13

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

CHAPTER VI

MONITORING, RECORD-KEEPING AND INSPECTIONS

Article 14

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

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

Article 15

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

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

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

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

CHAPTER VII

PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

Article 16

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

Article 17

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

Article 18

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

CHAPTER VIII

ENVIRONMENT ENDOWMENT FUND

Article 19

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

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

CHAPTER IX

PENALTIES

Article 20

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

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

Article 21

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

In case of a repeat offense, shall be fined from one million Riel (1,000,000 Riel) to five million Riel (5,000,000 Riel) or imprisoned from 1 month to 3 months, or both.

Any person who commits a violation of Article 20 of this law shall be fined administratively from one million Riel (1,000,000 Riel) to ten million Riel (10,000,000 Riel). In case of a repeat offense, shall be fined from twenty one million Riel (21,000,000 Riel) to thirty million Riel (30,000,000 Riel) or imprisoned from 1 month to 1 year, or both.

Article 22

If the violation causes danger to human bodies or lives, to private property, to public property, to the environment, [or] to natural resources, shall be fined from ten million Riel (10,000,000 Riel) to fifty million Riel (50,000,000 Riel) or imprisoned from 1 year to 5 years, or both.

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

Article 23

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

Article 24

Any environmental inspection official or agent who is negligent, fails to pay attention to, or fails to comply with the Ministry's regulations, or conspires with a violator or facilitates the commission of a violation, shall be subject to administrative sanctions or face prosecution before the court.

Article 25

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

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

CHAPTER X

INTERIM PROVISIONS

Article 26

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

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

- take into account the nature and extent of the danger to human health, to the environment, and to natural resources that may result from this extension;
- review the possibility, means, technicality, and finance of this existing activity.

CHAPTER XI
FINAL PROVISIONS

Article 27

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

Done in Phnom Penh, 24 December 1996.

Narodom Sihanouk

Submitted for the King's signature

Norodom Ranariddh Hun Sen

First Prime Minister Second Prime Minister

Submitted to the First and Second Prime Ministers

Minister of Environment: Mok Mareth

Royal Government of Cambodia

Council of Ministers

No. 72 ANRK-BK

Phnom Penh, 11 August 1999

Sub-Decree

On Environmental Impact Assessment Process

-----ooOoo-----

The Royal Government of Cambodia

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

It is hereby decided and ordered:

Chapter I

General Provisions

Article 1.

The purposes of this Sub-decree are:

- An environmental impact assessment (EIA) shall be done on every project and activity, private or public, and shall be reviewed by the Ministry of Environment before being submitted to the Royal Government for decision;
- The nature and size of the proposed projects and activities and existing and in-process activities, both private and public, shall be subject to environmental impact assessment;
- Foster public participation in the EIA process in recognizing that their concerns should be considered in the project decision-making process.

Article 2.

The Sub-decree applies to every proposed project and activities and existing and in-process, private, joint-venture and public projects that listed in Annex of this Sub-decree, except projects deemed necessary to react to a declared state of emergency and approved by the Royal Government.

Chapter II

Institutional Responsibilities

Article 3.

The Ministry of Environment shall:

- a. evaluate and review the EIA reports in collaboration with other governmental institutions;
- b. take appropriate administrative, conduct surveillance and monitor to ensure that the environmental management plan during the project construction, operation, and closure, which contained in an approved EIA report be implemented by the project sponsor.

Article 4.

Central governmental institutions in their capacity as the Approval Institution shall approve the project that listed in an Annex of this Sub-decree only after consideration of the findings and recommendations of the Ministry of Environment on the EIA reports.

Article 5.

Local governmental institutions in their capacity as the Approval Institution shall:

- a. submit a copy of private, joint-venture and public projects along with their attendant IEIA reports and EIA reports to the Provincial Environmental Department;
- b. approve the project only after consideration of the findings and recommendations of the provincial environmental department as their capacity that provided by the *Prakas* of the Ministry of Environment.

Chapter II

Environmental Impact Assessment Requirements for Proposed Projects

Article 6.

The Project Sponsor shall conduct Initial Environmental Impact Assessment (IEIA) for the project required EIA as listed in an Annex of this Sub-decree.

Article 7.

The Project Sponsor will submit the Environmental Application for reviewing IEIA reports and pre-feasibility study to the Ministry of Environment.

Article 8.

The Project Sponsor will submit the Environmental Application for reviewing full-scale EIA reports and feasibility study to the Ministry of Environment for the projects deemed serious impact to the natural resources, ecosystem, health and public welfare.

Article 9.

The Project Sponsor will submit the Environmental Application for EIA reports as stipulated in Article 7 and Article 8 of this Sub-decree to the Provincial Environmental Department for the local projects.

Article 10.

The Guidelines for preparing IEIA and EIA reports issuance of *Prakas* by the Ministry of Environment.

Article 11.

The Project Sponsor will submit the review and monitoring fee to the National Budget Account. The amount of the fee is specified by the Ministry of Economy and Finance according to the propose of the Ministry of Environment.

Article 12.

Consider the obligation to make a donation to the Environmental Endowment Fund as stipulated in Article 19, Chapter 8 of the Law on Environmental Protection and Natural Resources Management.

Article 13.

Environmental Application Form will be filled by the Project Sponsor and provided by the Ministry of Environment for the central projects and by the Provincial Environmental Department for the local projects.

Chapter IV

EIA Review Process for Proposed Projects

Article 14.

The Project Sponsor will conduct and submit the reports as stipulated in Article 7 to the Ministry of Environment and provided a copy to the Approval Institutions.

Article 15.

The Ministry of Environment will review the EIA reports as stipulated in Article 14 and will submit findings and recommendations to the Project Sponsor and Approval Institutions within thirty work-days following the receipt of the EIA report and pre-feasibility study from the Project Sponsor.

Article 16.

In case the project required full-scale EIA report determined by the Ministry of Environment, the Project Sponsor shall conduct and submit the report as stipulated in Article 8 of this Sub-decree to the Ministry of Environment in the same time as submit the investment application to the Approval Institutions.

Article 17.

The Ministry of Environment will review the report as stipulated in Article 16 and will submit findings and recommendations to the Project Sponsor within thirty work-days following the receipt of the full-scale EIA report and feasibility study from the Project Sponsor.

Article 18.

If the Ministry of Environment fails to submit findings and recommendations as stipulated in Articles 15 and 17, the Project Approval Institution will assume the revised IEIA or an EIA reports complies with the requirement of this Sub-decree.

Article 19.

When the Project Sponsor is the Project Approval Institution shall comply as stipulated in Chapters 3 and 4 of this Sub-decree.

Article 20.

The project will be implemented only after receiving the IEIA or/and EIA reports approved by the Ministry of Environment.

Chapter V

EIA Review Process for Existing Projects

Article 21.

All Project Sponsors shall file with the Ministry of Environment an IEIA report and submit the Environmental Applications for each of their projects within one year of the promulgation of this Sub-decree for central projects.

Article 22.

After notification to the Project Sponsors by the Ministry of Environment that the report is not complied with requirement of this Sub-decree, the Project Sponsor will improve or conduct full-scale EIA report within 6 months as required in Chapters 3 and 4 of this Sub-decree.

Article 23.

After notification to the Project Sponsor by the Ministry of Environment of the findings of the report reviewed, the EIA report is complied with the requirement of this Sub-decree, the Project Sponsor will implement the Environmental Management Plan contain in the EIA report within 6 calendar months.

Article 24.

All Project Sponsors shall file with the Provincial Environmental Department an IEIA report and submit the Environmental Applications for each of their projects within two years of the promulgation of this Sub-decree for the local projects.

Article 25.

After notification to the Project Sponsors by the Provincial Environmental Department the report is not complied with the requirements of this Sub-decree, the Project Sponsor will improve or/and conduct full-scale EIA report within 6 months as required in Chapters 3 and 4 of this Sub-decree.

Article 26.

After notification to the Project Sponsor by the Provincial Environmental Department of findings of the report reviewed, the EIA report is complied with the requirement of this Sub-decree, the Project Sponsor will implement the Environmental Management Plan contain in the EIA report within 6 calendar months.

Chapter VI

Condition for Approving the Projects

Article 27.

The Approval Institutions should provide conditions to the Project Sponsor to implement the Environmental Management Plan that has been approved in an EIA report by the Ministry of Environment.

Article 28.

The Ministry of Environment operate with concerning institutions appear to stop the activity of those projects with failed in implementation of the Environmental Management Plan which has been stated in the EIA reports.

Chapter VII

Penalties

Article 29.

A Project Sponsor, who knowingly fails to disclose or misrepresents information that is vital to the environmental process or does not implemental management plan as described in approved EIA report or otherwise violates a provision of this Sub-decree, shall be subject to the penalties set forth in Articles 20 to 23 and 25 of Chapter V of the Law on Environmental Protection and Natural Resources Management.

Article 30.

The reporting of violated and violator is the responsibility of the Ministry of Environment.

Article 31.

Any Environmental Officer or agent who is negligent, fails to pay attention to, or fails to comply with the Ministry's regulations, or conspires with violators or facilitate the commission of a violation, shall be subject to administrative sanctions or face prosecution before the court.

Chapter VIII

Final Provisions

Article 32.

Any provisions that contrary to this Sub-decree shall be considered null.

Article 33.

The Minister of the Council of Ministers, Ministries and concerning Institutions shall operate with the Ministry of Environment to implement this Sub-decree according to their roles and responsibilities.

Article 34.

This Sub-decree promulgated since the date of signature.

Done in Phnom Penh,

Prime Minister

HUN Sen

Kingdom of Cambodia

Nation Religion King

Royal Government

Council of Ministers

No 36 ANRK-BK

Phnom Penh, 27 April 1999

Sub-Decree

On

Solid Waste Management

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- Has seen the Constitution of the Kingdom of Cambodia;
- Has seen the Royal Decree No. NS/RKT/1198-72 date 30 November 1998 on the formation of the Royal Government of Cambodia of the Kingdom of Cambodia;
- Has seen Preah Reach Kram No. 02/NS/94 dated 20 July 1994, announcing to allow using the law on the Establishment and implementation of the Council of Ministers;
- Has seen Preah Reach Kram No. NS-RKM/0194/21 dated 24 January 1996 announcing the use of the Law on the Establishment of the Ministry of Environment;
- Has seen Preah Reach Kram No. NS/RKM/1296/36 dated 24 December 1996, announcing the use of the Law on Environmental Protection and Natural Resources Management;
- Has received an approval from the meeting of the Council of Ministers on 02 April 1999;

Decision

Chapter I

General Provisions

Article 1.

The purpose of this Sub-decree is to regulate the solid waste management with proper technical manner and safe way in order to ensure the protection of human health and the conservation of bio-safety.

Article 2.

This sub-decree applies to all activities related to disposal, storage, collection, transport, recycling , dumping of garbage and hazardous waste.

Article 3.

Technical terms used in this sub-decree have the meaning ascribed there to:

- a. Solid waste refers to hard objects, hard substances, products or refuse which are useless, disposed of, are intended to be disposed of, or required to be disposed of;
- b. Household waste is the part of solid waste which does not contain toxin hazardous substance, and is discarded from dwellings, public buildings, factories, market, hotel, business building, restaurant, transport facilities, recreation site, etc...;
- c. Hazardous waste refers to radioactivity substances, explosive substances, toxic substances, inflammable substances, oxidizing substances, irritating substances, corrosive substances, pathogenic substances, or other chemical substances which may cause the danger to human (health) and animal or damage plants, public property and the environment. The hazardous waste may be generated from dwelling houses, industries, agricultural activities, business and service activities, mining, etc..... . The type of hazardous waste is listed in the Annex of this Sub-decree.

Chapter 2

Household Waste Management

Article 4.

The Ministry of Environment shall establish guidelines on disposal, collection, transport, storage, recycling, minimizing, and dumping of household waste in provinces, cities in order to ensure the management of household waste with safe way.

The authorities of provinces and cities shall establish the waste management plan in their province and city for short, medium and long-term.

Article 5.

The collection, transport, storage, recycling, minimizing, and dumping of waste in provinces and cities is the responsibility of the authorities of provinces and cities.

The implementation as mentioned in the first paragraph of Article 5 shall comply with the guideline on the sound management of waste specified by the *Prakas* (Declaration) of the Ministry of Environment.

Article 6.

The Ministry of Environment shall monitor the implementation in disposal, collection, transport, storage, recycling, minimizing and dumping of the household waste in the provinces and cities.

Article 7.

The disposal waste in public sites or anywhere that is not allowed by the authorities shall be strictly prohibited.

Article 8.

The domestic investment in construction of landfill, incinerator, storage sites or recycling plant for household waste shall be subject to prior approval from Ministry of Environment.

Article 9.

The exportation of the household waste from the kingdom of Cambodia to abroad could not be conducted unless there are approvals from Ministry of Environment, and export license from the Ministry of Commerce, and permit from the import country.

Article 10.

The importation of the household waste from abroad to the Kingdom of Cambodia shall be strictly prohibited.

Chapter 3

Hazardous Waste Management

Article 11.

The Ministry of Environment shall establish guidelines on the management of hazardous waste to ensure the safe management.

Article 12.

The Ministry of Environment shall issue *Prakas* on the standard of quantity of toxin or hazardous substances contained in hazardous waste which could be allowed to be disposed in order to ensure the human health and environmental quality protection, and bio-diversity conservation.

Article 13.

The owner of hazardous waste shall be responsible for temporary storage of his/her waste in proper technique and in safe manner.

Article 14.

The owner of hazardous waste shall make quarterly report on his/her waste and forward it to the Ministry of Environment. The report includes:

- Type and amount of the waste;
- Temporary storage method; and
- Treatment or elimination method.

Article 15.

The storage, transportation, and disposal of the hazardous waste shall be performed separately from the household waste which will be stipulated by *Prakas* of the Ministry of Environment.

The disposal of hazardous waste into public site, public drainage systems, public water area and forest area shall be strictly prohibited.

Article 16.

The collection, transportation, storage and disposal of the =hazardous waste from dwelling houses, markets, clinics, hospitals, hotels, restaurants and public buildings are the competence of the local authorities.

The implementation of the first paragraph of this Article 16 shall be in accordance with the *Prakas* of the Ministry of Environment on the guidelines on the environmentally sound management of hazardous waste.

Article 17.

The transportation or construction of storage place or landfill of hazardous waste from factories and manufacturing sites shall be subject to permit from the Ministry of Environment.

Article 18.

The owner or responsible person of storage place or landfill of the hazardous waste shall make quarterly report on the hazardous waste which is transported for disposal of or for storage and forward this report to the Ministry of Environment. The report shall include as follows:

- Type and amount of waste;
- Sources of waste;
- Packing and transport facility; and
- Process and management of the waste inside his/her location and forward this report to the Ministry of Environment.

Article 19.

The investment of the treatment or incineration of the hazardous waste shall have prior approval from the Ministry of Environment.

Article 20.

The exportation of hazardous waste from the Kingdom of Cambodia to abroad could be conducted if there is an agreement from the Ministry of Environment, export license from the Ministry of Commerce, and permit from the importing country.

The exportation of the hazardous waste shall be consistent with the provisions and principles of the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal of 1989, which came into force on 02 May 1992.

Article 21.

The importation of the hazardous waste from abroad into the Kingdom of Cambodia is strictly prohibited.

Chapter 4

Monitoring and Inspection of Hazardous Waste Management

Article 22.

The monitoring on packing, storage, transport, recycling, incinerating, treatment and disposal of the hazardous waste is the responsibility of the Ministry of Environment.

Article 23.

The Ministry of Environment shall take sample of the hazardous waste at every point enumerated in Article 22 of this sub-decree.

The owner or responsible person for the site mentioned in paragraph one of Article 23 of this sub-decree shall collaborate and facilitate the environmental official who comes to take the waste sample so that their can carry out their technical task.

Article 24.

The samples of the hazardous waste which were taken during the monitoring or inspection shall be analyzed in the laboratory of the Ministry of Environment.

The owner or the person who is responsible for the site stipulated in paragraph one of Article 23 of this sub-decree can request to test his/her waste sample at other public or private laboratories which are recognized formally and those laboratories must use the same testing method as used in the laboratory of the Ministry of Environment.

The owner or person who is responsible for the point or site stipulated in paragraph 1 of Article 23 of this sub-decree shall pay analysis fee of his/her own waste sample following the list of testing cost determined by the Ministry of Environment and the Ministry of Economy and Finance.

These incomes shall be incorporated into the national budget for allocating the Environmental Endowment Fund.

Article 25.

In the case of finding out that there is any illegal disposal or dumping of the hazardous waste without a permit from the competent institution, the Ministry of Environment in collaboration with concerned ministries, shall conduct the inspection at the place in complying with procedures as follows:

- a. To present his/her identity card and mission letter while entering into the premises or any site of point source of pollution for conducting inspection and taking sample;
- b. To make, at the site of inspection, the primary record and report of the inspection or sample taken with the presence of witness if necessary;
- c. To inquire and require the owner responsible person of the place to provide them with information and other relevant documents for taking statement or report and for evidence;
- d. To collect and detain evidence of the offence.

Article 26.

In case if there are complaint or report that there is storage or disposal of the hazardous waste which cause danger to animal or human health or public property or contaminate the environment, the Ministry of Environment shall make urgent inspection and inform concerned ministries and local authorities.

Chapter 5

Penalty

Article 27.

Violation of this sub-decree shall be fined and punished according to Articles 20, 21, 22, 23 and 25 of Chapter 9 of the Law on Environmental Protection and Natural Resources Management.

Article 28.

Any environmental inspection official or agent who is negligent, fails to pay attention to, or fails to comply with the Ministry's regulations, or conspires with violator or facilitates the commission of a violation, shall be subject to administrative sanction or face prosecution before the court.

Article 29.

The report making and the prosecution for any person who violates or fails to abide by any article of this sub-decree, is the responsibility of the Ministry of Environment's official.

Chapter 6

Final Provisions

Article 30.

Any provision contrary to this sub-decree shall be considered null.

Article 31.

The minister in charge of the Cabinet of the Council of Ministers, concerned ministries and institutions shall collaborate with the Ministry of Environment and implement this sub-decree according to their duty.

Article 32.

This sub-decree shall be in force from the date its signature.

Annex

Type of Hazardous Waste

1. Fibrous and clothing wastes from textile and garment industry;
2. paper waster from paper-mill industry;
3. sludge waste from factory waste water treatment and product manufacturing processes;
4. combustion residues from coal fired power plant;
5. plastic waste from production or use of plasticizers;
6. PCB waste from use of PCB contained in discarded air conditioners, TC and microwaves;
7. rubber waste from production or use of resins and latex;
8. oil waste from oil refinery, use of lubrication oils, washing oils;
9. acid waste;
10. alkalis waste;
11. metal waste and their compounds:
 - a. Zinc (Zn) Selenium (Sc) Tin (Sn) Vanadium (V)
 - b. Copper (Cu) Arsenic (As) Barium (Ba) Cobalt (Co)
 - c. Nickel (Ni) Antimony (Sb) Beryllium (Be) Tellurium (Te)
 - d. Lead (Pb) Titanium (Ti) Uranium (U) Silver (Ag)
12. soot and dust waste from incineration facilities, treating exhaust gas;
13. waste from use or discarded electricity lamp;
14. waste from production or use of battery;
15. waste from production and use of paints, lacquers and pigments;
16. waste from production and use of inks and dyes;
17. explosive wastes;

18. infectious diseases waste;
19. agricultural drug waste;
20. ask waste from incinerators;
21. waste from expired products;
22. waste from production and use of film;
23. waste from treatment of polluted soil;
24. waste from production of drugs and medicines, and expired drugs;
25. inorganic fluorine wastes;
26. cyanide wastes;
27. asbestos wastes;
28. phenols wastes;
29. ether wastes;
30. waste from production and use of solvents;
31. wastes from production and use of dioxin and furan;
32. radioactive wastes;

Phnom Penh, 06 April 1999

SUB-DECREE

On

Water Pollution Control

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- Has seen the Constitution of the Kingdom of Cambodia (1993);
- Has seen the Royal Decree No. NS/RKT/1198-72 date 30 November 1998 on the formation of the Royal Government of Cambodia of the Kingdom of Cambodia;
- Has seen Preah Reach Kram No. 02/NS/94 dated 20 July 1994, announcing to allow using the law on the Establishment and implementation of the Council of Ministers;
- Has seen Preah Reach Kram No. NS-RKM/0194/21 dated 24 January 1996 announcing the use of the Law on the Establishment of the Ministry of Environment;
- Has seen Preah Reach Kram No. NS/RKM/1296/36 dated 24 December 1996, announcing the use of the Law on Environmental Protection and Natural Resources Management;
- Has received an approval from the meeting of the Council of Ministers on 12 March 1999;

Decision

Chapter 1

General Provisions

Article 1.

The purpose of this sub-decree is to regulate the water pollution control in order to prevent and reduce the water pollution of the public water areas so that the protection of human health and conservation of bio-diversity should be ensured.

Article 2.

The sub-decree applies to all sources of pollution and all activities that cause pollution of the public water areas.

Article 3.

Technical terms used in this sub-decree shall have the meaning ascribed there to:

- a. public water area refers to water areas that are for public use such as *tonle, stung* (rivers), stream, gully, lake, pond, well, sea, *peam* (river mouth) and include canal-irrigation system and other waterways that are for public use and ground water.
- b. Source of pollution refers to any type of place such as dwelling house, public administrative building, premises, transport facilities, business areas or service places from which effluent, pollutants or hazardous substances are directly or indirectly discharged into public water areas or public drainage systems;
- c. Wastewater refers to water discharged from any source of pollution into public water areas or public drainage systems either it is treated or untreated;
- d. Sewage refers to a contaminated water discharged from dwellings and public building;
- e. Solid waste refers to disabled used substances or objects that are disposed of from pollution source;
- f. Garbage refers to disabled use substances or objects that are disposed of from dwellings and public buildings;
- g. Pollutant refers to solid or liquid or gaseous substances or all kinds of wastes that cause any change of component or characteristic of water such as physical, chemical or biological when it is intentionally or unintentionally released into the water (public water areas);
- h. Pollution load refers to the load of the content of pollutant and heat contained in wastewater released from any source of pollution into public water areas or public drainage systems;
- i. Hazardous substances refers to any substance that causes danger to living organisms, damage or break down any objects or buildings or adversely impacts and damages the environment. The types of hazardous substances are listed in the Annex 1 of this sub-decree.

Chapter 2

Provisions on Waste and Hazardous Discharge

Article 4.

Standard for effluent discharge from any source of pollution shall be specified in the Annex 2 of this sub-decree.

Article 5.

In necessary case, or in response to the requirement of each area for the purpose of human health protection and the conservation of bio-diversity, the Ministry of Environment shall set up separate standard for effluent discharge for sources of pollution, that are located around the public water area.

The separated standard for effluent discharge as mentioned in the first paragraph of Article 5 of this sub-decree shall be specified by the *Prakas* of the Ministry of Environment.

Article 6.

The discharge of waste water from any source of pollution that is not consistent with the standard for effluent discharge as mentioned in Articles 4 and 5 of this sub-decree shall be strictly prohibited.

Article 7.

In order to ensure the human health protection and bio-diversity conservation, the Ministry of Environment shall establish the standard of pollution load contained in liquid waste that could be allowed to be released from any source of pollution into designated protected public water area.

The pollution load standard as mentioned in paragraph one, Article 7 of this sub-decree shall be stated by the *Prakas* of the Ministry of Environment.

Article 8.

The disposal of solid waste or any garbage or hazardous substances into public water areas or into public drainage system shall be strictly prohibited.

The storage or disposal of solid waste or any garbage and hazardous substance that lead to the pollution of water of the public water areas shall be strictly prohibited.

Article 9.

The discharge of sewage from dwelling and public buildings into public water areas without passing through public sewage systems or other treatment systems shall be strictly prohibited.

Chapter 3

Effluent Discharge Permit

Article 10.

The discharge or transport of waste water from any source of pollution to other places for any purpose is subject to prior permit from the Ministry of Environment. The application for this permit shall be copied to the concerned ministries or agencies.

Article 11.

The type of any source of pollution that requires permit from Ministry of Environment before discharging or transporting their effluent to other places as mentioned in Article 10 of this sub-decree shall be listed in Annex 3 of this sub-decree and are classified into two following categories;

- a- the sources of pollution of category 1 that are subject to prior permit from the Ministry of Environment when the amount of their effluent exceed ten cubic meters per day (10m³/day) but not including the amount of water volume used for cooling the engine.

- b- The source of pollution of category 2 that shall be necessarily required to apply for the permission from the Ministry of Environment.

Article 12.

Permit requirement for discharge or transportation of effluent to other places as stipulated in Article 10 of this sub-decree shall apply to either the new sources of pollution project or to existing source of pollution except any new project of pollution source that environmental impact assessment report of which has been approved may be exempt from the requirement of permit for discharge or transportation of effluent to other places.

Article 13.

The owner or responsible person of the pollution source as mentioned in Article 11 of this sub-decree that intend to release or transport his/her effluent to other places shall apply for permit from the Ministry of Environment:

- Forty days (40 days) before the beginning of the functioning, for the new source of pollution located in Phnom Penh, and sixty days (60 days) for the new source of pollution located in provinces and cities.
- Within thirty days (30 days) after being required by the Ministry of Environment, for existing source of pollution located in Phnom Penh, and for forty days (40 days) for new source of pollution located in provinces and cities.

Article 14.

The effluent discharge or transportation permit from pollution source to other places could be provided if the application form meets the required technical guidelines determined by the Ministry of Environment.

Article 15.

The owner or person responsible for the source of pollution that is holder of permit from the Ministry of Environment for discharge or transportation of effluent to other places and that have intention to modify the effluent discharge system shall reapply for a new permit to the Ministry of Environment within thirty days (30 days) before beginning the modification.

Article 16.

Person that takes on leases or ownership of source of pollution from the previous owner or previous responsible person who already obtained the discharge or transportation permit from the Ministry of Environment shall continue to comply with criteria points described in the application form that was submitted to the Ministry of Environment.

The new owner or responsible person shall inform the Ministry of Environment about the lease or such possession within thirty days (30 days) after taking on lease or ownership.

Article 17.

The permit of discharge or transportation of effluent that is provided to the owner or responsible person of pollution source could be revoked temporarily or definitively by the Ministry of Environment after consultation with other concerned ministries or agencies, if they violate seriously Articles 14, 15 and 16 of this sub-decree.

Chapter 4

Monitoring of the Pollution Sources

Article 18.

The monitoring of the discharge or transportation of effluent from any source of pollution is the responsibility of the Ministry of Environment.

Article 19.

The Ministry of Environment shall take sample at every discharge point of pollution sources. The owner or responsible person of pollution sources shall collaborate with and facilitate the environmental officials to take sample while carrying out their technical task.

Article 20.

The analysis of effluent samples taken from any pollution sources during the monitoring or inspection shall be done in the laboratory of the Ministry of Environment.

Article 21.

The owner or responsible person of pollution sources shall bear the cost of the analysis of his/her own wastewater sample following the tariff determined by the Ministry of Environment and the Ministry of Economy and Finance. This income shall be included into the national budget in order to allocate to the Environmental Endowment Fund account.

Article 22.

The owner or responsible person of pollution sources may ask to have his/her effluent sample tested in other public or private laboratories which are recognized formally and such laboratories carry out the same analytical method used in the Ministry of Environment.

Article 23.

The owner or responsible person of the pollution sources as stipulated in Article 11 of this sub-decree shall:

- a. be responsible for determining the method of the treatment and the discharge of their effluent so that it responds to the effluent standard as stipulated in Articles 4 and 5 of this sub-decree as well as the standard of pollution load as stipulated in Article 7 of this sub-decree;
- b. have enough facilities and means to prevent the pollution of the public water areas when there any eventual danger caused from his/her pollution sources;

- c. hold responsibility for installing an equipment for measurement of flow, concentration and amount of pollutant contained in his/her effluent and also keep the result for record keeping.

Article 24.

Even if it is found out that the discharge of effluent from any pollution source do not respond to the effluent standard as stipulated in Articles 4 and 5 or is not in consistent with the pollution load standard as stipulated in Article 7 of this sub-decree, the Ministry of Environment shall:

- a. issue a written order requiring the owner or responsibility person of such pollution source to correct the violation activities immediately within a specific time period, if that activity has not caused a harmful impact to human health or an adverse effect to the water quality yet;
- b. issue a written order requiring the owner or responsible person of the pollution source to stop his/her activities temporarily until the violation is corrected, if that activities cause an adverse impact to human health and water quality.

Chapter 5

Water Pollution Monitoring in Public Water Areas

Article 25.

The water quality standard of public water areas for the purpose of conservation of bio-diversity is stipulated in Annex 4 of this sub-decree.

The water quality standard of public water areas for the purpose of protection of the public health is stipulated in Annex 5 of this sub-decree.

Article 26.

The Ministry of Environment shall regularly control and monitor the situation of the water pollution at public water areas throughout the Kingdom of Cambodia in order to take measure to prevent and reduce the water pollution in public water areas.

Article 27.

The Ministry of Environment shall manage data relating to result of the water quality testing and to assess the status of the quality of public water areas throughout the Kingdom of Cambodia.

Article 28.

The Ministry of Environment shall disseminate publicly the status of the water quality and the situation of public water areas of the Kingdom of Cambodia.

Article 29.

Even if it is found that any public water area is suffering of pollution which could threaten human life or bio-diversity, the Ministry of Environment shall immediately notify the public about this

danger and shall take measure to prevent the water pollution and to restore the water quality of such public water area.

Chapter 6

Inspection Procedure

Article 30.

The Ministry of Environment' inspectors, while conducting environmental inspection, shall comply with the following procedures:

- a. To present his/her identity card and mission letter while entering into the premise or any site of point source of pollution for conducting inspection or taking sample or for checking record;
- b. Primary record or report of the inspection or sample taking shall be done at the site of inspection with participation of any witness if necessary;
- c. The inspectors may ask question and require the owner of the source of pollution to provide them with information and other relevant documents which are used for report making and for evidence;
- d. One copy of record or report shall be given to the owner or the responsible person of the source of pollution and one copy to the representatives of concerned ministries (who collaborate with) and another copy shall be kept at the Ministry of Environment.

Article 31.

Where if there is complaint or report that any source of pollution discharge effluent containing substance which cause danger to animal or human health or public property or cause pollution to any public water areas, the Ministry of Environment, in collaboration with concerned ministries may enter the site of this source of pollution and conduct inspection and take sample for testing.

Article 32.

In the case of serious accident or imminent danger resulting from pollution at public water areas, the Ministry of Environment shall make urgent inspection of the above problem and shall inform the concerned ministries and local authorities.

Article 33.

In the case of clear offense that cause water pollution, the inspectors of the Ministry of Environment shall:

- a. Take statement, collect and detain evidence of such offense and make an administrative fine, if the offense has not contaminated seriously water, human health, animal, plants or public properties yet;

- b. Collect and detain evidence of such offense for making statement and forward the case file to the competent agencies, if this violation causes serious pollution of water or injure to human health, animal, plants or public properties.

Chapter 7

Penalty

Article 34.

Violation of this sub-decree shall be fined and punished according to Articles 20, 21, 22, 23 and 25 of Chapter 9 of the Law on Environmental Protection and Natural Resources Management.

Article 35.

The Ministry of Environment's official is responsible for making a report of prosecution for any person who violates any article of this sub-decree. The Ministry of Environment shall take legal action against any offense of this sub-decree.

Article 36.

Any environmental inspection official or agent who is negligent, fails to pay attention to, or fails to comply with the Ministry's regulations, or conspires with a violator or facilitates the commission of violation, shall be subject to administrative sanction or face prosecution before the court.

Chapter 8

Final Provisions

Article 37.

Any provisions contrary to this sub-decree shall be annulled.

Article 38.

The Ministry in charge of the Cabinet of the Council of Ministers, Minister of Environment, and concerned institutions shall implement this sub-decree according to their duties.

Article 39.

This sub-decree shall be in force from the date of its signature.

Annex 1

Type of Hazardous Substances

1. organophalogen compounds and substances which may form such compounds in aquatic environment;
2. organophosphorous compounds;
3. organitions compounds;
4. substances that possess carcinogenic (cancer causing) properties in or via the aquatic environment;
5. mercury and its compounds;
6. cadmium and its compounds;
7. persistent mineral oil and hydrocarbons of petroleum origin;
8. persistent synthetic compounds which may float, remain in suspension or sink and which may interfere with any use of waters;
9. radio activated substances;
10. metals and their compounds:

Zinc (Zn)	Selenium (Sc)	Tin (Sn)	Vanadium (V)
Copper (Cu)	Aesenic (As)	Barium (Ba)	Cobalt (Co)
Nickel (Ni)	Antimony (Sb)	Beryllium (Be)	Tellurium (Te)
Lead (Pb)	Titanium (Ti)	Uranium (U)	Silver (Ag)
11. toxics or persistent organic compounds of silicon;
12. inorganic compounds of phosphorous and elemental phosphorous;
13. non-persistent mineral oils and hydrocarbons of petroleum origin;
14. cyanides and fluorides;
15. substances which may have an adverse effect on the oxygen balance, particularly ammonia, nitrites, etc.

Annex 2

Effluent Standard for Pollution Sources

Discharging Waste Water to Public Water Areas or Sewer

No	Parameters	Unit	Allowable limits for pollutant substance discharge to	
			Protected public water areas	Public water areas and sewer
1	Temperature	C	<45	<45
2	pH		6-9	5-9
3	BOD5 (5 days at 200C)	mg/l	<30	<80
4	COD	mg/l	<50	<100
5	Total Suspended Solids		<50	<80
6	Total Dissolved Solids		<1,000	<2,000
7	Grease and Oil		<5.0	<15
8	Detergents		<5.0	<15
9	Phenols		<0.1	<<1.2
10	Nitrate (NO3)		<10	<20
11	Chlorine (free)		<1.0	<2.0
12	Chloride (ione)		<500	<700
13	Sulphate (as SO4)		<300	<500
14	Sulphide (as Sulphur)		<0.2	<1.0
15	Phosphate (PO4)		<3.0	<6.0
16	Cyanide (CN)		<0.2	<1.5
17	Barium (Ba)		<4.0	<7.0
18	Arsenic (As)		<0.10	<1.0
19	Tin (Sn)		<2.0	<8.0
20	Iron (Fe)		<1.0	<20

21	Baron (B)		<1.0	<5.0
22	Manganese (Mn)		<1.0	<5.0
23	Cadmium (Cd)		<0.1	<0.5
24	Chromium (Cr)+3		<0.2	<1.0
25	Chromium (Cr)+6		<0.05	<0.5
26	Copper (Cu)		<0.2	<1.0
27	Lead (Pb)		<0.1	<1.0
28	Mercury (Hg)		<0.002	<0.05
29	Nickel (Ni)		<0.2	<1.0
30	Selenium (Se)		<0.05	<0.5
31	Silver (Ag)		<0.1	<0.5
32	Zinc (Zn)		<1.0	<3.0
33	Molybdenum (Mo)		<0.1	<1.0
34	Ammonia (NH3)		<5.0	<7.0
35	DO		>2.0	>1.0
36	Polychlorinated Bypemil		<0.003	<0.003
37	Calcium		<150	<200
38	Magnesium		<150	<200
39	Carbon Tetrachloride		<3	<3
40	Hexachloro benzene		<2	<2
41	DTT		<1.3	<1.3
42	Endrin		<0.01	<0.01
43	Dieldrin		<0.01	<0.01
44	Aldrin		<0.01	<0.01
45	Isodrin		<0.01	<0.01
46	Perchloro ethylene		<2.5	<2.5

47	Hexachloro buthadiene		<3	<3
48	Chloroform		<1	<1
49	1.2 Dichloro ethylene		< 2.5	<2.5
50	Trichloro ethylene		<1	<1
51	Trichloro benzene		<2	<2
52	Hexachloro cyclohexene		<2	<2

Remarks: the Ministry of Environment and the Ministry of Agriculture, Forestry and Fisheries shall collaborate to set up the standard of pesticides which discharged from the pollution sources.

Annex 3
Type of Pollution Sources Required Having Permission
from the Ministry of Environment Before Discharging or transporting
their Wastewater

No	Type of Pollution Sources	Category
1	Canned food and meat manufacturing	I
2	Canned vegetable and fruit manufacturing	I
3	Aquatic production processing	I
4	Frozen manufacturing	I
5	Flour manufacturing	I
6	Sugar manufacturing	I
7	Pure drinking water manufacturing	I
8	Brick manufacturing	I
9	Soft drink manufacturing and brewery	I
10	Wine and alcohol manufacturing	I
11	Feed mild manufacturing	I
12	Oil and fat manufacturing	I
13	Yeast manufacturing	I
14	Cake and sweet manufacturing	I
15	Cigarette manufacturing	I
16	Garment manufacturing without chemical washing	I
17	Hotel	I
18	Restaurant	I
19	Animal farm	I
20	Slaughter house	I
21	Garage and car cleaning	I
22	Business center	I

23	Hospital and clinic	I
24	Plastic manufacturing	I
25	Sewage treatment plant	I
26	Gelatin and glue manufacturing	I
27	Natural resin manufacturing	I
28	Glass manufacturing	I
29	Cement manufacturing	I
30	Macadam quarrying	I
31	Gravel quarrying	I
32	Wood processing	I
33	Fertilizer manufacturing	I
34	Mixed concrete manufacturing	I
35	Ship carrying liquid substances	II
36	Acetylene derivative manufacturing	II
37	Leather manufacturing	II
38	Soap and detergent manufacturing	II
39	Oil store house and filing station	II
40	Landfill site	II
41	Textile or synthetic textile	II
42	Garment manufacturing with using chemical wash	II
43	Pulp and paper manufacturing	II
44	Printing house	II
45	Mining and coal washing	II
46	Battery manufacturing	II
47	Inorganic pigment manufacturing	II
48	Electronic manufacturing	II

49	Coal tar product manufacturing	II
50	Film product manufacturing	II
51	Chemical organic substance manufacturing	II
52	Pharmaceutical manufacturing	II
53	Solvent (for cleaning) manufacturing	II
54	Pesticide manufacturing	II
55	Oil refining manufacturing	II
56	Iron and steel industry	II
57	Non-ferrous metal manufacturing	II
58	Metal product manufacturing	II
59	Plating factory	II
60	Incinerator or waste recycling plant	II
61	Night soil treatment plant	II
62	Waste oil treatment plant	II
63	Industrial waste treatment plant	II
64	Laboratory and research center	II
65	Power plant	II
66	Wood processing manufacturing	II
67	Shrimp farm	II

Annex 4
Water Quality Standard in Public Areas
For Bio-Diversity Conservation

1. River

No	Parameter	Unit	Standard value
1	pH	mg/l	6.5 - 8.5
2	BOD5	mg/l	1 – 10
3	Suspended solid	mg/l	25 – 100
4	Dissolved oxygen	mg/l	2.0 – 7.5
5	Coliform	MPN/100ml	<5000

2. Lakes and reservoirs

No	Parameter	Unit	Standard value
1	pH	mg/l	6.5 – 8.5
2	COD	mg/l	1 – 8
3	Suspended solid	mg/l	1 – 15
4	Dissolved oxygen	mg/l	2.0 – 7.5
5	Coliform	MPN/100ml	<1000
6	Total Nitrogen	mg/l	0.1 – 0.6
7	Total phosphorous	mg/l	0.005 – 0.05

3. Coastal water

No	Parameter	Unit	Standard value
1	pH	mg/l	7.0 – 8.3
2	COD	mg/l	2 – 8
3	Dissolved oxygen	mg/l	2 – 7.5
4	Coliform	MPN/100ml	<1000
5	Oil content	mg/l	0
6	Total nitrogen	mg/l	0.2 – 1.0
7	Total phosphorous	mg/l	0.02 – 0.09

Annex 5
Water Quality Standard in Public Water Areas
for Public Health Protection

No	Parameter	Unit	standard value
1	Carbon tetrachloride		<12
2	Hexachloro-benzene	µg/l	<0.03
3	DDT	µg/l	<10
4	Endrin	µg/l	<0.01
5	Dieldrin	µg/l	<0.01
6	Aldrin	µg/l	<0.005
7	Isodrin	µg/l	<0.005
8	Perchloroethylene	µg/l	<10
9	Hexachlorobutadiene	µg/l	<0.1
10	Chloroform	µg/l	<12
11	1,2 Trichloroethylene	µg/l	<10
12	Trichloroethylene	µg/l	<10
13	Trichlorobenzene	µg/l	<0.4
14	Hexachloroethylene	µg/l	<0.05
15	Benzene	µg/l	<10
16	Tetrachloroethylene	µg/l	<10
17	Cadmium	µg/l	<1
18	Total Mercury	µg/l	<0.5
19	Organic Mercury	µg/l	<0
20	Lead	µg/l	<10
21	Chromium, valent 6	µg/l	<50
22	Arsenic	µg/l	<10
23	Selenium	µg/l	<10
24	Polychlorobiohenyl	µg/l	<0
25	Cyanide	µg/l	< 0.005

KINGDOM OF CAMBODIA

Nation Religion King

oooOooo

Royal Government of Cambodia

No. 57 ANK

Sub-decree

On the Organization and Functions of the Ministry of Environment

Royal Government of Cambodia

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Royal Decree date 24 September 1993 on the appointment of the First Prime Minister and the Second Prime Minister ;
- Having seen the Royal Decree dated 1 November 1993 on the Formation of the Royal Government of Cambodia;
- Having seen the Royal Decree dated 01 November 1993 on the creation and designation of Protected Areas;
- Having seen the law No 02-NS-94 dated 20 July 1994 on the Organization and Function of the Council of Ministers;
- Having seen the Royal Decree No NS-RKT-1094-83 dated 24 October 1994 on the Reorganization of the Royal Government of Cambodia;
- Having seen the Law No NS-RKM-0196-21 dated 24 January 1996 on the Establishment of the Ministry of Environment;
- Having seen the Law No NS-RKM-1296-36 dated 24 December 1996 on Environmental Protection and Natural Resources Management;
- Having seen the Royal Decree No 20 ANK-BK dated 30 April 1996 on the Organization and Function of Ministries and State Secretariats;
- Pursuant to the proposal of the Ministry of Environment.
- Pursuant to the decision of the Council of Ministers in its Meeting dated

Decides

Chapter I

General Provisions

Article 1.

This Sub-decree concerns the organization of the Ministry of Environment and determines the mission of the Ministry and functions of the General Directorate and its departments.

Chapter II

Mission and Structure

Article 2.

The Royal Government of Cambodia gives the Ministry of Environment the mandate to supervise and manage the environmental sector throughout the Kingdom of Cambodia.

Article 3.

The Ministry of Environment has the following functions:

- To implement environment policies to ensure sustainable development of the country, and to prepare proposals for National and Regional Environmental (Action) Plans in collaboration with concerned Ministries;
- To develop and implement environmental legal instruments to promote and ensure sustainable development of the country;
- To review and make recommendations on environmental impact assessments of proposed and current public and private sector projects and activities, and to make proposals on procedures for the preparation and review of such assessments;
- To provide guidance to concerned ministries to ensure conservation, development, management and utilization in a rational and sustainable manner of the natural resources which include land, water, airspace, air, geology, ecological systems, mines, energy, petroleum and gas, minerals, forest and forest products, wildlife, fish and aquatic resources;
- To manage the national protected areas as demarcated in the Royal Decree dated 01 November 1993 on the Creation and Designation of Protected Areas in collaboration with those agencies of the government as specified in the Royal Decree, and to recommend the establishment of new protected areas;
- To inventory the sources, types and quantities of all solid and liquid wastes, pollutants, toxic and hazardous substances, emissions, noise and vibration, and to propose measures to prevent, reduce and control environmental pollution in collaboration with concerned ministries;
- To propose procedures for inspecting pollution sources and reporting on offences to competent authorities, and, in collaboration with concerned ministries, to inspect pollution sources and report on offences to competent authorities. To enforce the law as prescribed by Chapter 9 of the Law on Environment Protection and Natural Resources Management;
- To protect, analyze and manage environmental data and prepare an annual State of the Environment Report. To provide information on its activities and information related to environmental protection, natural resources management and current environmental situation and natural resources management;
- To develop and implement environmental education programs among all sectors of society, in collaboration with concerned ministries, national and international organizations;
- To develop proposals for the government to join international agreements, conventions and protocols on environmental protection and on environmental protection and to carry out those technical tasks necessary for the government to meet its commitments and responsibilities under those agreements, conventions and protocols.
- To promote investment on environmental protection and natural resources conservation, and to organize and manage an environment endowment fund for environmental protection and the conservation of natural resources;

- To collaborate with national and international organizations, NGOs, local communities and other countries to promote environmental protection in the Kingdom of Cambodia.

Article 4.

A. Central level:

- Cabinet of the Minister
- Office of Inspection
- General Directorate
- Department of Administration and Finance

B. Provincial level:

- Provincial and Municipal Department of Environments

Chapter III Cabinet of the Minister

Article 5.

The Cabinet of the Minister is responsible for those activities prescribed by the Royal Decree No 20 ANK-BK dated 30 April 1996 on the organization and function of the Ministries and State Secretariats.

Chapter IV Office of Inspection

Article 6.

The Office of Inspection is responsible for:

- The ongoing inspection of the Ministry of Environment Departments;
- Reporting the status of the Departments' activities to the Minister and recommending measures for improving their works;
- Carrying out tasks specified by the Minister.

The Office is led by an inspector and his deputies.

Chapter V General Directorate

Article 7.

The General Directorate is responsible for coordinating, facilitating and managing activities for planning and legal affairs, nature conservation and protection, pollution control, natural resources assessment and environmental data management, environmental education and communications, and environmental impact assessment review. The General Directorate is led by a Director General and his deputies. The General Directorate consists of six line departments:

- Department of Planning and Legal Affairs;
- Department of Nature Conservation and Protection;
- Department of Pollution Control;
- Department of Natural Resources Assessment and Environmental Data Management;
- Department of Environmental Education and Communications; and

- Department of Environmental Impact Assessment Review.

Article 8: Department of Planning and Legal Affairs

The Department of Planning and Legal Affairs, in collaboration with the Ministry of Environment 's line Departments, is responsible for:

- Developing legal instruments for implementing the Law on Environmental Protection and Natural Resources Management;
- Collaborating, reviewing and advising on the development of legal instruments by other institutions related to the Ministry's mandate;
- Providing legal counsel to the Ministry of Environment Senior management and assists the line departments in exercising authorities conferred by the environmental law;
- Developing policies for environmental protection, in collaboration with other concerned government ministries, conservation and the sustainable use of natural resources;
- Preparing national and regional environmental [action] plans in collaboration with other concerned institutions;
- Preparing the Ministry of Environment strategic and operational plans and evaluating Ministry's activities;
- Collaborating with the Department of Administration and Finance in preparing proposal for the Ministry of Environment annual budget and its allocating and advising the Minister;
- Coordinating multilateral and bilateral assistance activities to ensure that they address the Ministry's objectives, policies and priorities;
- International cooperation; and
- Supervising the preparation of periodic departmental progress reports.

Article 9: Department of Nature Conservation and Protection

The Department of Nature Conservation and Protection, in collaboration with the Ministry of Environment line departments, is responsible for:

- Assisting the Royal Government to meet its commitments and responsibilities under international agreements, conventions and protocols pertaining to nature conservation and protected areas;
- Developing policy, preparing and implementing management plans for operating the Kingdom's designated national parks, wildlife sanctuaries, protected landscape areas and multiple use management areas as demarcated in the Royal Decree dated 01 November 1993 on the Creation and Designation of Protected Areas in collaboration with those governments agencies designated in the Royal Decree, and Recommending the establishment of new protected areas;
- Collaborating and consulting with , and providing guidance to relevant government ministries for the protection and conservation of valuable ecosystems, such as wetlands and watersheds within buffer zones and other areas lying outside the Kingdom's protected areas system;
- Encouraging the participation of communities, the general public, related institutions, national and international organizations, and NGOs in the management and conservation of Cambodia's natural resources;

- Developing and enforcing sub-decrees and other legal instruments related to protected areas management;
- Enforcing the law as prescribed by Chapter 9 of the Law on Environmental Protection and Natural Resources Management.

Article 10: Department of Pollution Control

The Department of Pollution Control, in collaboration with the Ministry of Environment line departments, is responsible for:

- Assisting the Royal Government to meet its commitments and responsibilities under international agreements, conventions and protocols pertaining to environmental quality protection;
- Developing an inventory of the sources, types and quantities of all solid and liquid wastes, pollutants, toxic and hazardous substances, emissions, noises and vibration, in collaboration with concerned ministries;
- Developing and implementing sub-decrees and other legal instruments for protecting the quality of the environment and for controlling pollution throughout the Kingdom;
- Monitoring and reporting the current status of environmental quality including air, water, soil, and noise pollution to the general public;
- Proposing procedures for inspecting pollution sources and reporting on offences to competent authorities;
- Inspecting pollution sources and report on offences to the competent authorities in collaboration with concerned ministries; and e
- Enforcing the law as prescribed by Chapter 9 of the Law on Environmental Protection and Natural Resources Management.

Article 11: Department of Natural Resources Assessment and Environmental Data Management

The Department of Natural Resources Assessment and Environmental Data Management, in collaboration with the Ministry of Environment (MoE) line departments and other concerned institutions, is responsible for:

- Collecting and managing environmental quality and related socio-economic data;
- Identifying the status of and trends in natural resource use and conservation, environmental quality and related socio-economic data;
- Proving data and information on natural and socio-economic resources, and environmental quality to line departments and concerned institutions;
- Preparing an annual State of Environment Report and other reports required to meet the Kingdom’s commitments to international environmental agreements.

Article 12: Department of Environmental Education and Communications

The Department of Environmental Education and Communications, in collaboration with the MoE line departments, is responsible for:

- Implementing environmental education programs (formal and non-formal) among all sectors of society;

- Developing and disseminating information on environment issues, conditions and initiatives through the mass media, publications and other channels;
- Promoting special activities and events to encourage public participation in the protection of environmental quality and conservation of natural resources;
- Initiating and coordinating environmental training initiatives within the Ministry and with other ministries and institutions;
- Developing and enforcing sub-decrees and other legal instruments related to public participation and environmental information.

Article 13: Department of Environmental Impact Assessment Review

The Department of Environmental Impact Assessment Review, in collaboration with MoE line departments, is responsible for:

- Reviewing assessment of the environmental impacts of proposed and current public and private sector development projects or activities, and for making recommendations based on its review to competent bodies;
- Preparing proposals for sub-decrees concerning the procedures and scope of the Royal Government’s environmental impact assessment process;
- Preparing and maintaining an inclusion list of project for which environmental impact assessment will be required;
- Preparing guidelines on the preparation of renvironmental impact assessments;
- Promoting public participation in the environmental assessment process; and
- Monitoring the implementation of projects to mitigate the negative impacts on the environment.

Chapter VI
Department of Administration and Finance

Article 14: Department of Administration and Finance

Summary of the department’s functions: The Department of Administration and Finance is responsible for the overall administrative management of the MoE, including personnel, finance, equipment and facilities.

Chapter VII
Provincial Level

Article 15.

Each province or provincial municipality has a provincial/municipal department of environment and each district/Khan (Phnom Penh District) has a district/Khan agency of environment. These departments and agencies are responsible for coordinating and implementing MoE activities in their respective provinces, towns, districts and Khans.

Chapter VIII

Office of Financial Control

Article 16.

The Office of Financial Control will be established by the Ministry of Economy and Finance according to the provisions of the Royal Sub-Decree No 18 dated 16 November 1995 on the Establishment of Offices of Financial Control within the Ministries.

Chapter IX

Final Provision

Article 17.

The organization and function of all MoE central level components below departments shall be determined by Prakas of the Minister of Environment.

Article 18.

Any provision which runs counter to this sub-decree shall be considered null and void.

Article 19.

The Co-Ministers in charge of the Council of Ministers, the Minister of Environment, the Ministers, Secretaries of State and Under-Secretaries of State of all concerned Ministries and State Secretariats shall be responsible for the implementation of this Sub-decree within their own mandate.

Article 20.

This Sub-decree enters into force from the date of these signatures.

Phnom Penh, 25 September 1997

Ung Huot
First Prime Minister

Hun Sen
Second Prime Minister

Kingdom of Cambodia
Nation Religion King

No 0699/08 NS-RKT

Law on the Creation
of the Ministry of Water Resources and Meteorology

Royal Law

We

Preah Bat Samdech Norodom Sihanouk

Reachakrivong Uptorsoheat Akeakmohaborosrath Nokrodom

Thameukmohathireach Boromneat Borombopit

Preahchav Krong Kampuchea Thibdey

- Seen the Constitution of the Kingdom of Cambodia in 1993;
- Seen the Royal Law No NS/RKM/0399/01 dated 08/03/99 officially promulgated the law of Constitution on amended articles 11, 12, 13, 18, 22, 24, 26, 28, 30, 34, 51, 90, 91 and 93, and other articles of Chapters 8 to 14 of the Constitution of the Kingdom of Cambodia;
- Seen the Royal law No CS/RKM/0498/06 dated 08/04/00 promulgated the Law on the organizing and Functioning of the Council of Ministers;
- Seen the Royal Decree No NS/RKT/1198/72 dated 30/11/98 on the Appointment of the Royal Government of the Kingdom of Cambodia;
- Seen the Royal Decree No 02/NS/94 dated 20/07/94 promulgated the Law on the Organizing and Functioning of the Council of Ministers;
- Following the request of Samdech Prime Minister of the Royal Government of Cambodia

Promulgates

The Law on the Creation of the Ministry of Water Resources and Meteorology that the National Assembly adopted on 10/06/99 in the second time of the second phase of the session of the Assembly, and the Senate adopted the approval on the figure and idea of this law on 17/05/1999 during the session of its first time of first phase, and the Council of Constitution declared that this Law is legal with Constitution and has the meaningful as following:

Article 1.

Have been created the Ministry of Water Resources and Meteorology under the Royal Government of the Kingdom of Cambodia.

Article 2.

The Ministry of Water Resources and Meteorology has the function to lead and manage water resources and meteorology sector in the Kingdom of Cambodia.

Article 3.

The Ministry of Water Resources and Meteorology has been leaded by on Minister and can be necessary assisted by Secretary of State and/or Under Secretary of State.

Article 4.

The arrangement of structuring and functioning of the Ministry of Water Resources and Meteorology has to be done by Sub-Decree.

Article 5.

The legislation opposed to this Sub-decree must define as invalid.

Article 6.

This law is urgently promulgated.

Phnom Penh, 23 June 1999

Signature

Norodom Sihanouk

Send to the King for signing

Prime Minister

Signature

HUN SEN

Kingdom of Cambodia

Nation Religion King

Royal Government of Cambodia

No 58 ANK/BK

Sub-Decree

**On Organizing and Functioning
of the Ministry of Water Resources and Meteorology**

Royal Government of Cambodia

- Seen the Constitution of the Kingdom of Cambodia;
- Seen the Royal Decree No NS/RKT/1198/72, dated 30/11/98 on the Appointment of the Royal Government of Cambodia;
- Seen the Royal Decree No 02NS/94, dated 20/07/94 promulgated the Law on Organizing and Functioning of the Council of Ministers;
- Seen the Sub-decree No 20/ANK-BK, dated 30/04/96 on the Organizing and Functioning of the Ministries and State Secretariats;
- Seen the Royal Law No NS/RKM/0699/08, dated 23/06/99 promulgated the adoption of Law on the creation of the Ministry of Water Resources and Meteorology;
- Agreed by the Council of Ministers in its Meeting of 06/05/99;

Decides

Chapter I

General Disposition

Article 1.

This Sub-decree defines and organizes the entities of the Ministry of Water Resources and Meteorology and functions of the Directorate General and Department.

Chapter II

Missions and Structures

Article 2.

The Ministry of Water Resources and Meteorology has been given the missions by the Royal Government of Cambodia to conduct and manage the water resources and meteorology of the Kingdom of Cambodia.

Article 3.

The Ministry of Water Resources and Meteorology has the following functions and roles:

- To defines the policies and strategy development of water resources in order to serve exploitation, development and sustainable conservation at the level of national and international consistent with policy program of the Royal Government of Cambodia;
- To study and research the potential of water including surface, underground and atmosphere in order to establish the basic of science technique;
- To prepare the short, medium and long terms plans for exploitation, development and conservation of water resources and meteorology to serve the national economy and living standard of the Cambodians including cities and rural;
- To manage and supervise all of the direct and indirect exploitations on water resources in the rational manner and minimizing of the disaster reduction which will be happened;
- To draft the law, major principles, and regulations related to the management of water resources, and monitoring the implementation process;
- To collect and compile the documents and to exploit the meteorological and hydrological data to serve other sectors which are related to the national and international level for the benefit of national society;
- To support and advise technical necessities to private sectors, organizations, communities, and all people who have related to the improvement and exploitation on water resources;
- To expand and provide new technologies to have the measures for training, improvement, and extension;
- To strengthen and expand the national and international collaboration in sector of water resources and meteorology;
- To participate in implementing nthe concerned works with the Mekong basin consistent with the obligation of the Ministry.

Article 4.

The Ministry of Water Resources and Meteorology consists of structure as following:

a- Central level:

- General Inspection
- Directorate General of Administrative Affairs
- Directorate General of Technical Affairs
- Cabinet of the Minister

b- Local institutions:

There are Provincial/Municipal Departments of Water Resources and Meteorology; The organization chart of water resources and Meteorology is illustrated in the Appendix.

Chapter III

General Inspection

Article 5.

The General Inspection is responsible:

- to inspect constantly on all entities under the Ministry of Water Resources and Meteorology;
- to make the reports to the Minister on the operating of entities which are inspected and tools to improve the operating of these entities;
- to operate the roles which are offered by the Minister.

The general Inspection is led by an inspector and his deputy for assistance.

Chapter IV

Directorate General of Administrative Affairs

Article 6.

The Directorate General of Administrative Affairs is in charge of relating, coordinating, and managing of administration affairs, staff, material/equipment, accounting, financing, planning, statistic, monitoring, and evaluating the works and national and international collaboration on training the human resources.

The Directorate General of Administrative Affairs is led by a Director General and could be assisted by the deputies Director-Generals based on the necessity needs. This Directorate General consists of three Departments, namely:

- Department of Administration and Human Resources;
- Department of Planning International Cooperation;
- Department of Finance.

Article 7.

Department of Administration and Human Resources is responsible for:

- coordinating activities of all sections in the ministry at the central level and between central level and local institutions;
- managing and activating various administrative documents of the ministry;
- totalizing and making report on various activities of the ministry;

- preparing book on administrative methodology and managing library;
- managing administrative section staff and government agencies of the ministry via contacting with State Secretariat of Public Function;
- arranging administrative letter for managing professional;
- organizing the statistic on managing of staff and operating information;
- making a program of professional promotion and human resources of the ministry;
- arranging the works, salary, allowances and social insurance;
- formulating the plan for short and long term internal staff training and abroad;
- collaborating with public educational institutions to participate in formulation education curriculum and activities of those agencies for training in a consistent manner with the needs of the social development;
- proposing to create up or mobilize the entities that organize the roles, functions, and improve the structure based on the actual situation, and appointing of the entities chairman of the institutions.

Article 8.

Department of Planning and International Cooperation is responsible for:

- Compiling and managing the data system and statistic of the ministry and formulate the short, medium and long term plan for the development of all sectors within the ministry.
- Formulating the public investment program, public expenses program, and the development goal of the nutrition;
- Preparing the external and internal collaboration program on the development of water resources and meteorology;
- Coordinating the external aids and monitoring the projects implementation;
- Preparing the agreement documents of memorandum of understanding of the collaboration between the Ministry of Water Resources and Meteorology with the United Nations Agencies, International Organization, and local and international NGOs.

Article 9.

Department of Finance is responsible for:

- collecting the needs, proposing Ministry budget plan, making a program for expenses, and monitoring operation;
- coordinating budget chapter and all expenditures of the ministry;
- administering the logistical and statistic estate resources, and making inventory;
- preparing the expenses program and delivering fuel and spare parts for the government vehicles provided to the ministry;
- receiving and distributing the equipment and materials to all departments under the ministry;
- procuring office stationary, equipment, fuel and budget;
- managing the information, financial activities and the account documents;
- controlling the procurement operation;

- managing accounting documents of the procurement;
- collecting the revenue to be prepared to financial law for diverting to government budget.

Chapter V

Directorate General of Technical Affair

Article 10.

The Directorate General of Technical Affair is in charge of managing of exploitation, monitoring, advising, disseminating and coordinating of all tasks which are related to water including surface and groundwater and atmosphere. The Directorate of Technical Affair is leaded by a Director General and may be accompanied by a Deputy Director General as assistant depending on the necessity. This Directorate General is divided into six (6) departments, such as:

- Department of Water Resources Management and Conservation
- Department of Hydrology and River Works
- Department of Meteorology
- Department of Irrigation and Drainage
- Department of Water Supply and Sanitation
- Department of Engineering

Article 11.

Department of Water Resources Management and Conservation is responsible for:

- preparing and carrying out strategic plan in order to serve the multipurpose development, including hydropower, flood control, irrigation, etc., except the projects which are serving an electric power production is the first priority;
- managing the watershed areas and preparing the program for a location of water use to assure the exploitation and conservation of water resources in a very effective and sustainable manner;
- formulating the policies, legislation, regulations and norms in order to serve water resources conservation in the sustainable manner for the Royal Government of Cambodia, deciding, mandating, disseminating and monitoring the implementation;
- doing technical inspection of all construction related to water resources; and researching technical science in order to have the improvement, dissemination and compilation technical documents to serve the development.

Article 12.

Department of Hydrology and River Works is responsible for:

- preparing the project and installing hydrological stations on the major point of water sources in order to serve the water resources development;

- preparing the short, medium and long term plan on project of erosion, sedimentation and river bank protection;
- observing the hydrological regime both surface and ground by establishing hydrological stations, collecting and analyzing data to serve sectors related;
- carrying out activities to measures the water high, discharge and sedimentation;
- carrying out the water quality monitoring at some important hydrological stations;
- researching hydrological phenomena, hydrological modeling, hydrological calculation, and surface and ground water potential;
- managing and exchanging the hydrological information, foresting and providing information in advance of the flood or shortage of water, which may be happened to be on time of taken measures;
- organizing the geographic information system (GIS) related to the progressive or water resources sector.

Article 13.

Department of Meteorology is responsible for:

- preparing the short, medium, and long term plan for rehabilitation and development of meteorological sectors throughout the country;
- installing and managing the meteorological stations throughout the country;
- observing the weather condition on both surface and atmosphere in the purpose of serving to all sectors concerned;
- collecting and exchanging the meteorological data inside and outside of the country in order to analyze the formulation of the basic document;
- forecasting short and long term for the needs of agencies and providing information in advance the natural disaster which may be happened to be on time to take measures;
- exchanging and researching the modern technologies on the meteorology throughout national and international;
- preparing annual report on the meteorological situation in the Kingdom of Cambodia and other reports which are necessary for the Royal Government of Cambodia in the fulfilling the obligation and responsibilities related to the international agreements;
- managing and coordinating the collaboration on Cambodia meteorology with the United Nations Agencies, different country meteorological organization which are the permanent representative of World Meteorological Organization.

Article 14.

Department of Irrigated Agriculture is responsible for:

- preparing short, medium and long term plan for rehabilitation and development of small, medium and large scale;
- arranging the operating and maintaining of the existing irrigation and drainage systems;

- managing, monitoring and annually evaluating the activities of ground water exploitation in order to serve for irrigated agriculture;
- preparing the development plan in the area and costal areas;
- arranging the operation and maintenance of all pumping stations, big and medium sizes for motor pumping;
- mobilizing, training, compiling and advising the farmer water use communities and following up all processes of implementation;
- arranging, monitoring and conducting intervention activities, preserved to protect the natural disaster such as flood and drought.

Article 15.

Department of Water Supply and Sanitation is responsible for:

- studying the source of surface and ground water;
- researching, evaluating and preparing the short, medium and long term plan for development of water source which serve to produce safe water and to monitor the implementation;
- preparing the short, medium and long term plan for development to drain the waste water from Phnom Penh, other cities, towns and managing, following up and monitoring the implementation;
- studying, researching and annually evaluating the qualities of water , water sources including surface water and ground water which have been using.

Article 16.

Department of Engineering is responsible for:

- studying the design and constructing of all kinds of structures related to the water resources;
- managing instruments and heavy equipments which serve the designing and construction;
- carrying out on soil quality control to serve the construction;
- studying and researching the structure model, construction standard, and technologies which serve the national economy in a sustainable manner.

Chapter VI

Cabinet of Minister

Article 17.

The Cabinet of Minister is responsible for all missions which have defined in legislation of the sub-decree No 20 ANK dated 30 April 1996 as the above citation on the organizing and functioning of the Ministries and Secretary of States.

Chapter VII

Basic Entities

Article 18.

Each province and city has the Provincial and City Departments of Water Resources and Meteorology which is in charge of carrying out and coordinating the activities of the Ministry.

Chapter VIII

Final Dispositions

Article 19.

The organizing and functioning of the Ministry of Water Resources and Meteorology, at the central level, from the level under the department must be appointed by the Prakas of the Minister.

Article 20.

All works which are concerned to other institutions, the leader of those institutions and the Minister of the Ministry of Water Resources and Meteorology shall collaborate each other in order to divide the responsibilities and implement those activities via the common declaration of the Ministry of Water Resources and Meteorology and those institutions.

Article 21.

The legislation opposed with this Sub-decree must define as invalid.

Article 22.

The Prime Minister who is responsible for the Council of Ministers, Minister of Water Resources and Meteorology, Ministers and Secretaries of State concerned shall be responsible to carry out this sub-decree within its areas of responsibility.

Article 23.

This sub-decree takes effects from the date of its signature.

Phnom Penh, 30 June 1999.

Prime Minister

Signed: HUN SEN

Kingdom of Cambodia

Nation King Religion

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Royal Government of Cambodia

No 04 SRN

Phnom Penh, 30 July 1996

Circular Of Irrigation Guidelines

(Unofficial translation)

The Kingdom of Cambodia is fully depending on the agriculture sector in the work of skill and national development affair because more than 80% of Cambodian populations are farmers.

The Agriculture is still considered as the major sector of national economy at all regimes. Actually, the Kingdom of Cambodia determined clearly that agriculture is the priority sector which is strongly paid attention because is a major issue of social stability in which the main work is “WATER POLICY”.

According to the concept above, the rehabilitation and construction of irrigation systems have been becoming a very active movement from the Royal Government level, social organizations, OIs, NGOs, private companies and other donors, etc. but herewith, the Royal Government of Cambodia (RGC) has seen that:

- some of irrigation facilities were appropriately carried out and technically implemented with good technical aspect and some are not considered this problem yet;
- there anarchy to settle houses on the irrigation structures, top of the dikes and canals, to occupy land in the reservoirs, to destroy canals and dikes and irrigation facilities, etc...

in purpose to improve the agricultural planting to meet the food security, to protect anarchies and disasters which may eventually happen after completing of the construction and in order to maintain irrigation system in sustainable use and to extend the ability of irrigation as well as reducing of the Royal Government constantly payment of irrigation operation and maintenance, the Royal Government would like to set out the irrigation guidelines as bellows:

I. **Designation of Scale of the Irrigation System:**

1. **Small Scale:** the irrigation system is capable to irrigate the area less than 200ha

2. **Medium Scale:** the irrigation system is capable to irrigate the area vary from 200 to 5,000ha
3. **Large scale:** the irrigation is capable to irrigate the area more than 5,000ha and multipurpose project

II. Execution Guidelines

1. Feasibility Study is divided into two parts:

Part 1: the Small Scale irrigation which is needed and is not related to the large scale is the responsibility of the Provincial Bureau of Irrigation, Meteorology and Hydrology (PBIMH)/Municipality Bureau of Irrigation, Meteorology and Hydrology (MBIMH), but it is necessarily to carry out following the technical norms with supervision of the General Directorate of Irrigation, Meteorology and Hydrology (GDIMH) and to make a final report on what are achieved.

Part 2: the Medium and Large Scales irrigation study which are complicated work, need large budget and long time construction are under the responsibility of the GDIMH.

2. Repair and Construction Work is divided into four parts:

Part 1. The Small Scale irrigation works which are directly undertaken by the people, are given to PBIMH/MBIMH for technical supervising

Part 2. the Medium Scale irrigation works which are involved with the state and local people, are responsible by the GDIMH to conduct the study, but the PBIMH/MBIMH and farmers are involved in implementation

Part 3. the Medium Scale irrigation works which are financed by the Government are responsible by the GDIMH.

Part 4. the Large Scale irrigation works are given to the Ministry of Agriculture, Forestry and Fisheries (MAFF) to conduct a discussion with inter-ministries concerned.

III. Irrigation Management: divided into four parts

Part 1. the small scale and medium scale irrigation which is located in the same district/Khan, the responsibilities are given to their district/khan irrigation office. In case the irrigation system located in inter-district/khan, the responsibility is given to POIMH/MOIMH.

Part 2. the small and medium scale irrigation system which is located in the same province/municipality, the responsibility is given to PBIMH/MBIMH. In case that his system is inter-provinces/municipalities, the responsibility is given to GDIMH to manage.

Part 3. the large scale irrigation management is under the responsibility of the GDIMH.

Part 4. the irrigation systems that the Government has given to entities, privates companies, society organizations to manage, the operation, and maintenance are taken care by those concerned bodies.

IV. Flood Intervention Work

When the flood comes to cause damage to people, animals, properties and crops of the people, the local authorities and PBIMH/MBIMH concerned have to take immediate intervention to protect and then make a report to MAFF/GDIMH in order to take immediate measures.

V. Drought intervention

Part 1. The drought which is happened in the commune/*Sangkat*, the district/*Khan* irrigation agencies and local authorities have to take actual intervention and immediately report to PBIMH/MBIMH.

Part 2. The drought which is happened in the Province/Municipality, the PBIMH/MBIMH and local authorities have to take intervention and immediately report to GDIMH.

Part 3. The drought which is happened in the country, the responsibility is given to GDIMH to response.

VI. Designation of the Site of Irrigation System

In the preparation of irrigation systems, the designation of the project site has to consider the environmental impact, ecology and fisheries.

VII. Government Policy

1. Fuel for main canal:

The Royal Government has carried out the main canal policy which is provided task to GDIMH/MAFF for taking execution.

2. Organizational Farmer Water Use Association

The GDIMH/MAFF has the role to organize and supervise the Farmer Water Use Association to be managed and operated the irrigation system by themselves and with effectiveness.

3. Irrigation Rehabilitation and Construction

The Royal Government has a policy to encourage the private companies, NGOs, OIs or individuals who invested in the irrigation rehabilitation and construction, but they have to be controlled by GDIMH/MAFF.

4. Preparation of Cropping Pattern

To increase agricultural production in the area where floating rice is grown, the possibility shall be studied in order to divert to grow recession rice by giving high priority on the preparation of small and medium scale irrigation systems.

The Royal Government has firmly expected that all ministries, Secretariats of State, Institutions, Provinces, Municipalities, NGOs and OIs will glorify intention to carry out this circular to be success.

Second Prime Minister

Signed: HUN SEN

Minutes from the Meeting

on Transboundary Wetland Management in

Champasak and Stung Treng

In Pakse, Lao PDR, 24 March 2006

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The Delegations of Champasak and Stung Treng provinces have exchanged information on transboundary wetland management in particular in Veunkahm/Anloun Chheu Teal in a meeting chaired by Mr. Va Vuthara, Vice-Governor of Stung Treng Province and Mr. Somsanith Boutivong, Vice-Governor of Champasak Province, and agreed on the following points and recommendations:

A- Fishery Management

1. Use of illegal method (poison, explosives, etc...) for fishing, especially in the dry season, is a problem;
2. Fishing in Dolphin Veunkham/Anloun Chheu Teal pools is a problem;
3. Fishing in spawning areas in some areas of the proposed Ramsar site in Muang Khong and Mou Lapamok districts, Champasak Province, and the Ramsar site in Thala Borivath district, Stung Treng Province is a problem;
4. lack of common closed fishing season is a problem;

These issues need short term solution as well as ways to address long term management of fisheries.

Recommendations:

- organize meetings of technical fisheries staff to determine actions for reducing unsustainable fishing practices in the area.
- Further research and analysis is needed before specific action plans related to protection of spawning areas are developed.

A. Tourism Management

- i. lack of management plan for tourism in Veunkham/Anloun Chheu Teal pools is a problem;
- ii. navigation (especially of fast and noisy boats) in and around this area is a problem;
- iii. fees charged for visiting the Veunkham/Anloun Chheu Teal pool are not efficiently managed.

These concerns need solutions in terms of management and regulations.

Recommendations:

Organize meetings between provincial tourism promotion/management bodies and tourism operators to initiate a process to develop a management plan for Veunkham/Anloun Chheu Teal pool.

C. Dolphin Pool Management

1. impact of fishing (nylon gillnets, poison and explosives) in and near the dolphin pool Veunkham/Anloun Chheu Teal is a problem;
2. lack of clear demarcation and awareness of the demarcation of pool area in Veunkham/Anloun Chheu Teal pool is a problem.
3. navigation across the pool (both accidents and noise pollution) is a problem.

The issues need management solutions and regulations.

Recommendations:

- for illegal fishing methods/gears, see recommendation in A.
- Demarcation of the Veunkham/Anloun Chheu Teal pool to be part of the tourism management plan, see recommendation in B.
- navigation across the pools needs to be addressed in part with the tourism management plan.

D. Development Management

Lack of waste management plan (covering solid wastes as well as sewage) for the around the Veunkham/Anloun Chheu Teal dolphin pool is a problem.

This issue needs to be addressed through management.

Recommendations:

District and municipality agencies in charge of waste management to meet with tourist management authorities and operators to include waste management issue in Veunkham/Anloun Chheu Teal pool management plan.

These concerns and recommendations were agreed to by the meeting held on the 24 March 2006 in Pakse, Lao PDR. These minutes are signed on the 12 July 2006.

Signed: Mr. Van Vuth

Vice-Governor of Stung Treng Province

Witnessed: HE Mr. Hou Taing Eng

Secretary-General of CNMC

Signed: Mr. Somsanith Boutivong

Vice-Governor of Champasak Province

Mr. Sourasay Phumavong

On behalf of Director General of

LNMC

Cambodia-Viet Nam Joint Declaration

30 March 2005

As neighbors, the Kingdom of Cambodia and the Socialist Republic of Vietnam have entertained time-honored friendly relations. Since the establishment of their diplomatic relations on 24 June 1967, Cambodia and Vietnam have consolidated, developed and expanded their bonds of friendship and cooperation in the political, economic, cultural, educational and other fields.

These bilateral relations have been further developed on the basis of the principles contained in their Joint Communiqués of 1992 and 1995. In particular, during the visit to Cambodia in June 1999 by the General Secretary of the Communist Party of Vietnam, His Excellency Mr. Le Kha Phieu, the two countries have identified a guideline for bilateral relations in the 21st century, namely, "traditional, stable, long-lasting bonds of friendship, solidarity, cooperation and good neighborliness".

To further achieve the above mentioned guideline and carry their bilateral relations onto a new stage of development in the 21st century, the two sides have agreed on the Framework of Bilateral Cooperation between the Kingdom of Cambodia and the Socialist Republic of Vietnam to include inter alia the following:

1. The two sides will continue to develop their relations based on the principles enshrined in the United Nations Charter and other universally recognized principles of international law, on the Five Principles of Peaceful Coexistence and on the principles set forth in the Treaty of Amity and Cooperation in South East Asia, especially the principles of respect for each other's independence, sovereignty and territorial integrity. They further reaffirmed their respect for the principles of noninterference into each other's internal affairs, of non-recourse to the use of force or threat of force, of peaceful settlement of all disputes, and not allowing one's country territory to be used by any political or military force against the other's.
2. The two sides agree to maintain regular high-level meetings between the representatives of the two parliaments, governments, state agencies and military forces at various levels, continue to promote both the official and people-to-people contacts between the two countries.
3. The two sides commit to strengthen cooperation and consultation between leaders of the two Ministries of Foreign Affairs of Cambodia and Vietnam to exchange views on bilateral, regional and international issues of mutual interest. They also agree to work closely with each other in the development programs such as the Mekong sub-region, the less-developed areas along the West-East Corridor (WEC) and the "growth triangle".
4. They agree to strengthen cooperation in the security and military fields including the exchange of delegations and the sharing of experience in science, technology, information and training. They commit to cooperate with each other to combat terrorism and to prevent terrorist activities against their countries. They reaffirm their cooperation in carrying out the bilateral Agreement on search, excavation and repatriation of the remains of Vietnamese Army volunteers who sacrificed

themselves in Cambodia during the wars. They will work closely with each other to combat transnational organized crimes, drugs trafficking, trafficking in human beings and other crimes.

5. The two sides re-affirm the importance of bilateral economic and commercial relations between themselves, and commit to take measures to set up stable and long-term mechanism to further promote bilateral trade and investment, to strengthen cooperation in custom fields, to expand cooperation in the financial and monetary matters and in other framework such as AFTA and WTO... For that end, they agree to further consolidate the existing mechanism for cooperation between them, especially the Cambodia-Vietnam Joint Commission on Economic, Cultural, Scientific and Technological Cooperation.

6. They agree further to strengthen cooperation in the fields of agriculture, forestry, fishery, energy and hydro-meteorology; to exchange experience and expertise in the fields of forest resources management and in the protection of endangered species and of the environment, especially along the common land and sea borders.

7. They agree to strengthen their cooperation to upgrade land routes and develop railway lines between the two countries. They agree to further expand civil-aviation cooperation and to encourage their respective tourism industries to take full advantage of the framework of existing multilateral tourist cooperation.

8. The two sides agree to expand cooperation on public health, to share experience and to assist each other effectively in disease prevention and control along the border between the two countries.

9. The two sides agree to expand further their cooperation in the fields of education and training, to exchange students at university, post university levels, and to facilitate art, cultural and sport exchanges between them.

10. The two sides continue to cooperate in facilitating nationals of one's country living in the other's country to have a normal and stable life as other foreign residents.

11. The two sides agree to encourage their border provinces to further promote their cooperation and mutual assistance in all areas of mutual interests.

12. The two sides reaffirm their determination to settle as soon as possible the border issues in the spirit of equality, mutual understanding, good neighborliness, so as to build a borderline of lasting peace, stability and friendship between them.

Opening Address

by Samdech Prime Minister HUN Sen

at the ASEAN Environmental Year 2003

Excellencies, Ladies and Gentlemen,

I am greatly honored and pleased to address the opening of this very important conference on ASEAN Environmental Year 2003. On behalf of the Royal Government of Cambodia, I warmly welcome all the distinguished Ministers and delegates from the ASEAN, our friends from China, Japan and the Republic Korea, representatives of the diplomatic corps, UN organizations, NGO community and private sector to our ancient and historical capital of Siem Reap, the land of wonderful Angkor temples. I hope that you will take this rare opportunity to visit many sites, especially Angkor Wat which is the remarkable architecture of human art.

Cambodia is proud and honored to host this important meeting. This event reflects the positive results of our efforts in integrating Cambodia into the regional and international community. I am certain that this meeting will enable us an excellent opportunity to review our region's accomplishments over the past three years, since our first meeting in Brunei Darussalam in 2000. Our meeting will also provide us with a forum to draw lessons and experience for our future direction "work together towards sustainable development" in the region.

We are conscious that the decisions we make today will have consequences for the whole region and the long future. Inevitably and unavoidably, environmental interests span borders as well as generations. This reality was again emphasized in recent international gatherings - at Doha, and more recently at Johannesburg. Environmental sustainability is a global challenge intimately linked with globalization and responsible multilateral trade and exchanges. All nations have responsibility for the destiny of the world and common worldwide obligations to resolve environmental issues, since "environmental security" is clearly as important as economic and political security.

At the 1st Greater Mekong Sub-region Summit in Phnom Penh in November 2002, given the concern for our shared future, the Royal Government of Cambodia highlighted some elements that we must promote to help ensure sustainable development and poverty alleviation in the region. These include the followings:

First, implementation and expansion of afforestation and reforestation programs;

Second, the careful management of the natural resources within the region; and

Third, the ratification of the Kyoto Protocol.

We all stand to gain or to lose depending on whether our environmental management is appropriate or not. Like many other nations, Cambodia has committed itself to the implementation of socio-economic development plans, environmental protection measures and other reforms to alleviate poverty and to ensure sustainable development. Despite facing extreme difficulties and challenges

resulted from the legacy of many years of internal conflict, we have achieved good and encouraging progress in stabilizing our society and promoting environmental protection, appropriate natural resource management and in the overall taking major steps forward in poverty alleviation and sustainable development. Indeed, in this new era of globalization we, the nations of ASEAN, must establish more comprehensive frameworks and mechanisms for fruitful cooperation in our shared environment. In this regard, cooperation, that we have to work on, must not be limited just within national framework, but it must be cooperation within regional framework at large.

The Johannesburg Summit of 2002 highlighted some important commitments and implementation initiatives which very much address the needs and priorities of the ASEAN countries. We in ASEAN are committed to pursuing sustainable development across the region - as clearly stipulated in the "ASEAN Vision 2020", which highlights "A concert of Southeast Asian nations, outward looking, living in peace, stability and prosperity, bonded in partnership in dynamic development and in a community of caring society". The vision also calls for a clean and green ASEAN with fully established mechanisms for sustainable development to ensure the protection of the region's environment, the sustainability of its natural resources and the high quality of life of its people. In particular, the Hanoi Plan of Action calls for the protection of the environment and the promotion of sustainable development. Indeed, these are key initiatives towards poverty reduction and sustainable development in our region.

As you may already know, the recent Informal Meeting of the ASEAN Environment Ministers in November 2002 in Vientiane made further progress toward implementation of specific actions to address the urgent environmental issues that our region are facing, including trans-boundary haze pollution and other regional actions to follow-up after the World Summit on Sustainable Development. The informal Ministerial Meeting also initiated a dialogue within the framework of ASEAN+3 on common environmental issues and future environmental cooperation. Therefore, we need to work more closely to ensure synergies, better resource mobilization, improved coordination and cooperation in order to protect our environment and at the same time enhance economic and social development for our people.

The Royal Government of Cambodia strongly believes that sustainable development along with the sustainable use of natural resources cannot be achieved if poverty issues are not seriously addressed and overcome. Success in poverty reduction requires time, effective policy, well-laid plans, and comprehensive and realistic action programs. Moreover, this task requires political will, implementation passion as well as social forces mobilization in order to achieve the set goal. In this sense, there is the need for broad and radical reforms in key natural resources management sectors such as forestry, fisheries and land, which are major assets of the nation. Our Second Five Year Socio-Economic Plan 2001-2005 stresses that: "A balance must be achieved between economic, cultural and environmental objectives and between economic efficiency of resource use and equity". To achieve such a balance, we have launched important strategies including:

1. prevention of environmental and resource degradation caused by policy distortions and market failures;
2. establishing and implementing the legal framework for natural resource management;
3. enhancing human resources capacity for natural resource management; and

4. design and implementation of a land management framework that makes adequate provision for the poor, including local community access to common property resources.

Thus far, we have already made considerable progress in forest protection and management, fishery and land management, with high priority given to the needs and concerns of local communities.

We also clearly understand that peace, security and stability are a necessary and fundamental prerequisite for the country's march towards democracy, poverty alleviation and sustainable development. At present, Cambodia is making its intensive reconstruction and rehabilitation efforts to eradicate poverty and improve the living standards of the people. We are undertaking these tasks in an era where the themes of "sustainable development" and "environmental security" have come into the forefront of global consciousness. Having paid high attention on these issues, we strongly support the building up of innovative partnerships among government, private sector and civil society in financing development projects, as called for in Johannesburg. We need enhanced support from the wealthier countries for our efforts in achieving sustainable development. More importantly, an enabling environment for development, open opportunities, fair trade, equitable partnerships and democratized international relations are the key factors for ensuring that developing countries get appropriate benefits from globalization and for being the ownership of self-sustaining, long-term development of their countries. All these are the voice appealed by developing countries at the 13th Non-Aligned Movement Summit held on 24-25 February 2003 in Kuala Lumpur, Malaysia, to ensure that poor nations will be able to overcome and not fall victim to the challenges of rapid globalization.

I am optimistic that this meeting will be an excellent opportunity for us to assess the status of the implementation of our joint commitments and initiatives. Your presence here today demonstrates our shared commitment to cooperate and to together, move toward sustainable development and clean environment across ASEAN.

Once again, let me wish our honorable delegates from all countries and organizations every success in this meeting. May you all have a pleasant and memorable stay in our country, especially in this wonderful city of Siem Reap of the Kingdom of Cambodia. Of course, I encourage you all to enjoy and soak in the history of our most famous heritage - the Angkor Wat!

Statement of the Senior Minister Hor Nam Hong

At the United Nations General Assembly

(18 September 2002)

Mr. President,

Mr. Secretary General,

Distinguished Delegates,

1. At the outset, I wish to join other distinguished delegates to congratulate you, Mr. President, for being elected as the President of the 57th Session of the UN General Assembly. With your able leadership, we are fully confident that the work of this General Assembly will further advance the cause of international cooperation in the interest of humanity.

2. I would like to take this opportunity to welcome the Swiss Confederation for becoming the 190th member of our World Organization. I am also very pleased to express our warm welcome to the Democratic Republic of East Timor which will very soon join this global organization.

3. I believe that we are living in a fast-changing and fragile world today, a world of uncertainties and turbulences which has been seriously threatened by terrorism, the negative sides of globalization, the rising effects of global warming and the impact of drastic climatic change. The effects of these rising forces underline our common vulnerability and a sense of urgency for a more effective sustainable development in the world. Without a functional sustainable development in the world, the survival of humanity will be at stake. Therefore, I believe that the common challenge we face today is perhaps the lack of collective wisdom and political will to make our world a better place for all, including the future generations, living on this planet.

4. The recent World Summit on Sustainable Development (WSSD) in Johannesburg rightly discussed the fundamental issue confronting humanity: climate change, global sustainable development and poverty. The dramatic appeal made by many leaders of the world during this meeting must be highly regarded as an important message of the Summit to save the Earth from being further destroyed and also to reverse the global trends of widening development gaps, increasing poverty and environmental destruction. While key problems were discussed, the priority issues of poverty eradication and environmental preservation were at the center of the Earth Summit. On the environment, I believe that the entire humanity is now confronting serious global warming, all-time floods, and the increasing disastrous effects of the greenhouse gases. This is no longer just a scientific theory, but a living reality. For the first time this year, we have experienced mega-floods and serious droughts across continents, from Asia to Europe, from Africa to South America. This year's "floods of the century" have far-reaching destruction, costing billions of dollars. We must seek to reverse these negative trends for the survival of humanity. In this regard, I think that we all should welcome and strongly support the bold message of the World Summit on Sustainable Development.

5. I also wish to recall the Millennium Declaration in 2000 which centered on fighting poverty, combating HIV/Aids, ensuring sustainable development, and forging a common partnership for

development. Both the Earth and the Millennium Summits share the ultimate goal of securing the survival of humanity on the one hand and fighting poverty and environmental destruction, on the other. In the same vein, the UN Conference on "Financing Development" in Monterrey, Mexico, in March this year called for more assistance for the least developing countries (LDCs), which was a clear message to the developed nations. Without adequate resources, it would be difficult for the LDCs to move out of the vicious cycles of poverty and catch up with the current process of globalization. It is not a question of generosity, but it is a question of sharing the wealth of the world, in which we all are living, in the most equitable way.

Mr. President,

6. As the world continues to be shaped by the forces of globalization, we are witnessing the growing disparities and development gaps between the haves and have-nots. As a double-edged sword, globalization could either help propel the whole humanity to greater prosperity or further marginalize the poor throughout the world. I believe that reducing poverty could to some extent contribute to the fight against terrorism and effectively manage the growth of transnational issues, such as human trafficking and the prevalent HIV/Aids epidemic.

7. In this context, the Cambodian government under the leadership of Prime Minister Samdech Hun Sen has set the fight against poverty as a top priority for the government's strategy. In addition, human rights and democracy in Cambodia have been further strengthened. In February this year, Cambodia for the first time organized free and fair local elections as part of its decentralization policy and strengthening grassroots democracy. Moreover, Cambodia remains committed to contribute actively toward the realization of ASEAN integration, in order for ASEAN to move forward in a collective spirit and to play its constructive role in deepening East Asia cooperation as a whole. In this regard, the forthcoming Greater Mekong Subregion (GMS) and ASEAN Summits in Phnom Penh in early November this year will be an important occasion for the ASEAN Leaders to further promote ASEAN integration and build closer cooperation in East Asia.

8. On regional issues that concern the whole international community, I wish to raise the Middle East conflict first. I believe that the international community has to help find a viable solution which could bring about a lasting peace to the region. Violence is not a solution in whatever form. On the contrary, violence appeals more violence. The Palestinian people have an inalienable right to dispose its own state living in peace with Israel. I think that both sides must have the wisdom to understand that they are condemned to live side by side forever. Therefore, it is better for both sides to remain at peace with each other than to engage in war. Second, with regard to the Iraqi situation, Cambodia believes that the acceptance by Iraq for the return of the UN weapons inspectors is an important step which will certainly contribute to diffuse the situation in the region. Third, on the Kashmir problem, I believe that we need to avoid the escalation of this conflict. If not properly managed, the Kashmir conflict could seriously escalate and thus threaten regional peace and security, not only in South Asia but also in Southeast Asia. We must do what we can to ensure that the terrorists would not seize the opportunity of this conflict to further complicate the present situation.

9. On a more optimistic note, I believe that the recent positive developments in the Korean peninsula-especially the resumption of North-South dialogue and the historic visit of Japanese PM Koizumi to Pyongyang-are considered to be a significant milestone. The renewal of political dialogue between Seoul and Pyongyang and the landmark diplomatic breakthrough between Japan and North Korea are very much encouraging for the region. In this context, Cambodia strongly supports the resumption of North-South dialogue as a follow-up meeting to the Inter-Korea Summit in 2000, as well as the normalization of bilateral relations between Tokyo and Pyongyang, as a necessary step toward tension reduction, confidence building, and moving ahead with the normalization of the situation in the Korean peninsula.

Mr. President,

10. As far as the fight against terrorism is concerned, Cambodia has signed and is in the process of acceding to all conventions related to the combat against terrorism. ASEAN, for its part, has been forceful and decisive in coming up with a number of initiatives and measures. The ASEAN Leaders at their 7th Summit in Brunei in November 2001 adopted the "ASEAN Declaration on Joint Action to Counter Terrorism". In addition, there have been a number of agreements and specific action plans that ASEAN and the ASEAN Regional Forum (ARF) have been put in place in order to tackle the threats of terrorism in this region. Indonesia, Malaysia and the Philippines, on the other hand, signed an agreement on sharing information and intelligence to combat terrorism, in which Cambodia had acceded to it. In July this year, ASEAN and the United States signed an anti-terrorism declaration as a framework for more cooperation to prevent and combat global terrorism.

11. Now, I wish to share with you the issue of reforming the United Nations, particularly the UN Security Council, which I believe that we should not just ignore it or take a status quo approach. I believe that the UN cannot continue to operate in the current modus operandi, if we wanted to further improve this important global institution in order to truly reflect the twenty-first century's needs and political realities of the world today, which should be amended as early as possible. Any attempt to further delay the UN reform, in my view, will only undermine the credibility of this universal institution. Accordingly, I wish to reiterate Cambodia's call for an expansion of the UN Security Council to include other new members. In this regard, Cambodia would support Japan, the Federal Republic of Germany and India as the new permanent members of the UN Security Council, taking into consideration of the increasing political and economic role of these countries in world affairs. Cambodia believes that the current members of the UN Security Council should be more willing to compromise and support such a call as the only way to effectively support the UN reform.

12. In conclusion, I would like to reiterate that peace, stability and poverty are all inter-related and affected all peoples and nations on this planet. In this respect, it is essential that we must continue to work together in a spirit of building a caring community of nations where the development gap between the developed and developing countries is reduced, where the threat of terrorism is totally eliminated, where the menace of HIV/AIDS pandemic is receded, where poverty is being alleviated, and where global warming is kept in check. This can only be made possible through building better cooperation and closer partnership; fostering more mutual respect; cultivating greater tolerance; and enhancing a greater spirit of a true United Nations for all. I strongly believe that we can do it

through the collective will and strong determination, as well as with greater ethics and moral responsibility that would help us make a better world for all peoples in the twenty-first century.

Thank you very much.

Speech by Samdech Prime Minister Hun Sen
at the Opening Ceremony of the Sixth Informal Meeting
of the ASEAN Environment Ministers, Phnom Penh

(01 May 2001)

*Your Excellencies ASEAN Environment Ministers,
Your Excellency UNEP Representative,
Distinguished Delegates,
Excellencies, Ladies and Gentlemen,*

On behalf of the Royal Government of Cambodia (RGC), I take the pleasure in welcoming Your Excellencies, Ladies and Gentlemen, to Cambodia. I would like to extend my warmest greetings to all of you, distinguished ASEAN delegates and representatives of international organizations involving in environmental protection upon the opening of the 6th Informal Meeting of the ASEAN Environment Ministers in Phnom Penh. We are gathering here in the cultural, administrative, economic and financial center of the Kingdom of Cambodia. I hope that while in Phnom Penh you will find time to savor some of the sights and sounds of Cambodia, familiarizing yourselves with Cambodian culture and civilization and visiting numerous historical sites.

During the last few months Cambodia hosted a number of ASEAN meetings, including the 22nd ASEAN Agriculture and Forestry Minister Meeting, held in October 2000 and the 7th Retreat of the ASEAN Economic Ministers, which took place in early May this year. Today we have the honor to host the Informal Meeting of the ASEAN Environment Ministers to prepare for the commemoration of the 10th anniversary of the Rio Summit (RIO+10) on Environment and Development, to be held in South Africa in summer 2002. This is the testimony to Cambodia's doubled efforts to participate fully and effectively in all ASEAN affairs and initiatives.

I would like to take this opportunity to thank all ASEAN Environment Ministers for supporting and proposing, at the 5th Meeting held in April 2000 in Brunei Darussalam, Cambodia as a venue for the 6th Informal Meeting of the ASEAN Environment Ministers and for making this meeting happen.

Cambodia has ushered into a new era in its history. 1999 witnessed favorable developments for the RGC, following the July 1998 general elections. These included the dismantling of the Khmer Rouge's political and military organization, the integration of the former Khmer Rouge's forces into the mainstream of the society and the accomplishment of peace, for the first time in many decades. Thus, the Royal Government of Cambodia (RGC) has taken considerable strides in implementing its "Triangle Strategy", which was formulated by myself as the Prime Minister. This policy is structured in a strategic triangle consisting of three key areas of government business. The first side of this strategic triangle is building peace, restoring stability and maintaining security for the nation and people. The second side of our strategic triangle is Cambodia's rapid integration into the international community and normalization of our relationships with the international financial

institutions. The third side of the strategic triangle is to promote development based on the favorable conditions created by the implementation of key reform programs: military demobilization, fiscal, public sector and judiciary reforms and stringent measures taken to crack down on illegal logging and environmental protection.

With the restoration of peace, security, stability and unity of territory reached through a long difficult process and the broad consensus of views at the national level, the RGC has promoted rapid reduction of poverty and acceleration of economic growth as its top priority agenda. The government's main strategy is geared toward achieving the following objectives:

Long-term, sustainable economic growth at the annual rate of 6 to 7 percent;

Equitable distribution of the fruits of economic growth between the have and the have-not, between urban and rural areas and between males and females; and

Ensure sustainable environmental and natural resource management and utilization.

Thus, the motto of our strategy is poverty reduction through accelerated economic growth, environmental sustainability and social equity. This is a large-scaled war, which requires self-sacrifice, concerted efforts and strong political will.

With regard to environmental issues, I am proud to make a statement on this occasion. The Royal Government regards environmental issues as one of the top priorities in implementing its social and economic policies in order to alleviate poverty of our populace. The RGC has invested a lot of resources into various activities, aimed at promoting economic growth and improving the welfare of the population by utilizing both our own resources, mobilizing support from elsewhere and ensuring their sustainable use.

Environmental protection is very crucial. It is the priority of the government's agenda. In this sense, the RGC has increased budget allocations for environmental management and provided opportunity to the Ministry of Environment to mobilize international support for the sector. Only during the last four years, government's budget for Environment has more than tripled.

Environmental protection and conservation is regarded as the Royal Government's main element in the poverty reduction strategy. During 1999-2000, the RGC has rigorously implemented reform programs in all sectors. However, the most conspicuous results were achieved in the reform of the forestry sector and fisheries. The RGC has taken a tough stance in reforming the two sectors, especially in preventing and combating illegal logging and improving forestry management system. Corruption and illegal activities in the forestry sector were eliminated with the implementation of rigorous measures and through the participation and full support from the Royal Cambodian Armed Forces (RCAF), the police, the authorities at all levels, the civil society, NGOs and Cambodia's external partners. The RGC has established and strengthened a forest crime monitoring mechanism and sustainable forest concession management system. Overall, the implementation of government's forestry reform has been successful.

In the National Environmental Action Plan (NEAP) the RGC highlighted the principles for natural resource utilization in order to ensure environmental sustainability. The government is the key player in natural resource management and utilization. Cambodia's progress and economic development depends on the potential use of the existing natural resources. However, for the development to be sustainable the utilization of natural resources for current development should not have a negative impact on the needs of the next generation and the progress of humanity. Thus, development should not be limited to a short term or a few years to come. Furthermore, all members of the society should positively benefit from this development.

As I stated earlier the environment is one of the priorities in the government's political platform at national, regional and international levels.

At the national level, the Royal Government recognizes the correlation between poverty reduction strategy and environmental protection and natural resource conservation. Furthermore, the role of the civil society is recognized as instrumental in promoting environmentally sound and sustainable development. Resolution of environmental problems requires common responsibility and joint efforts at both national and international levels. Our hope will be slim if there is no participation and support from the public and the people from all walks of life in the national environmental plan implementation. Moreover, to ensure a sound and sustainable environmental protection, Cambodia should continue to make further efforts to establish a legal and regulator framework and strengthen institutional capacity in this area. Indeed, this is a daunting task and a heavy burden, which require participation and cooperation of all stakeholders at national and international levels, especially the rural communities, the civil society and the donor community.

At the regional level, the RGC is committed with all ASEAN members and countries in Asia and the Pacific to implement the Regional Environmental Action Plan for 2001-2005 endorsed by the ministerial meeting in Kitaki Yusu in August-September 2000.

At the same time, I wish to inform this distinguished audience that the RGC will do its utmost to implement environmental action plans within the ASEAN framework, aimed at contributing to the establishing a clean environment, including the Zero Burning Policy.

At the international level, the RGC is very concerned about the global warming, which has become a grave problem for the 21st century. In this regard, the RGC, as a signatory to the UN Convention on Climate Change, has taken a firm stance to support the positions of the developing countries, Japan and the European Union to speed up the promulgation of the Kyoto Convention.

I hope that following the discussion among the Environment Ministers at this forum we will find a common ground to ensure the success of the forth coming Summit on Sustainable Development or RIO + 10. I firmly believe that our ASEAN members will display the spirit of solidarity and unity to move forward in a single direction, i.e. sustainable development and clean environment in Asia.

Once again, I wish all of you, distinguished delegates from ASEAN, national and international participants every success in the deliberations as well as a pleasant and memorable stay in Phnom

Penh, the heart of our Kingdom of Cambodia. Many thanks to the governments of ASEAN for the support and close cooperation to make this meeting successful.

On this note, I have the honor to declare open the 6th Meeting of the ASEAN Environment Ministers. I thank you all for your kind attention.

Address by Samdech Prime Minister Hun Sen
At the Summit on Cambodia-Laos-Myanmar-Thailand
Economic Cooperation Strategy (CLMT-ECS)

(11 November 2003, Bagan, Myanmar)

*My Colleagues,
Your Excellencies,
Ladies and Gentlemen,*

I am so pleased to see you again!

May I first express my sincere thanks to the Government of the Union of Myanmar for the warm hospitality extended to me and to the delegation of the Royal Government of Cambodia. I also congratulate the Government of Myanmar for the excellent arrangements for this Summit Meeting.

This Summit is of great significance to our respective countries as well as the entire region, as it represents an opportunity for us all to dialogue and exchange views on a shared Economic Cooperation Strategy (ECS). As a result of this Summit, we will take further steps to identify and develop options and opportunities to implement our shared vision of national as well as regional socio-economic development for the benefits of our people within both the framework of the GMS and the entire Southeast Asian region.

From its inception, Cambodia has supported the shared vision of development among the nations of Cambodia, Laos, Myanmar and Thailand (CLMT). Personally, I appreciated the proposal made by H.E. Prime Minister Thaksin Shinawatra at the sidelines of the ASEAN Special Summit on SARS in April 2003. Therefore I am very glad that our respective senior officials and Foreign Ministers have worked hard so that today we hold this Summit to kick off the CLMT ECS in much more concrete terms for the long term benefits to our people.

While the CLMT nations are at varying stages of economic development, we share many common aspirations and approaches in promoting mutually beneficial, sustainable development. Indeed, our cooperation is based on universal values and consistent with the principles of international law, the aspirations of the ASEAN and the shared dreams of our nations of enduring peace and stability, good neighborliness, mutually beneficial development and lives of progress, prosperity, welfare and harmony.

In implementing our shared vision, we have adopted the approach of "four nations, one economy," shaped by our commonalities and sustained, complementary efforts to strengthen the linkages among our respective Governments, entrepreneurs, and peoples. We all believe that the key to enhanced peace, security and shared prosperity among our nations is mutual cooperation and coordination for mutual understanding, strengthened by continuing dialogue, investments and technical and scientific cooperation and exchange.

I commend highly the outcome of the meeting of the CLMT Foreign Ministers on the ECS in Bangkok on 1 August 2003. That meeting enabled our Foreign Ministers to discuss the specifics of our shared vision of regional growth and prosperity. Our Ministers also worked to specify the strategic areas of economic cooperation among our four nations to increase trade and investment, enhance competitiveness and generate more employment and improved income and quality of life in the sub-region. Moreover, under the mandate of our Foreign Ministers, two meetings of the CLMT ECS Working Group were organized, successfully drawing up a comprehensive Action Plan with concrete cooperation and investment projects.

The Royal Government of Cambodia welcomes and is quite pleased with the ECS Action Plan that has resulted from the hard work of our respective Foreign Ministers and Senior Officials, with a set of specific, concrete projects in the five key areas of cooperation, namely:

1. Trade and Investment Facilitation,
2. Agricultural and Industrial Cooperation,
3. Transport Linkages,
4. Tourism Cooperation, and
5. Human Resource Development.

Indeed, I am very happy that our discussions have resulted in the identification of concrete and specific projects and initiatives. This will help ensure that we are better able to take further steps forward toward actual implementation to meet the aspirations of our peoples.

In this context, Cambodia fully supports the classification of the proposed investment programs, projects and cooperation arrangements into three phases: immediate-to-short term (2003 -2005), medium term (2006-2008), and long term (2009-2012). It is also heartening that we have set up a biennial review mechanism to ensure that we shall regularly appraise our progress and jointly act to further stimulate the process of ECS implementation.

I realize that in order to implement all of the initiatives and projects that we have identified in the ECS Plan of Action we will need to resolve the fundamental challenge of financing, which I believe can be met with resolve and creative mechanisms.

First, I believe that we should maximize the opportunities for private sector participation in all the initiatives. Most of the initiatives can be designed so that it will be in the best interest of our private sectors to participate and invest in these projects, and thereby minimizing the need for extraordinary public financing.

Second, we should enable the active involvement of various levels of our respective governments in the initiatives. I cite for example the various sister city agreements, all of which can be undertaken among the cooperating local governments and based on local financing;

Third, we should work together to generate support under multilateral frameworks, particularly international financing. For example, we should ensure complementarity of our initiatives with the priorities of the Asian Development Bank as it finances various cross-border infrastructure across

the GMS. Certainly the World Bank, other financial institutions and donors can be encouraged to intensify their investments in our region by providing concessional loans and supporting regional technical capacity building initiatives through grants.

Since the economic cooperation strategy was initiated by the Thai Prime Minister and Thailand is more advanced among the four countries in terms of economic development, technical expertise and financial resources, I think that it is appropriate that Thailand plays a role of prime mover or locomotive of our economic cooperation strategy. In this sense, Thailand should play a leading role in coordinating the implementation of the ECS Plan of Action and the projects. This will allow us to achieve as soon as possible the concept of four countries-one economy. Indeed, each country is obliged to set up a sound and efficient national coordinating mechanism in order to speed up our cooperation. I hope that the Prime Ministers of Laos and Myanmar share the same view.

Speaking of benefits from our collaboration, allow me to cite, just as a single example, the benefits that we can expect from one of the projects that we have identified for joint implementation - the organization of joint trade and investment fairs and exhibitions.

Our four nations will organize and implement a regular and continuing series of such trade and investment fairs and exhibitions. Our nations will take turns in organizing these events, which will showcase and demonstrate to the region and to the rest of the world the full range of commodities and services that are available from our respective countries and the region as a whole. Through such events we will be able to broaden our markets while lowering our per-country market development costs. In the process we will gain timely intelligence about market trends and improved access to information on product quality and production technology. In this sense, the holding of joint trade and investment fairs is consistent with our shared strategies for regional and international integration.

In terms of financing, I am convinced that the joint trade and investment fairs can be self-financing, and the private-sector will be the first to reap the gains from such initiative. Thus, the events can be organized by the private sector, especially our respective national Chambers of Commerce, with minimal support from the cooperating governments.

Let me reiterate my conviction that our Summit is strategic and timely. We have taken a major step forward in enhancing our cooperation. The next priority is to push our activities forward toward actual implementation to achieve performance and practical results as soon as feasible. Let us not wait for the completion and perfection of the entire package. Small victories, gained early, will pave our common road to overall good results over the long haul.

To monitor progress and help accelerate implementation, our Senior Officials and Ministers should meet as often as needed, and at least once a year. The Leaders should meet once every two years to review the progress of this cooperation. In this context, I support the idea of organizing the next summit meeting in Thailand and the meeting afterwards by an alphabetical order.

May I conclude by emphasizing my conviction that our successful implementation of the Economic Cooperation Strategy among our nations - Cambodia, Laos, Myanmar and Thailand, will greatly

contribute to the transformation, in the first half of the 21st century, our shared areas into zones of sustained economic growth, progress, prosperity and harmony for all our peoples!

Ayeyawady-Chao Phraya-Mekong
Economic Cooperation Strategy (ACMECS)
Ministerial Retreat Joint Statement

(The 1st ACMECS Ministerial Retreat was held in Krabi, Thailand, on 2 November 2004.)

The delegations to the meeting were led by RE. Mr. Hor Namhong, Deputy Prime Minister and Minister of Foreign Affairs and International Cooperation of the Kingdom of Cambodia, H.E. Mr. Somsavat Lengsavad, Deputy Prime Minister and Minister of Foreign Affairs of the Lao People's Democratic Republic, H.E. U Kyaw Thu, Deputy Minister for Foreign Affairs of the Union of Myanmar, H.E. Dr. Surakiart Sathirathai, Minister of Foreign Affairs of the Kingdom of Thailand, and H.E. Mr. Le Cong Phung, Permanent Vice Minister of Foreign Affairs of the Socialist Republic of Vietnam.

Ministers also met in an Open Session with representatives of Development Partners from Australia, France, Germany, Japan, New Zealand and the Asian Development Bank (ADB).

The Ministers endorsed the Report of the Senior Officials' Meeting (SOM), which was held in Yangon, Myanmar, on 19 August 2004.

At the conclusion of their Retreat, the Ministers issued the following statement:

We warmly welcome the accession of Vietnam to ACMECS and the participation of its Minister in an ACMECS meeting for the first time. We signed the Protocol to the Bagan Declaration on the Admission of the Socialist Republic of Vietnam to the AyeyawadyChao Phraya - Mekong Economic Cooperation Strategy (ACMECS).

We renew our commitment to the goals of the Bagan Declaration to promote socioeconomic development in the sub-region and to create an enabling environment for mutually beneficial cooperation among member countries.

We agree to task SOM and the Coordinating Country of each Sectoral Working Group to ensure that the work of ACMECS and regional triangular cooperation frameworks supplement and complement one another. ACMECS should serve to fill in the missing links in other frameworks, and vice versa. We urge that senior officials of ACMECS and other fora inform one another of their respective work.

To expedite progress in the five priority areas of cooperation identified in the Bagan Declaration, we agree to establish a working group for each sector of cooperation. Each member country has volunteered to serve as Coordinating Country for the sector in which it takes particular interest, as follows:

- Trade and Investment Facilitation - Thailand;
- Agricultural and Industrial Cooperation Myanmar;
- Transport Linkages - Lao PDR;
- Tourism Cooperation - Cambodia;
- Human Resources Development - Vietnam.

We take note of the Terms of Reference for Sectoral Working Group Coordinating Countries under ACMECS, as prepared by the SOM, and encourage its use as a guideline to pursue further progress in the five sectors of cooperation. We agree that the Working Groups should meet regularly to monitor and follow up on ACMECS activities.

We appreciate the report on progress and status of ACMECS projects, and instruct SOM to meet every six months and update us regularly to ensure that our cooperation remains on track as mandated by Leaders. We encourage SOM to arrange a meeting with development partners within the next six months to follow up on our work.

We urge expeditious progress in tourism cooperation, including through the study of the development of an ACMECS Single Visa Scheme to facilitate travel within the ACMECS region.

We encourage the participation of the private sector in all areas of cooperation, particularly those that are ready for early implementation. The ACMECS Business Council can serve as a joint mechanism for the ACMECS member countries in this regard.

We also welcome the interest of the Development Partners in forging partnership with ACMECS on sub-regional development. We appreciate the expressions of support and goodwill by Development Partners for the goals and objectives of ACMECS, both in principle and practice.

- In this regard, we welcome the collaboration between Thailand, Laos and Japan in the development of the SavannakhetIMukdaharn area, in particular to explore the possible shared use of Savannakhet Airport in the future. In this regard, we welcome that Japan will, at the request of Thailand and Laos, conduct a study on Savannakhet Airport, and that the three countries will establish a joint working committee to ensure coherence between the study and the discussions between Thailand and Laos on this matter.

- We are encouraged that France welcomed the ACMECS initiative for regional development and increased integration, expressed its support for ownership of the ACMECS process by the member countries themselves, and indicated its readiness to consider financing projects advanced by ACMECS.

- We welcome the ongoing efforts between the governments of Germany and Thailand to strengthen joint development cooperation with third countries, in particular the imminent signing of a Memorandum of Understanding in this regard.

We also look forward to inviting other interested Development Partners to participate in ACMECS activities.

- We welcome the Thai Cabinet's approval of one hundred million baht (2.5 million US dollars) for non-infrastructure projects from its national budget to support ACMECS common and Thai bilateral ACMECS activities identified as priority projects for 2004-2005. We are encouraged that Thailand is exploring the possibility of earmarking an amount of 10 billion baht (approximately 250 million US dollars) for development cooperation with neighboring countries over a period of five years, from which amount approximately 4,000 million baht (100 million US dollars) have been approved for cooperative projects with neighboring countries.

We agree to create a website to facilitate coordination of projects and provide a channel for public communication and outreach on the work of ACMECS, and requested Thailand to carry out this initiative.

We agree to hold the next ACMECS Ministerial Meeting in Cambodia in 2005, and the second ACMECS Summit in Thailand in mid-December 2005.

Joint Press Statement

On Thailand-Cambodia Bilateral Cooperation

(11 November 2003)

1. H.E. Dr. Thaksin Shinawatra, Prime Minister of the Kingdom of Thailand and Samdech HUN Sen, Prime Minister of the Kingdom of Cambodia, at the Summit Meeting on Economic Cooperation Strategy (ECS) among the Kingdom of Cambodia, the Lao People's Democratic Republic, the Union of Myanmar, and the Kingdom of Thailand, held in Bagan from 11-12 November 2003, officially announced the following border crossing facilitation effective on 11 November 2003 as part of the bilateral cooperation between Thailand and Cambodia.

1.1 The opening of three new international points of entry between Thailand and Cambodia namely:

- Ban Pakkard (Pong Namron District, Chanthaburi Province)-Prum (Pailin City).
- Ban Laem (Pong Namron District, Chanthaburi Province) Daung (Kamrieng, Battambang Province).
- Sa Ngam (Phu Sing District, Sisaket Province)-Choam Anlong Veng (Oddor Meanchey Province).

1.2 The extension of opening hours at every international point of entry between the two countries from 07.00-17.00 to 07.00-20.00 hrs.

1.3 On a trial basis, the two countries agreed that their respective nationals in Banteay Meanchey and Sakaew Provinces, who hold valid Border Pass and cross the border at Klong Luk-Poipet international point of entry, are permitted to travel in both Sa Kaew and Prachinburi of Thailand and vice-versa in both Banteay Meanchey and Siemreap of Cambodia with 7 days stay-permit.

2. The two Prime Ministers witnessed the signing of a Joint Statement between the Government of the Kingdom of Thailand and the Government of the Kingdom of Cambodia on Energy Cooperation on 12 November 2003 in Bagan with a view to laying a foundation for their cooperation in this area. The Joint Statement was signed by H.E. Mr. Prommin Lersuridej, Minister of Energy of the Kingdom of Thailand and H.E. Mr. Suy Sem, Minister of Industry, Mines and Energy of the Kingdom of Cambodia.

3. In addition to the above initiatives, their respective agencies in charge of industrial development, namely the Industrial Estates Authority of Thailand (IEAT) and the Ministry of Commerce of Cambodia, held a senior officials meeting parallel to the ECS Meeting on 10 November 2003. As a result, both sides agreed on the Terms of Reference for feasibility study on the establishment of Koh Kong industrial estate in Cambodia with technical cooperation from Thailand.

4. The above agreements represent positive and concrete steps in bilateral cooperation, bearing clear testimony to the close and cordial relations between Thailand and Cambodia. They also serve to promote mutual understanding between the two nations as well as contribute to progress and prosperity of the region as a whole.

Joint Ministerial Statement
on the Concept Paper on Cambodia-Thailand Border Points of Entry

(31 May 2003)

The Joint Cabinet Retreat between the Kingdom of Cambodia and the Kingdom of Thailand was held in Siem Reap, Cambodia and Ubon Ratchatani, Thailand, on 31 May - 1 June 2003 and was co-chaired by Samdech Hun Sen, Prime Minister of the Kingdom of Cambodia, and H.E. Dr. Thaksin Shinawatra, Prime Minister of the Kingdom of Thailand

The Joint Cabinet Retreat discussed all issues pertaining to Cambodia -Thailand bilateral relations. During the discussion on the issue pertaining to border cooperation, both sides expressed their common desire to further strengthen their existing border cooperation including more effective border management.

The Ministerial Group of the Joint Cabinet Meeting on Management and Security on the Border had extensively discussed the Concept Paper on Cambodia-Thailand Border Points of Entry: Ways toward New Order, Effective Border Management and Greater Bilateral Cooperation.

The Joint Cabinet Retreat, after reviewing the principles and measures enumerated in the Concept Paper, endorsed the Concept Paper as a framework for implementing and further strengthening their cooperation in the border areas.

**Joint Statement by Cambodian and Thai Governments
on the Normalization of Cambodian -Thai Diplomatic Relations
at Ambassadorial Level**

(11 April 2003)

1. A bilateral discussion between His Excellency Dr. Surakiart Sathirathai, Minister of Foreign Affairs of the Kingdom of Thailand and His Excellency Mr. Hor Namhong, Senior Minister and Minister of Foreign Affairs and International Cooperation of the Kingdom of Cambodia took place on 11 April 2003 in Siem Reap.
2. The Thai side expressed appreciation for the sincere and active endeavors of the Cambodian Government to restore trust and confidence between the two countries, as evidenced by various remedial steps taken by the Cambodian Government in response to both the Aide Memoire, submitted by Thailand on 30 January 2003, and successive discussions between both sides.
3. The Cambodian side expressed appreciation for the goodwill and understanding on the part of the Government and people of Thailand in taking successive steps toward the normalization of relations between the two countries.
4. Both sides took note of the implementation of various agreements made during the discussion between His Excellency Dr. Surakiart Sathirathai, Minister of Foreign Affairs of Thailand and His Excellency Mr. Sok An, Senior Minister in charge of Council of the Ministers of Cambodia, on 21 March 2003. Such agreements include the resumption of various activities in the border areas, the normalization of border crossing of the two peoples, and the promotion of people-to-people contacts, in particular through the establishment of Thailand-Cambodia Joint Cultural Association. As these activities help to build a solid foundation for the development of bilateral relations between the two countries, both sides agreed to continue their cooperation in this regard.
5. Both sides expressed commitment to provide full protection for the safety of diplomatic staff, visiting officials, and the private sector in their respective countries.
6. In view of these positive developments and to commence a new chapter of Thai-Cambodian cordial relations at the auspicious traditional New Year of Songkran Festival, both sides therefore agreed that their respective ambassadors will resume their duties as soon as possible.

Remarks by His Excellency Senior Minister HOR Namhong on Economic Cooperation Strategy between Cambodia, Laos, Myanmar and Thailand

(01 August 2003)

*Colleagues,
Excellencies,
Ladies and Gentlemen,*

1. Please allow me, first of all, to sincerely thank the Ministry of Foreign Affairs of the Kingdom of Thailand for the hospitality extended to my delegation and the excellent arrangements of this meeting.

2. Cambodia is very much appreciated Prime Minister Thaksin Shinawatra's idea for having the summit of the four Prime Ministers of Cambodia, Laos, Myanmar and Thailand. Cambodia also is very much grateful for Thailand's Concept on this "Economic Cooperation Strategy." Based on strong bond of cultural ties, common civilization, Theravada religion and geographical proximity, I believe that the proposed Summit Meeting of the Leaders of Cambodia, Laos, Myanmar and Thailand is a favorable opportunity to enhance our economic cooperation, which is based on a shared vision of growth, development and prosperity among our countries.

3. On the proposed "Economic Cooperation Strategy" among the CLMT countries, Cambodia believes that the Thai proposal truly reflects the common goals and interests of our four countries. I think that the ECS reflects the evolving political and economic landscape in Southeast Asia today, which recognizes the growing importance of economic cooperation and development in ensuring an economic order with more humane dimension. In this regard, Cambodia endorses the Thai proposal to focus on the five major cooperative areas, as follows:

- Cross-border trade facilitation,
- Intra-regional relocation of investment,
- Tourism and services,
- Development of special border economic zones and sister cities, and
- Technical assistance aimed at capacity building

4. However, I think that we should explore other sectors that we can develop together in the ECS so as to benefit our peoples.

First, in agriculture, we should work together on "Agriculture Development" in border areas, where we will focus on high-potential agricultural sector and cash crops, such as soybean, maize, castor bean, sesame, coffee and cashew nuts. The development of an agriculture wholesale market can be an important area for us to cooperate. Here, I think that Thailand can provide assistance and invest in areas such as crops, fishery and livestock.

Second, in industry, technology transfer arrangements can be set up, particularly from the more advanced Thai sectors. Joint investment industry using GSP and the utilization of raw materials in

the local areas of the respective countries can be an important part of our economic cooperation. For example, co-production centers can be set up at the borders. As our intra-country comparative advantages evolve over time, we can expand opportunities for industry relocation, especially from Thailand to its neighboring countries.

Third, with regard to tourism, opportunities for joint promotion of tourism among the four countries are propitious. Therefore, we need to commence as soon as possible in a very concrete manner to give greater impetus to tourism development among our four countries. Specifically, we need to facilitate visa arrangement, expand areas of tourism cooperation, and remove various obstacles in tourism linkages among our four countries.

Fourth, in infrastructure, I believe that we need to focus on the development of infrastructure so as to link our economies better, whether it is in tourism, agriculture or industry. We need more infrastructure development in our economic cooperation as an important factor to boost the development of other sectors of our economies. The recent decision jointly taken by Cambodia and Thailand to build the road No. 48 linking Koh Kong province to Trat in Thailand and road No. 67 from Sangam in Thailand to Siem Reap province is a very important example of cooperation for the development.

5. In this context, I believe that this new cooperation strategy can play a critical role in our attempt to bridge the development gap among the ASEAN countries and, at the same time, to strengthen economic development within our region for the prosperity of our peoples.

6. As far as the financing is concerned which is required for the projects stated above, it can be generated within the framework of cooperation at both bilateral and multilateral levels. First, I think that Thailand should actively encourage its investors as well as businessmen to invest in these projects. Second, additional financing can be sought from the Asian Development Bank, the private sector and other donors.

7. In conclusion, I believe that our meeting here among the CLMT countries is very important and indeed timely. There is no doubt that we have taken a major step forward in boosting greater cooperation among us. Our four countries can start economic cooperation either through bilateral or multilateral action in the ECS framework. Cambodia and Thailand, for example, have developed the Koh Kong-Trat project, which can be showcased as an example of our important bilateral project. I believe that we need to focus on concrete projects in our economic cooperation in order to produce practical results so as to avoid only making declarations. Therefore, I think that we need to commence working together as quickly as possible, where and when we can move ahead we move ahead, without having to wait until we have the whole package of cooperation to actually take off.

8. After our CLMT Ministerial Meeting, I think that it would be important for our Senior Officials to meet one more time to work on drafting a plan of action so that it can be submitted, along with the Bagan Declaration, to our leaders in time for approval at the summit.

9. Regarding the frequency of the meetings of our four-country cooperation, I wish to propose that the Senior Officials would meet once a year or on an actual need basis. The ministers and the

leaders, on the other hand, should meet once a year, without having to link their meetings to other meetings. On the issue of mechanism for the CLMT consultation, I believe that we may wish to set up the focal point at the Ministry of Foreign Affairs with a special unit. Working groups will be established according to the sectors of cooperation.

10. Finally, I believe that the Bagan Declaration should underline our significant political commitment to promote greater economic cooperation among our four countries at this critical time in order to share the benefits for our peoples.

**Remarks by His Excellency Senior Minister HOR Namhong on the Emerald Triangle
Development Cooperation (Cambodia - Laos - Thailand)**

(02 August 2003)

*Colleagues,
Excellencies,
Ladies and Gentlemen,*

1. First of all, I wish to sincerely thank the Ministry of Foreign Affairs of the Lao P.D.R. for a warm hospitality extended to my delegation and the excellent arrangements of this meeting.

2. Cambodia truly appreciates the initiative that we are taking to develop the area where the borders of our three countries meet. Moreover, I am particularly happy that what we are discussing here today will for sure significantly complement to what we just concluded yesterday in Bangkok in the framework of the ECS of CLMT countries. This Emerald Triangle area possesses enormous potentials for tourism development, golf course, eco-tourism and cultural tourism. Besides its natural beauty and important historical sites, this area is abundant in geographic riches and natural landscapes. Its long inaccessibility has preserved these assets and minimized tourism promotion and development in the area.

3. With the prevailing peace and security in the region and with the closer relations among Cambodia, Laos and Thailand, the Emerald Triangle has gradually become an important part of the development programs within the frameworks of the Greater Mekong Sub-region (GMS) and the East-West Corridor.

4. I believe that, with a clear vision of the Emerald Triangle development, over the long term, the implementation of the Emerald Triangle tourism development plan will certainly lead to the development of commerce and infrastructure, so as to turn this area into an economic "hot-spot" in the lower Mekong region.

5. Yet, to realize this vision of the Emerald Triangle, we need to secure investments and conduct appropriate feasibility studies and environmental impact analyses. To develop tourism we need investments and we can't talk about tourism without infrastructure development in this part of our common borders.

6. For Cambodia, growth triangle arrangements are designed to complement the GMS, the overall economic cooperation in the ASEAN, and, also, the ECS among CLMT countries we just discussed yesterday. The development of the Emerald Triangle can help strengthen pro-poor growth strategies because it would contribute to:

- Â· First, stimulate growth in border areas that are often the poorest areas of our countries;
- Â· Second, facilitate access to markets through infrastructure development that could further enhance agricultural production and raise rural incomes;
- Â· Third, respond to the special needs of ethnic minorities and other vulnerable groups;

Â. Fourth, reduce the marginal cost of services, such as telecommunications and electrification to this rural area through region-wide transmission links.

7. To undertake tourism cooperative activities concretely, the following measures or plan of action should be implemented:

- Joint promotion and marketing.
- Facilitation of travel and visa arrangements we already discussed in the framework of ECS among CLMT countries.
- Human resource development, in particular the including training of tourism professionals.

8. To move the development of the Emerald Triangle forward, I believe that we should start by identifying the land areas of the Emerald Triangle for development.

9. With regard to the issue of mechanism for consultation, I believe that we may wish to set up a focal point and working group on each side of the Emerald Triangle. While the focal point can deal with a comprehensive manner, the working group works in sectoral areas.

10. On the frequency of the meetings for our three-country cooperation at the different levels, I wish to propose that the Senior Officials would meet once a year or on a need basis. For the ministers and the leaders, I think that one meeting a year is sufficient. While in the Eastern Triangular border between Cambodia, Laos and Vietnam, two meetings of the three leaders had already taken places in Vientiane and Ho Chi Minh City, respectively, and some development projects have been agreed upon. The third meeting of the Triangular Development will take place in Cambodia in the near future. Therefore, I believe that the summit of our three leaders would give impetus for the development of projects in this area.

11. I am pleased to see that a broader framework of cooperation in the tourism sector has been included in the draft of the Pakse Declaration.

12. To ensure a practical implementation of tourism development in this area, I believe that we need specific plan of action to help us follow up on its realization. Without a concrete action plan, it would be a great challenge for us to move forward on the right track to realize the vision of the Pakse Declaration.

13. Finally, I strongly believe that the Pakse Declaration will lay down an important foundation for genuine sub-regional cooperation built on the aspirations of the peoples in the E.T. to improve their lives and to live in harmony as good and close neighbors. In reaching out to realizing this important vision, a vision that the peoples of Cambodia, Laos and Thailand, as the common stakeholders of the development of this locality, will benefit tremendously from this joint enterprise.

Fourth Meeting of Cambodia-Thailand Joint Commission

(25 December 2002)

At the invitation of His Excellency Mr. SURAKIART Sathirathai, Minister of Foreign Affairs of Thailand, His Excellency Senior Minister HOR Namhong, Minister of Foreign Affairs and International Cooperation, paid an Official Visit to the Kingdom of Thailand from 25-26 December 2002.

During the call on His Excellency Mr. Thaksin Shinawatra, Prime Minister of Thailand, Senior Minister HOR Namhong requested the Thai Government to intensify the cooperation between the two countries in the boundary demarcation as agreed upon by the two Prime Ministers and in the joint development of the overlapping maritime area. The Senior Minister also thanked the Thai Government for a soft loan to improve the road No. 48 linking Koh Kong - Sre Ambel, a grant aid for the construction of four bridges along that road, and assistance to develop the Road No. 67 linking Sa Ngam - Anlongveng - Siem Reap.

On this occasion of official visit, Senior Minister HOR Namhong also co-chaired with His Excellency Mr. Surakiart Sathirathai the Fourth Meeting of the Joint Commission for Bilateral Cooperation between the Kingdom of Cambodia and the Kingdom of Thailand held in Chiang Mai.

During the meeting, both sides had discussions on various important issues of mutual interest and reached many agreements. They agreed to sign in the near future 3 Memorandums of Understanding: on Cooperation in Agriculture, on Cooperation in the Employment of Workers, and on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking.

The Thai side provided a grant aid to Cambodia for the construction of four bridges along the Road No. 48 that links Koh Kong - Sre Ambel, and offered a soft loan to finance the improvement of this road. Thailand also agreed to render assistance to Cambodia for the development of Road No. 67 (Sa Ngam - Anlongveng - Siem Reap).

As far as the Boundary Demarcation is concerned, both sides agreed to conclude the Terms of Reference (TOR) for the joint survey and demarcation of land boundary between Cambodia and Thailand and to start the works of demarcation of land boundary as soon as possible so as to make the border areas between the two countries a border of lasting peace and friendship.

With regard to Overlapping Maritime Claims, both sides agreed to move forward their cooperation with a view to an early and final settlement of this issue.

Both sides also agreed to intensify cooperation in maintaining peace and security in the border areas, particularly in the prevention and suppression of transnational crimes, illegal immigration, human trafficking, drug trafficking, illegal logging and smuggling of logs and wildlife etc.

The Fourth Meeting of the Joint Commission for Bilateral Cooperation between Cambodia - Thailand was concluded with the signing of its Agreed Minutes by the Foreign Ministers of both countries.

Joint Communiqué On the occasion of the official visit to the Kingdom of Cambodia Of His Excellency Dr. Thaksin Shinawatra, Prime Minister of the Kingdom of Thailand

(18 June 2001)

At the invitation of His Excellency Samdech HUN Sen, Prime Minister of the Kingdom of Cambodia, His Excellency Dr. Thaksin Shinawatra, Prime Minister of the Kingdom of Thailand, paid an official visit to Cambodia from 18-19 June 2001.

His Excellency Dr. Thaksin Shinawatra and his delegation were accorded with a warm welcome and generous hospitality by the Royal Government and the people of Cambodia, reflecting close and cordial relations between the two countries.

The two Prime Ministers exchanged views on variety of issues which are of common benefit of both countries with a view to further consolidating, developing and expanding their bonds of friendship and cooperation in the political, economic, social, cultural, and other fields.

During the visit, the two Prime Ministers presided over the signing of the Framework Agreement on Economic Cooperation between the Kingdom of Cambodia and the Kingdom of Thailand which aims to further promote and strengthen their bilateral relations onto a new stage of development in the 21st century, and the signing of the Memorandum of Understanding between the Royal Government of Cambodia and the Royal Thai Government regarding the Area of their Overlapping Maritime Claims to the Continental Shelf to lay the foundation for new era of cooperation between Cambodia and Thailand relations to the exploitation of petroleum resources in the area of their overlapping maritime claims to continental shelf.

In addition to afore-mentioned documents, the two sides agreed on the following issues:

1. The two sides shall continue to develop their relations based on the principles enshrined in the United Nations Charter and other universally recognized principles of international law, on the Five Principles of Peaceful Coexistence and on the principles set forth in the Treaty of Amity and Cooperation in South East Asia, especially the principles of respect for each other's independence, sovereignty and territorial integrity. They further reaffirmed their respect for the principles of non-interference into each other's internal affairs, of non-recourse to the use of force or threat of force, of peaceful settlement of all disputes, and not allowing one's country territory to be used by any political or military force against the other's. Both sides agreed not to allow their territories to be used by any individual or groups in hostile manner against the other country.
2. The two sides shall continue to maintain regular high-level meetings between the Representatives of the two governments, parliaments, state agencies and military forces to promote both the official and people-to-people contacts between the two countries.
3. The two sides committed to strengthen cooperation and consultations between Ministries of Foreign Affairs of Cambodia and Thailand to exchange views on bilateral, regional and international issues of mutual interest. They also agreed to work closely with each other bilaterally

and in framework of ASEAN in the developing programmes such as the Great Mekong Sub-Region, the less-developed areas along the West-East Corridor (WEC) and the ASEAN integration.

4. They agreed to work closely with each other to combat crimes along the borders between the two countries as well as trans-national crimes, such as drugs trafficking, trafficking of human beings, and other illegal activities.

5. The two sides reaffirmed the importance of bilateral economic relations, in particular, the promotion of investment and trade between the two countries. For that end, they agreed to fully utilize the existing mechanisms for bilateral cooperation, especially the Joint Commission for Bilateral Cooperation, and the Joint Trade Committee.

6. They agreed further to strengthen cooperation in the fields of agriculture, forestry, fishery, and fishery-related industries and energy; to exchange experiences in the protection of endangered species as well as forest, especially to suppress illegal logging, and of the environment, in particular along the common land and sea borders.

7. They agreed to strengthen their cooperation to upgrade land routes and develop railway lines between the two countries. They agreed to further encourage their cooperation on tourism in the framework of bilateral and multilateral cooperation.

8. The two sides agreed to expand cooperation in public health, to share experiences and to assist each other effectively in disease prevention and control along the borders between the two countries.

9. The two sides agreed to expand further their cooperation in the fields of education and training, to exchange students at university and post-university levels, and to facilitate art and cultural exchange between them.

10. Both sides reaffirmed their commitment to effectively implement the Agreement to Combat Against the Illicit Trafficking and Cross Border Smuggling of Moveable Cultural Property and to Restitute it to the Country of Origin and the Agreement on Cooperation for the Return of Stolen or Embezzled Vehicles, both of which were signed on 14 June 2000.

11. The two sides shall continue to promote favorable conditions required for the protection of security and for the normal life of nationals of one's country living in the other's country.

12. The two sides agreed to encourage their border provinces to promote their cooperation and mutual assistances in all areas of mutual interests.

13. The two sides reaffirmed their determination to settle as soon as possible the land border demarcation in the spirit of friendship, mutual understanding and the principles of equality and good neighborliness, so as to build a borderline of lasting peace, stability and friendship between them.

14. The two sides have highly appreciated the efforts made by both sides and noted their approval of the Memorandum of Understanding between the Royal Government of Cambodia and the Royal Thai Government on the Area of their Overlapping Maritime Claims to Continental Shelf signed by H.E. Mr. Sok An, Senior Minister and Minister of the Council of Ministers of Cambodia, and H.E. Dr. Surakiart Sathirathai, Minister of Foreign Affairs of Thailand.

Done in duplicate in Phnom Penh, on 18 June 2001, in the English language.

Thai Foreign Minister visited to Cambodia

(4 June 2001)

At the invitation of His Excellency Senior Minister HOR Namhong, Minister of Foreign Affairs and International Cooperation, His Excellency Dr. Surakiart Sathirathai, Minister of Foreign Affairs of the Kingdom of Thailand, paid an official visit to the Kingdom of Cambodia on 4 -5 June 2001.

His Excellency Dr. Surakiart Sathirathai was granted a Royal Audience by His Majesty Preah Bat Samdech Preah NORODOM Sihanouk, King of Cambodia, at the Royal Palace.

His Excellency Dr. Surakiart Sathirathai paid courtesy calls on Sdech Krom Khun Sisowath Chivonmoniroth, First Vice President of the Senate, Samdech Krom Preah NORODOM Ranariddh, President of the National Assembly, and Samdech HUN Sen, Prime Minister of the Kingdom of Cambodia.

During their bilateral talks held at the Ministry of Foreign Affairs and International Cooperation, Senior Minister HOR Namhong and Dr. Surakiart Sathirathai had broad discussions on the promotion of the relations of friendship and cooperation between the two countries, including the rail and road links.

The Cambodian side sought help from the Thai Government in the construction of a 48 km road from Poi Pet to Sisophon that was noted by the Thai side would also benefit the Thai tourism and trade sectors. Dr. Surakiart Sathirathai handed over to Senior Minister HOR Namhong a Thai-sponsored Feasibility Study on Re-Establishing the Bangkok-Aranyaprathet-Phnom Penh Railway Line.

The two Foreign Ministers also touched on a Framework Agreement on Economic Cooperation, the border issues, and the preparation for the visit by Thai Prime Minister.

During the visit, His Excellency Mr. SOK An, Senior Minister, Minister in charge of the Office of the Council of Ministers and Chairman of the Cambodian National Petroleum Authorities signed with Dr. Surakiart Sathirathai on the Memorandum of Understanding on the Area on their overlapping maritime claims.

The Memorandum, subject to the final approval of their respective Governments, identifies two areas within the overlapping claims areas: an Area to be Delimited and Joint Development Area, said a Joint Press Release issued after the signing ceremony. The Memorandum affirms both Governments' intention to simultaneously conclude an agreement for joint development of the hydrocarbon resources located in the Joint Development Area and to agree a mutually acceptable maritime boundary in the Area to be Delimited. A Joint Technical Committee comprising officials of Cambodia and Thailand will be established to work out the remaining unresolved issues and to draw up a Treaty between the two countries.

Cambodia - Thailand Cooperation Boosted

On 14 June 2000, at the Office of the Council of Ministers, a signing ceremony on two Agreements and an MOU were held under the Joint Presidencies of Samdech HUN Sen, Prime Minister of the Kingdom of Cambodia, and His Excellency Mr. Chuan Leekpai, Prime Minister of the Kingdom of Thailand, who paid an official visit to Cambodia from 14 to 16 June 2000.

Both Agreements were signed by His Excellency Mr. HOR Namhong, Senior Minister, Minister of Foreign Affairs and International Cooperation, and His Excellency Mr. Surin Pitsuwan, Thailand's Minister of Foreign Affairs, while the MOU was signed by His Excellency Mr. Var Kim Hong, Advisor to the Royal Government of Cambodia in charge of State Border, and His Excellency Mr. Sukhumbhand Paribatra, Thailand's Deputy Minister of Foreign Affairs.

1 - The Agreement to Combat Against Illicit Trafficking and Cross-Border Smuggling of Movable Cultural Property and to Restitute it to the Country of Origin is aimed at adding to the effectiveness of the cooperation between the two countries in combating criminal activities which involve movable cultural property through the introduction of measures for impeding illicit transnational trafficking in movable cultural property, the imposition of appropriate and effective administrative and penal sanctions and the provision of means for restitution.

2 - The Agreement on Cooperation for the Return of Stolen or Embezzled Vehicles is intended to prevent the illicit trafficking and return such vehicles to their owners in the territory of the respective government.

3 - The MOU on the Survey and Demarcation of Land Boundary is directed to survey and demarcate the land boundary between the two countries and shall be jointly conducted on the basis of the Franco - Siamese Convention of 1904 and the Treaty of 1907 and Protocol annexed to the said Agreements and the Maps of the Franco - Siamese Commission of Delimitation.

Joint Press Release

The Second Meeting of the Cambodian-Thai Joint Commission on Demarcation for Land Boundary was held during 05-07 June 2000 in Phnom Penh, Kingdom of Cambodia. The Cambodian delegation was led by H.E. Var Kim Hong, Adviser to the Royal Government of Cambodia in charge of State Border Affairs, while the Thai delegation was led by H.E. Mr. Sukhumbhand Paribatra, Deputy Minister of Foreign Affairs of the Kingdom of Thailand. Both delegations comprised high level government officials from relevant agencies of both countries.

The Meeting was held in a constructive and friendly atmosphere. Both sides held extensive discussions on various topics of common interest which produced tangible and fruitful results.

Firstly, the Memorandum of Understanding (MOU) between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on the Survey and Demarcation of Land Boundary was signed ad referendum by the two leaders. This MOU aims at surveying and demarcating the land boundary between the two countries and shall be jointly conducted on the basis of the Franco- Siamese Convention of 1904 and the Treaty of 1907 and Protocol annexed to the said Agreements and the Maps of the Franco-Siamese Commission of Delimitation. The Meeting expressed the hope that the MOU would be processed for approval by their respective Governments in time for signature during the official visit to the Kingdom of Cambodia of H.E. Mr. Chuan Leekpai, Prime Minister of Thailand next week.

Secondly, both sides exchanged preliminary views on the Terms of Reference and Master Plan for the Joint Survey and Demarcation of the Common Land Boundary which will be the framework for the Joint Technical Sub Commission to conduct the survey and demarcation assigned by the Joint Boundary Commission. Both sides agreed to hold further consultation on the TOR with a view to concluding it as soon as possible.

Thirdly, both sides reviewed the general situation along the common border and agreed that all the existing misunderstanding would be resolved through direct consultation and negotiation in the spirit of friendship and good neighbourliness. They were confident that this Joint Boundary Commission would be able to serve as an appropriate forum for such consultation and the mechanism to be established by the MOU would be able to resolve any future misunderstanding peacefully and expeditiously.

Lastly, both sides also discussed the possibility of technical cooperation and exchanges on survey and demarcation procedure and methodology.

The Third Meeting of the Joint Boundary Commission will be held in Thailand, the date and venue of which will be agreed upon through diplomatic channels.

The Cambodian-Thai Joint Commission on Demarcation for Land Boundary Phnom Penh 07 June 2000.

Speech of Senior Minister Hor Nam Hong

At the 50th Anniversary of Cambodia-Thailand Diplomatic Relations

(19 December 2000)

Excellency,

Thailand and Cambodia mark today the 50th anniversary of the establishment of their diplomatic relations on 19 December 1950, an occasion to reflect and to celebrate.

Over the past fifty years, bilateral relations between Thailand and Cambodia have been overshadowed by long periods of decolonization and of the cold war. The whole region of South East Asia was divided into opposing blocks. But in spite of this circumstance, the people of Cambodia and Thailand have experienced also moments of peace, friendship and cooperation which have prevailed most of the time.

During all these periods, fortunately, our peoples on both sides of the common border, have continued to entertain their traditions of good neighbourhood. External influences have had little impact on their traditional values, culture and way of life. Today, we are witnessing the emergence of a new era of enhanced, intense bilateral and regional co-operation which set the stage for more sustainable socio-economic development of our nations for generations to come. Cambodia is strongly determined to foster the bilateral relations of friendship and cooperation with Thailand cemented by traditional sentiments of fraternal good neighbourhood between our two peoples.

Cambodia is fully prepared to explore all the possibilities for further expanding and strengthening these existing relations in all fields based on the common civilization, religion and culture, as well as adherence to the principle of mutual respect for the independence, sovereignty, territorial integrity and non-interference in the internal affairs of each other.

Furthermore, the ASEAN membership of the two countries has opened up a host of good opportunities for more fruitful and mutually beneficial cooperation. Cambodia will closely cooperate with Thailand and our ASEAN's partners to accelerate the integration process of ASEAN, which will serve the fundamental interests of the two countries and the whole region as well. On this happy occasion, I wish to convey, on behalf of the Royal Government and People of Cambodia, to the Royal Government of Thailand our best wishes for greater success in fulfillment of its noble task and to Thai People happiness and prosperity.

May the traditionally close friendship and cooperation existing between our two countries be further consolidated and expanded for years to come.

Message from Thai Foreign Minister to Senior Minister

Here is the message addressed by His Excellency Dr. Surin Pitsuwan, Minister of Foreign Affairs of the Kingdom of Thailand to His Excellency Mr. HOR Namhong, Senior Minister, Minister of Foreign Affairs and International Cooperation:

Excellency,

On the auspicious occasion of the fiftieth anniversary of the diplomatic relations between the Kingdom of Thailand and the Kingdom of Cambodia, I wish to extend, on behalf of the Royal Government and the people of Thailand, my sincere best wishes to the Royal Government and the people of Cambodia.

Although our diplomatic relations were established fifty years ago on 19 December 1950, ties between our two kingdoms date back several centuries. Over these past centuries, both our kingdoms have faced many challenges and gone through tremendous changes. Despite these developments both within and beyond our region, something will always remain unchanged. Both our nations are and will forever be neighbouring countries, sharing similar ethnic backgrounds, religions and cultures. These factors are primary forces that have formed a solid foundation for the flourishing ties between the two neighbouring kingdoms that we are now witnessing.

In recent years, our two countries have shown common aspiration and commitment to forge closer friendship and to increase cooperative endeavours between our two countries and peoples. These have included the establishment of the Joint commission for Bilateral Relations between Thailand and Cambodia which encompasses over twenty separate areas of cooperation, covering all aspects of relationship.

Another concrete testimony of this increasing interaction is the steadily expanding volume of trade between Thailand and Cambodia. Growth in investment and tourism is another clear manifestation of mutual benefits grown out of closer partnership. Latest on this list of cooperation is human resource development, which is crucial for sustainable growth and development not only of any country in particular but of the future of our region as a whole. Our joint investment in the Cambodia-Thailand Vocational Training Centre in Poun Phnom, which was inaugurated by H.E. Prime Minister Chuan Leekpai and H.E. Prime Minister Samdech Hun Sen on 15 June 2000 has started to bear fruit last month with the first batch of 100 graduates having completed their studies.

Cambodia's active role both in ASEAN and other regional groupings, such as the Greater Mekong Sub-region has added a new dimension to our bilateral relations. We are confident that such cooperation would contribute to the peace, stability, and prosperity in the region.

As the new century unfolds, I am glad to see that both Thailand and Cambodia are not complacent with the current state of our relations, but continue to make every effort to improve our bilateral ties. What will soon be labeled one of the most notable landmarks in our cooperation is the on-going joint endeavour to map out the framework for Economic Cooperation between Thailand and Cambodia. Once completed, the Framework will help generate economic interest in such a manner

that each partner can best supplement and complement one another for better and mutual benefits of both nations. Given these developments, it is a most propitious moment to celebrate the fiftieth anniversary of our diplomatic relations. May I take this opportunity to reiterate Thailand's earnest wish to cherish our good and close ties of friendship with Cambodia in many years to come.

Accept, Excellency, the renewed assurance of my highest consideration.

Second Meeting of the Prime Ministers of Vietnam, Cambodia and Laos on the Building of Development Triangle

(26 January 2002)

1. As agreed during the 1st Meeting held on October 20, 1999 in Vientiane, His Excellency Mr. Phan Van Khai, Prime Minister of the Socialist Republic of Vietnam, His Excellency Samdech Hun Sen, Prime Minister of the Kingdom of Cambodia and His Excellency Mr. Bounnhang Vorachith, Prime Minister of the Lao People's Democratic Republic held their Second Meeting on 26 January 2002 in Ho Chi Minh City.

2. The Meeting took place in an atmosphere of solidarity, friendship and good neighborliness. The Prime Ministers informed each other of the situation in their respective countries, exchanged views on regional and international issues of common interest. They paid particular attentions to find ways and means to further promote their cooperation in realizing "Vietnam-Cambodia-Laos Development Triangle".

3. The Prime Ministers highly valued the achievements recorded by their respective countries during the last years and reaffirmed their determination to further capitalize on their internal resources, to enhance the efficiency of international cooperation and to accelerate their integration into the regional and world economy, thereby making further contribution to regional peace, stability and cooperation.

4. The Prime Ministers highly appreciated and emphasized the farther enhancement of the traditional friendship, solidarity existing between the three peoples as an important factor for stability and development of each country.

5. The Prime Ministers expressed their resolve to implement the " Vietnam- Cambodia-Laos Development Triangle " Program at an early date in order to speed up the socio-economic development of the border area between the three countries in lines with the Hanoi Plan Action in 1998 on poverty reduction and narrowing down the development gap among the Member Countries.

6. The Prime Ministers focused their discussions on the immediate and concrete measures to implement the " Vietnam-Cambodia-Laos Development Triangle ", giving priority to their cooperation in some specific areas such as: constructing and upgrading of transportation system that connect the provinces in the Development Triangle; implementing projects to promote trade relations; enhancing cooperation in tourism with an aim to realized the idea of " Three Countries-one destination "; and setting up inter-connected electricity grids between the three countries.

The Prime Ministers agreed to formulate a master plan for the socio-economic development of the Development Triangle, first of all for seven provinces of Rattanakiri and Stungtreng (Cambodia) , Attapu and SeKong (Laos), Kon Tum, Gia Lai and Dak Lak (Vietnam) .The three Prime Ministers also agreed to soon work out mechanisms and policies in priority areas during the implementation of this Program.

7. The Prime Ministers also agreed to work closely together to step up their cooperation within the ASEAN framework to enhance unity, to promote cooperation and to uphold the fundamental principles of the Association. They pointed out the need to deepen cooperation in the Mekong Basin cooperation program so as to ensure the interests of riparian countries in developing, utilizing and preserving natural resources of the Basin. In this regard, they also agreed to enhance the economic cooperation in the Greater Mekong Sub-region, particularly in the Molds of transportation, trade, investment, tourism, environment, human resource development; and to accelerate the implementation of West-East Corridor cooperation programs.

8. The Prime Ministers also exchanged views on concrete measures to enhance cooperation aimed at ensuring security and social order in the three countries' border areas, at preventing terrorist acts in each country; and at combating transnational crimes and drug trafficking.

9. Prime Minister Phan Van Khai and Prime Minister Bounnhang Vorachith expressed their support for Cambodia's hosting of the 8th ASEAN Summit at the end of 2002. In this regard, Vietnam and Laos pledged to work closely with Cambodia to ensure the success of this Summit. Prime Minister Samdech Hun Sen expressed his high appreciation for this support.

10. The Prime Ministers agreed that their third Meeting would be held in Phnom Penh in 2003. The specific timing for this meeting will be arranged through diplomatic channels. On this occasion, Cambodian Prime Minister Samdech Hun Sen and Lao Prime Minister Bounnhang Vorachith expressed their sincere thanks to Vietnamese Prime Minister Phan Van Khai, the Vietnamese Government and people for their warm hospitality extended to the Cambodian and Lao delegations during their stay in Vietnam.

Press Release of the Third Summit Meeting of the Three Prime Ministers of Cambodia, Laos and Vietnam on Development Triangle

(21 July 2004)

1- As agreed during the 2nd Summit Meeting held on 26 January 2002, in Ho Chi Minh City, the Socialist Republic of Vietnam, His Excellency Samdech Hun Sen, Prime Minister of the Kingdom of Cambodia, His Excellency Mr. Bounnhang Vorachith, Prime Minister of the Lao People's Democratic Republic and His Excellency Mr. Phan Van Khai, Prime Minister of the Socialist Republic of Vietnam held their Third Summit Meeting on Development Triangle on 21st July 2004 in Siem Reap, the historical city of the Kingdom of Cambodia.

2- His Excellency Mr. Bounnhang Vorachith, Prime Minister of the Lao People's Democratic Republic and His Excellency Mr. Phan Van Khai, Prime Minister of the Socialist Republic of Vietnam congratulated the success of the formation of the new Royal Government of Cambodia, welcomed the close cooperation between the Cambodian People's Party and the FUNCINPEC Party and expressed their sincere thanks to Samdech Prime Minister Hun Sen for the excellent organization of this Summit Meeting as his first high level international event of his new government.

3- During their stay, Lao Prime Minister H.E. Bounnhang Vorachith and Vietnamese Prime Minister H.E. Phan Van Khai also paid courtesy calls to Samdech Krom Preah Norodom Ranariddh, Acting Head of State and Samdech Heng Samrin, Acting President of the National Assembly of the Kingdom of Cambodia in Siem Reap.

4- The Meeting took place in an atmosphere of solidarity, friendship and good neighbourliness. The Prime Ministers highly appreciated and emphasized the further enhancement of the traditional friendship and solidarity existing between the peoples of the three countries as an important factor for stability and development of each country.

5-The Prime Ministers informed each other of the situation in their respective countries. They highly valued and congratulated each other on the achievements recorded by their respective countries during the last two years and reaffirmed their determination to further capitalize on their internal resources, to enhance the efficiency of international cooperation, and to accelerate their integration into the regional and world economy, thereby making further contribution to regional peace, stability and prosperity.

6- The Prime Ministers focused their discussion on the progress of the Development Triangle. They highly appreciated the hard work of the Expert Groups of Cambodia - Laos - Vietnam for their excellent preparation of all documents relating to the Development Triangle. They paid particular attentions to find ways and means to further promote their cooperation in realizing "Cambodia-Laos-Vietnam Development Triangle".

7- The Prime Ministers highlighted the significance and importance of the Development Triangle initiated by Samdech Prime Minister Hun Sen in 1999 in the national development of the three countries, individually and collectively. They also emphasized the need to speed up the implementation of this Master Plan with a view to bringing the benefits to the people of the three countries living within the Triangle. In order to accelerate the socio-economic development of the border areas between the three countries, the Prime Ministers endorsed the recommendations made by the SOM in its Meeting in Siem Reap on 18 -19 July 2004 to task the Expert Groups on Development Triangle to hold its Third Meeting in Cambodia in September 2004 to finalise the Master Plan so that it could be submitted to the Prime Ministers for consideration and approval during the 10th ASEAN Summit in Vientiane in November 2004.

8- The Prime Ministers highly valued and attached great significance to the Socio-Economic Development Master Plan of Cambodia-Laos-Vietnam Development Triangle and decided to bring the activities under this Master Plan to their respective national policies. They also agreed to put programmes and projects of the Master Plan under the framework of bilateral and multilateral cooperation as well as of the GMS and ASEAN. The Prime Ministers also appealed to the international donors community to support the implementation of the Master Plan.

9- The Prime Ministers also exchanged views on the immediate and concrete bilateral and joint projects to implement the Development Triangle, giving priority to their cooperation in such specific areas as the construction and upgrading of transportation systems that connect the provinces in the Development Triangle; the implementation of projects to promote trade relations; the promotion of cooperation in tourism to realize the idea of "Three Countries-One Destination"; the development of human resources and health care system; and the setting up of interconnected electricity grids between the three countries.

10- The Prime Ministers also agreed to work closely together within the ASEAN framework to consolidate unity, to promote cooperation, to bridge the gap of development, and to uphold the fundamental principles of the Association, thus making constructive contribution to the realization of an ASEAN Community. In that spirit, they pointed out the need to deepen cooperation in the Mekong Basin cooperation programme so as to ensure the interests in developing, utilizing, and preserving natural resources of the Basin. In this regard, they also agreed to enhance the economic cooperation in the Greater Mekong Sub-region (GMS), particularly in the fields of transportation, trade, investment, tourism, environment, human resource development; and to accelerate the implementation of West-East Corridor Cooperation programmes.

11- The Prime Ministers exchanged views on the cooperation between the three countries to combat transnational crimes and terrorism in order to ensure the security in the three countries' border areas.

12- The three Prime Ministers committed to cooperate closely to ensure the success of the 10th ASEAN Summit as well as the CLMV Summit hosted by the Lao PDR in November 2004. In this regard, Samdech Prime Minister Hun Sen and Prime Minister Phan Van Khai expressed their full and strong support to Laos' efforts in the process of preparation for these Summits. Prime Minister Bounnhang Vorachith expressed his high appreciation for this support.

13- The Prime Ministers agreed that their Fourth Summit Meeting would be held in Laos in 2005. The specific date of the meeting will be arranged through diplomatic channels.

14- H.E. Prime Minister Bounnhang Vorachith and H.E. Prime Minister Phan Van Khai expressed their sincere thanks to Cambodian Prime Minister Samdech Hun Sen, the Cambodian Government and people for their warm welcome and generous hospitality extended to the Lao and Vietnamese delegations during their stay in Siem Reap as well as for the excellent arrangement of the Meeting.

Cambodia-Vietnam Joint Border Commissions Meeting

(14 June 2002)

Joint Press Release

Following in an integral text of a Joint Press Release on the extra-meeting of the Cambodia-Vietnam and Vietnam-Cambodia joint border commissions were held in Phnom Penh on 14-18 June 2002.

The Cambodian Delegation was led by H. E. Mr. Var Kim Hong, Advisor to the Royal Government of Cambodia in charge of State Border Affairs and Chairman of Cambodia-Vietnam Joint Border Commission, and the Vietnamese Delegation was led by H. E. Mr. Le Cong Phung, Deputy Minister of Foreign Affairs of the Socialist Republic of Vietnam, Chairman of Vietnam-Cambodia Joint Border Commission.

His Excellency Mr. Le Cong Phung and the Vietnamese delegation were warmly received with generous hospitality by the Cambodian side and paid a courtesy call on His Excellency Mr. Sok An, Senior Minister, Minister in charge of the Office of the Council of Ministers of Cambodia.

The two sides agreed on the following issues:

1. Based on the requests of the concerned localities, the two sides have agreed to submit proposals to the two governments for upgrading and opening the following Border Points of entry-exit to facilitate the activities of economic and social development of the two countries:

-Phnom Den (Takeo Province, Cambodia) - Tinh Bien (An Giang Province, Vietnam) to international border point of entry-exit;

- Prey Voir (Svay Rieng Province, Cambodia) - Binh Hiep (Long An Province, Vietnam) to national border point of entry-exit;

-Banteay Chakrey (Prey Veng Province, Cambodia) - Dinh Ba (Dong Hap Province, Vietnam) to national border point of entry-exit;

-Chan Moul (Kompong Cham Province, Cambodia) - Ka Turn (Tay Ninh Province, Vietnam) to national border point of entry-exit;

-Da (Kompong Chain Province, Cambodia) - Chang Riec (Tay Ninh Province, Vietnam) to national border point of entry-exit;

-Sa Tum (Kompong Chain Province, Cambodia) - Tong Le Chan (Tay Ninh Province, Vietnam) to national border point of entry-exit;

-Open a new area border point of entry-exit along the border between Sre Barang area, Svay Rieng province, Cambodia and Long An province, Vietnam.

2. Both sides agreed to cooperate in resolving any problem that might arise along the border between the two countries, firstly by the local authorities, especially the concerned provinces of the two countries, in the spirit of good neighborliness, friendship and in accordance with the Joint Communiqué of 17th January 1995.

3. The two sides agreed to step up the work of the Joint Border commissions to realize the common understandings of the high leaders of Cambodia and Vietnam.

The Agreed Minutes of the meeting was signed on 18th June 2002. The Vietnamese Delegation expressed its sincere thanks to the Cambodian side for the warm welcome and hospitality accorded to the Delegation.

Annex 3-25
Lao National Report

Laos National Mekong Committee

**National Report Outline for
Transboundary Issues, Differences and Disputes
In Lao PDR**

Under Mekong River Commission Term of Reference for National
Expert in Compilation and analysis of National practice on addressing
Inter State issues, difference and disputes over Trans-boundary water
and/or related to natural resource issues

Report prepared by Mr. Phoumyenh KHOUNTHIKOUMMANE
Vientiane capital, 2008

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Executive Summary

The MRC FMM Strategy was approved by the MRC Council in November 2001 on the backdrop of the abnormal floods in 2000 and 2001. This led to the formulation and approval of the Flood Management Program, endorsed by the Council in November 2003 for its importance in terms of regional cooperation, trans-boundary implications and highly demanding integrated flood management and mitigation. The FMMP consist of five components: 1Establishment of the Regional Flood Management and Mitigation Centre, 2Structural Measures and Flood Proofing, 3Mediation of Trans-boundary Flood Issues, 4Flood Emergency Management Strengthening, and 5Land Management.

By revised edition of FMMP on December 2005, the development objective should come from the member countries by themselves/individually/jointly. In order to complete more sustainable risk reduction and mitigation requires considerable time, knowledge and more permanent financial resources, the FMMP should be help for reduce in sustainable manner the vulnerability of peoples living in the flood plains and near the location of heavy bank erosion along the main river and its tributaries.

The Mekong flows through several alluvial deposit areas where the channel is unstable and tends to meander and erode the banks. As the number of people living in settlements near the river increases, bank protection becomes a serious threat to the productive use of land close to the river, to building, property and even lives. Large numbers of people and their properties are located along the Mekong River or in the flood plain areas. Flood cause serious damage to property, livestock and crops annually.

The purpose of the document is to be a practical document to support the implementation of the mandate and the 95 MA in addressing TBIDDs in a practical way/manner; to carry out an in depth technical processing/discussion of the Explanatory Note / Manual, and secure that the specific interest in issues and/or approaches of each of the member countries is incorporated in the document; to assess and refine the adjusted structure and content of the Explanatory Note / Manual for finalization; and to clarify and guide the process of finalization of the National Reports on Compilation of National Practices and Instruments and the Explanatory Note / Manual.

Abbreviations and Acronyms

ADB	Asian Development Bank
AIFP	Agriculture, Irrigation and Forestry Programme
ASEAN	Association of Southeast Asian Nations
BDP	Basin Development Plan
CEO	Chief Executive Officer
DBF	Dam Break Floods
DMP	Drought Management Programme
DRF	Dam Release Floods
DSF	Decision Support Framework
EIA	Environmental Impact Assessment
FMMP	Flood Management and Mitigation Programme
FMMSIP	Flood Management and Mitigation Strategy Implementation Plan
FP	Fisheries Programme
GMS	Greater Mekong Sub-region
GDP	Gross Domestic Product
GIS	Geographic Information System
GMS	Greater Mekong Sub-region
IBFM	Integrated Basin Flow Management
ICBP	Integrated Capacity Building Programme
IDDs	Issues in Differences and Disputes
IKMP	Information and Knowledge Management Programme
IWRM	Integrated Water Resource Management
JC	Joint Committee
LNMC	Laos National Mekong Committee
LMB	Lower Mekong Basin
MCTPC	Ministry of Communication Transport Post and Construction
MPT	Ministry of Public work and Transport
MLSW	Ministry of Labour and Social Welfare
MRC	Mekong River Commission
MRCS	Mekong River Commission Secretariat
MW	Megawatts
MWRAS	Mekong Water Resources Assistance Strategy
NDMO	National Disaster Management Organization
NAP	Navigation Programme
NCDM	National Committee for Disaster Management
NGO	Non-Governmental Organization
NMC	National Mekong Committee
ODA	Official Development Assistance
SEA	Strategic Environmental Impact Assessment
TBIDDs	Trans Boundary Issues, Differences and Disputes
TBEIA	Transboundary Environmental Impact Assessment
UNDP	United Nations Development Programme
WREA	Water Resources and Environmental Authority
WUP	Water Utilisation Programme

CHAPTER 1. INTRODUCTION

1.1 Overall introduction on Trans boundary Issues, Differences and Disputes

The Component 3 of the FMMP for TBIDDs at the Mekong River Basin is designed to focus on enhancing cooperation and applying the range of approaches and mechanisms under the 1995 Mekong Agreement to address, mitigate and resolve differences and disputes arising from damaging flooding. Following the promulgation of the MRC Flood Management and Mitigation (FMM) Strategy by the MRC Council in 2001, an FMM Strategy Implementation Plan (FMMSIP) has been in preparation during 2002. The FMMSIP will provide a framework for the new MRC Flood Management and Mitigation Program (FMMP). Its purpose was to assist member States in minimizing the disastrous effects of floods on people of the basin and providing for preventive measures. Its role is to facilitate the efforts and responsibilities of member States in addressing and resolving differences and disputes. It is clear that such a role requires the approval of the Joint Committee of the MRC.

During a regional workshop in October 2006, MRC members confirmed their support for enhanced cooperation activities. The issues require specific response strategies and actions to be addressed by enhanced cooperation based on technical and administrative priorities, capacities and support needs. Consultations with member States, unanimously identified bilateral and multilateral arrangements as the preferred mechanisms. Strategies should:

- Build on existing bilateral mechanism supported or facilitated by the MRC Secretariat in general and Component 3 in particular;
- Share experiences and lessons learnt from bilateral mechanisms, expanding them to the multilateral and regional level where appropriate;
- Strengthen multilateral mechanisms such as the Mekong dialogue partnership by providing suitable tools and services from the MRC Secretariat;
- Trans-boundary waters resources and their use are of great importance to riparian States and subject to the politics, cultures, stages of development, and development goals of various riparian countries
- Riparian States need to formulate water resources strategies, prepare water resources action programmes and consider, where appropriate, the harmonization of those strategies and action programmes taking into account trans-boundary factors.

This report summarises the results of regional consultations on transboundary flood issues in the Lower Mekong Basin by Component 3 of the MRC Flood Management and Mitigation Programme. Implementing component activities aimed to build capacity to enhance cooperation in addressing transboundary differences and disputes, increasing trust and confidence among member States. The activities involve on Six broad groups of transboundary flood issues related to: 1 floodplain development within the Mekong Delta; 2 upstream development in the Lower Mekong Basin that has an impact on the Mekong Delta; 3 upstream hydropower development in the Upper Mekong Basin; 4 hydropower project development and operation in the Se San, Srepok, and Se Kong river basins; 5 bank protection and port development, sand excavation, dam-operation communications in the upper reaches of the Mekong mainstream; and 6 increased flooding on tributaries in northwest Cambodia.

1.2 Purpose, scope and content of the report

The main purpose of this report is to reduce the impact of disasters on the most vulnerable people affected by disasters in Lao PDR by reducing vulnerabilities through community

preparedness and response. To do this requires new cooperation arrangements for trans-boundary water systems are emerging to reduce the risk for conflicts and improve the capacity to reach shared solutions through training and better access to negotiation methods. To integrate trans-boundary river basins management requires establishing appropriate institutions-agreements, laws, organized procedures, and joint commissions and administrations. And to integrate mechanisms planning and decision-making at the regional, national and sub-basin levels, across countries, sectors and administrative boundaries.

It is important to recognize that the countries appreciate that conflicting interests and trade-off choices may be inevitable and must be resolved for this agenda to proceed in a responsible way without undermining the principles of regional cooperation and sustainable development. The present level of trust among the countries, and the capacities of the MRC and countries themselves to accomplish the necessary management tasks and participate in negotiations are inadequate, despite the significant advances in recent years in cooperation.

The 1995 Mekong Agreement and Rules of procedures adopted there under allow the Council a wide degree of discretion as to how it could proceed in the resolution of it issues, difference and disputes that may come to it by a member state or referred to it by the Council cannot resolve the matter in a timely manner, it will be referred to the Governments concerned. For cooperation between water-sharing States, between upstream-countries and downstream-countries, the efforts are needed to: Build confidence; Develop international treaties, laws, and dispute resolution mechanisms; Encourage voluntary limits on national sovereignty, to allow the principles of integrated water resources management to be applied to trans-boundary water.

There are, however, important environmental risks, associated with investments, especially for flow and morphology change, bank erosion, sedimentation, fisheries, wetlands as well as for local communities that depend on these resources. But with a better understanding of the smart integrated planning, it is feasible to proceed with significant development , conservation agendas and share responsibility of the six riparian countries and must be approached with a long term perspective in the basin that include complementary programs to properly compensate or otherwise assist affected communities.

The content of this report there are divided on 5 chapters as: 1Introduction; 2TBIDDs under consideration of legal aspect; 3Practice standards and mechanisms applied by Ministry of Foreign Affair; 4Bilateral mechanism/practices currently applied by national and local authorities and 5Conclusion and recommendation.

CHAPTER 2. TBIDDs UNDER CONSIDERATION OF LEGAL ASPECTS

2.1 Constitutional Provisions

The Lao PDR established in 1975 and it was not until 1991 the Lao PDR has adopted the first Constitution which was amended in 2003. The Lao PDR is a unitary republic with the central Government and 16 provinces and Vientiane capital (9 provinces and Vientiane Capital are located along the Mekong river and have borders with Thailand). The Lao PDR is an independent country with sovereignty and territorial integrity over its territorial waters and airspace (Art.1 of the Constitution).

The political system of the Lao PDR consists of the Legislative, the Executive and the Judiciary. The National Assembly is the legislative organ representing the legitimate rights and interests of the Lao people. Up to the present time, the National Assembly has adopted nearly 70 laws which regulate activities in the political, economic, social and cultural life of the countries. Among the laws adopted by the National Assembly are the Law on Water and Water Resources and the Law on Environment Protection, these two laws are closely related to the topic under study.

While laws are adopted by the Legislature, the implementation of them is vested with the Government as the administrative authority, which all individuals, legal entities and organizations at the central and local levels are obligated to comply with in their behaviours.

2.2 Special Policies, Laws and Regulations

The most relevant laws are the Law on Water and Water Resources, adopted by the National Assembly in 1996. The Law, *inter alia*, provides for obligations to protect water and water resources in Art.7 which reads "In order to successfully protect and use water and water resources, individuals, legal entities or organizations are obligated to strictly comply with water and water resources regulations.

At the same time, the Law provides for the right to use water and water resources as in Art.14: individuals, legal entities, or organizations have the right to use water and water resources for family use, or in business operations. There are three levels of the rights to use water and water resources: small-scale, medium-scale and large-scale. The right to use water and water resources must be in accordance with the water source allocation plan.

In the implementation of this Law if conflict arises from the use of water and water resource, the Law provide for disputes resolution as follows in Art. 38: Administrative authorities shall resolve disputes arising from unavoidable facts through mediation. If no agreement can be reached, the courts shall consider the matter. In case of natural change to the water, the Law has a provision to prevent for example flooding.

Article 40 of this Law reads as follows: All levels of administrative authorities must be responsible for leading, using effective measures, and applying the general plan and instructions relating to the prevention and countering of flooding. If there is flash flooding, the local administrative authorities at such place must resolve the matter. To prevent and counter flooding, administrative authorities at each level have the right to mobilise materials, equipment and labour and to use the budgets of the State, individuals, legal entities or organizations. When the works have ended, such materials and equipment must be returned to their owners and appropriate compensation must be made for damage to such material and equipment. Individuals, legal entities or organizations have the duty to cooperate with administrative authorities to prevent and counter flooding.

In addition to regulating the internal rules for protection and use of water and water resources within the country, the Law also has certain provisions on international cooperation, especially the Law provides for resolution of disputes between countries relating to the use of water and water resources. Art.45 reads as follows: Disputes which arise between the Lao People's Democratic Republic and neighboring countries regarding the exploitation, use, management, and protection of water and water resources and the prevention of damage caused by water must be resolved by the government of the Lao People's Democratic Republic and the government of the relevant country based on friendship and equality through diplomatic channels and as provided for under treaties entered into or accepted by the Lao People's Democratic Republic.

But before that, the Law provides for development and management of Water and Water Resources between Countries Art. 44 reads: The exploitation, use, management, protection, and development of water and water resources between countries must be conducted in compliance with international law and with signed treaties and conventions such as the use and preservation of water and water resources between the Lao People's Democratic Republic and neighboring countries must be carried out based on fairness, reasonableness, equality, and respect for independence, sovereignty and autonomy. The referred to treaties and conventions in the Art includes the Agreement on the Cooperation for Sustainable Development in the Mekong River Basin, 1995.

Apart from the Law on the Use of Water and Water Resources, the other most relevant law of the Lao PDR is the Law on Environment Protection. This Law provides, inter alia, for the obligations to protect the environment. Art.4. stipulates that the government directs and promotes environmental protection by providing relevant data and information, raising public awareness and providing education to the citizens to see the importance of the environment for their daily life, including encouragement and support of the strict implementation of policies, laws and regulations on the environment.

The Lao Government pays due attention to the issue of mitigating social and environmental impact of Lao national development activities. All development projects must have EIA and obtain approval from the concerned authority of the Government. This is provided for in Art. 8 of the Law on Environment Protection which reads as follows:

Environmental assessment is the process of estimating the impact on the environment of development projects and operations. It also identifies methods and measures for mitigating and reducing such anticipated impact on the social and natural environment. The Science, Technology and Environment Agency shall issue general regulations on procedures and methods for environmental assessment. Each sector that is responsible for development projects and operations shall issue its own regulations on procedures and methods for environmental assessment, based on the general regulations on environmental assessment issued by the Science, Technology and Environment Agency. Development projects and operations that have or will have the potential to affect the environment shall submit an environmental assessment report in accordance with the relevant regulations. Environmental assessment shall include the participation of the local administrations, mass organisations, and the people likely to be affected by the development projects or operations.

This Law also provides for countering natural disasters which of course not only have internal impact but also can have Tran boundary impacts. Art. 18. of this Law set forth the obligations to prevent and counter disasters which reads as follows:

All persons and organizations have an obligation to prevent and counter disasters. In the event that [they] witness the foreboding or start of a disaster, they shall immediately inform the local administration or the nearest organization.

These local administrations or organizations shall cooperate with other State and social organizations in order to determine methods to prevent and counter such disasters, and shall mobilise the population and various organizations to contribute initiatives, labour, funds, vehicles and equipment necessary to prevent and counter such events in a timely manner.

When a disaster occurs in an area covering several localities, the concerned local administrations shall cooperate with each other in order to find methods to prevent and counter the disaster. To implement this provision of the Law usefully and effectively, the Law provides for the establishment of up a National Disaster Prevention Committee in Art. 19. The government establishes a National Disaster Prevention Committee. The National Disaster Prevention Committee is an inter ministerial arrangement which cooperates with agencies and concerned local administrations in areas where disasters will occur, are occurring or have occurred, in order to develop plans and determine measures to prevent and counter disasters, and to restore the area suffering from such disasters. At the same time they shall regularly monitor vulnerable areas or locations in anticipation of future disasters. This Committee has the role in the addressing issues arising from any disputes settlement regarding national and trans-boundary disasters.

In case the environment adversely affects neighboring countries, the Law contains a provision on international conflict resolution relating to the environment. Art.34 states: disputes between countries in the environmental field that emerge and adversely impact the environment of the Lao PDR shall be resolved on the basis of existing conventions to which the Lao PDR is a party or agreements that it has signed with other countries.

Moreover the most relevant regulation and policy for practice on the Environmental law in Lao PDR is National Policy on Environmental and Sustainability of the Hydropower sector in Lao PDR No.561/CPI, dated June 7, 2005; and Regulation on Environmental Impact Assessment of Road Projects in Lao PDR No.2926/MCTPC, date July 29, 2003.

2.3 Water and Related Resources Laws Provisions

The current relevant legislation in Lao PDR is the Law on Water and Water Resources No.02/96, dated October 11, 1996. Decree on the Agreement and Endorsement of the National Strategy on Environment to the years 2020 and Action Plan for the years 2006-2010 which was signed by Prime Minister No.120/PM on August 27, 2004. National Strategy on Prevention and Management of impact to the river bank erosion and ecosystem in the Mekong River and Nam Heung, and Action Plan for each Fives years as: 2006-2010, 2011-2015, 2016-2020 and 2021-2025 which was signed by Minister of Ministry of Communication Transport Post and Construction No.055/MCTPC on January 9, 2007.

The implementation of Water and Water Related Resources Law is inevitable to involve several sector, in order to avoid the duplication and overlapping authorities, the Government of Lao PDR has issued the Prime Minister's Decree No. 204 to implement the Law on Water and Water Resources in 9 October 2001, the Decree has defined and assigned different authorities in water resource sector to responsible for a certain activities related to water resources development and management.

There is no Inland Water Transport Law but three rules or regulations related such as: Rules on Water Transport No. 104/MCTPC, dated January 12, 2000 and Rules on Water Traffic No. 219/MCTPC which was signed by Minister of Ministry of Communication Transport Post and Construction (MCTPC) is old name and now has changed this name to Ministry of Public work and Transport (MPT), and Regulation for Sand, Gravel and Black soil excavation along Mekong River and its Tributaries No.2497/MPT on February 22, 2008.

In the Department of Inland Waterway Transport, Ministry of PT there are prepared or Drafted many of rules or regulation on Water Transport and River Work along the Mekong River and its Tributaries such as: Dangerous Goods Transport, Dry port for Stored Goods, Establishing of Companies for River Transportation, Fee Charges for port administration, Handing and Keeping for Dangerous Goods, Register of Crew, Register of Ships and Boats, Safety ports operation, Standard ships and ferries, Association boats/ships and regulation for Infrastructure Construction along the Mekong River and it's tributaries.

In April 2000 the "Agreement on Commercial Navigation on Lancang-Mekong River among the Government of the People's Republic of China, the Lao People Democratic Republic, the Union of Myanmar and the Kingdom of Thailand" was signed and heralded a new era of waterborne transportation on the Lancang-Mekong River. This Agreement call "Quadrilateral Agreement on Commercial Navigation" which there were 7 of importance regulations such as: 1Technical regulations on surveys of commercial ships on the Lancang-Mekong River, 2Regulation on safe navigation of the vessels on the Lancang-Mekong river, 3Rule on water transport administration on the Lancang-Mekong river, 4Guideline on the maintenance and improvement of the navigability of the Lancang-Mekong river, 5Regulation on the investigation and handling of waterborne traffic accidents on the Lancang-Mekong River,6Regulation on management of search & rescue, salvage and wreck removal on the Lancang-Mekong River, 7The Upper Mekong River Channel Improvement project. The Commercial navigation Agreement stipulates that vessels of any contracting party are entitled to sail freely in the waterway of 886.1 km between Port of Simao in China and Port of Luang Prabang in Laos.

Other Agreement for Lao Government with the Greater Mekong Sub-region (GMS) countries involve of China, Myanmar, Thailand, Cambodia and Vietnam such as: East-West Economic Corridor, Southern Economic Corridor and North-South Economic Corridor, Triangle Economic development Agreement among Myanmar, Laos and Thailand, Agreement on the cooperation for the sustainable development of the Mekong river basin among Cambodia, Laos, Thailand and Vietnam, Bilateral Agreement on Commercial Navigation on the Lancang-Mekong River between China and Laos.

There is no Flood Management Law but two National Committees related such as:

The Government Decree No 158/PM dated 22 August 1999. The Roles of National Disaster Management Committee (NDMC) assignment No 097/MLSW dated 30 June 2000 and National Strategy Plan on Disaster Risk Management No 1139/MLSW dated 18 April 2003 (2003-2020). The general principle of this matters is: Safeguard sustainable development and reduce the damage of natural or manmade disasters to community, society and country economy, Shift strategy from relief and mitigation after disaster impact to community, society and economic of government organizations to preparedness before disaster strike emphasizing on flood, drought, landslide and fire parallel with continuing mitigate in post disaster period, Turn from responsibility of only government agency to people centered in dealing with disaster by building capability for

community and Promote forever protection of the environment and country rich such as: forest, land and water.

Disaster management in general and flood management in particular is the responsibility of the National Disaster Management Organization (NDMO), which coordinates the technical departments and institutions in charge of facing these issues. At provincial and district levels, similar structures (Committees) have been set up as well. The Committee's members coordinate to work in the affected areas in order to assess the damages and primary needs and proceed to emergency measures, each institution according to its field of responsibility. Infrastructures for controlling or mitigating the effects of the flood are very limited.

Bank erosion and ecosystem prevention is responsibility of the "Committee for Prevention and Management of impact to the river bank erosion and ecosystem in the Mekong River and Nam Heung". In this committee become Chairman is Minister of Ministry of Public work and Transport (MPT), and there are 2 of Vide Chairman as vide Minister of Ministry Foreigner Affair, and Deputy Water Resources and Environmental Authority (WREA), and included members of this committee from many departments in the center and provinces concerned. This committee has set up on last of year 2003 which signed by Prim Minister agreement. The basic role of this committee is coordinating/ studying/ looking for the budget to whole the organization concern as inside country and abroad, in order to implement on the bank protection along the Mekong River between Lao and Thai borderline/set up the strategy work plan for short period as 5 years, medium 10 years and long period is 20 years, and cooperation with Thailand such as Joint Committee for Management on Mekong River and Heung River (JCMH) and Joint Technical Sub-Committee for Management on Mekong River and Heung River (JTMH) This committee is very importance plays the role for Lao Government to solve the problem for Trans-boundary Flood Issues between both countries as Laos and Thailand for bank erosion /bank protection/ Sand gravel exploitation and ecosystem affected along the Lao-Thai border.

2.4 Administrative Law, Provisions and Practices

The administrative system of the Lao PDR is operating under the Constitution and the relevant Laws adopted by the National Assembly. The laws adopted by the National Assembly are implemented by the administrative bodies with the Government as the central administrative authority as the Law on Government, adopted by the National Assembly in 2003, Article 7 (1) reads: the government has the rights and duties to implement the Constitution, the laws and resolutions of the National Assembly, and presidential edicts and decrees; disseminate the laws, educate people to respect and implement the laws and regulations, and to define measures to protect lawful rights and interests of the citizens. The institutional structure of the government is composed of the Prime Minister's Office, ministries and ministry-equivalent organizations which are approved by the National Assembly based on the proposal of the Prime Minister; the structure of the government shall be determined based on the actual needs of the country in each period (Article 5).

The Law also provided other rights and duties of the Government, including to issue decrees and resolutions on State administration, socio-economic management, management in the fields of science and technology, capacity building and use of human resources, protection and utilization of natural resources, the environment and other resources, national defense and security, and foreign affairs; to organise, direct, facilitate and oversee the activities of sectoral organisations and local administrations to ensure effectiveness and compliance with the laws and regulations which are contained in Article 7(7, 8).

At the local level, the National Assembly adopted Law on Local Administration on the proposal of the Government with a view of effectively controlling the local administrative authorities. This Law was adopted by the National Assembly in 2003. The aim of this Law is to improve and establish strong, transparent, unified and systematic local administration throughout the country, to ensure the effective implementation of the Constitution, laws, socio-economic development plans and State budget plans, and to protect the legitimate rights and benefits of the State and the people (Article 1). The rights and duties of the local administrations as provided in this Law, included: To manage political, socio-economic and cultural affairs, natural resources, the environment and national defense and security; to issue resolutions, decisions, orders, instructions and notifications regarding socio-economic and cultural management, and national defense and security within its area of responsibility in accordance with the laws and regulations; to collaborate and cooperate with foreign countries as assigned by the government.(Article 4(3, 4, 6)).

The administrative practices carry out in accordance with the principle of democratic centralism, with devolution of responsibility to the local, which divides responsibility among management administration level; the village level reports to the district level, the district level reports to the provincial level and the provincial level reports to the government under the guidance and responsibility of the party committee based on the Constitution and the laws (Article 5).

The resolution of transboundary issues, differences and disputes at the administrative level should be started from the local administrative level to the central administration in accordance with the existing bilateral arrangements between Lao PDR and Thailand.

2.5 Judicial System Laws and Practices

The Constitution of the Lao PDR provides that the judicial system of the Lao PDR is composed of the People's Supreme Court; The appellate courts; The people's provincial courts and city courts; the people's district courts; the military courts; in the event that it is deemed necessary, the National Assembly Standing Committee may decide to establish a special court (Article 79).

The most important judicial organ is the People's Supreme Court which is the highest judicial organ of the State; the People's Supreme Court administers the people's courts at all levels and the military courts, and examines and reviews the decisions reached by them (Article 80). The courts of the Lao PDR have the following rights and duties set fourth in Article 2 of the Law on People's Courts adopted by the National Assembly in 2003: to adjudicate, educate, and punish violators of the laws; to discover and eliminate the causes and conditions leading to violation of the laws; increase the people's knowledge about the political regime, increase the people's awareness of the laws and of the implementation of such laws and State regulations, and maintain the discipline of living in society; coordinate with relevant organisations, both domestic and international, in order to perform their duties; coordinate and cooperate with foreign countries on legal and judicial matters.

The judicial practices in the Lao PDR carry out as follows: cases are conducted in open court proceedings except if otherwise provided by the laws; defendants have the right to defend themselves; lawyers have the right to provide legal assistance to the defendants; representatives of social organisations have the right to take part in court proceedings as provided by the laws; decisions reached by the people's courts, when final, must be respected by Party organisations, State organisations, the Lao Front for National Construction, mass organisations, social organisations and all citizens, and must be implemented by the concerned individuals and organisations.

If transboundary issues, differences and disputes cannot be resolved by the administrative level, the cases can be submitted to be adjudicated by the courts. In this judicial process, it is the relevant provincial court will consider the case. If the case cannot be decided at this level, it will be submitted to the higher level and that is the Supreme Court which is the Court of highest instance in the Lao PDR.

CHAPTER 3. PRACTICES, STANDARDS AND MECHANISMS APPLIED BY MINISTRY OF FOREIGN AFFAIRS

3.1 Practices of the Ministry of Foreign Affairs

Since establishment, the Lao PDR pursues a consistent foreign policy of peace, independence, friendship and cooperation. It practices a policy of multi-direction, multilateralism and multi-form of international relations; a policy of gradual open-up that suits the conditions and reality of the country; combines political and diplomatic relations with international economic cooperation. All this has upheld the role and reputation of the Lao PDR in the regional and international arena. By 2005, the Lao PDR has diplomatic relations with 121 countries. The principles of the foreign policy of the Lao PDR are contained in the National Constitution, Art.12, namely peaceful co-existence, respect of each other's independence, sovereignty and territorial integrity, non-interference in each other's internal affairs, and equality and mutual benefit. The Lao PDR is a landlocked country sharing borders with 5 countries, namely China, Vietnam, Cambodia, Thailand and Myanmar. Currently, Lao PDR has completed boundary demarcations with China, Vietnam and Myanmar. Regarding boundary lines with Thailand and Cambodia, the demarcations are still going on with just some remaining parts.

Apart from being a member of the United Nations and other international organizations, the Lao PDR is also a member of certain regional organizations such as ASEAN (since 1997) and MRC (since 1995). Under ASEAN framework, the Lao PDR is a party to Treaty of Amity and Cooperation in Southeast Asia (1976) (Chapter IV of this Treaty deals with the Pacific Settlement of Disputes) (Lao PDR acceded to the treaty in 1992).

3.2 Functions of the Ministry of Foreign Affairs

The Ministry of Foreign Affairs is one of the main ministries in the Lao Government. It serves the Government in the conduct of the foreign policies and is the focal point for all line ministries and authorities concerned regarding international relations and cooperation. Since the New Economic Mechanism was introduced in 1986, the Lao PDR has opened its doors to expand relations and cooperation with foreign countries, especially the countries in this region. The Ministry of Foreign Affairs plays a central role in any negotiations, treaty conclusion and also in the settlement of differences, disputes with other countries. Regarding the bilateral relations with Thailand, the Ministry of Foreign Affairs has set up a Lao-Thai Cooperation Division within the Ministry. Any differences and disputes that may arise along the Mekong border river involve the participation of this division. Any legal matter between the two countries requires also the participation of the Office of the Lao National Boundary Committee and the Department of Treaties and Law.

3.3 Lao-Thai bilateral relations and cooperation

The Lao PDR and Thailand are the two neighbors that are similar in terms of history, language, religion, culture and traditions. The two countries established diplomatic relations in 1950. The Lao and Thai Government have signed a Declaration reaffirming the 5 principles of peaceful Co-existence under international law and agreed to develop the boundary lines between the two countries to be the boundary lines of peace, friendship and mutual benefit for the interests of the two peoples. The Lao PDR share borders of 1835 Km with Thailand, 735 Km are land borders and 1,100 Km are water borders (Mekong and Heung rivers). At the present time, the land border demarcation with Thailand has completed 93 %. Regarding the water border lines, the two sides are

in the process of making a new map of the Mekong River. At the 7th meeting of Lao-Thai Joint Boundary Commission (March 2007), the two Governments have set an ambiguous target that land border will be completed in 2008 while the water border will be completed in 2010.

The Lao-Thai bilateral relations are carried out in accordance with the UN Charter and international law. The bilateral relations are also based on specific agreements and arrangement which were set up in all fields. Along the Mekong River which forms water boundary between the Lao PDR and Thailand, the two sides have opened 7 international checkpoints, two bridges cross the Mekong River and two bridges will be constructed in the near future. In addition, to these border checkpoints, the two countries also opened a number of traditional checkpoints to facilitate border crossings of the local people (The Lao PDR has 9 provinces bordering with Thailand).

3.4 Lao-Vietnam bilateral relations and cooperation

The Lao PDR and Vietnam has close relations and cooperation in all areas. The two countries share only land boundary of more than 2,067 Km, the demarcation of which has been already completed. Ten provinces of the Lao PDR has borders with Vietnam. Currently, the two countries are in the process of adding more boundary makers. The two countries have opened a number of border check points to facilitate the border crossings. Laos and Vietnam have signed Agreements on Friendship and Cooperation in all sectors such as political, economic, environmental, social and cultural fields. The two countries signed the Border Agreement in 1987 and established Lao-Vietnam National Boundary Commission which meets annually. Regarding the cooperation in the field of water management on the mainstream or tributaries, this cooperation is carried out in the MRC framework.

3.5 Lao-Cambodia bilateral relations and cooperation

Lao PDR and Cambodia have good relations and cooperation in all fields. The two countries established bilateral mechanisms especially the Lao-Cambodia Joint Commission which meets annually in rotation. Laos and Cambodia share border of 535 Km, including land and water borders. The survey and demarcation of the common border between the two countries has completed approximately 86% of the total border and the technical boundary committees of the two countries continue discussing to resolve the remaining points which have yet to be agreed upon. The remaining points include Mekong, Selamphao and Sekong rivers. The two Governments have held a ceremony for the location of the first international border checkpoint between the two countries last year and have linked the Lao national road N.13 with the Cambodian national Road N.7 between Champassack Province, Laos and Strung Teng, Cambodia. Regarding the cooperation in the field of water management on the mainstream or tributaries, this cooperation like in the case with Vietnam is carried out in the MRC framework.

CHAPTER 4. BILATERAL MECHANISM/PRACTICES CURRENTLY APPLIED BY NATIONAL AND LOCAL AUTHORITIES

4.1 Key principles and approaches

4.1.1 Existing bilateral cooperation mechanisms with Thailand

The bilateral relations between the two countries cover all areas such as political, economic, social, cultural, education, and etc. The two governments have established key mechanisms for enhancing and facilitation of the cooperation as well as for addressing and settling any differences and disputes that may arise along the shared border lines, especially the water borders. The bilateral mechanisms are the following:

- 1) Lao-Thai Joint Commission (JC), established in 1991, is co-chaired by the Foreign Ministers of the two countries. The two countries take turn to host the JC meeting which takes place once a year. This meeting considers all areas of the bilateral cooperation.
- 2) Lao-Thai General Boundary Security Committee (GBC), established in 1991, is co-chaired by the Ministers of National Defense of the two countries. The two countries take turn to host the JC meeting which takes place once a year. The GBC meeting considers the cooperation to ensure national security of the two countries and including the security of cooperation between provinces along the Mekong river. In its specific practice, this mechanism has dealt with combating human and drugs trafficking, illegal immigration and other issues relevant and important to national security of the two countries.
- 3) Lao-Thai Joint Boundary Commission (JBC), established in 1996, is co-chaired by the Foreign Ministers of the two countries. The two countries take turn to host the JC meeting which takes place once a year. This meeting considers the survey and demarcation of boundary lines between the two countries. Apart from the demarcation, the JBC also considers the issues of illegal border crossings such as violation of territorial integrity, transboundary effects of development, flooding, etc.
- 4) Meeting of Provincial Governors of the two countries, established in the 6th meeting of the JC in Songkha, Thailand. The meeting is co-chaired by the Minister of Public Security of the Lao PDR and the Minister of Interior of Thailand. This meeting considers the issues of province to province cooperation of the two sides.
- 5) Lao-Thai Association for Friendship, established in 1994 by the Ministries of Foreign Affairs of the two countries. The co-chairs of the Association are appointed by the Ministries of Foreign Affairs of the two respective countries. The Association is set up with a view to promoting the friendship and better understanding between the Lao and Thai people which are reflected in the cooperation in the field of education and cultural exchange.
- 6) Lao- Thai Bilateral Meeting on Drugs Law Enforcement Cooperation, co-chaired by the Minister to the Presidential Office of the Lao PDR and the Minister of Justice of Thailand. This mechanism is a coordinating commission and can decide all issues regarding drugs anti-trafficking and suppression between the two sides.
- 7) Lao-Thai Joint Committee for the management of activities along the Mekong and Heuang rivers. The Committee is co-chaired by the Directors General of Waterway Transport Departments of the two countries. This is a bilateral technical arrangement which considers the cooperation, control and addressing of the contractions along the two rivers in order not to effect the boundary lines between the two countries.

4.1.2 Other bilateral cooperation

In addition to the bilateral cooperation mechanism as mentioned above, the two countries have regularly exchanged visits at all levels from the technical officer level to head of state and

head of government level. As a result of the exchanged visits, the two governments have signed agreements relative to the political, economic, social and cultural cooperation, such as: The Joint Declarations between the two countries (1979 and 1988) signed by the Prime Ministers of the two countries and the following:

- Agreement on the Promotion and Protection of Investments (1990).
- Agreement on the establishment of Lao-Thai Joint Commission (1991).
- Treaty on Friendship and Cooperation between the two countries (1992).
- Agreement on Survey and Demarcation under the Joint Boundary Commission (1996)
- Agreement on Border Crossing between Lao PDR and Thailand (1997).
- Treaty on Extradition between Lao PDR and Thailand (1999).
- Agreement between the Government of the Lao PDR and Thailand on Visa Exemption.
- Agreement on Land Transportation between Lao PDR and Thailand, (1999).
- Memorandum of Understanding on the Cooperation in Drugs Control between Lao PDR and Thailand (2001).
- Memorandum of Understanding between the Governments of Lao PDR and Thailand on the Labor Employment Cooperation (2002)
- Loans Agreement between the Governments of Lao PDR and Thailand for Road Construction in Xayaboury province (Lao PDR) (2004).
- Treaty between the Governments of Lao PDR and Thailand on the Transfer of the Convicted and Cooperation on the Execution of Judgments in Criminal Cases (2004).
- Loans Agreement between the Governments of Lao PDR and Thailand for the Construction of Railway between the Vientiane-Nongkhai (2004).
- Memorandum of Understanding between the Ministries of Education of the two countries on Education Cooperation (2004).
- Agreement between the two countries on the Construction of Heuang river Friendship Bridge (2004).
- Agreement on Passengers Transportation between the two countries (2004).
- Memorandum of Understanding on Friendship between Savannaket province, Lao PDR and Mukdahan province, Thailand (2004).
- Loans Agreement between the Governments of Lao PDR and Thailand for the Renovation of Wattay International Airport, Lao PDR (2004).

Besides the above mentioned, the two sides also have signed agreements on technical cooperation, health, education and agriculture. Moreover, Thai Government has also provided ODA to the Lao PDR for economic and social development such as the construction of schools, Luang Prabang Airport, Lao-Thai Friendship road, etc.

The existing mechanisms of the both general and specific and operates in the following manner: if an issue of not very importance occurs along the borders between the two countries, the two sides can settle at the local and provincial authority level. If a more serious issue, affecting national security, the local authorities will inform the provincial authorities and then the concerned provincial governor will inform the respective Government for consideration and settlement.

4.2 Description of practices/mechanisms

4.2.1 National Committee and Lao-Thai Cooperation Committee

The Bank erosion and ecosystem prevention is responsible by the “Committee for Prevention and Management of impact to the river bank erosion and ecosystem in the Mekong River and Nam Heung”. The Chairman of this committee is Minister of Ministry of Public work

and Transport (MPT), and there are 2 Vice Chairman as Deputy Minister of Ministry Foreigner Affair, and Deputy of Water Resources and Environment Authority (WREA), and consist of members from relevant departments in the line ministries and provinces concerned. This committee has set up in April 4, 2003 and approved by Prim Minister. The basic role of this committee is coordinating/ studying/seeking of budget to whole the organization concern as inside country and abroad, in order to implement on the bank erosion protection along the Mekong River between Lao and Thai borderline and Set up the strategy work plan for short term as 5 years, medium term is 10 years and long term is 20 years and Cooperation with Thailand such as “Joint Committee for Management on Mekong River and Heung River (JCMH) and Joint Technical Sub-Committee for Management on Mekong River and Heung River (JTMH)”. This committee plays very importance role for Lao Government to solve the problem for bank protection management and business activities along the Mekong River and Nam Heung between Lao PDR and Thailand. Because, Lao PDR and Thailand felt the bank protection, sand and gravel exploitation and other infrastructures of business activities along the Mekong River and Nam Heung between the both countries border is affected to the bank line and ecosystem of the rivers.

Brief output activities of the Committee for Lao-Thai, Thai-Lao Cooperation (JCMH) and its Sub Committee is namely as Sub Committee for Technical of Lao-Thai, Thai-Lao Cooperation (JTMH) as: The First meeting of JCMH has conducted in March 12-14, 2004 at Phetbury province, Thailand. The Second meeting of JCMH has conducted in June 29-30, 2006 at Luang Prabang province, Lao PDR. And the Third meeting of JCMH has conducted in June 23-25, 2008 at Muang Phattaya, Sonboury province, Thailand.

But the First meeting of JTMH has conducted in November 11-12, 2004 at Nongkhai province, Thailand. The Second meeting of JTMH has conducted in August 8-9, 2005 at Vientiane capital, Lao PDR and the Third meeting of JTMH has conducted in August 6-7, 2007 at Chiang Rai, Thailand.

The progress of JCMH activities has agreed with the both of JTMH for signing of Memory of Understanding (MOU) on the Instruction for studying and detail of data collection of business operation along the Mekong River at Lao PDR side and Thailand side such as: around Donchan island and river bank protection from Ban Sibounheung-Ban Muangwa(in Lao side), and the sand and gravel exploitation at around Xingxoo and Xangkhee islands (in Thai side) which the both expected its impact together. For solve this problem, the both countries were agreed to be ask the experts from MRC whom is experienced on the WUP-Finn model to conduct the workshop for teach to the both of technical staff of JTMH. Because the result of WUP-Finn phase II project is implemented in 2002 up to 2005 under cooperation with MRC and have recently undertaken a study of changes to the Mekong River bank location from a point 1 km upstream of KouaLio Port (Laos) to the Friendship Bridge at Nong Khai (Thailand); and that location is covered some section of Lao-Thai point will be join studying as from northern of Xing Xoo island to downstream about 30 km. Also in the Third meeting of Lao-Thai JCMH were signed/agreed two of Regulation Rule for sand and gravel exploitation and Regulation Rule for Technical standard on Bank protection Construction along the Mekong and Heung rivers.

4.2.2 Lao-Thai for Governor of Provinces Cooperation Committee

The bilateral cooperation mechanism between two countries have regularly exchanged visits at all levels from the technical officer level to head of state and head of governor provincial level. As a result of the exchanged visits, the two governors provincial which located opposite together

have signed agreements relative to the political, economic, social and cultural cooperation, such as below:

- Governor of Borikhamxay provincial (Laos) with Governor of Nakhonphanom province (Thailand) has conducted the bilateral meeting in number 4th on September 15, 2006 at Borikhamxay province.
- Governor of Khammuan provincial (Laos) with Governor of Nakhonphanom provincial (Thailand) has conducted the bilateral meeting in number 8th on September 26, 2006 at Khammuan province.
- Governor of Vientiane capital (Laos) with Governor of Nongkhai provincial (Thailand) has conducted the bilateral meeting in number 6th on December 14, 2006 at Vientiane capital.
- Governor of Xaiyabouri provincial (Laos) with Governor of Leiu provincial (Thailand) has conducted the bilateral meeting in number 6th on January 23, 2007 at Xaiyabouri province.
- Governor of Bokeo provincial (Laos) with Governor of Xiengrai provincial (Thailand) has conducted the bilateral meeting in number 8th on February 13-14, 2007 at Xiengrai province.
- Governor of Champasack provincial (Laos) with Governor of Ubonrasathani provincial (Thailand) has conducted the bilateral meeting in number 6th on June 13-14, 2007 at Champasack province.
- Governor of Borikhamxay provincial (Laos) with Governor of Nongkhai provincial (Thailand) has conducted the bilateral meeting in number 8th on August 3, 2006 at Nongkhai province.
- Governor of Vientiane provincial (Laos) with Governor of Leiu provincial (Thailand) has conducted the bilateral meeting in number 13th on August 7-8, 2006 at Leiu province.
- Governor of Savannakhet provincial (Laos) with Governor of Amnatchaleun province (Thailand) has conducted the bilateral meeting in number 3rd on August 9-10, 2007 at Savannakhet province.

4.3 Lesson-learnt and suggested improvements

The bilateral relations and cooperation between Lao PDR and Thailand have various bilateral mechanisms and arrangements which meets the needs of these two neighbors. In practice, these bilateral mechanisms and arrangements have provided good results for further strengthening the relations and cooperation between the two Governments and peoples. For example, if any case arose along the Mekong borders, the two sides had settled it by negotiations though first of all the local authorities of the two sides, especially at the technical level. Only bigger cases were submitted to the central level for resolution. Therefore, the two sides should continue to follow these bilateral mechanisms and arrangements for more effective and expeditious settlement of any trans boundary issues, differences and disputes in order to avoid the submission of such cases to the judicial bodies for settlements which will take time and use financial resources.

Although these bilateral mechanisms and arrangements have proved effective, there is still room for improvement in order to fully meet the needs, especially in terms of human resources, funding, and information technologies. The meetings between the local authorities in all sectors should meet more regularly to exchange experiences with each other. At the same time, the two sides should provide trainings in information technologies and expertise needed for the local authorities concerned.

CHAPTER 5. CONCLUSION AND RECOMMENDATION

5.1 Conclusion and recommendation

1). As a member of the United Nations and other international and regional organizations, the Lao PDR opens up to all countries regardless their political, economic and social backgrounds, based on the five principles of peaceful co-existence. To ensure good relations with all countries, the Lao PDR has signed, ratified and become a party of many international treaties, conventions and agreements. To implement the obligations arising from the international legal instruments, the Lao PDR has adopted national laws to meet the needs of the national socio-economic development of the country.

2). Regarding to the topic of transboundary issues, differences and disputes, the Lao Government has paid attention to this matter by adopting national law on the use and protection of water and water resources, including environment protection. Moreover, the Lao PDR has established bilateral mechanisms for cooperation and resolution of any differences and disputes which may be arise in the water border areas, especially with Thailand.

3). The resolution of disputes arising from the Mekong water borders, Lao PDR and Thailand have a good cooperation among the authorities of the two sides because the two countries have agreements in all sectors from the local to the central levels. Regarding the transboundary flooding and environmental impacts along the Mekong water borders, the Lao Law on Water and Water resources and the Law on Environment Protection have clearly provides for the resolution of disputes between countries by the authorities concerned of both local and central levels.

4). The Lao PDR and the three neighboring countries are closely linked in terms of history, traditions and customs, therefore, any disputes that may arise between Lao PDR and one of theses countries should first of all be resolved through the various existing bilateral mechanisms, especially a difference and disputes should be resolved by the local authorities or at the technical level of the two countries. If the dispute cannot be resolved by the local authorities or at the technical level, it should be resolved by the Governments of the two countries through negotiations.

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Annex 1. Example of SWOT for Floodways Analysis

More ever in order to solve the problem for the main issues as maybe become to TBIDDs between the both countries that should be looking the possibility for using the tools, mechanism and instrument to implement by SWOT as given on the a examples below:

Strengths (Today)	Weaknesses (Today)	Opportunities (Tomorrow)	Threats (Tomorrow)
<ul style="list-style-type: none"> • Lao has National Disaster Management Committee. • Government policy is clear for flood management. • Existing natural drainage system. • Existing man made drainage system. • Existing water gates. • Drainage system under constructing. • Existing cooperation with funding agencies. • Good land use planning. • Existing cooperation framework for flood management. • MRC, FMMP 	<ul style="list-style-type: none"> • Limited of budget. • Poor maintenance. • Not enough drainage system. • Poor capacity in environmental management. • Low education of local people. • Limited understanding on flood way and waste water discharge of the local people. • Low coordination and management of flood way system. • Poor water resources management. • Inadequate capacity building for institutions and local people. 	<ul style="list-style-type: none"> • Loan from ADB and funding agencies. • Multi-sector development. • Flood management and mitigation. • Improving regional cooperation. • Application of advance technology for flood way construction. • Increase public participation in rural area. • Water and water resource law in flood ways project area. • Cooperation for sustainable development in flood management. • There are number of ongoing projects suitable for sharing information. 	<ul style="list-style-type: none"> • Open flood ways. • Poor management. • Increasing waste water and solid waste to the flood ways. • Endangered chemical to flood ways. • High rate of poverty. • Poor infrastructure coordination development. • Weak sectoral and stakeholder cooperation. • Increase sedimentation load. • Lack of environment study. • Flooding in the rainy season. • Lack of funds for maintenance and new construction of flood ways.

Annex 2. Record of meetings with national agencies, institutions and individuals

Annex 3. Compiled National Laws, Best Practices and Instruments:

List by proper groups with a brief introduction on content for each

1). List of Laws, Decree, Rules, Regulations and Agreements:

- Lao PDR has adopted the first Constitution in 1991 and was amended in 2003.
- In the present time, the National Assembly has adopted nearly 70 laws which regulate activities in the political, economic, social and cultural life of the countries such as below:
 - Law on Government No.02/NA date May 6, 2003
 - Law on Water and Water Resources No.02/96, dated October 11, 1996
 - The government issued the Environment Protection Law No.02/99/NA dated April 3, 1999;
 - The forestry Law No.01/96 dated October 11, 1996;
 - National Policy on Environmental and Sustainability of the Hydropower sector in Lao PDR No.561/CPI, dated June 7, 2005;
 - And so on.

2). Decrees, Rules, Regulations and Agreements

- Decree on the Agreement and Endorsement of the National Strategy on Environment to the years 2020 and Action Plan for the years 2006-2010 which was signed by Prime Minister No.120/PM on August 27, 2004 and Decree on the Environment Protection Fund No.146/PM, dated June 6, 2005;
- National Strategy on Prevention and Management of impact to the river bank erosion and ecosystem in the Mekong River and Nam Heung, and Action Plan for each Fives years as: 2006-2010, 2011-2015, which was signed by Minister of Ministry of Communication Transport Post and Construction No.055/MCTPC on January 9, 2007;
- The Government Decree No 158/PM dated 22 August 1999. The Roles of National Disaster Management Committee (NDMC) assignment No 097/MLSW dated 30 June 2000 and National Strategy Plan on Disaster Risk Management No 1139/MLSW dated 18 April 2003 (2003-2020).
- Rules on Water Transport No.104/MCTPC, dated January 12, 2000;
- Rules on Water Traffic No.219/MCTPC;
- Regulation for Sand, Gravel and Black soil excavation along Mekong River and its Tributaries No.2497/MPT on February 22, 2008.
- The Agreement on Commercial Navigation on Lancang–Mekong River among the Government of the People’s Republic of China, the Lao People Democratic Republic, the Union of Myanmar and the Kingdom of Thailand in April 2000;
- Other Agreement for Lao Government with the Greater Mekong Sub-region (GMS) countries involve of China, Myanmar, Thailand, Cambodia and Vietnam such as: East-West Economic Corridor, Southern Economic Corridor and North-South Economic Corridor, Triangle Economic development Agreement among Myanmar, Laos and Thailand, Agreement on the cooperation for the sustainable development of the Mekong river basin among Cambodia, Laos, Thailand and Vietnam, Bilateral Agreement on Commercial Navigation on the Lancang-Mekong River between China and Laos.

Annex 4 Identified/concerned TB issues in general and flood issues in particular

The main line of thought thus far has been that River Bank Erosion in Lao PDR is a trans-boundary issue since it may be caused by infrastructural works in N. E. Thailand and its impact is felt in Laos. There may possibly be another reason why it could be considered a transboundary issue, in the sense that Erosion of River Banks add to sediment transport which leads to impacts more downstream. The Diagnostic Study mentions riverbank protection measures in Lao PDR as well as in other LMB countries as an effort undertaken to prevent a deterioration of surface water qualities.

For example in 2004 to 2007 in the Department of Waterways, Ministry of Public work and Transport has corrected the bank erosion data at along the Mekong River between Laos and Thailand borders which divided in to 3 kinds of measurement of width of bank erosion per year such as: total of normal length (0.5-2m) about 39,200 m, Medium length (2-5m) about 75,700 m and Heavy length (5-10m) about 49,900 m. The crest total of Bank Erosion approximately 165,800 meters and covered 8 provinces that located along the Mekong River between Lao-Thai borderline (919 km). The data collection for bank erosion in the tables below can estimate/predict for the loss of land use per year such as: Normal (total areas about 1.96 to 7.84 ha), Medium (15.14 to 37.85 ha) and Heavy (24.95 to 49.90 ha).

Lao PDR is a country almost exclusively dependent upon its natural resources as the basic for economic development. The agriculture in the Mekong river flood plain is particularly prone to flood damage not only due to over bank flows inundation from the mainstream, but also from the back water effects in the tributaries when the mainstream is full. Flooding is a natural part of the hydrological cycle. Whilst it is temporarily damaging it brings benefits from rich sediments which replenish soil fertility, brings ecological benefits to aquatic ecosystems including wetlands and plays an important part in the fish breeding cycle. It can cause serious loss of life and infrastructure however and this is accentuated when development takes place in flood prone areas. For example in 1995, by Storm Lois and up to 500 mm of rain in three days, to cause tributary backwater effects and inundation of 103,000 ha of the Vientiane Plain with the depth of between 0.5 to 0.8 m for period up to 2 months. In that time, almost 25% of the regional population in Vientiane Plain were affected and suffered loss as the overall losses were estimated at US\$ 4.4 million.

Such as 2 Flood in year 2002 was heavily by Vongfong-14 storm from Southeast Monsoon, which has covered in many places in Lao PDR namely: Flash flood up to 3 days in Northern & Centre (LuangNamtha, Phongsaly and Bolikhamxay); flood in the plain areas up to 2 weeks in (Bokeo, LuangPrabang, Vientiane, Borikhamxay, Khammuan, Savannakhet, Salavan, Champasack and Attapeu). Flood affected in 12 provinces; 43 Districts; 1,000 villages; 30,000 families; 8,556 household damages and 03 person died. Flood has affected to agricultural land and irrigation system, livestock and fishery, roads, hospitals, schools, factories, etc.

National Report Outline for Trans boundary Issues, Differences and Disputes in Lao PDR:

Findings and Recommendations

Under Mekong River Commission Term of Reference for National Expert in Compilation and analysis of National practice on addressing Inter State issues, difference and disputes over Trans-boundary water and/or related to natural resource issues

prepared by Mr.Phoumyenh

The International Context

- The principle of peaceful settlement of disputes among states is one of the main principles of contemporary international law
- This principle is provided for in the UN Charter, further elaborated in the UN Declaration of Principles of International Law (1970) and enshrined in practically all treaties, international agreements and arrangements, including the Mekong River Agreement though the latter prioritizes amicable resolution in the first place.
- Lao PDR is a party to the Mekong River Agreement since 1995, a party to almost 90 multilateral agreements, more than 100 ASEAN and other regional agreements and some 300 bilateral agreements, thus Lao PDR is very much familiar with and will always adhere to the peaceful means of disputes resolution whenever international an issue, difference, dispute arises.

Laos' constitution

- The Constitution of the Lao PDR is the supreme law of the land. All laws passed by the National Assembly and sub-laws issued by the President, Prime Ministers, Ministers, Provincial Governors and District Chiefs must be in compliance with the Constitution.
- The Constitution sets forth the principles of Lao Government foreign policy of peace, independence, friendship and cooperation, and promotes relations and cooperation with all countries on the basis of the principles of peaceful coexistence, respect for each other's independence, sovereignty and territorial integrity; non-interference in each other's internal affairs; and equality and mutual benefit.
- The Constitution provides for the powers of the Government (the Executive) to guide the implementation of treaties and agreements in the Lao PDR, thus the implementation of treaty/agreement clause on differences/ disputes settlement.

The Constitution

- The Lao Constitution provides for the obligation of all organisations and citizens to protect the environment and natural resources: land surfaces, underground resources, forests, animals, water sources and the atmosphere.
- The Lao PDR follows the principle of separation of powers: the legislative, the executive and the judicial powers. The Legislature is concerned with transboundary issues, differences, disputes through the adoption of national legislation and ratification of treaties. The Executive implements laws passed by the parliament and the judiciary may adjudicate the related issues, differences, disputes. In relation to other countries, the principle of foreign policy of Lao PDR and the provisions of treaties to which the Lao PDR is a party must be taken into account.
- The Lao PDR does not yet have a clear provision regarding the status of treaties vis-à-vis its national legal system. However, the practice in the country is that treaty obligations are placed below the Constitution but above national laws and sub-laws and in case of conflict between treaty obligations and national laws, sub laws, treaty provisions prevail. This applies, of course, to the settlement of transboundary issues, differences or disputes. The settlement thereof at the national level must not run contrary to the one that may be provided by treaties/ agreements to which the Lao PDR is a party.,

Laws and Regulations

Law on Water and Water Resources, adopted by the National Assembly in 1996

•Article 34 of the law provides for International Conflict Resolution Relating to the Environment:

“ Disputes between countries in the environmental field that emerge and adversely impact the environment of the Lao PDR shall be resolved on the basis of existing conventions to which the Lao PDR is a party or agreements that it has signed with other countries”.

Water and Related Resources Laws Provisions, adopted by the NA in 1996

Article 38 of the Law provides for “ Development and Management of Water and Water Resources between Countries: The exploitation, use, management, protection, and development of water and water resources between countries must be conducted in compliance with international law and with signed treaties and conventions such as: the use and preservation of water and water resources between the Lao People's Democratic Republic and neighbouring countries must be carried out based on fairness, reasonableness, equality, and respect for independence, sovereignty and autonomy”.

Law on Water and Water Resources. Cont'd

Article 45 provides for Resolution of Disputes between Countries Relating to Water and Water Resources:

“ Disputes which arise between the Lao People's Democratic Republic and neighbouring countries regarding the exploitation, use, management, and protection of water and water resources and the prevention of damage caused by water must be resolved by the government of the Lao People's Democratic Republic and the government of the relevant country based on friendship and equality through diplomatic channels and as provided for under treaties entered into or accepted by the Lao People's Democratic Republic”.

Other legislation

- PM's Decree on the Agreement and Endorsement of the National Strategy on Environment to the years 2020 and Action Plan for the years 2006-2010 which, 2004.
- National Strategy on Prevention and Management of impact to the river bank erosion and ecosystem in the Mekong River and Nam Heung, and Action Plan for each Fives years as: 2006-2010, 2011-2015, 2016-2020 and 2021-202, issued by Minister of Ministry of Communication Transport Post and Construction No.055/MCTPC, 2007.

Relevant Institutional Mechanisms/ Arrangements

The Government Decree No 158/PM dated 22 August 1999. The Roles of National Disaster Management Committee (NDMC) assignment No 097/MLSW dated 30 June 2000 and National Strategy Plan on Disaster Risk Management No 1139/MLSW dated 18 April 2003 (2003-2020);

- Bank erosion and ecosystem prevention is responsibility of the **"Committee for Prevention and Management of impact to the river bank erosion and ecosystem in the Mekong River and Nam Heung"**. The basic role of this committee is coordinating/ studying/ looking for the budget to whole the organization concern as inside country and abroad, in order to implement on the bank protection along the Mekong River between Lao and Thai borderline/set up the strategy work plan for short period as 5 years, medium 10 years and long period is 20 years, and cooperation with Thailand such as **Committee for Lao-Thai Cooperation in order to manage on business activities along the Mekong River and Nam Heung**.

-This committee is very importance plays the role for Lao Government to solve the problem for Trans-boundary Flood Issues between both countries as Laos and Thailand for bank erosion /bank protection/ Sand gravel exploitation and ecosystem affected along the Lao-Thai border.

Sectoral Policies, regulations and arrangements

- National Policy on Environmental and Sustainability of the Hydropower sector No.561/CPI, 2005
- Regulation on Environmental Impact Assessment of Road Projects No.2926/MCTPC, 2003.
- Rules on Water Transport No. 104/MCTPC, 2000
- Rules on Water Traffic No. 219/MCTPC, 2000
- Regulation for Sand, Gravel and Black soil excavation along Mekong River and its Tributaries No.2497/MPT on February 22, 2008;
- Rules or regulations on Water Transport and River Work along the Mekong River and its Tributaries, including :
 - Dangerous Goods Transport;
 - Dry port for Stored Goods;
 - Establishing of Companies for River Transportation;
 - Fee Charges for port administration;
 - Handing and Keeping for Dangerous Goods;
 - Register of Crew, Register of Ships and Boats;
 - Safety ports operation, Standard ships and ferries;
 - Association boats/ships;
 - and regulation for Infrastructure Construction along the Mekong River and it's tributaries.

The judicial practices in the Lao PDR

- cases are conducted in open court proceedings except if otherwise provided by the laws;
 - defendants have the right to defend themselves;
 - lawyers have the right to provide legal assistance to the defendants; representatives of social organisations have the right to take part in court proceedings as provided by the laws;
 - decisions reached by the people's courts, when final, must be respected by Party organisations, State organisations, the Lao Front for National Construction, mass organisations, social organisations and all citizens, and must be implemented by the concerned individuals and organisations.
- If transboundary issues, differences and disputes cannot be resolved by the administrative level, the cases can be submitted to be adjudicated by the courts. In this judicial process, it is the relevant provincial court will consider the case.
 - If the case cannot be decided at this level, it will be submitted to the higher level and that is the Supreme Court which is the Court of highest instance in the Lao PDR.

Bilateral Mechanisms

Laos- Cambodia:

- Lao –Cambodian Joint Commission
- Lao- Cambodian Boundary Technical Subcommittee
- Regarding the cooperation in the field of water management on the mainstream or tributaries, this cooperation like in the case carried out in the MRC framework.

Laos-Vietnam:

- Lao-Vietnam Cooperation Committee
- Lao-Vietnam Boundary Committee
- Many Lao Ministries Agencies and have cooperation arrangements with their Vietnamese counterparts.

Regarding the cooperation in the field of water management on the mainstream or tributaries, this cooperation like in the case carried out in the MRC framework.

Laos-Thailand:

- Lao-Thai Joint Commission (JC)
- Lao-Thai General Boundary Security Committee (GBC)
- Lao-Thai Join Boundary Commission (JBC)
- Lao-Thai Association for Friendship
- Lao- Thai Bilateral Meeting on Drugs Law Enforcement Cooperation
- National Committee and Lao-Thai Cooperation Committee
- Lao-Thai for Governor of Provinces Cooperation Committee
- Lao-Thai Joint Committee for the management of activities along the Mekong and Heuang rivers (This Committee is co-chaired by the Directors General of Waterway Transport Departments of the two countries. This is a bilateral technical arrangement which considers the cooperation, control and addressing construction issues along the two rivers in order not to effect the boundary lines between the two countries)

➤The existing bilateral mechanisms may address tranboundary issues, differences and disputes along the Mekong river between Laos and Thailand. However, this does not preclude the application of the relevant provisions of the Mekong River Agreements in regard to resolution of differences arising from the implementation of the Agreements.

Lesson-learnt and suggestions for improvement

- The bilateral relations and cooperation between Lao PDR and Thailand have various bilateral mechanisms and arrangements which meets the needs of these two neighbors.
- In practice, these bilateral mechanisms and arrangements have provided good results for further strengthening the relations and cooperation between the two Governments and peoples;
- For example, should any cases along the Mekong borders arise , the two sides would have settled them by negotiations though, first of all, the local authorities of the two sides, especially at the technical level. Only bigger cases were submitted to the central level for resolution;
- Therefore, the two sides should continue to follow these bilateral mechanisms and arrangements for more effective and expeditious settlement of any trans boundary issues, differences and disputes in order to avoid the submission of such cases to the judicial bodies for settlements which will take time and use financial resources;
- Although these bilateral mechanisms and arrangements have proved effective, there is still room for improvement in order to fully meet the needs, especially in terms of human resources, funding, and information technologies.
- The meetings between the local authorities in all sectors between the two countries should meet more regularly to exchange experiences with each other. At the same time, the two sides should provide trainings in information technologies and expertise needed for the local authorities concerned.

CONCLUSION AND RECOMMENDATIONS

- As a member of the United Nations and other international and regional organizations, the Lao PDR opens up to all countries regardless their political, economic and social backgrounds, based on the five principles of peaceful co-existence. To ensure good relations with all countries, the Lao PDR has signed, ratified and become a party of many international treaties, conventions and agreements. To implement the obligations arising from the international legal instruments, the PDR has adopted national laws to meet the needs of the national socio-economic development of the country.
- Regarding transboundary issues, differences and disputes, the Lao Government has always paid attention to this matter by adopting national legislation especially laws on the use and protection of water and water resources and on the environment protection. Moreover, the Lao PDR has established bilateral mechanisms for cooperation and resolution of any differences and disputes which may arise in the water border areas, especially with Thailand.

Conclusion and Recommendations (Cont'd)

- Regarding resolution of disputes arising from the Mekong water borders, Lao PDR and Thailand have a good cooperation among the authorities of the two sides at all levels because the two countries have agreements in all sectors from the local to the central to local levels.
- The Lao PDR and the three neighboring countries are friendly and good neighbors. Therefore, any transboundary issues, differences, disputes that may arise between Lao PDR and one of these countries should, first of all, be resolved through the various existing bilateral mechanisms, especially a difference and disputes should be resolved by the local authorities or at the technical level of the two countries. If the dispute cannot be resolved by the local authorities or at the technical level, it should be resolved by the Governments of the two countries through negotiations. Only when the bilateral mechanisms could not succeed in the addressing of the issues, differences and disputes, other available and appropriate means at the MRC, regional and international levels would be suggested.

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Annex 3-26
Thai National Report

“TNMC National Report on the Compilation and Analysis of National Practices and Instruments on Addressing Inter-State Contentious Issues, Differences and Disputes over Transboundary Water and Related Natural Resource Management Issues.”

Version 2.00, dated July 20, 2008

* Prepared by Mr. Chokchai Suthidhummajit, Water Resources System Research Unit (CU_WRSRU), Department of Water Resources Engineering, Faculty of Engineering, Chulalongkorn University, Bangkok Thailand, 10330.

Chapter 1: Introduction/Overview

The objectives of this “National Report on the Compilation and Analysis of National Practices and Instruments on Addressing Inter-State Contentious Issues, Differences and Disputes over Transboundary Water and Related Natural Resource Management Issues” are three folds:

- a) To collect, review and analyze the existing laws, policies and regulations of Thailand, particularly the ones that related to water and related natural resources management in light of international/ transboundary matters;
- b) To compile national information/knowledge related to requirements, practices, processes and mechanisms for addressing interstates/transboundary issues, arbitration processes, and differences and disputes resolution mechanisms (directly or indirectly related to water/natural resources issues) as applied within the Thai system, particularly by the Ministry of Foreign Affairs, the Thai National Mekong Committee (TNMC) and other national bodies and provincial agencies, including judicial matters and the existing/current alternative dispute resolution (ADR) tools established within the Thai’s legal and judiciary systems; and
- c) To explore and document information/knowledge related to the bilateral mechanism/practices currently applied for cooperation, coordinate, negotiation and resolution of the interstate/transboundary issues (e.g. water issues/water utilization along/across the border; coordination and cooperation between Thailand and its neighbors related to the development and management issues along the mainstream of the international rivers between two countries).

1.1 Existing Water and Natural Resources Acts

In Thailand there exist many legal instruments and laws relating to the development, administration and management of the natural resources (i.e. water and other related resources). The following is a partial list of the current legislation/laws that deal with natural resources development, administration and management.

1. The Constitution of Thailand, August 25, B.E. 2550 (2007);
2. The Civil and Commercial Code of Thailand, B. E. 2466 (1923) and its amendments (No. 10, B.E. 2525: Articles 1304, 1339-1342, 1345, 1349, 1352, and 1355);
3. The Conservation of Public Water Supply Canals Act, B.E. 2456 (1913) and its amendment No. 2, B.E. 2526 (1983);
4. The Municipality Act, B.E. 2496 (1953): Articles 51, 53, 56 and 58 and its amendments;
5. The People’s Irrigation Act, B.E. 2482 (1939) (a revision of the Control of Weirs and Dikes Act B.E. 2477) and its amendments (No. 2, B.E. 2523; No. 3, B.E. 2526);

6. The State Irrigation Act, B.E. 2485 (1942), its amendments (No. 2, B.E. 2497.; No. 3, 2507; No. 4, B.E. 2518; No. 5, B.E. 2530); and subsequent Ministerial Regulations;
7. The Dikes and Ditches Act, B.E. 2484 (1941) and it amendment No. 2, B.E. 2505 (1962);
8. The Groundwater Act, B.E. 2520, its amendment No. 2, B.E. 2530; No. 3, B.E. 2546 and subsequent Ministerial Regulations;
9. The Act Governing the Development and Promotion of Energy, B.E. 2535 (a revision of the National Energy Administration Act of B.E. 2496 (1953) and its amendments (No. 3, B.E. 2522 and No. 4, B.E. 2530);
10. The Electricity Generating Authority of Thailand Act (a revision of the Yanhee Electricity Authority Act, B.E. 2500, the Lignite Authority Act, B.E. 2503 and the North-Eastern Electricity Authority Act, B.E. 2505) and its amendments (No. 2, B.E. 2521; No. 3, B.E. 2527; No. 4, B.E. 2530; No. 5, B.E. 2535);
11. The Navigation of Thai Waterways Act, B.E. 2456 (1913) and its amendments (the latest No. 14, B.E. 2535);
12. The Fisheries Act, B.E. 2490 (1947) and its amendments (No. 2, B.E. 2496; No. 3, B.E. 2528;
13. The Right to Fish in Thai Waters Act, B.E. 2482 (1939), No. 2 B.E. 2539;
14. The Public Health Act, B.E. 2477 (1934), and its amendments (No. 1, B.E. 2482; No. 2, B.E. 2484; No. 3 B.E. 2497 and No. 4 B.E. 2505): Articles 34 to 40, Chapter 1:Sanitation, Part 5;
15. The Sanitation Act, B.E. 2495 (1952): Article 25;
16. The National Economic Development Board Act, B.E. 2502 (1959) and its amendment;
17. The City and Town Planning Act, B.E. 2495 (1952) and its amendment No. 2, B.E. 2518 (1975);
18. The Public Cleanliness and Orderliness of the Country Act, B.E. 2503 (1960);
19. The House and Land Control Act, B.E. 2504 (1961) and its amendment;
20. The Factories Act, B.E. 2485 (1942) and its amendments (No. 2, B.E. 2518 and No. 3, B.E.2522);
21. The Highways Act, B.E. 2482 (1939);
22. The Metropolitan Waterworks Authority Act, B.E. 2510 (1967) and its amendments (No. 2, B.E. 2516; No. 3, B.E. 2522; No. 4, B.E. 2530 and No. 5, B.E. 2535);
23. The Provincial Water Works Authority Act, B.E. 2522 (1979);
24. The Act governing the Enhancement and Conservation of the Quality of the National Environment, B.E. 2518, its amendments (No. 2, B.E. 2521; No. 3, B.E. 2522 and No. 4, B.E. 2535); and the subsequent Ministerial Regulations/Notifications;
25. The National Parks Act, B.E. 2504 (1961);
26. The Forestry Act, B.E. 2484 (1941) and its amendments (No. 2, B.E. 2491; No. 3, B.E. 2494; No. 4, B.E. 2503; No. 5, B.E. 2518; No. 6, B.E. 2522 and No. 7, B.E. 2525);
27. The National Forestry Reserves Act, B.E. 2507 (1964) and its amendments (No. 2, B.E. 2522 and No. 3, B.E. 2528);
28. The Agricultural Land Consolidation Act, B.E. 2517 and its amendment (No. 2, B.E. 2534);
29. The Land Reform for Agriculture Act, B.E. 2518 and its amendments (No. 2, B.E. 2519; No. 3, B.E. 2532);
30. The Land Development Act, B.E. 2526;

31. The Agricultural Land Consolidation Act, B.E. 2517 (1974);The Land Allocation for Livelihood Act, B.E. 2485 (1942) and its amendments (No. 2, B.E. 2504 and No. 3, B.E. 2511);
32. The Land Code, B.E. 2497 (1954) and its amendments (No. 2, B.E. 2526 and No. 3, B.E. 2528);
33. The Civil Defence Act, B.E. 2522 (1979);
34. The Arbitration Act, B.E. 2530 (1987); No. 2, B.E. 2545 (2002);
35. The Office of the Prime Minister Regulations on National Water Resources Management (No. 2), B.E. 2545;
36. The Office of the Prime Minister Regulations on the Prevention and Removal of Water Pollution due to Oil Spill, B.E. 2547;
37. The Office of the Prime Minister Regulations on the Policy and Supervision of National Water Supply, No. 2 B.E. 2547;
38. The Office of the Prime Minister Regulations on the Coordination to Enforce Environmental Laws, B.E. 2550; and
39. The Draft Water Resources Laws, B.E. 2551.

(Also see the attached list of the laws/regulations as reviewed in this National Report, in Annex I.)

It shall be noted here that within these various national laws/regulations there is no explicit or specific provision addressing the inter-state contentious issues, or the differences and disputes mechanism over transboundary water and related natural resource management issues. Though the Draft Water Resources Laws assigned the role of water allocation and dispute resolution facilitator to the National Water Resources Committee (NWRC) and the river basin committees (RBCs) but since the draft Water Laws has not yet been approved by the Parliament therefore at this moment the dispute resolution issue is still under the responsibility of the Office of the Prime Minister and is facilitated by the Department of Water Resources (DWR), Ministry of Natural Resources and Environment (MoNRE).

1.2 The Constitution of Thailand

The new Constitution of Thailand (promulgated on 24 August 2550 (2007) states a national policy on the cooperation with the international countries/organizations as follows:

The Constitution of 24 August 2550 (2007)

Part 6: Foreign Policy

Section 82

“ The State shall promote friendly relations with other countries and adopt the principle of non-discrimination and shall comply with human rights conventions in which Thailand is party thereto as well as international obligations concluded with other countries and international organizations.”

1.3 New Development in Thailand's Arbitration Process

1.3.1 Thai Arbitration Act B.E. 2545 (2002)

Modern arbitration in Thailand has been instigated by the promulgation of the Arbitration Act, B.E. 2530 (1987). A significant consideration behind this new Arbitration Act was to adopt the UNCITRAL Model Law as a basis for the core development of the arbitration system in Thailand in order to keep pace with current judiciary and administrative requirements and other developed economies. Since then arbitration has been practiced extensively and its potential as an effective means of dispute resolution has been perceived and realized by the legal profession as well as the business community. The Thai Government has also been promoting the use of arbitration among governmental agencies, and adopted an arbitration clause into various contracts between governmental agencies and private parties. In recent years numbers of arbitration cases under the auspices of the Thai Arbitration Institute (TAI) have been increased and during the last fifteen years, those involved in arbitration proceedings have gradually gained significant experiences and expertises over time. Two incidents changed arbitration landscape in Thailand. The first one was the enactment of the new Arbitration Act, B.E. 2545 (the 29th of April 2002). Under this new Act, TAI has been assigned as a main contributor to the development and promotion of arbitration by conducting extensive studies on the issue, and gathering opinions of various prominent arbitration practitioners, both domestic and oversea. The final analysis shown that it was most suitable to adopt the principles of the Model Law on International Commercial Arbitration prepared by the United Nation Commission on International Trade Law (UNCITRAL). The committee responsible for drafting the arbitration law then decided to apply the principles of the Model Law to domestic arbitration as well as international arbitration. The major features of the new law include the principle of "severability of an arbitration clause", "the *competence competence* jurisdiction of the arbitral tribunal", "the principle of *ex aequo et bono* and *amiable compositeur*", the guarantee of due process, the autonomy of arbitration and freedom of the parties, the mechanism for setting aside an arbitral award, and the recognition and enforcement of domestic and foreign arbitral awards.

The second event was the reformation of TAI. Previously, TAI was established under the umbrella of the Ministry of Justice. Since the new Constitution demands the separation of the Court of Justice and the Ministry of Justice to guarantee the independence of the Thai judiciary, therefore, the administration of justice was then restructured. Under the new regime, TAI has now been positioned within the structure of the Court of Justice in order to ensure the neutrality of the institution which handled many arbitral proceedings involving governmental agencies. A new set of arbitration rules have been enacted to accommodate the demand of the new arbitration law. Such new facilities, services and rules together enable TAI to be well prepared to entertain international parties. The Act together with the newly-restructured TAI have therefore brought arbitration in Thailand into a new era where arbitration practitioners and business community can trust arbitration as an effective and efficient mechanism for dispute resolution.

Section 15 of the Arbitration Act specifically provides that in an agreement between a governmental agency and a private party, the parties may agree to resolve any disputes pertaining to the agreement by means of arbitration, and that such arbitration agreement shall be binding upon the parties.

Another important effect of the Act is that the arbitral awards may be revoked by the court on an application of the parties concerned. Equally significant is that disputes over the enforcement of arbitral awards in administrative contracts will now be under the jurisdiction of the Administrative

Court, not the Court of Justice. Specifically, the Act provides that the appeal against an order or judgment under the Act must be made to the Supreme Court or the Supreme Administrative Court.

1.3.2 Alternative Dispute Resolution Office

Besides the new Arbitration Act, the Alternative Dispute Resolution Office (ADRO) under the Office of the Judiciary has also been established. ADRO has duties and responsibilities on promotion, co-operation and administration of settlement proceedings for civil and commercial disputes as well as criminal disputes which can be compromised, by means of mediation, conciliation and commercial arbitration in accordance with the Arbitration Act. ADRO is also responsible for developing system, form, criterion, procedure, rule, process and standard on conciliation and settlement civil and commercial dispute by arbitration, mediation, and other dispute settlement mechanisms both in and out-of-court. Furthermore, in order to facilitate the administration and the development of human capacity on the arbitration processes, ADRO itself comprises the following subsidiary centers/institutes:

- Thai Arbitration Institute;
- Mediation Center;
- ADR Knowledge Center;
- ADR Training and Promotion Institute; and
- Voluntary Community Mediator.

Thai Arbitration Institute (TAI) is an arbitration institute established in 1990. TAI is a part of the ADRO, which is a division of the Office of the Judiciary of Thailand. TAI is the most active arbitration institute in Thailand. Currently, TAI is affiliated to the Office of the Judiciary, which assures non-intervention policy, and provides safeguard from any domestic political interference. Therefore, the parties can completely trust the impartiality of the institute, even though one of the parties to a dispute may be a governmental agency.

Chapter 2.

Dispute Resolution Mechanisms under the Ministry of Foreign Affairs

2.1 Offices under the Ministry of Foreign Affairs

Under the regular operation of various offices/departments of the Ministry of Foreign Affairs, issues dealing with national practices, instruments on addressing any inter-state relationships (e.g. whether any contentious issues, differences and disputes over transboundary water and related natural resource management issues or any inter-state cooperations or conflicts will be handled through the normal well-established diplomatic channel/mechanisms. The following is the list of the official department of the Ministry of Foreign Affairs that are responsible for the above-mentioned issues.

Offices under the Ministry of Foreign Affairs

- **Office of the Minister**
- **Office of the Permanent Secretary**
- **Office of Policy and Planning**
- **Department of International Economic Affairs**
 - Secretariat to the Department
 - Division of Economic Information
 - Division of International Economic Policy
 - Division of Economic Relations and Cooperation

- **Department of Treaties and Legal Affairs**
 - Secretariat to the Department
 - Legal Affairs Division
 - Boundary Division
 - International Law Development Division
 - Treaty Division
- **Department of Information**
 - Secretariat to the Department
 - Press Division
 - News Division
 - Cultural Relations Division
 - Broadcasting Division
- **Department of International Organizations**
 - Secretariat to the Department
 - Social Division
 - Development Affairs Division
 - International Organization' Administrative Affairs Division
 - Peace, Security and Disarmament Division
- **Department of ASEAN Affairs**
 - Secretariat to the Department
 - Division 1
 - Division 2
 - Division 3
 - Division 4
- **Thailand International Development Cooperation Agency (TICA)**
 - Office of the Director General
 - Partnership Bureau
 - Development Cooperation Bureau
 - Human Resources Development Bureau
 - Project Procurement and Privileges Bureau
- **Thailand's Missions Abroad**

2.2 Regional Initiatives/Cooperation

The following is the list of the existing regional initiatives/cooperative forum that Thailand entered into cooperation/partnership with its neighbours.

- **ACD: Asia Cooperation Dialogue**
- **ACMECS: Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy**
- **APEC: Asia-Pacific Economic Cooperation**
- **ASEAN: Association of Southeast Asian Nations**
 - **ARF: ASEAN Regional Forum**
- **ASEM: Asia-Europe Meeting**
- **GMS: Greater Mekong Sub-region**

- **Quadripartite Agreement on Commercial Navigation on Lancang-Mekong River**
- **Regional Power Interconnection and Trading**
- **Strategic Environmental Framework**
- **Flood Control and Water Resource Management**
- **GMS Tourism Development**
- **MGC: Mekong-Ganga Cooperation.**

It shall be noted that under these partnership agreements/instruments, there exist statements/articles that explicitly deal with the issues on “dispute settlement mechanisms.” For example under the ASEAN cooperation, Articles 23 to 26 of the ASEAN Agreement stipulated clauses on “dispute settlement mechanisms” for all member states. Therefore, in TNMC’s view many of these instruments are readily available in these regional initiatives and are sufficient for using by all national bodies/organizations/line agencies if the needs on dispute settlement/resolution arise, and without having to develop any new tool or mechanism.

(See example on Annex II ASEAN Charter).

Chapter 3.

Thailand and its Management on the International River Basins

3.1 The International River Basins within Thailand

In Thailand there are three international river basins, i.e.

- a) The Mekong River Basin (Thailand-Lao PDR: 2T, 3T and 5T), and two international tributaries i.e. the Mae Kok Sub-basin (Thailand-Myanmar: 2T), and the Tonle Sap Sub-basin (Thailand-Cambodia: 9T);
- b) The Salween River Basin (Thailand-Myanmar); and
- c) The Golok River Basin (Thailand-Malaysia).

3.2 Legal and Institutional Arrangement on International River Basins

3.2.1 Thailand-Lao PDR International River Basins

A. Legal instruments:

1. the 1995 Mekong Agreement and
2. Specific bilateral agreements/MoUs.

B. Institutional Arrangement

B.1 Responsible Agencies:

- The Department of Water Resources (DWR), Ministry of Natural Resources and Environment (MoNRE);

- The Ministry of Interior; and
- The Ministry of Defence.

B.2 Joint Technical Committee/Working Group

B.2.1 Bi-lateral

2.1.1 The Thai-Lao Joint Committee to supervise activities along the Mekong River and Nam Haung River (Thai side).

2.1.2 The Technical Sub-committee(s) and Working Group(s).

2.1.3 The Joint Committee on General Borderline Security.

2.1.4 The Meeting of the Provincial Governors and Royal District (Thai-Lao)

2.1.5 The Thai-Lao Joint Meeting on the Construction of the Second Port, Chiang Rai Province.

B.2.2 Multi-lateral

2.2.1 Thai National Mekong Committee

2.2.2 The ASEAN Working Group on Water Resources Management

- ASEAN Strategic Plan of Action on Water Resources Management;
- State of Water Resources Management in ASEAN.

2.1.1 The Thai-Lao Joint Committee to supervise activities along the Mekong River and Nam Haung River (Thai side)

In order for the cooperation mechanism be properly, efficiently and continuously carried out the Ministry of Interior thus establish a Thai-Lao Joint Committee to supervise the implementation of activities along the Mekong mainstream and Nam Haung on the Thai side (Ministerial Order No. 194/2550) as follows:

A. Composition of the Committee:

- | | |
|---|------------------|
| 1. Permanent Secretary, Ministry of Interior | Chairperson |
| 2. Director General of Department of Public Works and Town and Country Planning, MoI | Vice Chairperson |
| 3. Representative of National Security Council | Member |
| 4. Representative of Ministry of Transportation | Member |
| 5. Representative of Representative of the Supreme Command Headquarters | Member |
| 6. Representative of the Office of Natural Resources and Environmental Policy and Plan, MoNRE | Member |
| 7. Representative of the Department of Water Resources, MoNRE | Member |
| 8. Representative of Marine Department, MoT | Member |
| 9. Representative of the Royal Thai Survey Department, MoD | Member |
| 10. Representative of the Hydrographic Department, MoD | Member |
| 11. Representative of the Department of Treaties and Legal Affairs, MoF | Member |
| 12. Representative of Department of East Asian Affairs, MoF | Member |
| 13. Representative of the Royal Thai Embassy at Vientiane | Member |
| 14. Representative of the Department of Provincial Administration, MoI | Member |
| 15. Representative of the Department of Lands, MoI | Member |
| 16. Representative of Chiang Rai Province | Member |
| 17. Representative of Phitsanulok Province | Member |

18. Representative of Loei Province	Member
19. Representative of Nong Khai Province	Member
20. Representative of Nakhon Panom Province	Member
21. Representative of Mukdahan Province	Member
22. Representative of Amnat Chareon Province	Member
23. Representative of Ubon Ratchathani Province	Member
24. Representative of the Legal Affairs Bureau, the Office of the Permanent Secretary, MoI	Member
25. Director of the International Affairs Division	Member and Secretary
26. Representative from the Department of Public Works and Town and Country Planning	Member and Assistant Secretary

B. Responsibilities

1. Facilitates the discussion on impacts on the river bank and ecological system due to the implementation of activities along the Mekong River and Nam Haung River.
2. Facilitates, exchange and sharing data/information on activities along the Mekong River and Nam Haung River.
3. Establish sub-committee(s) or working group(s), as appropriate, to join with the Laotian counterpart in carrying out field survey/inspection/investigation.
4. The Committee together with the Laotian counterpart shall jointly specify necessary technical measures to protect the river banks and to preserve the ecological system of the Mekong and Nam Haung.
5. The Committee together with the Laotian counterpart shall accommodate each other in implementing works of the established sub-committee(s) or working group(s).
6. Coordinates with each other concerned agencies in resolving issues/problems as agreed by the Joint Committee.
7. The Chairperson may invite representative of concerned agencies to attend the meeting and appoint additional secretary as appropriate.
8. To host/conduct an annual meeting of the Joint Committee, by rotating with the Laotian counterpart, and if necessary organize a special session/meeting. The expenses for the meeting(s) and the implementation of committee's activities shall be covered by related laws and regulations.

C) Date of committee establishment: April 26, B.E. 2550 (2007).

2.1.2 Technical Sub-committee under the Joint Thai-Lao Committee to supervise the implementation of Activities along the Mekong and Nam Haung rivers (Thai-side)

In accordance with the Ministry of Interior's Order No. 47/2547 dated February 5, B. E. 2547, the Minister of Interior established the Technical Sub-committee under the Joint Thai-Lao Committee, to supervise the implementation of activities along the Mekong and Nam Haung rivers, with the composition of members and responsibilities as follows:

A) Composition of Sub-Committee

In order to make cooperation mechanism between the two governments fulfill the objectives, the Ministry of Interior established the Technical Sub-committee under the Joint

Thai-Lao Committee to supervise the implementation of activities along the Mekong and Nam Haung (Thai-side) as follows:

1. Deputy Director General of the Department of Public Works and Town and Country Planning, Ministry of Interior Chairperson
2. Representative of the Department of Lands, MoI Member
3. Representative of The Office of Natural Resources and Environmental Policy and Planning, MoNRE Member
4. Representative of the Department of Water Resources, MoNRE Member
5. Representative of the Marine Department, MoT Member
6. Representative of the Royal Thai Survey, MoD Member
7. District Officers (in the concerned areas) Member
8. Representative from the concerned agencies (for specific case) Member
9. Representative of the Department of Public Works and Town and Country Planning, MoI Member and Secretary
10. Representative of the Hydrographic Department, MoD Member and Assistant Secretary
11. Public Relations Officer, Foreign Affairs Division, Office of the Permanent Secretary, MoI Member and Assistant Secretary

B) Responsibilities

Technical Sub-committee under the Joint Thai-Lao Committee to supervise the implementation of Activities along the Mekong and Nam Haung (Thai-side) shall:

- jointly investigate areas, analyze data/information and propose measures to resolve problems to the Joint Committee; and
- host/conduct two annual meetings of the Sub-committee, by rotating with the Laotian counterpart, and if necessary organize a special session/meeting. The expenses for the meeting(s) and the implementation of sub-committee's activities shall be covered by related laws and regulations.

3.2.2 Thailand-Myanmar International River Basin (Salween River Basin)

A. Legal instruments:

1. Thai- British Agreement on Burma and
2. Specific bilateral agreements/Memorandum of Understanding on Water Resources Management, July 27, B.E. 2547 (2004).

B. Institutional Arrangement

Responsible Agencies:

- Ministry of Natural Resources and Environment (MoNRE);
- Department of Water Resources (DWR); and
- Ministry of Defence.

Note: Issue on Thai-Myanmar Cooperation on Water Resources Management was submitted and approved by the Thai Cabinet on July 27, 2004, on two main components:

- Memorandum of Understanding Thai-Myanmar Cooperation on Water Resources Management; and
- Joint Committee for the Cooperation on Water Resources Management.

1. Joint Technical Committee/Working Group

1.1 Bi-lateral

1.1.1 The Thai-Myanmar Joint Steering Committee (JSC) to supervise activities to supervise activities on water resources development and management.

1.1.2 The Technical Sub-committee(s) and Working Group(s).

1.2 Multi-lateral

1.2.1 The ASEAN Working Group on Water Resources Development

- ASEAN Strategic Plan of Action on Water Resources Management; and
- State of Water Resources Management in ASEAN.

C. Memorandum of Understanding on Technical Cooperation between the Ministry of Agriculture and Irrigation of the Union of Myanmar

The Ministry of Natural Resources and Environment (MoNRE) of the Kingdom of Thailand and the Ministry of Agriculture and Irrigation (MoAI) of the Union of Myanmar, hereinafter referred to as “Parties”;

Desiring to further strengthen the cooperation, technical exchange and technical assistance between the two Parties on the basis of friendship and good neighbourliness;

Have agreed as follows:

1. To exchange study teams, experts, research works, technical documents, discussion and information in the field of irrigation, drainage, and water resources management and development.
2. To cooperate in the field of human resources development including study tour, training lectures and scholarship on water resources and irrigated agriculture.
3. To carry out the feasibility and environmental impact study of water resources potential to mitigate flood and drought and to develop hydropower for sustainable development in Myanmar and Thailand.
4. To establish the Joint Steering Committee (JSC) on cooperation in the water resources development and management, under the Thailand-Myanmar Joint Commission for Bilateral Cooperation. The JSC shall guide, supervise and prepare the plan and work programme and to execute accordingly the task of joint water resources management and the related and/or associated works.
5. To appoint the Director General of the Irrigation Department of MoAI and the Director General of the Department of Water Resources of MoNRE to be the contact persons for this cooperation.
6. This MoU shall enter into force on the date of signing and shall remain in force for an initial period of five years. Thereafter, it shall be automatically extended for a period of five years each unless terminated by either of the Parties giving written notice of the intention to terminate it to other Parties six months prior to the expiration of the initial period or prior to the expiration of each subsequent period in case of its automatic extension. The termination of this MoU shall not affect the activities already in progress, which shall continue until their completion. The MoU may be modified or amended by written agreement to the Parties.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this MoU.

Done in Chiang Rai this first day of November 2004, in duplicate in the English language.

3.2.3 Thailand-Malaysia International River Basin (Golok River Basin)

A. Legal instruments:

- Thai- British Agreement;
- Specific bilateral agreements/MoUs;
- Ministerial Order on the Joint Committee (Thai-Malaysia) on the Implementation of the Golok Development (Thai-side), 1/2004; and
- The ASEAN Working Group on Water Resources Development
 - i. ASEAN Strategic Plan of Action on Water Resources Management;
 - ii. State of Water Resources Management in ASEAN.

B. Institutional Arrangement

B.1 Responsible Agencies:

Main/secretariat:

Thailand:

- the Royal Irrigation Department (RID), Ministry of Agriculture and Cooperatives (MoAC);
- Ministry of Defence

Malaysia:

- Department of Irrigation and Drainage (DID), Ministry of Natural Resources and Environment (MoNRE)

B.2 Joint Committee/ Working Group

2.1 The Joint Technical Working Group (Thai-Malaysia) on the Golok River Mouth Improvement Project (Thai-side) (JTWG).

A. Composition:

1. Deputy Director General (Technical), RID	Chairperson
2. Director of Hydrology and Water Management, RID	Member
3. Director of Research and Development, RID	Member
4. Director of the Irrigation Bureau 16, RID	Member
5. Manager of the Golok River Basin Implementation Project, RID	Member
6. Representative of the Fourth Army Command, MoD	Member
7. Representative of the Royal Thai Survey Department, MoD	Member
8. Representative of the Marine Department, MoT	Member
9. Representative of the Ministry of Interior	Member
10. Representative of the Ministry of Foreign Affairs, MoF	Member

11. Representative of the Budget Bureau, MoB	Member
12. Representative of Chulalongkorn University, MoE	Member
13. Representative of the Hydrographic Department, MoD	Member
14. Representative of International Agriculture Division, MoAC	Member
15. Director of Project Management Bureau, RID	Member and Secretary
16. Expert on Civil Engineering, RID	Member and Assistant Secretary
17. Environmental Technical Officer, RID	Member and Assistant Secretary
18. Public Relations Officer, RID	Member and Assistant Secretary
19. Senior Civil Engineer Officer, RID	Member and Assistant Secretary

B. Duties and Responsibilities of the JTWG:

1. Coordinates/cooperates with the Malaysian Technical Working Group Counterpart in implementing the Golok River Mouth Improvement Project;
2. Supervises and controls the implementation of the Feasibility and Environmental Impact Study of the Golok Dam Project and the Flood Forecasting and Telemetry System of the Golok River Basin;
3. Monitors and evaluates the implementation of the Project and periodically reports to the Committee on the Implementation of the Golok River Basin Development;
4. Identifies problems, constrains and pitfalls in the implementation and periodically reports with views/recommendations to the Joint Committee on The Golok Basin Development (Thai-Malaysia); and
5. Any other works as instructed/entrusted.

C. Date of Establishment:

Done on January 23, 2004 by the Order of the Chairperson (Permanent Secretary of the MoAC) on the Implementation Committee (Thai-Malaysia) on the Golok River Basin Development (Thai-side).

2.2 The Joint Evaluation Team on Joint Technical Working Group (Thai-Malaysia) on the Golok River Mouth Improvement Project (JET)

A: Composition

Expert on Civil Engineering (Project Planning), RID	Chairperson
Expert on Civil Engineering (Design), RID	Member
Chief of Operation and Maintenance, Golok Project, RID	Member
Director of Research and Engineering Devel. Bureau, RID	Member
Senior Civil Engineer, RID	Member
Representative of the Marine Department, MoT	Member
Senior Civil Engineer (Technical), RID	Member and Secretary

B: Responsibilities

- Analyzes surveying results;
- Monitors and evaluate the Golok River Mouth Improvement Project in order to meet the project's objectives; and

- Prepare report with recommendations to be periodically submitted to the Joint Thai-Malaysia Technical Working Group (Thai-side) on the Golok River Mouth Improvement Project.

B.3 Current Issues as Addressed by the JTWG

Excerpt from the “Report on the Twenty-sixth Meeting of the Malaysia-Thailand Joint Technical Working Group on Golok River Mouth Improvement,” Department of Irrigation and Drainage, Ministry of Natural Resources and Environment Malaysia, September 26-27, 2005.

“Matters for Consideration by JTWG

- Report of the Monitoring and Evaluation of the Golok River Mouth by Joint Evaluation Team (JET);
- Data Collection for Hydraulic Study on Golok River Mouth Area;
- Appointment of Consultant for Geotechnical Investigation of Transit Point B;
- Feasibility Study for the Proposed Golok Dam;
- Cableway Station Across the Golok River;
- Real Time monitoring System in the Golok River Basin;
- Matter to be Referred to the Joint Steering Committee; and
- Other Matters.”

3.2.4 Thailand-Cambodia International River Basins

A. Legal instruments:

1. 1995 Mekong Agreement and
2. Specific bilateral agreements/MoUs

B. Institutional Arrangement

B.1 Responsible Agencies:

- Department of Water Resources (DWR), Ministry of Natural Resources and Environment (MoNRE);
- The Third Army Division, Ministry of Defence; and
- The Ministry of Foreign Affairs.

B.2 Joint Technical Committee/Working Group

B.2.1 Bi-lateral

The Thai-Cambodia Joint Committee on Boundary Demarcation and Border Issues

B.2.2 Multi-lateral

- The ASEAN Working Group on Water Resources Development
 - i. ASEAN Strategic Plan of Action on Water Resources Management;
 - ii. State of Water Resources Management in ASEAN.

Chapter 4. Conclusions

After the review and analyses of all references it can be concluded that:

1. Under the existing Thai legislations/laws, there is no specific provision on TBIDD stipulated in the national water resources and its related resources laws that directly or explicitly address the international cooperation and transboundary dispute resolution issues, except in the Constitution and the Arbitration Act B.E. 2545 that mention about the promotion of friendly relations with other countries and obligations with international organizations.
2. Any international/transboundary dispute, if any, is normally handle by various offices of the Ministry of Foreign Affairs through the normal diplomatic channel/mechanism/instruments.
3. There exist bi-lateral agreement/mechanisms to handle all of the three international river basins within Thailand, particularly on the issue concerning boundary demarcation.
4. All of the mechanisms as mentioned in 3) concentrate on resolving conflicts/disputes through the existing agreements/instruments, establishment of the joint committee and/or technical working groups, and through discussion and consultations at the regular/normal or specific diplomatic forum/meetings.
5. Besides water issues, the existing joint committees and joint technical working groups also addressed other issues e.g. boundary demarcation, navigation, transportation and road networks, tourism, cross-border trade, illegal drug and human trafficking and etc.
6. Under various existing regional partnership agreements/instruments, there exist explicit statement/articles that deal with the issues on “dispute resolution/ settlement mechanisms.” Therefore, in TNMC’s point of view, at this moment these existing instruments are readily available and sufficient for using by national organizations/line agencies, and without having necessity to develop any new tool or mechanism, if such needs on dispute settlement/resolution arise.

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- 2) The Civil and Commercial Code of Thailand, B.E. 2466 (1923) and its amendments (No. 10, B.E. 2525: Articles 1304, 1339-1342, 1345, 1349, 1352, and 1355);
- 3) The Penal Code of Thailand, B.E. 2499 (1956) and its amendments No. 9, B.E. 2530: Articles 228, 229 231, 234, 237, 238, 368, 375, 380, 387 and 396;
- 4) The Royal Proclamation on the Establishment of Public Water Supplies, B.E. 2451 (1908);
- 5) The Conservation of Public Water Supply Canals Act, B.E. 2456 (1913) and its amendment No. 2, B.E. 2526 (1983);
- 6) The Act for the Eradication of Water Hyacinths, B.E. 2456 (1913);
- 7) The Municipality Act, B.E. 2496 (1953): Articles 51, 53, 56 and 58 and its amendments;
- 8) The Conservation of Canals Act, B.E. 2446 (1903) and its amendment No. 2, B.E. 2483;
- 9) The Maintenance of Canals Act, B.E. 2446 (1904);
- 10) The People's Irrigation Act, B.E. 2482 (1939) (a revision of the Control of Weirs and Dikes Act B.E. 2477) and its amendments (No. 2, B.E. 2523; No. 3, B.E. 2526);
- 11) The State Irrigation Act, B.E. 2485 (1942), its amendments (No. 2, B.E. 2497.; No. 3, 2507; No. 4, B.E. 2518; No. 5, B.E. 2530); and subsequent Ministerial Regulations;
- 12) The Dikes and Ditches Act, B.E. 2484 (1941) and its amendment No. 2, B.E. 2505 (1962);
- 13) The Groundwater Act, B.E. 2520, its amendment No. 2, B.E. 2530; No. 3, B.E. 2546 and subsequent Ministerial Regulations;
- 14) The Act Governing the Development and Promotion of Energy, B.E. 2535 (a revision of the National Energy Administration Act of B.E. 2496 (1953) and its amendments (No. 3, B.E. 2522 and No. 4, B.E. 2530);
- 15) The Electricity Generating Authority of Thailand Act (a revision of the Yanhee Electricity Authority Act, B.E. 2500, the Lignite Authority Act, B.E. 2503 and the North-Eastern Electricity Authority Act, B.E. 2505) and its amendments (No. 2, B.E. 2521; No. 3, B.E. 2527; No. 4, B.E. 2530; No. 5, B.E. 2535);
- 16) The Navigation of Thai Waterways Act, B.E. 2456 (1913) and its amendments (the latest No. 14, B.E. 2535);
- 17) The Control of the Mooring of Vessels in Rivers and Canals Act, B.E. 2479 (1939);
- 18) The Act Governing the Prevention of Collision s between Vessels, B.E. 2479 (1954);
- 19) The Fisheries Act, B.E. 2490 (1947) and its amendments (No. 2, B.E. 2496; No. 3, B.E. 2528;
- 20) The Right to Fish in Thai Waters Act, B.E. 2482 (1939), No. 2 B.E. 2539;
- 21) The Public Health Act, B.E. 2477 (1934), and its amendments (No. 1, B.E. 2482; No. 2, B.E. 2484; No. 3 B.E. 2497 and No. 4 B.E. 2505): Articles 34 to 40, Chapter 1:Sanitation, Part 5;
- 22) The Sanitation Act, B.E. 2495 (1952): Article 25;
- 23) The National Economic Development Board Act, B.E. 2502 (1959) and its amendment;
- 24) The Act for the Expropriation of Immovable Property, B.E. 2477 (1937) and its amendments (No. 2, B.E. 2480; No. 3, B.E. 2495; No. 4, B.E. 2497 and No. 5, B.E. 2530);
- 25) The Royal Decree establishing the Local Improvement Organization, B.E. 2498 (1955);

- 26) The City and Town Planning Act, B.E. 2495 (1952) and its amendment No. 2, B.E. 2518 (1975);
- 27) The Public Cleanliness and Orderliness of the Country Act, B.E. 2503 (1960);
- 28) The Control of Building Construction Act, B.E. 2479 (1936) and its amendment (No. 2, B.E. 2522) and the Bangkok Municipality Ordinances;
- 29) The House and Land Control Act, B.E. 2504 (1961) and its amendment;
- 30) The Factories Act, B.E. 2485 (1942) and its amendments (No. 2, B.E. 2518 and No. 3, B.E.2522);
- 31) The Highways Act, B.E. 2482 (1939);
- 32) The Metropolitan Waterworks Authority Act, B.E. 2510 (1967) and its amendments (No. 2, B.E. 2516; No. 3, B.E. 2522; No. 4, B.E. 2530 and No. 5, B.E. 2535);
- 33) The Provincial Water Works Authority Act, B.E. 2522 (1979);
- 34) The Energy Conservation Protection Act, B.E. 2535 (1992);
- 35) The Act governing the Enhancement and Conservation of the Quality of the National Environment, B.E. 2518, its amendments (No. 2, B.E. 2521; No. 3, B.E. 2522 and No. 4, B.E. 2535); and the subsequent Ministerial Regulations/Notifications;
- 36) The National Parks Act, B.E. 2504 (1961);
- 37) The Forestry Act, B.E. 2484 (1941) and its amendments (No. 2, B.E. 2491; No. 3, B.E. 2494; No. 4, B.E. 2503; No. 5, B.E. 2518; No. 6, B.E. 2522 and No. 7, B.E. 2525);
- 38) The National Forestry Reserves Act, B.E. 2507 (1964) and its amendments (No. 2, B.E. 2522 and No. 3, B.E. 2528);
- 39) The Agricultural Land Consolidation Act, B.E. 2517 and its amendment (No. 2, B.E. 2534);
- 40) The Land Reform for Agriculture Act, B.E. 2518 and its amendments (No. 2, B.E. 2519; No. 3, B.E. 2532);
- 41) The Land Development Act, B.E. 2526;
- 42) The Agricultural Economics Act, B.E. 2522 (1979);
- 43) The Agricultural Land Consolidation Act, B.E. 2517 (1974);
- 44) The Land Allocation for Livelihood Act, B.E. 2485 (1942) and its amendments (No. 2, B.E. 2504 and No. 3, B.E. 2511);
- 45) The Land Code, B.E. 2497 (1954) and its amendments (No. 2, B.E. 2526 and No. 3, B.E. 2528);
- 46) The Administrative Statute/Declaration, November 20, B.E. 2540 (1997);
- 47) The Civil Defence Act, B.E. 2522 (1979);
- 48) The Arbitration Act, B.E. 2530 (1987); No. 2, B.E. 2545 (2002);
- 49) The Office of the Prime Minister Regulations on National Water Resources Management (No. 2), B.E. 2545;
- 50) The Office of the Prime Minister Regulations on the Prevention and Removal of Water Pollution due to Oil Spill, B.E. 2547;
- 51) The Office of the Prime Minister Regulations on the Policy and Supervision of National Water Supply, No. 2 B.E. 2547;
- 52) The Office of the Prime Minister Regulations on the Coordination to Enforce Environmental Laws, B.E. 2550; and
- 53) The Draft Water Resources Laws, B.E. 2551.

**CHARTER OF THE
ASSOCIATION OF SOUTHEAST ASIAN NATIONS**

PREAMBLE

WE, THE PEOPLES of the Member States of the Association of Southeast Asian Nations (ASEAN), as represented by the Heads of State or Government of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam:

NOTING with satisfaction the significant achievements and expansion of ASEAN since its establishment in Bangkok through the promulgation of The ASEAN Declaration;

RECALLING the decisions to establish an ASEAN Charter in the Vientiane Action Programme, the Kuala Lumpur Declaration on the Establishment of the ASEAN Charter and the Cebu Declaration on the Blueprint of the ASEAN Charter;

MINDFUL of the existence of mutual interests and interdependence among the peoples and Member States of ASEAN which are bound by geography, common objectives and shared destiny;

INSPIRED by and united under One Vision, One Identity and One Caring and Sharing Community;

UNITED by a common desire and collective will to live in a region of lasting peace, security and stability, sustained economic growth, shared prosperity and social progress, and to promote our vital interests, ideals and aspirations;

RESPECTING the fundamental importance of amity and cooperation, and the principles of sovereignty, equality, territorial integrity, non-interference, consensus and unity in diversity;

ADHERING to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms;

RESOLVED to ensure sustainable development for the benefit of present and future generations and to place the well-being, livelihood and welfare of the peoples at the centre of the ASEAN community building process;

CONVINCED of the need to strengthen existing bonds of regional solidarity to realise an ASEAN Community that is politically cohesive, economically integrated and socially responsible in order to effectively respond to current and future challenges and opportunities;

COMMITTED to intensifying community building through enhanced regional cooperation and integration, in particular by establishing an ASEAN Community comprising the ASEAN Security Community, the ASEAN Economic Community and the ASEAN Socio-Cultural Community, as provided for in the Bali Declaration of ASEAN Concord II;

HEREBY DECIDE to establish, through this Charter, the legal and institutional framework for ASEAN,

AND TO THIS END, the Heads of State or Government of the Member States of ASEAN, assembled in Singapore on the historic occasion of the 40th anniversary of the founding of ASEAN, have agreed to this Charter.

CHAPTER I
PURPOSES AND PRINCIPLES

ARTICLE 1
PURPOSES

The Purposes of ASEAN are:

1. To maintain and enhance peace, security and stability and further strengthen peace-oriented values in the region;
2. To enhance regional resilience by promoting greater political, security, economic and socio-cultural cooperation;
3. To preserve Southeast Asia as a Nuclear Weapon-Free Zone and free of all other weapons of mass destruction;
4. To ensure that the peoples and Member States of ASEAN live in peace with the world at large in a just, democratic and harmonious environment;
5. To create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labour; and freer flow of capital;
6. To alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation;
7. To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN;
8. To respond effectively, in accordance with the principle of comprehensive security, to all forms of threats, transnational crimes and transboundary challenges;
9. To promote sustainable development so as to ensure the protection of the region's environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its peoples;
10. To develop human resources through closer cooperation in education and life-long learning, and in science and technology, for the empowerment of the peoples of ASEAN and for the strengthening of the ASEAN Community;
11. To enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice;
12. To strengthen cooperation in building a safe, secure and drug-free environment for the peoples of ASEAN;

13. To promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building;
14. To promote an ASEAN identity through the fostering of greater awareness of the diverse culture and heritage of the region; and
15. To maintain the centrality and proactive role of ASEAN as the primary driving force in its relations and cooperation with its external partners in a regional architecture that is open, transparent and inclusive.

ARTICLE 2 PRINCIPLES

1. In pursuit of the Purposes stated in Article 1, ASEAN and its Member States reaffirm and adhere to the fundamental principles contained in the declarations, agreements, conventions, concords, treaties and other instruments of ASEAN.
2. ASEAN and its Member States shall act in accordance with the following Principles:
 - (a) respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States;
 - (b) shared commitment and collective responsibility in enhancing regional peace, security and prosperity;
 - (c) renunciation of aggression and of the threat or use of force or other actions in any manner inconsistent with international law;
 - (d) reliance on peaceful settlement of disputes;
 - (e) non-interference in the internal affairs of ASEAN Member States;
 - (f) respect for the right of every Member State to lead its national existence free from external interference, subversion and coercion;
 - (g) enhanced consultations on matters seriously affecting the common interest of ASEAN;
 - (h) adherence to the rule of law, good governance, the principles of democracy and constitutional government;
 - (i) respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice;
 - (j) upholding the United Nations Charter and international law, including international humanitarian law, subscribed to by ASEAN Member States;
 - (k) abstention from participation in any policy or activity, including the use of its territory, pursued by any ASEAN Member State or non-ASEAN State or any non-State actor, which threatens the sovereignty, territorial integrity or political and economic stability of ASEAN Member States;
 - (l) respect for the different cultures, languages and religions of the peoples of ASEAN, while emphasising their common values in the spirit of unity in diversity;
 - (m) the centrality of ASEAN in external political, economic, social and cultural relations while remaining actively engaged, outward-looking, inclusive and non-discriminatory; and

- (n) adherence to multilateral trade rules and ASEAN's rules-based regimes for effective implementation of economic commitments and progressive reduction towards elimination of all barriers to regional economic integration, in a market-driven economy.

**CHAPTER II
LEGAL PERSONALITY**

**ARTICLE 3
LEGAL PERSONALITY OF ASEAN**

ASEAN, as an inter-governmental organisation, is hereby conferred legal personality.

CHAPTER III MEMBERSHIP

ARTICLE 4 MEMBER STATES

The Member States of ASEAN are Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam.

ARTICLE 5 RIGHTS AND OBLIGATIONS

1. Member States shall have equal rights and obligations under this Charter.
2. Member States shall take all necessary measures, including the enactment of appropriate domestic legislation, to effectively implement the provisions of this Charter and to comply with all obligations of membership.
3. In the case of a serious breach of the Charter or non-compliance, the matter shall be referred to Article 20.

ARTICLE 6 ADMISSION OF NEW MEMBERS

1. The procedure for application and admission to ASEAN shall be prescribed by the ASEAN Coordinating Council.
2. Admission shall be based on the following criteria:
 - (a) location in the recognised geographical region of Southeast Asia;
 - (b) recognition by all ASEAN Member States;
 - (c) agreement to be bound and to abide by the Charter; and
 - (d) ability and willingness to carry out the obligations of Membership.
3. Admission shall be decided by consensus by the ASEAN Summit, upon the recommendation of the ASEAN Coordinating Council.
4. An applicant State shall be admitted to ASEAN upon signing an Instrument of Accession to the Charter.

**CHAPTER IV
ORGANS**

**ARTICLE 7
ASEAN SUMMIT**

1. The ASEAN Summit shall comprise the Heads of State or Government of the Member States.
2. The ASEAN Summit shall:
 - (a) be the supreme policy-making body of ASEAN;
 - (b) deliberate, provide policy guidance and take decisions on key issues pertaining to the realisation of the objectives of ASEAN, important matters of interest to Member States and all issues referred to it by the ASEAN Coordinating Council, the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies;
 - (c) instruct the relevant Ministers in each of the Councils concerned to hold ad hoc inter-Ministerial meetings, and address important issues concerning ASEAN that cut across the Community Councils. Rules of procedure for such meetings shall be adopted by the ASEAN Coordinating Council;
 - (d) address emergency situations affecting ASEAN by taking appropriate actions;
 - (e) decide on matters referred to it under Chapters VII and VIII;
 - (f) authorise the establishment and the dissolution of Sectoral Ministerial Bodies and other ASEAN institutions; and
 - (g) appoint the Secretary-General of ASEAN, with the rank and status of Minister, who will serve with the confidence and at the pleasure of the Heads of State or Government upon the recommendation of the ASEAN Foreign Ministers Meeting.
3. ASEAN Summit Meetings shall be:
 - (a) held twice annually, and be hosted by the Member State holding the ASEAN Chairmanship; and
 - (b) convened, whenever necessary, as special or ad hoc meetings to be chaired by the Member State holding the ASEAN Chairmanship, at venues to be agreed upon by ASEAN Member States.

**ARTICLE 8
ASEAN COORDINATING COUNCIL**

1. The ASEAN Coordinating Council shall comprise the ASEAN Foreign Ministers and meet at least twice a year.
2. The ASEAN Coordinating Council shall:

- (a) prepare the meetings of the ASEAN Summit;
 - (b) coordinate the implementation of agreements and decisions of the ASEAN Summit;
 - (c) coordinate with the ASEAN Community Councils to enhance policy coherence, efficiency and cooperation among them;
 - (d) coordinate the reports of the ASEAN Community Councils to the ASEAN Summit;
 - (e) consider the annual report of the Secretary-General on the work of ASEAN;
 - (f) consider the report of the Secretary-General on the functions and operations of the ASEAN Secretariat and other relevant bodies;
 - (g) approve the appointment and termination of the Deputy Secretaries-General upon the recommendation of the Secretary-General; and
 - (h) undertake other tasks provided for in this Charter or such other functions as may be assigned by the ASEAN Summit.
3. The ASEAN Coordinating Council shall be supported by the relevant senior officials.

ARTICLE 9 ASEAN COMMUNITY COUNCILS

1. The ASEAN Community Councils shall comprise the ASEAN Political-Security Community Council, ASEAN Economic Community Council, and ASEAN Socio-Cultural Community Council.
2. Each ASEAN Community Council shall have under its purview the relevant ASEAN Sectoral Ministerial Bodies.
3. Each Member State shall designate its national representation for each ASEAN Community Council meeting.
4. In order to realise the objectives of each of the three pillars of the ASEAN Community, each ASEAN Community Council shall:
 - (a) ensure the implementation of the relevant decisions of the ASEAN Summit;
 - (b) coordinate the work of the different sectors under its purview, and on issues which cut across the other Community Councils; and
 - (c) submit reports and recommendations to the ASEAN Summit on matters under its purview.
5. Each ASEAN Community Council shall meet at least twice a year and shall be chaired by the appropriate Minister from the Member State holding the ASEAN Chairmanship.

6. Each ASEAN Community Council shall be supported by the relevant senior officials.

ARTICLE 10 ASEAN SECTORAL MINISTERIAL BODIES

1. ASEAN Sectoral Ministerial Bodies shall:
 - (a) function in accordance with their respective established mandates;
 - (b) implement the agreements and decisions of the ASEAN Summit under their respective purview;
 - (c) strengthen cooperation in their respective fields in support of ASEAN integration and community building; and
 - (d) submit reports and recommendations to their respective Community Councils.
2. Each ASEAN Sectoral Ministerial Body may have under its purview the relevant senior officials and subsidiary bodies to undertake its functions as contained in Annex 1. The Annex may be updated by the Secretary-General of ASEAN upon the recommendation of the Committee of Permanent Representatives without recourse to the provision on Amendments under this Charter.

ARTICLE 11 SECRETARY-GENERAL OF ASEAN AND ASEAN SECRETARIAT

1. The Secretary-General of ASEAN shall be appointed by the ASEAN Summit for a non-renewable term of office of five years, selected from among nationals of the ASEAN Member States based on alphabetical rotation, with due consideration to integrity, capability and professional experience, and gender equality.
2. The Secretary-General shall:
 - (a) carry out the duties and responsibilities of this high office in accordance with the provisions of this Charter and relevant ASEAN instruments, protocols and established practices;
 - (b) facilitate and monitor progress in the implementation of ASEAN agreements and decisions, and submit an annual report on the work of ASEAN to the ASEAN Summit;
 - (c) participate in meetings of the ASEAN Summit, the ASEAN Community Councils, the ASEAN Coordinating Council, and ASEAN Sectoral Ministerial Bodies and other relevant ASEAN meetings;
 - (d) present the views of ASEAN and participate in meetings with external parties in accordance with approved policy guidelines and mandate given to the Secretary-General; and

- (e) recommend the appointment and termination of the Deputy Secretaries-General to the ASEAN Coordinating Council for approval.
3. The Secretary-General shall also be the Chief Administrative Officer of ASEAN.
 4. The Secretary-General shall be assisted by four Deputy Secretaries-General with the rank and status of Deputy Ministers. The Deputy Secretaries-General shall be accountable to the Secretary-General in carrying out their functions.
 5. The four Deputy Secretaries-General shall be of different nationalities from the Secretary-General and shall come from four different ASEAN Member States.
 6. The four Deputy Secretaries-General shall comprise:
 - (a) two Deputy Secretaries-General who will serve a non-renewable term of three years, selected from among nationals of the ASEAN Member States based on alphabetical rotation, with due consideration to integrity, qualifications, competence, experience and gender equality; and
 - (b) two Deputy Secretaries-General who will serve a term of three years, which may be renewed for another three years. These two Deputy Secretaries-General shall be openly recruited based on merit.
 7. The ASEAN Secretariat shall comprise the Secretary-General and such staff as may be required.
 8. The Secretary-General and the staff shall:
 - (a) uphold the highest standards of integrity, efficiency, and competence in the performance of their duties;
 - (b) not seek or receive instructions from any government or external party outside of ASEAN; and
 - (c) refrain from any action which might reflect on their position as ASEAN Secretariat officials responsible only to ASEAN.
 9. Each ASEAN Member State undertakes to respect the exclusively ASEAN character of the responsibilities of the Secretary-General and the staff, and not to seek to influence them in the discharge of their responsibilities.

ARTICLE 12
COMMITTEE OF PERMANENT REPRESENTATIVES
TO ASEAN

1. Each ASEAN Member State shall appoint a Permanent Representative to ASEAN with the rank of Ambassador based in Jakarta.
2. The Permanent Representatives collectively constitute a Committee of Permanent Representatives, which shall:

- (a) support the work of the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies;
- (b) coordinate with ASEAN National Secretariats and other ASEAN Sectoral Ministerial Bodies;
- (c) liaise with the Secretary-General of ASEAN and the ASEAN Secretariat on all subjects relevant to its work;
- (d) facilitate ASEAN cooperation with external partners; and
- (e) perform such other functions as may be determined by the ASEAN Coordinating Council.

ARTICLE 13 ASEAN NATIONAL SECRETARIATS

Each ASEAN Member State shall establish an ASEAN National Secretariat which shall:

- (a) serve as the national focal point;
- (b) be the repository of information on all ASEAN matters at the national level;
- (c) coordinate the implementation of ASEAN decisions at the national level;
- (d) coordinate and support the national preparations of ASEAN meetings;
- (e) promote ASEAN identity and awareness at the national level; and
- (f) contribute to ASEAN community building.

ARTICLE 14 ASEAN HUMAN RIGHTS BODY

1. In conformity with the purposes and principles of the ASEAN Charter relating to the promotion and protection of human rights and fundamental freedoms, ASEAN shall establish an ASEAN human rights body.

2. This ASEAN human rights body shall operate in accordance with the terms of reference to be determined by the ASEAN Foreign Ministers Meeting.

ARTICLE 15 ASEAN FOUNDATION

1. The ASEAN Foundation shall support the Secretary-General of ASEAN and collaborate with the relevant ASEAN bodies to support ASEAN community building by promoting greater awareness of the ASEAN identity, people-to-people interaction, and close collaboration among the business sector, civil society, academia and other stakeholders in ASEAN.

2. The ASEAN Foundation shall be accountable to the Secretary-General of ASEAN, who shall submit its report to the ASEAN Summit through the ASEAN Coordinating Council.

CHAPTER V
ENTITIES ASSOCIATED WITH ASEAN

ARTICLE 16
ENTITIES ASSOCIATED WITH ASEAN

1. ASEAN may engage with entities which support the ASEAN Charter, in particular its purposes and principles. These associated entities are listed in Annex 2.
2. Rules of procedure and criteria for engagement shall be prescribed by the Committee of Permanent Representatives upon the recommendation of the Secretary-General of ASEAN.
3. Annex 2 may be updated by the Secretary-General of ASEAN upon the recommendation of the Committee of Permanent Representatives without recourse to the provision on Amendments under this Charter.

**CHAPTER VI
IMMUNITIES AND PRIVILEGES**

**ARTICLE 17
IMMUNITIES AND PRIVILEGES OF ASEAN**

1. ASEAN shall enjoy in the territories of the Member States such immunities and privileges as are necessary for the fulfilment of its purposes.
2. The immunities and privileges shall be laid down in separate agreements between ASEAN and the host Member State.

**ARTICLE 18
IMMUNITIES AND PRIVILEGES OF THE SECRETARY-GENERAL OF ASEAN AND
STAFF OF THE ASEAN SECRETARIAT**

1. The Secretary-General of ASEAN and staff of the ASEAN Secretariat participating in official ASEAN activities or representing ASEAN in the Member States shall enjoy such immunities and privileges as are necessary for the independent exercise of their functions.
2. The immunities and privileges under this Article shall be laid down in a separate ASEAN agreement.

**ARTICLE 19
IMMUNITIES AND PRIVILEGES OF THE PERMANENT REPRESENTATIVES AND
OFFICIALS ON ASEAN DUTIES**

1. The Permanent Representatives of the Member States to ASEAN and officials of the Member States participating in official ASEAN activities or representing ASEAN in the Member States shall enjoy such immunities and privileges as are necessary for the exercise of their functions.
2. The immunities and privileges of the Permanent Representatives and officials on ASEAN duties shall be governed by the 1961 Vienna Convention on Diplomatic Relations or in accordance with the national law of the ASEAN Member State concerned.

**CHAPTER VII
DECISION-MAKING**

**ARTICLE 20
CONSULTATION AND CONSENSUS**

1. As a basic principle, decision-making in ASEAN shall be based on consultation and consensus.
2. Where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision can be made.
3. Nothing in paragraphs 1 and 2 of this Article shall affect the modes of decision-making as contained in the relevant ASEAN legal instruments.
4. In the case of a serious breach of the Charter or non-compliance, the matter shall be referred to the ASEAN Summit for decision.

**ARTICLE 21
IMPLEMENTATION AND PROCEDURE**

1. Each ASEAN Community Council shall prescribe its own rules of procedure.
2. In the implementation of economic commitments, a formula for flexible participation, including the ASEAN Minus X formula, may be applied where there is a consensus to do so.

**CHAPTER VIII
SETTLEMENT OF DISPUTES**

**ARTICLE 22
GENERAL PRINCIPLES**

1. Member States shall endeavour to resolve peacefully all disputes in a timely manner through dialogue, consultation and negotiation.
2. ASEAN shall maintain and establish dispute settlement mechanisms in all fields of ASEAN cooperation.

**ARTICLE 23
GOOD OFFICES, CONCILIATION AND MEDIATION**

1. Member States which are parties to a dispute may at any time agree to resort to good offices, conciliation or mediation in order to resolve the dispute within an agreed time limit.
2. Parties to the dispute may request the Chairman of ASEAN or the Secretary-General of ASEAN, acting in an ex-officio capacity, to provide good offices, conciliation or mediation.

**ARTICLE 24
DISPUTE SETTLEMENT MECHANISMS IN SPECIFIC INSTRUMENTS**

1. Disputes relating to specific ASEAN instruments shall be settled through the mechanisms and procedures provided for in such instruments.
2. Disputes which do not concern the interpretation or application of any ASEAN instrument shall be resolved peacefully in accordance with the Treaty of Amity and Cooperation in Southeast Asia and its rules of procedure.
3. Where not otherwise specifically provided, disputes which concern the interpretation or application of ASEAN economic agreements shall be settled in accordance with the ASEAN Protocol on Enhanced Dispute Settlement Mechanism.

**ARTICLE 25
ESTABLISHMENT OF DISPUTE SETTLEMENT MECHANISMS**

Where not otherwise specifically provided, appropriate dispute settlement mechanisms, including arbitration, shall be established for disputes which concern the interpretation or application of this Charter and other ASEAN instruments.

**ARTICLE 26
UNRESOLVED DISPUTES**

When a dispute remains unresolved, after the application of the preceding provisions of this Chapter, this dispute shall be referred to the ASEAN Summit, for its decision.

**ARTICLE 27
COMPLIANCE**

1. The Secretary-General of ASEAN, assisted by the ASEAN Secretariat or any other designated ASEAN body, shall monitor the compliance with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism, and submit a report to the ASEAN Summit.

2. Any Member State affected by non-compliance with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism, may refer the matter to the ASEAN Summit for a decision.

ARTICLE 28
UNITED NATIONS CHARTER PROVISIONS AND
OTHER RELEVANT INTERNATIONAL PROCEDURES

Unless otherwise provided for in this Charter, Member States have the right of recourse to the modes of peaceful settlement contained in Article 33(1) of the Charter of the United Nations or any other international legal instruments to which the disputing Member States are parties.

**CHAPTER IX
BUDGET AND FINANCE**

**ARTICLE 29
GENERAL PRINCIPLES**

1. ASEAN shall establish financial rules and procedures in accordance with international standards.
2. ASEAN shall observe sound financial management policies and practices and budgetary discipline.
3. Financial accounts shall be subject to internal and external audits.

**ARTICLE 30
OPERATIONAL BUDGET AND FINANCES
OF THE ASEAN SECRETARIAT**

1. The ASEAN Secretariat shall be provided with the necessary financial resources to perform its functions effectively.
2. The operational budget of the ASEAN Secretariat shall be met by ASEAN Member States through equal annual contributions which shall be remitted in a timely manner.
3. The Secretary-General shall prepare the annual operational budget of the ASEAN Secretariat for approval by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives.
4. The ASEAN Secretariat shall operate in accordance with the financial rules and procedures determined by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives.

**CHAPTER X
ADMINISTRATION AND PROCEDURE**

**ARTICLE 31
CHAIRMAN OF ASEAN**

1. The Chairmanship of ASEAN shall rotate annually, based on the alphabetical order of the English names of Member States.
2. ASEAN shall have, in a calendar year, a single Chairmanship by which the Member State assuming the Chairmanship shall chair:
 - (a) the ASEAN Summit and related summits;
 - (b) the ASEAN Coordinating Council;
 - (c) the three ASEAN Community Councils;

- (d) where appropriate, the relevant ASEAN Sectoral Ministerial Bodies and senior officials; and
- (e) the Committee of Permanent Representatives.

ARTICLE 32
ROLE OF THE CHAIRMAN OF ASEAN

The Member State holding the Chairmanship of ASEAN shall:

- (a) actively promote and enhance the interests and well-being of ASEAN, including efforts to build an ASEAN Community through policy initiatives, coordination, consensus and cooperation;
- (b) ensure the centrality of ASEAN;
- (c) ensure an effective and timely response to urgent issues or crisis situations affecting ASEAN, including providing its good offices and such other arrangements to immediately address these concerns;
- (d) represent ASEAN in strengthening and promoting closer relations with external partners; and
- (e) carry out such other tasks and functions as may be mandated.

ARTICLE 33
DIPLOMATIC PROTOCOL AND PRACTICES

ASEAN and its Member States shall adhere to existing diplomatic protocol and practices in the conduct of all activities relating to ASEAN. Any changes shall be approved by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives.

ARTICLE 34
WORKING LANGUAGE OF ASEAN

The working language of ASEAN shall be English.

**CHAPTER XI
IDENTITY AND SYMBOLS**

**ARTICLE 35
ASEAN IDENTITY**

ASEAN shall promote its common ASEAN identity and a sense of belonging among its peoples in order to achieve its shared destiny, goals and values.

**ARTICLE 36
ASEAN MOTTO**

The ASEAN motto shall be: "*One Vision, One Identity, One Community*"

**ARTICLE 37
ASEAN FLAG**

The ASEAN flag shall be as shown in Annex 3.

**ARTICLE 38
ASEAN EMBLEM**

The ASEAN emblem shall be as shown in Annex 4.

**ARTICLE 39
ASEAN DAY**

The eighth of August shall be observed as ASEAN Day.

**ARTICLE 40
ASEAN ANTHEM**

ASEAN shall have an anthem.

CHAPTER XII

EXTERNAL RELATIONS

ARTICLE 41

CONDUCT OF EXTERNAL RELATIONS

1. ASEAN shall develop friendly relations and mutually beneficial dialogue, cooperation and partnerships with countries and sub-regional, regional and international organisations and institutions.
2. The external relations of ASEAN shall adhere to the purposes and principles set forth in this Charter.
3. ASEAN shall be the primary driving force in regional arrangements that it initiates and maintain its centrality in regional cooperation and community building.
4. In the conduct of external relations of ASEAN, Member States shall, on the basis of unity and solidarity, coordinate and endeavour to develop common positions and pursue joint actions.
5. The strategic policy directions of ASEAN's external relations shall be set by the ASEAN Summit upon the recommendation of the ASEAN Foreign Ministers Meeting.
6. The ASEAN Foreign Ministers Meeting shall ensure consistency and coherence in the conduct of ASEAN's external relations.
7. ASEAN may conclude agreements with countries or sub-regional, regional and international organisations and institutions. The procedures for concluding such agreements shall be prescribed by the ASEAN Coordinating Council in consultation with the ASEAN Community Councils.

ARTICLE 42

DIALOGUE COORDINATOR

1. Member States, acting as Country Coordinators, shall take turns to take overall responsibility in coordinating and promoting the interests of ASEAN in its relations with the relevant Dialogue Partners, regional and international organisations and institutions.
2. In relations with the external partners, the Country Coordinators shall, inter alia:
 - (a) represent ASEAN and enhance relations on the basis of mutual respect and equality, in conformity with ASEAN's principles;
 - (b) co-chair relevant meetings between ASEAN and external partners; and
 - (c) be supported by the relevant ASEAN Committees in Third Countries and International Organisations.

ARTICLE 43
ASEAN COMMITTEES IN THIRD COUNTRIES
AND INTERNATIONAL ORGANISATIONS

1. ASEAN Committees in Third Countries may be established in non-ASEAN countries comprising heads of diplomatic missions of ASEAN Member States. Similar Committees may be established relating to international organisations. Such Committees shall promote ASEAN's interests and identity in the host countries and international organisations.
2. The ASEAN Foreign Ministers Meeting shall determine the rules of procedure of such Committees.

ARTICLE 44
STATUS OF EXTERNAL PARTIES

1. In conducting ASEAN's external relations, the ASEAN Foreign Ministers Meeting may confer on an external party the formal status of Dialogue Partner, Sectoral Dialogue Partner, Development Partner, Special Observer, Guest, or other status that may be established henceforth.
2. External parties may be invited to ASEAN meetings or cooperative activities without being conferred any formal status, in accordance with the rules of procedure.

ARTICLE 45
RELATIONS WITH THE UNITED NATIONS SYSTEM AND
OTHER INTERNATIONAL ORGANISATIONS AND INSTITUTIONS

1. ASEAN may seek an appropriate status with the United Nations system as well as with other sub-regional, regional, international organisations and institutions.
2. The ASEAN Coordinating Council shall decide on the participation of ASEAN in other sub-regional, regional, international organisations and institutions.

ARTICLE 46
ACCREDITATION OF NON-ASEAN MEMBER STATES TO ASEAN

Non-ASEAN Member States and relevant inter-governmental organisations may appoint and accredit Ambassadors to ASEAN. The ASEAN Foreign Ministers Meeting shall decide on such accreditation.

**CHAPTER XIII
GENERAL AND FINAL PROVISIONS**

**ARTICLE 47
SIGNATURE, RATIFICATION, DEPOSITORY AND ENTRY INTO FORCE**

1. This Charter shall be signed by all ASEAN Member States.
2. This Charter shall be subject to ratification by all ASEAN Member States in accordance with their respective internal procedures.
3. Instruments of ratification shall be deposited with the Secretary-General of ASEAN who shall promptly notify all Member States of each deposit.
4. This Charter shall enter into force on the thirtieth day following the date of deposit of the tenth instrument of ratification with the Secretary-General of ASEAN.

**ARTICLE 48
AMENDMENTS**

1. Any Member State may propose amendments to the Charter.
2. Proposed amendments to the Charter shall be submitted by the ASEAN Coordinating Council by consensus to the ASEAN Summit for its decision.
3. Amendments to the Charter agreed to by consensus by the ASEAN Summit shall be ratified by all Member States in accordance with Article 47.
4. An amendment shall enter into force on the thirtieth day following the date of deposit of the last instrument of ratification with the Secretary-General of ASEAN.

**ARTICLE 49
TERMS OF REFERENCE AND RULES OF PROCEDURE**

Unless otherwise provided for in this Charter, the ASEAN Coordinating Council shall determine the terms of reference and rules of procedure and shall ensure their consistency.

**ARTICLE 50
REVIEW**

This Charter may be reviewed five years after its entry into force or as otherwise determined by the ASEAN Summit.

**ARTICLE 51
INTERPRETATION OF THE CHARTER**

1. Upon the request of any Member State, the interpretation of the Charter shall be undertaken by the ASEAN Secretariat in accordance with the rules of procedure determined by the ASEAN Coordinating Council.

2. Any dispute arising from the interpretation of the Charter shall be settled in accordance with the relevant provisions in Chapter VIII.
3. Headings and titles used throughout the Charter shall only be for the purpose of reference.

**ARTICLE 52
LEGAL CONTINUITY**

1. All treaties, conventions, agreements, concords, declarations, protocols and other ASEAN instruments which have been in effect before the entry into force of this Charter shall continue to be valid.
2. In case of inconsistency between the rights and obligations of ASEAN Member States under such instruments and this Charter, the Charter shall prevail.

**ARTICLE 53
ORIGINAL TEXT**

The signed original text of this Charter in English shall be deposited with the Secretary-General of ASEAN, who shall provide a certified copy to each Member State.

**ARTICLE 54
REGISTRATION OF THE ASEAN CHARTER**

This Charter shall be registered by the Secretary-General of ASEAN with the Secretariat of the United Nations, pursuant to Article 102, paragraph 1 of the Charter of the United Nations.

**ARTICLE 55
ASEAN ASSETS**

The assets and funds of the Organisation shall be vested in the name of ASEAN.

Done in Singapore on the Twentieth Day of November in the Year Two Thousand and Seven, in a single original in the English language.

For Brunei Darussalam:

HAJI HASSANAL BOLKIAH
Sultan of Brunei Darussalam

For the Kingdom of Cambodia:

SAMDECH HUN SEN
Prime Minister

For the Republic of Indonesia:

DR. SUSILO BAMBANG YUDHOYONO
President

For the Lao People's Democratic Republic:

BOUASONE BOUPHAVANH
Prime Minister

For Malaysia:

DATO' SERI ABDULLAH AHMAD BADAWI
Prime Minister

For the Union of Myanmar:

GENERAL THEIN SEIN
Prime Minister

For the Republic of the Philippines:

GLORIA MACAPAGAL-ARROYO
President

For the Republic of Singapore:

LEE HSIEN LOONG
Prime Minister

For the Kingdom of Thailand:

GENERAL SURAYUD CHULANONT (RET.)
Prime Minister

For the Socialist Republic of Viet Nam:

NGUYEN TAN DUNG
Prime Minister



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Constitution of the Kingdom of Thailand 2007

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Unofficial translation

CONSTITUTION OF THE KINGDOM OF THAILAND, B.E. 2550 (2007)

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CONSTITUTION OF THE KINGDOM OF THAILAND

SOMDET PHRA PARAMINTHARAMAHA
BHUMIBOL ADULYADEJ
SAYAMMINTHARATHIRAT BOROMMANATTHABOPHIT

Enacted on the 24th Day of August B.E. 2550;
Being the 62 Year of the Present Reign.

May there be virtue. Today is the eleventh day of the waxing moon in the ninth month of the year of the Pig under the lunar calendar, being Friday, the twenty-fourth day of August under the solar calendar, in the 2550th year of the Buddhist Era.

Phrabat Somdet Phra Paramintharamaha Bhumibol Adulyadej Mahitalathibet Ramathibodi Chakkri Narubodin Sayammintharathirat Borommanatthabophit is graciously pleased to proclaim that the President of the National Legislative Assembly addresses royalty that the democratic regime of government with the King as Head of State has been evolved in Thailand for more than seventy five years and, through this period of time, the Constitutions had been promulgated, repealed and amended for the compliance with the situation of the nation and the changing circumstances and that the Constituent Assembly and the Constitution Drafting Commission have been established by the provisions of the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 so as to prepare the new Constitution for the compatibility of the administration of State affairs in the forthcoming period with due regard to opinions of the public at all steps through the extensive public consultation and all invaluable opinions have been introduced incessantly into drafting process and to the consideration of motions thereon.

This prepared draft Constitution contains the significant principles in maintaining mutual interest of the Thai people in securing of independence and security of the nation, upholding all religions, revering the King as the Head of State and mental representation of the nation, upholding the democratic regime of government with the King as Head of State for the administration of State affairs, rendering the crystallised promotion and protection of rights and liberties of the people, strengthening role and participation of the public in the administration of State affairs and in the examination of the exercise of State power, determining the mechanism for efficiently

balancing of powers of political institutions both the legislative and the executive in accordance with the parliamentary regime and strengthening the Court and other independent organisations to perform their duties honestly and fairly.

At the completion of drafting process, the Constituent Assembly had published and disseminated the draft Constitution to the public extensively for acknowledgement and then organised the referendum for public approval thereto. The referendum result has shown that the majority of the people having the right to vote resolved approval to the draft Constitution. The President of the National Legislative Assembly then presents the draft Constitution to the King for His Royal signature to promulgate it as the Constitution of the Kingdom of Thailand and the King is graciously pleased in so doing for the compliance with public opinion.

Be it, therefore, commanded by the King that the Constitution of the Kingdom of Thailand be promulgated to replace, as from the date of its promulgation, the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 promulgated on 1st Day of October B.E. 2549.

May the Thai people unite in observing, protecting and upholding the Constitution of the Kingdom of Thailand in order to maintain the democratic regime of government and the sovereign power derived from the Thai people, and to bring about happiness, prosperity and dignity to His Majesty's subjects throughout the Kingdom according to the will of His Majesty in every respect.

CHAPTER I **General Provisions**

Section 1. Thailand is one and indivisible Kingdom.

Section 2. Thailand adopts a democratic regime of government with the King as Head of State.

Section 3. The sovereign power belongs to the Thai people. The King as Head of State shall exercise such power through the National Assembly, the Council of Ministers and the Courts in accordance with the provisions of this Constitution.

The performance of duties of the National Assembly, the Council of Ministers, the Courts, the Constitutional organisations and State agencies shall be in accordance with the rule of laws.

Section 4. The human dignity, right, liberty and equality of the people shall be protected.

Section 5. The Thai people, irrespective of their origins, sexes or religions, shall enjoy equal protection under this Constitution.

Section 6. The Constitution is the supreme law of State. The provisions of any law, rule or regulation, which are contrary to or inconsistent with this Constitution, shall be unenforceable.

Section 7. Whenever no provision under this Constitution is applicable to any case, it shall be decided in accordance with the constitutional convention in the democratic regime of government with the King as Head of State.

CHAPTER II **The King**

Section 8. The King shall be enthroned in a position of revered worship and shall not be violated.

No person shall expose the King to any sort of accusation or action.

Section 9. The King is a Buddhist and Upholder of religions.

Section 10. The King holds the position of Head of the Thai Armed Forces.

Section 11. The King has the prerogative to create titles and confer decorations.

Section 12. The King selects and appoints qualified persons to be the President of the Privy Council and not more than eighteen Privy Councilors to constitute the Privy Council.

The Privy Council has the duty to render such advice to the King on all matters pertaining to His functions as He may consult, and has other duties as prescribed in this Constitution.

Section 13. The selection, appointment or removal of Privy Councilors shall be at the King's pleasure.

The President of the National Assembly shall countersign the Royal Command appointing or removing the President of the Privy Council.

The President of the Privy Council shall countersign the Royal Command appointing or removing other Privy Councilors.

Section 14. A Privy Councilor shall not be a member of the House of Representatives, senator, Election Commissioner, Ombudsman, a member of the National Human Rights Commission,

Constitutional Court judge, Administrative Court judge, a member of the National Counter Corruption Commission, a member of the State Audit Commission, government official holding permanent position or receiving a salary, official of State enterprise, other State official or member or official of political party, and must not manifest loyalty to any political party.

Section 15. Before taking office, a Privy Councilor shall make a solemn declaration before the King in the following words:

"I, (name of the declarer), do solemnly declare that I will be loyal to His Majesty the King and will faithfully perform my duties in the interests of the State and the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Section 16. A Privy Councilor vacates office upon death, resignation or removal by Royal Command.

Section 17. The appointment and removal of officials of the Royal Household and of the Royal Chief Aide-de-Camp shall be at the King's pleasure.

Section 18. Whenever the King is absent from the Kingdom or unable to perform His functions for any reason whatsoever, the King may appoint a person as Regent. In this regard, the President of the National Assembly shall countersign the Royal Command therefor.

Section 19. In the case where the King does not appoint the Regent under section 18, or the King is unable to appoint the Regent owing to He is not being sui juris or any other reason whatsoever, the Privy Council shall submit the name of a person suitable to hold the office of the Regent to the National Assembly for approval.

Upon approval of the National Assembly, the President of the National Assembly shall make an announcement, in the name of the King, to appoint such person as Regent.

During the expiration of the term of the House of Representatives or the dissolution thereof, the Senate shall act as the National Assembly in giving an approval under paragraph one.

Section 20. While there is no Regent under section 18 or section 19, the President of the Privy Council shall be Regent pro tempore.

In the case where the Regent appointed under section 18 or section 19 is unable to perform his duties, the President of the Privy Council shall act as Regent pro tempore.

While being the Regent under paragraph one or acting as the Regent under paragraph two, the President of the Privy Council shall not perform his duties as President of the Privy Council. In such case, the Privy Council shall select a Privy Councilor to act as President of the Privy Council pro tempore.

Section 21. Before taking office, the Regent appointed under section 18 or section 19 shall make a solemn declaration before the National Assembly in the following words:

"I, (name of the declarer), do solemnly declare that I will be loyal to His Majesty the King (name of the King) and will faithfully perform my duties in the interests of the State and the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

During the expiration of the term of the House of Representatives or the dissolution thereof, the Senate shall act as the National Assembly under this section.

Section 22. Subject to section 23, the succession to the Throne shall be in accordance with the Palace Law on Succession, B.E. 2467.

The Amendment of the Palace Law on Succession, B.E. 2467 shall be the prerogative of the King. At the initiative of the King, the Privy Council shall draft the Palace Law Amendment and shall present it to the King for His consideration. When the King has already approved the draft Palace Law amendment and put His signature thereto, the President of the Privy Council shall notify the President of the National Assembly for informing the National Assembly. The President of the National Assembly shall countersign the Royal Command. The Palace Law Amendment shall come into force upon its publication in the Government Gazette.

During the expiration of the term of the House of Representatives or the dissolution thereof, the Senate shall act as the National Assembly in acknowledging the matter under paragraph two.

Section 23. In the case where the Throne becomes vacant and the King has already appointed His Heir to the Throne under the Palace Law on Succession, B.E. 2467, the Council of Ministers shall notify the President of the National Assembly. The President of the National Assembly shall then convoke the National Assembly for the acknowledgement thereof and shall invite such Heir to ascend the Throne and proclaim such Heir King.

In the case where the Throne becomes vacant and the King has not appointed His Heir under paragraph one, the Privy Council shall submit the name of the Successor to the Throne under section 22 to the Council of Ministers for further submission to the National Assembly for approval. For this purpose, the name of a Princess may be submitted. Upon the approval of the National Assembly, the President of the National Assembly shall invite such Successor to ascend the Throne and proclaim such Successor King.

During the expiration of the term of the House of Representatives or the dissolution thereof, the Senate shall act as the National Assembly in acknowledging the matter under paragraph one or in giving an approval under paragraph two.

Section 24. Pending the proclamation of the name of the Heir or the Successor to the Throne under section 23, the President of the Privy Council shall be Regent pro tempore. In the case where the Throne becomes vacant while the Regent has been appointed under section 18 or section 19 or while the President of the Privy Council is acting as the Regent under section 20 paragraph one, such Regent, as the case may be, shall continue to be the Regent until the proclamation of the name of the Heir or the Successor to ascend the Throne as King.

In the case where the Regent who has been appointed and continues to be the Regent under paragraph one is unable to perform his duties, the President of the Privy Council shall act as Regent pro tempore.

In the case where the President of the Privy Council is the Regent under paragraph one or acts as Regent pro tempore under paragraph two, the provisions of section 20 paragraph three shall apply.

Section 25. In the case where the Privy Council has to perform its duties under section 19 or section 23 paragraph two, or the President of the Privy Council has to perform his duties under section 20 paragraph one or paragraph two or section 24 paragraph two, and there is, during that period, no President of the Privy Council or the President of the Privy Council is unable to perform his duties, the remaining Privy Councilors shall elect one among themselves to act as President of the Privy Council or to perform the duties under section 20 paragraph one or paragraph two or section 24 paragraph three, as the case may be.

CHAPTER III Rights and Liberties of Thai People

Part 1 General Provisions

Section 26. In exercising powers of all State authorities, regard shall be had to human dignity, rights and liberties in accordance with the provisions of this Constitution.

Section 27. Rights and liberties recognised by this Constitution explicitly, by implication or by decisions of the Constitutional Court shall be protected and directly binding on the National Assembly, the Council of Ministers, the Courts, the Constitutional organisations and all State organs in enacting, applying and interpreting laws.

Section 28. A person can invoke human dignity or exercise his rights and liberties in so far as it is not in violation of rights and liberties of other persons or contrary to this Constitution or good morals

A person whose rights and liberties recognised by this Constitution are violated can invoke the provisions of this Constitution to bring a lawsuit or to defend himself in the Courts.

A person may bring a lawsuit against the State directly so as to act in compliance with the provisions in this Chapter. If there is a law enforcing the exercise of any right and liberty as recognised by this Constitution, the exercising of that right and liberty shall be in accordance with such law.

A person shall have the right to be enhanced, supported and assisted by the State in exercising of right under this Chapter.

Section 29. The restriction of such rights and liberties as recognised by the Constitution shall not be imposed on a person except by virtue of the law specifically enacted for the purpose determined by this Constitution and only to the extent of necessity and provided that it shall not affect the essential substances of such rights and liberties.

The law under paragraph one shall be of general application and shall not be intended to apply to any particular case or person; provided that the provision of the Constitution authorising its enactment shall also be mentioned therein.

The provisions of paragraph one and paragraph two shall apply mutatis mutandis to rules or regulations issued by virtue of the law.

Part 2 Equality

Section 30. All persons are equal before the law and shall enjoy equal protection under the law.

Men and women shall enjoy equal rights.

Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, disability, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view, shall not be permitted.

Measures determined by the State in order to eliminate obstacle to or to promote persons' ability to exercise their rights and liberties as other persons shall not be deemed as unjust discrimination under paragraph three.

Section 31. Members of the armed forces or the police force, Government officials, other officials of the State and officers or employees of State agencies shall enjoy the same rights and liberties under the Constitution as those enjoyed by other persons, unless such enjoyment is restricted by law or rule issued by virtue of the law specifically enacted in regard to politics, efficiency, disciplines or ethics.

Part 3 Rights and Liberties of an Individual

Section 32. A person shall enjoy the right and liberty in his life and person.

A torture, brutal act or punishment by a cruel or inhumane means shall not be made; provided that punishment under judgments of the Courts or by virtue of the law shall not be deemed the punishment by a cruel or inhumane means under this paragraph.

Arrest and detention of person shall not be made except by order or warrant issued by the Courts or there is a ground as provided by the law.

Search of person or act affecting the right and liberty under paragraph one shall not be made except by virtue of the law.

In the case where there is an act affecting right and liberty under paragraph one, the injured person, public prosecutor or any person acting for the benefit of the injured person shall have the right to bring lawsuit to the Courts so as to stop or nullify such act and to impose appropriate measure to alleviate damage occurred therefrom.

Section 33. A person shall enjoy the liberty of dwelling.

A person is protected for his peaceful habitation in and for possession of his dwelling.

The entry into a dwelling without consent of its possessor or the search of a dwelling or private place shall not be made except by order or warrant issued by the Courts or there is a ground as provided virtue of the law.

Section 34. A person shall enjoy the liberty of travelling and the liberty of making the choice of his residence within the Kingdom.

The restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for maintaining the security of the State, public order, public welfare, town and country planning or welfare of youth.

No person of Thai nationality shall be deported or prohibited from entering the Kingdom.

Section 35. A person's family rights, dignity, reputation and the right of privacy shall be protected.

The assertion or circulation of a statement or picture in any manner whatsoever to the public, which violates or affects a person's family rights, dignity, reputation or the right of privacy, shall not be made except for the case which is beneficial to the public.

Personal data of a person shall be protected from the seeking of unlawful benefit as provided by the law.

Section 36. A person shall enjoy the liberty of communication by lawful means.

The censorship, detention or disclosure of communication between persons including any other act of disclosing a statement in the communication between persons shall not be made except by virtue of the law specifically enacted for security of the State or maintaining public order or good morals.

Section 37. A person shall enjoy full liberty to profess a religion, a religious denomination or creed, and observe religious precepts or commandments or exercise a form of worship in accordance with his belief; provided that it is not contrary to his civic duties, public order or good morals.

In exercising the liberty referred to in paragraph one, a person shall be protected from any act of the State, which is derogatory to his rights or detrimental to his due benefits on the grounds of professing a religion, a religious denomination or creed or observing religious precepts or commandments or exercising a form of worship in accordance with his different belief from that of others.

Section 38. Forced labour shall not be imposed except by virtue of the law specifically enacted for the purpose of averting imminent public calamity or by virtue of the law which provides for its imposition during the time when the country is in a state of war or armed conflict, or when a state of emergency or martial law is declared.

Part 4 Rights in Judicial Process

Section 39. No person shall be inflicted with a criminal punishment unless he has committed an act which the law in force at the time of commission provides to be an offence and imposes a punishment therefor, and the punishment to be inflicted on such person shall not be heavier than that provided by the law in force at the time of the commission of the offence.

The suspect or the accused in a criminal case shall be presumed innocent.

Before the passing of a final judgement convicting a person of having committed an offence, such person shall not be treated as a convict.

Section 40. A person shall have the rights in judicial process as follows:

- (1) right to access to judicial process easily, comfortably, quickly and indiscriminately;
- (2) fundamental rights in judicial process composing of, at least, right to public trial; right to be informed of and to examine into facts and related documents adequately; right to present facts, defences and evidences in the case; right to object the partial judges; right to be considered by the full bench of judges; and right to be informed of justifications given in the judgement or order;
- (3) right to correct, prompt and fair trial;
- (4) an injured person, alleged offender, plaintiff, defendant or the accused, interested parties, interested person or witness to the case shall have the right to appropriate treatment in judicial process including the right to be investigated correctly, promptly and fairly and not to testify against himself;
- (5) an injured person, alleged offender, the accused and witness to a criminal case shall have the right to necessary and appropriate protection and assistance from State. The gratuity, compensation and expenses to be paid shall be provided by the law;
- (6) every child, youth, woman or aging or disabled person shall have the right to appropriate protection in judicial process and shall have the right to appropriate treatment in the case related to sexual offences;
- (7) an alleged offender and the accused in criminal case shall have the right to correct, prompt and fair investigation or trial with an adequate opportunity in defending his case, the right to examine or to be informed of evidence, right to defend himself through counsel and the right to bail;
- (8) a person shall, in civil action, have the right to appropriate legal assistance from State.

Part 5 Property Right

Section 41. The property right of a person is protected. The extent and the restriction of such right shall be in accordance with the provisions of the law.

The succession is protected. The right of succession of a person shall be in accordance with the provisions of the law.

Section 42. The expropriation of immovable property shall not be made except by virtue of the law specifically enacted for the purpose of public utilities, necessary national defence, exploitation of national resources, town and country planning, promotion and preservation of the quality of the environment, agricultural or industrial development, land reform, conservation of ancient monument and historic sites, or other public interests, and fair compensation shall be paid in due course to the owner thereof as well as to all persons having the rights thereto, who suffer loss by such expropriation, as provided by law.

The amount of compensation under paragraph one shall be fairly assessed with due regard to the normal market price, mode of acquisition, condition and location of the immovable property, loss of the person whose property or right thereto is expropriated, and benefits that the State and the person whose property or right thereto is expropriated may receive from the use of the expropriated property.

The expropriation of immovable property law shall specify the purpose of the expropriation and shall clearly determine the period of time to fulfil that purpose. If the immovable property is not used to fulfil such purpose within such period of time, it shall be returned to the original owner or his heir.

The return of immovable property to the original owner or his heir under paragraph three and the claim of compensation paid shall be in accordance with the provisions of the law.

Part 6 Rights and Liberties in Occupation

Section 43. A person shall enjoy the liberties to engage in an enterprise or an occupation and to undertake a fair and free competition.

The restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for maintaining the security and safety of State or economy of the country, protecting the public in regard to public utilities, maintaining public order and good morals, regulating the engagement in an occupation, consumer protection, town and country planning, preserving natural resources or the environment, public welfare, preventing monopoly, or eliminating unfair competition.

Section 44. A person shall enjoy the right to work safety and welfare and to living security irrespective of whether he is employed or unemployed in accordance with the provisions of the law.

Part 7 Freedom of Expression of Individual and the Press

Section 45. A person shall enjoy the liberty to express his opinion, make speech, write, print, publicise, and make expression by other means.

The restriction on liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for the purpose of maintaining the security of State, protecting the rights, liberties, dignity, reputation, family or privacy rights of other person, maintaining public order or good morals or preventing or halting the deterioration of the mind or health of the public.

The closure of a newspaper or other mass media business in deprivation of the liberty under this section shall not be made.

The prevention of a newspaper or other mass media from printing news or expressing their opinions, wholly or partly, or interference in any manner whatsoever in deprivation of the liberty under this section shall not be made except by the provisions of the law enacted in accordance with the provisions of paragraph two.

The censorship by a competent official of news or articles before their publication in a newspaper or other mass media shall not be made except during the time when the country is in a state of war; provided that it must be made by virtue of the law enacted under the provisions of paragraph two.

The owner of a newspaper or other mass media business shall be a Thai national.

No grant of money or other properties shall be made by State as subsidies to private newspapers or other mass media.

Section 46. Officials or employees in a private sector undertaking newspaper, radio or television broadcasting businesses or other mass media business shall enjoy their liberties to present news and express their opinions under the constitutional restrictions without mandate of any government agency, State agency, State enterprise or the owner of such businesses; provided that it is not contrary to their professional ethics, and shall enjoy the

right to form organisation with balancing mechanism among professional organisations so as to protect rights, liberties and fairness.

Government officials, officials or employees of a government agency, State agency or State enterprise engaging in the radio or television broadcasting business or other mass media business enjoy the same liberties as those enjoyed by officials or employees under paragraph one.

Any act done by a person holding political position, State official or the owner of business with a view to obstruct or interfere the presentation of news or an expression of opinions in public issue of the person under paragraph one or paragraph two, irrespective of whether such act has been done directly or indirectly, shall be deemed as wilfully misuse of power and take no effect except where such act has been done through the enforcement of law or professional ethics.

Section 47. Transmission frequencies for radio or television broadcasting and telecommunication are national communication resources for public interest.

There shall be an independent regulatory body having the duty to distribute the frequencies under paragraph one and supervise radio or television broadcasting and telecommunication businesses as provided by the law.

In carrying out the act under paragraph two, regard shall be had to utmost public benefit at national and local levels in education, culture, State security, other public interests and fair and free competition, including public participation in providing public mass media.

The supervision of the businesses under paragraph two shall constitute measures for the prevention of merger, acquisition or control among the mass media or by other persons which may deteriorate liberties to information of the public or may hinder the public from variety of information.

Section 48. No person holding a political position shall be the owner of, or hold shares in, newspaper, radio or television broadcasting or telecommunication business, irrespective of whether he so commits in his name, or through his proxy or nominee, or by other direct or indirect means which enable him to administer such business as if he is the owner of, or hold shares in, such business.

Part 8 Rights and Liberties in Education

Section 49. A person shall enjoy an equal right to receive education for the duration of not less than twelve years which shall be provided by State thoroughly, up to the quality, and without charge.

The indigent, disabled or handicapped, or destitute person shall enjoy an equal right under paragraph one and shall be supported by State to receive equal education with other persons.

The education and training provided by professional or private organisation, alternative education of the public, self-directed learning and lifelong learning shall get appropriate protection and promotion from State.

Section 50. A person shall enjoy an academic freedom.

Education and training, learning and teaching, research and disseminating of research according to academic principles shall be protected; provided that it is not contrary to his civic duties or good morals.

Part 9 Rights to Public Health Services and Welfare

Section 51. A person shall enjoy an equal right to receive standard public health service, and the indigent shall have the right to receive free medical treatment from State's infirmary.

The public health service by the State shall be provided thoroughly and efficiently.

The State shall promptly prevent and eradicate harmful contagious diseases for the public without charge.

Section 52. Children and youth shall enjoy the right to survive and to receive physical, mental and intellectual development potentially in suitable environment with due regard to their participation.

Children, youth, women and family members shall have the right to be protected by State against violence and unfair treatment and shall have the right to medical treatment or rehabilitation upon the occurrence thereof.

An interference and imposition of rights of children, youth and family members shall not be made except by virtue of the law specially enacted for the maintenance of family institution or utmost benefit of such person.

Children and youth with no guardian shall have the right to receive appropriate care and education from the State.

Section 53. A person who is over sixty years of age and has insufficient income for living shall have the right to welfare, public facilities and appropriate aids from State.

Section 54. The disabled or handicapped shall have the right to get access to, and to utilise of, welfare, public facilities and appropriate aids from State.

A person of unsound mind shall have the right to appropriate aids from State.

Section 55. A person who is homeless and has insufficient income for living shall have the right to appropriate aids from State.

Part 10 Rights to Information and Petition

Section 56. A person shall have the right to receive and to get access to public information in possession of a government agency, State agency, State enterprise or local government organisation, unless the disclosure of such information shall affect the security of State, public safety, interests of other persons which shall be protected, or personal data of other persons as provided by law.

Section 57. A person shall have the right to receive information, explanation and justification from a government agency, State agency, State enterprise or local government organisation before permission is given for the operation of any project or activity which may affect the quality of the environment, health and sanitary conditions, the quality of life or any other material interest concerning him or a local community and shall have the right to express his opinions on such matters to the concerned agencies for their consideration.

The State shall organise public consultation thoroughly before the making of social, economic, politic and cultural development plan, the expropriation of immovable property, the making of town and country planning, the determination of land use, and the enactment of rule which may affect material interest of the public.

Section 58. A person shall have the right to participate in the decision-making process of State official in the performance of administrative functions which affect or may affect his rights and liberties, as provided by law.

Section 59. A person shall have the right to present a petition and to be informed of the result of its consideration within the appropriate time.

Section 60. A person shall have the right to sue a government agency, State agency, State enterprise, local government organisation or other State authority which is a juristic person to be liable for an act or omission done by its government official, official or employee.

Section 61. The right of a person who is a consumer to receive actual information shall be protected and a consumer shall have the right to make a complaint for remedy of damage and to amalgamate with another so as to protect consumers' rights.

There shall be an autonomous consumer protection organisation which is not a State agency consisting of representatives of consumers for giving opinions to a State agency on the enactment and issuance of laws, rules and regulations and on the determination of various measures for consumer protection, and for examining and making a report on any act or omission related to consumer protection. The State shall provide financial support for an operation of such autonomous organisation.

Section 62. A person shall have the right to follow up, and to request for examination of, the performance of duties of a person holding political position, State agency and State officials.

A person who provides information related to the performance of duties of a person holding political position, State agency and State officials to the organisation examining the misuse of State power or State agency shall be protected.

Part 11 Liberties to Assembly and Association

Section 63. A person shall enjoy the liberty to assemble peacefully and without arms.

The restriction on such liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for the purpose of public assembling and for securing public convenience in the use of public places or for the maintenance of public order during the time when the country is in a state of war, or when a state of emergency or martial law is declared.

Section 64. A person shall enjoy the liberty to unite and form an association, a union, a league, a co-operative, a farmer group, a private organisation, a non-governmental organisation or any other group.

The government officials and State officials shall enjoy the liberty to association as other individual if it is not affect efficiency of State administration and the continuation in providing public services as provided by law.

The restriction on such liberty under paragraph one and paragraph two shall not be imposed except by virtue of the law specifically enacted for preventing common interests of the public, maintaining public order or good morals or preventing economic monopoly.

Section 65. A person shall enjoy the liberty to unite and form a political party for the purpose of making political will of the people and carrying out political activities in fulfilment of such will through the democratic regime of government with the King as Head of State as provided in this Constitution.

The internal organisation, management and regulations of a political party shall be consistent with the fundamental principles of the democratic regime of government with the King as Head of State.

Members of the House of Representatives who are members of a political party, members of the Executive Committee of a political party, or members of a political party, of not less than the number prescribed by the organic law on political parties shall, if of the opinion that their political party's resolution or regulation on any matter is contrary to the status and performance of duties of a member of the House of Representatives under this Constitution or contrary to or inconsistent with the fundamental principles of the democratic regime of government with the King as Head of State, have the right to refer it to the Constitutional Court for decision thereon.

In the case where the Constitutional Court decides that such resolution or regulation is contrary to or inconsistent with the fundamental principles of the democratic regime of government with the King as Head of State, such resolution or regulation shall lapse.

Part 12 Community Rights

Section 66. Persons assembling as to be a community, local community or traditional local community shall have the right to conserve or restore their customs, local wisdom, arts or good culture of their community and of the nation and participate in the management, maintenance and exploitation of natural resources, the environment and biological diversity in a balanced and sustainable fashion.

Section 67. The right of a person to participate with State and communities in the preservation and exploitation of natural resources and biological diversity and in the protection, promotion and conservation of the quality of the environment for usual and consistent survival in the environment which is not hazardous to his health and sanitary condition, welfare or quality of life, shall be protected appropriately.

Any project or activity which may seriously affect the quality of the environment, natural resources and biological diversity shall not be permitted, unless its impacts on the quality of the environment and on health of the people in the communities have been studied and evaluated and consultation with the public and interested parties have been organised, and opinions of an independent organisation, consisting of representatives from private environmental and health organisations and from higher education institutions providing studies in the field of environment, natural resources or health, have been obtained prior to the operation of such project or activity.

The right of a community to sue a government agency, State agency, State enterprise, local government organisation or other State authority which is a juristic person to perform the duties under this section shall be protected.

Part 13 Right to Protect the Constitution

Section 68. No person shall exercise the rights and liberties prescribed in the Constitution to overthrow the democratic regime of government with the King as Head of State under this Constitution or to acquire the power to rule the country by any means which is not in accordance with the modes provided in this Constitution.

In the case where a person or a political party has committed the act under paragraph one, the person knowing of such act shall have the right to request the Prosecutor General to investigate its facts and submit a motion to the Constitutional Court for ordering cessation of such act without, however, prejudice to the institution of a criminal action against such person.

In the case where the Constitutional Court makes a decision compelling the political party to cease to commit the act under paragraph two, the Constitutional Court may order the dissolution of such political party.

In the case where the Constitutional Court makes the dissolution order under paragraph three, the right to vote of the President and the executive board of directors of the dissolved political party at the time the act under paragraph one has been committed shall be suspended for the period of five years as from the date the Constitutional Court makes such order.

Section 69. A person shall have the right to resist peacefully an act committed for the acquisition of the power to rule the country by a means which is not in accordance with the modes provided in this Constitution.

CHAPTER IV Duties of the Thai People

Section 70. Every person shall have a duty to uphold the nation, religions, the King and the democratic regime of government with the King as Head of State under this Constitution.

Section 71. Every person shall have a duty to defend the country, to protect benefits of the nation and to obey the law.

Section 72. Every person shall have a duty to exercise his right to vote at an election.

The person who exercises his right to vote at an election or fails to attend an election for voting without notifying the reasonable cause of such failure shall be entitled to or lose the right as provided by law.

The notification of the cause of failure to attend an election and the provision of facilities for attendance thereat shall be in accordance with the provisions of the law.

Section 73. Every person shall have a duty to serve in armed forces, render assistance in providing public calamity prevention and rehabilitation, pay taxes, render assistance to the official service, receive education and training, protect, preserve and pass on the national arts and culture and local wisdom and conserve natural resources and the environment as provided by law.

Section 74. A Government official, official or employee of a government agency, State agency, State enterprise or local government organisation and other State official shall have a duty to act in compliance with the law in order to protect public interests, and provide convenience and services to the public according to the good public governance principle.

In performing the duty and other act relating to the public, the person under paragraph one shall be politically impartial.

In the case where the person under paragraph one neglect or fail to perform the duties under paragraph one or paragraph two, the interested person shall have the right to request the person under paragraph one or his superior to explain reason and request them to act in compliance with the provisions of paragraph one or paragraph two.

CHAPTER V Directive Principles of Fundamental State Policies

Part 1 General Provisions

Section 75. The provisions of this Chapter are intended to serve as directive principles for legislating and determining policies for the administration of State affairs.

In stating its policies to the National Assembly, the Council of Ministers which will assume the administration of State affairs shall clearly state to the National Assembly the activities and their implementation period intended to be carried out for the administration of State affairs in implementation of the directive principles of fundamental State policies provided in this Chapter and shall prepare and submit to the National Assembly an annual report on the result of the implementation, including problems and obstacles encountered.

Section 76. The Council of Ministers shall prepare a plan for the administration of State affairs stating measures and their details which shall be done for the administration of State affairs in each year and such plan shall be in compliance with the directive principles of fundamental State policies.

For the purpose of State administration, the Council of Ministers shall have the plan to enact laws necessarily to the administration of State affairs.

Part 2 National Security Policy

Section 77. The State shall protect and uphold the institution of kingship and the independence and integrity of its jurisdictions and shall arrange for the maintenance of necessary and adequate armed forces and ordnances as well as up-to-date technology for the protection and upholding of its independence, sovereignty, security of State, institution of kingship, national interests and the democratic regime of government with the King as Head of State, and for national development.

Part 3 State Administration Policy

Section 78. The State shall act in compliance with the State administration policy as follows:

(1) carrying out the administration of State affairs with a view to establish sustainable development of social, economic and security of the nation and strengthening an implementation of the sufficient economy philosophy with due regard to general benefits of the nation materially;

(2) making powers, duties and responsibilities among the central administration, provincial administration and local administration to be clear and suitable for national development, and supporting a Changwat to set up its development plan and providing financial support for the implementation of such plan for the benefit of the public within that area;

(3) delegating powers to local governments for the purpose of autonomy and self-determination of local affairs, enhancing local governments to participate and act in compliance with the directive principles of fundamental State policies, develop local economics, public utilities and assistances and information infrastructure in the localities thoroughly and equally throughout the country as well as developing into a large sized local government organisation a Changwat ready for such purpose with due regard to the will of the people in that Changwat;

(4) developing working system of public sector with due regard to the development of quality, merit

and ethics of State officials along the line with the improvement of working processes for the efficiency of State administration, and encouraging State agencies to apply the good public governance principle in the performance of their official duties;

(5) organising officials work and other works of State with a view to enhance quick, efficiency, transparency and accountability in making or providing public services and with due regard to public consultation;

(6) preparing a legal agency providing legal opinion related to the performance of the State under the laws and examining draft laws for the State to perform its duties autonomously so as to ensure that the administration of State affairs is in accordance with the rule of law;

(7) preparing a political development plan and establishing autonomously political development council to monitor an implementation of the plan;

(8) ensuring the government officials and State officials to have appropriate rights and benefits.

Part 4

Religions, Social, Public Health, Education and Culture Policies

Section 79. The State shall patronise and protect Buddhism as the religion observed by most Thais for a long period of time and other religions, promote good understanding and harmony among followers of all religions as well as encourage the application of religious principles to create virtue and develop the quality of life.

Section 80. The State shall act in compliance with the social, public health, education and culture policies as follows:

(1) protecting and developing child and youth, promoting childhood nourishment and education, promoting the equality between women and men, creating, reinforcing and developing family integrity and the strength of communities, as well as providing aids and welfare to the elderly, the indigent, the disabled or handicapped and the destitute person for their better quality of life and ability to become self-reliance;

(2) promoting, supporting and developing health system with due regard to the health promotion for sustainable health conditions of the public, providing and promoting standard and efficient public health service thoroughly and encouraging private sector and the communities in participating in health promotion and providing public health service, and the person having duty to provide such service whose act meets the requirements of professional and ethical standards shall be protected as provided by law;

(3) developing quality and standard in providing education at all levels and forms to be in line with economic and social changes, preparing the national education plan and the law for national education development, providing development of quality of teachers and educational personnel to meet the current changing in the present day world, and instilling awareness of being Thais, disciplines, common interests and a democratic regime of government with the King as Head of the State to learners;

(4) promoting and supporting the delegation of powers to the local governments, communities, religious organisations and private sector with a view to provide and participate in educational management for the development of educational quality standard equally and to be in line with the fundamental State policy;

(5) encouraging and supporting the making of researches in various disciplines of arts and sciences and disseminating all research results funded by the State;

(6) encouraging and instilling the right awareness of national unity and learning, and instilling and making known of arts, tradition and culture of the nation as well as good value and local wisdom.

Part 5 Law and Justice Policies

Section 81. The State shall act in compliance with the law and justice policies as follows:

(1) ensuring the compliance with, and the enforcement of, the law to be correct, quick, fair and thorough, enhancing the provision of legal assistances and knowledge to the public, providing efficient public service system and other State affairs in relation to the administration of justice with due regard to the participation of the public and the profession organisations, and providing legal aids service to the public;

(2) protecting rights and liberties of individual from any violation irrespective of whether such violation has been done by a State official or other persons, and providing justice to the public on an equal basis;

(3) preparing the law establishing the autonomous law reform organisation for the purpose of reforming and developing laws of the nation and revising the existing laws for the compliance with the Constitution, with due regard to opinions given by persons affected by such laws;

(4) preparing the law establishing the autonomous organisation for reforming the judicial process for improving and developing the performance of all agencies concerned with the judicial process;

(5) providing support for the operation of private organisations rendering legal assistance to the public, especially the people who suffers from domestic violence.

Part 6 Foreign Policy

Section 82. The State shall promote friendly relations with other countries and adopt the principle of non-discrimination and shall comply with human rights conventions in which Thailand is a party thereto as well as international obligations concluded with other countries and international organisations.

The State shall promote trade, investment and tourism with other countries and shall render protection and guardian to benefits of Thais living abroad.

Part 7 Economic Policy

Section 83. The State shall encourage and support an implementation of the sufficient economy philosophy.

Section 84. The State shall act in compliance with the economic policy as follows:

(1) encouraging a free and fair economic system through market mechanism, ensuring the

development of economics in sustainable fashion by repealing and refraining from the enactment of laws, rules and regulations controlling business which do not correspond with the economic necessity, and refraining from the engagement in an enterprise in competition with the private sector unless it is necessary for the purpose of maintaining the security of State, preserving common interests, or providing public utilities;

(2) encouraging entrepreneurs to use merit, ethics and corporate governance principle in carrying out of their businesses;

(3) preserving monetary and financial disciplines in order to strengthen balance and security of economic and social of the nation, improving tax system to be fair and compatible with the changing of economic and social conditions;

(4) providing saving system for old age living to the public and State officials thoroughly;

(5) regulating business activities for free and fair competition, antimonopoly whether direct or indirect monopoly, and consumer protection;

(6) implementing fair distribution of incomes, and protecting, enhancing and extending the occasion to occupation of the public for economic development as well as promoting and supporting the development of local wisdom and Thai wisdom for the manufacturing of goods and providing of services and for use in occupation;

(7) promoting people of working age to obtain employment, protecting child and woman labour, providing the system of labour relations and tripartite which entitling labours to elect their representatives, providing social security and ensuring labours working at equal value to obtain wages, benefits and welfares upon fair and indiscriminate basis;

(8) protecting and maintaining the interests of farmers in manufacturing and marketing, ensuring maximise profits of the farm products, encouraging an association of farmers in the form of farmer council having with a view to agricultural planning and the protection of their mutual interests;

(9) promoting, encouraging and protecting the autonomous cooperative system and the occupation or profession body as well as the association of the public to carry out economic activities;

(10) providing infrastructures necessarily for the living of people with a view to maintain economic security of State and preventing private sector from monopolising such infrastructures that may be harmful to the State;

(11) refraining from doing any act which may give rise to the transfer of ownership of the fundamental structure or network of infrastructures necessarily for the living of people or for national security to private sector or to the decrease of shares or capital held or invested by the State lower than fifty per cent;

(12) encouraging and supporting the merchant marine and rail transportation, and carrying out the domestic and international logistics management system;

(13) encouraging and strengthening the private sector organisations, both national and local level;

(14) encouraging agricultural products transformation industry with a view to increase value added thereto.

Part 8
Land Use, Natural Resources and Environment Policies

Section 85. The State shall act in compliance with the land use, natural resources and environment policies as follows:

- (1) preparing and applying the rule on the use of land through out the country with due regard to the compliance with environmental condition, nature of land and water and the way of life of local communities, the efficient measures for preservation of natural resources, the sustainable standard for land use and opinion of the people in the area who may be affected by the rule on the use of land;
- (2) distributing the right to hold land fairly, enabling farmers to be entitled to the ownership or the right in land for agriculture thoroughly by means of land reform or by other means, and providing water resources for the distribution of water to farmers for use in agriculture adequately and appropriately;
- (3) preparing town and country planning, and developing and carrying out the plan effectively and efficiently for the purpose of sustainable preservation of natural resources;
- (4) preparing systematic management plan for water and other natural resources for the common interests of the nation, and encouraging the public to participate in the preservation, conservation and exploitation of natural resources and biological diversity appropriately;
- (5) conducting the promotion, conservation and protection of the quality of the environment under the sustainable development principle, and controlling and eliminate pollution which may affect health and sanitary, welfare and quality of life of the public by encouraging the public, the local communities and the local governments to have participation in the determination of the measures.

Part 9
Science, Intellectual Properties and Energy Policies

Section 86. The State shall act in compliance with the science, intellectual properties and energy policies as follows:

- (1) enhancing the development of science, technology and innovation in all aspects by enacting specific law in so doing, preparing budget for studying and making of researches, establishing institution for research and development, encouraging the use of results emerging from researches and development, the efficient transfer of technology and the appropriate development of researchers, and disseminating science and modern technology knowledge to the public and encouraging the public to apply science into their living;
- (2) supporting an invention or excogitation for new wisdom, preserving and developing local wisdom and Thai wisdom, and protecting intellectual properties;
- (3) promoting and supporting continuously and systematically of the research, the development and the use of natural alternative energy which is beneficial to the environment.

Part 10
Public Participation Policy

Section 87. The State shall act in compliance with the public participation policy as follows:

- (1) encouraging public participation in the determination of public policy and the making of economic and social development plan both in the national and local level;
- (2) encouraging and supporting public participation to make decision on politics and the making of economic and social development plan and the provision of public services;
- (3) encouraging and supporting public participation in the examination of the exercise of State power at all levels in the form of profession or occupation organisation or other forms;
- (4) strengthening the politics power of the public, and preparing the laws establishing civil politics development fund for facilitating the communities to organise public activities and for supporting networks of the groups of people to express opinion and requirements of the communities in the localities;
- (5) supporting and providing education to the public related to the development of politics and public administration under the democratic regime of government with the King as Head of State, and encouraging the public to exercise their rights to vote honestly and uprightly.

In providing public participation under this section, regard shall be had to approximate proportion between women and men.

CHAPTER VI The National Assembly

Part 1 General Provisions

Section 88. The National Assembly consists of the House of Representatives and the Senate.

Joint or separate sittings of the National Assembly shall be in accordance with the provisions of this Constitution.

No person shall be a member of the House of Representatives and a senator simultaneously.

Section 89. The President of the House of Representatives is President of the National Assembly. The President of the Senate is Vice-President of the National Assembly.

In the case where there is no President of the House of Representatives, or the President of the House of Representatives is not present or is unable to perform his duties, the President of the Senate shall act as President of the National Assembly in his place.

The President of the National Assembly shall have the powers and duties as provided in this Constitution and shall conduct the proceedings of the National Assembly at joint sittings in accordance with the rules of procedure.

The President of the National Assembly and the person who acts as President of the National Assembly in his place shall be impartial in the performance of duties.

The Vice-President of the National Assembly shall have the powers and duties as provided in this Constitution and as entrusted by the President of the National Assembly.

Section 90. An organic law bill and a bill may be enacted as law only by and with the advice and consent of the National Assembly and when the King's signature has been given or deemed to be given thereto; it shall come

into force upon its publication in the Government Gazette.

Section 91. Members of the House of Representatives or senators of not less than one-tenth of the total number of the existing members of each House shall have the right to lodge with the President of the House of which they are members a complaint asserting that the membership of any member of such House has terminated under section 106 (3), (4), (5), (6), (7), (8), (10), or (11) or section 119 (3), (4), (5), (7), or (8), as the case may be, and the President of the House with whom the complaint is lodged shall refer it to the Constitutional Court for decision as to whether the membership of such person has terminated.

When the Constitutional Court has made a decision, it shall notify the President of the House with which the complaint is lodged under paragraph one of such decision.

In the case where the Election Commission is of opinion that the membership of a member of the House of Representatives or a senator has terminated under paragraph one, it shall refer this matter to the President of the House which such person is a member and the President of that House shall then refer it to the Constitutional Court for decision under paragraph one and paragraph two.

Section 92. The vacation of the office of a member of the House of Representatives or a senator after the day on which his membership terminates or the day on which the Constitutional Court decides that the membership of any member terminates does not affect any act done by such member in the capacity as member including the receipt of emolument or other benefits by such member before he vacates office or the President of the House of which such person is a member has been notified of the decision of the Constitutional Court, as the case may be, except that in the case of vacation of the office on the ground of his being elected or selected in violation of the organic law on election of members of the House of Representatives and acquisition of senators, emolument and other benefits received from being in office shall be returned.

Part 2

The House of Representatives

Section 93. The House of Representatives consists of four hundred and eighty members, four hundred of whom are from the election on a constituency basis and eighty of whom are from the election on a proportional basis.

The election of member of the House of Representatives shall be by direct suffrage and secret ballot, and the ballot to be used in an election shall be varied upon the election basis.

The rules and procedure for the election of members of the House of Representatives shall be in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

In the case where the office of a member of the House of Representatives becomes vacant for any reason and an election of a member of the House of Representatives has not been held to fill the vacancy, the House of Representatives shall consist of the existing members of the House.

Subject to section 109 (2), in the case where there occurs, during the term of the House of Representatives, any cause resulting in the members elected from the election on a proportional basis being less than eighty in number, such members shall consist of the existing members.

In the case where there occurs, during the general election, any cause resulting in the members of the House of Representatives elected from the election being less than four hundred and eighty in number but not less than ninety-five per cent of the total number of members of the House of Representatives, such members is deemed to constitute the House of Representatives. In this case, the acquisition for the fulfillment of the total number of members of the House of Representatives shall be completed within one hundred and eighty days and the new coming members shall hold office for the remaining term of the House of Representatives.

Section 94. In the election of members of the House of Representatives on a constituency basis, the person having the right to vote shall cast ballot for the equal number of members of the House in each constituency.

The determination of the number of members of the House of Representatives in each constituency and the determination of constituencies shall be as follows:

- (1) the determination of the ratio of the number of inhabitants to one member shall be made by reference to the division of such number of inhabitants throughout the country as evidenced in the census announced in the year preceding the year of election by the number of four hundred members of the House of Representatives;
- (2) any Changwat with inhabitants below the number of inhabitants per one member under (1) shall have one member of the House of Representative. Any Changwat with more inhabitants than the number of inhabitants per one member shall have an additional member of the House of Representatives for every such number of inhabitants as representing the number of inhabitants per one member;
- (3) upon the number of members of the House of Representatives of each Changwat being obtained under (2), if the number of members of the House of Representatives is still less than four hundred, any Changwat with the largest fraction remaining from the determination under (2) shall have an additional member of the House of Representatives and the addition of the members of the House of Representatives in accordance with such procedure shall be made to other Changwat in respective order of fractions remaining from the determination under (2) until the number of four hundred is obtained;
- (4) in a Changwat where the number of members of the House of Representatives to be elected is not more than three, the area of that Changwat shall be regarded as the constituency and in a Changwat where the number of members of the House of Representatives is more than three, the area of such Changwat shall be divided into constituencies and, for this purpose, each constituency shall have three members of the House of Representatives;
- (5) in a Changwat which is divided into many constituencies, if there is unable to have three members of the House of Representatives in all constituencies, the area of such Changwat shall be firstly divided into the constituency with three members of the House of Representatives and the rest constituencies shall have not less than two members of the House of Representatives and in a Changwat where the number of members of the House of Representatives to be elected is four, the area of such Changwat shall be divided into two constituencies and each constituency shall have two members of the House of Representatives;
- (6) in a Changwat which is divided into more constituencies than one, the boundary of each constituency shall be adjoining and the number of inhabitants in each constituency must be closely apportioned.

The counting of votes shall be conducted at the polling station and the result of the vote-counting shall be reported to the constituency for calculation of total votes-counting in that constituency and the result of the total vote-counting shall be announced publicly at any single place in that constituency as designated by the Election Commission, except that in the case where necessity arises in a particular locality, the Election Commission may otherwise prescribe the counting of votes, the calculation of total vote-counting and the announcement of the result of the total vote-counting in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

Section 95. An election of members of the House of Representatives on a proportional basis is an election for members of the House of Representatives from the lists of candidates prepared by political parties whereby the person having the right to vote in each constituency shall cast ballot for one political party preparing the list of candidates for such constituency.

A political party may submit the lists of candidates for the election on proportional basis for some or all constituencies.

In the case where there occurs to the submitted list of candidates for the election on proportional basis of a political party, whether on or before an election day, any cause resulting in the remaining candidates being less than the number of candidates as specified in the submitted list, the remaining candidates are deemed to be candidates of such political party and, in this case, it shall be deemed that the House of Representatives consists of the remaining members.

Section 96. The determination of the constituencies for the election of the members of the House of Representatives on a proportional basis shall be as follows:

- (1) the country shall be divided into eight groups of Changwat and each group of Changwat shall be regarded as one constituency having ten members of the House of Representatives;
- (2) in grouping of Changwat, the boundary of each Changwat in each group shall be adjoining and the number of inhabitants in each group must be closely apportioned by reference to the division of such number of inhabitants throughout the country as evidenced in the census announced in the year preceding the year of election and the whole area of each Changwat shall be in on constituency.

Section 97. The preparation of the lists of candidates prepared by a political party for the election of the members of the House of Representatives on a proportional basis shall be as follows:

- (1) the lists of candidates for each constituency shall consist of candidates in equal number of members of the House of Representatives to be elected on a proportional basis in each constituency and placed in numerical order and shall be submitted to the Election Commission before the date an application for candidacy in an election on the constituency basis commences;
- (2) candidates under (1) shall not be candidates in an election both on the constituency basis and on proportional basis of any political party and, in preparing the list of candidates, regard shall be had to opportunity and approximate proportion between women and men.

Section 98. The determination of the proportion of candidates in the list of candidates of each political party as being elected in each constituency shall be conducted by accumulating the votes received by each political party in each constituency as basis for reckoning the proportion of candidates to be elected of each political party which shall be reflected to the result of the accumulation of the votes as aforesaid, the votes received by each political party and the numbers of members of the House of Representatives to be elected on a proportional basis in such constituency. The candidates named in the list of candidates of each political party shall be regarded as being elected in accordance with the result of reckoning by numerical order as specified the list of candidates of each political party under the rules and procedure as prescribed in the organic law on election of members of the House of Representatives and acquisition of senators.

The provisions of section 94 paragraph three shall apply mutatis mutandis to the counting of votes for the election of members of the House of Representatives on a proportional basis, provided that the Election Commission prescribes to conduct the preliminary calculation of total vote-counting at Changwat.

Section 99. A person having the following qualifications has the right to vote at an election:

- (1) being of Thai nationality; provided that a person who has acquired Thai nationality by naturalisation must hold the Thai nationality for not less than five years;
- (2) being not less than eighteen years of age on 1st January of the year of the election; and

(3) having his name appear on the house register in the constituency for not less than ninety days up to the election day.

A voter who has a residence outside the constituency within which his appear in the house register, or who has his name appear in the house register in the constituency for the period of less than ninety days up to the date of the election, or who has a residence outside the Kingdom of Thailand shall have the right to cast ballot in an election in accordance with rules, procedure and conditions provided by the organic law on election of members of the House of Representatives and acquisition of senators.

Section 100. A person under any of the following prohibitions on the election day is disfranchised:

- (1) being a Buddhist priest, novice, monk or clergy;
- (2) being under suspension of the right to vote;
- (3) being detained by a warrant of the Court or by a lawful order;
- (4) being of unsound mind or of mental infirmity.

Section 101. A person having the following qualifications has the right to be a candidate in an election of members of the House of Representatives:

- (1) being of Thai nationality by birth;
- (2) being not less than twenty five years of age on the election day;
- (3) being a member of any and only one political party for a consecutive period of not less than ninety days up to the date of applying for candidacy in an election, or being a member of any and only one political party for a consecutive period of not less than thirty days up to the date of applying for candidacy in an election in the case where the general election is conducted on account of the dissolution of the House of Representatives;
- (4) a candidate in an election on a constituency basis shall also possess any of the following qualifications:
 - (a) having his name appear in the house register in Changwat where he stands for election for a consecutive period of not less than five years up to the date of applying for candidacy;
 - (b) being born in Changwat where he stands for election;
 - (c) having studied in an education institution situated in Changwat where he stands for election for a consecutive period of not less than five academic years;
 - (d) having served in the official service or having had his name appear in the house register in Changwat where he stands for election for a consecutive period of not less than five years;
- (5) a candidate in an election on a proportional basis shall also possess any of the qualifications under (4) but the reference to Changwat therein shall means a group of Changwat;
- (6) other qualifications as prescribed in the organic law on election of members of the House of Representatives and acquisition of senators.

Section 102. A person under any of the following prohibitions shall have no right to be a candidate in an election of members of the House of Representatives:

- (1) being addicted to narcotics;
- (2) being bankrupt or having been dishonestly bankrupt;
- (3) being disfranchised under section 100 (1), (2) or (4);
- (4) having been sentenced by a judgement to imprisonment and being detained by a warrant of the Court;
- (5) having been discharged for a period of less than five years on the election day after being sentenced by a judgement to imprisonment except for an offence committed through negligence;
- (6) having been expelled, dismissed or removed from the official service, a State agency or a State enterprise on the ground of dishonest performance of duties or corruption;
- (7) having been ordered by a judgement or an order of the Court that his assets shall vest in the State on the ground of unusual wealth or an unusual increase of his assets;
- (8) being a government official holding a permanent position or receiving salary except a political official;
- (9) being a member of a local assembly or a local administrator;
- (10) being a senator or having been a senator who vacates office for a period of less than two years;
- (11) being an official or employee of a government agency, State agency or State enterprise or other State official;
- (12) being a judge of the Constitutional Court, an Election Commissioner, an Ombudsman, a member of the State Audit Commission or a member of the National Human Right Commission;
- (13) being under the prohibition from holding a political position under section 263;
- (14) having been removed from office by the resolution of the Senate under section 274.

Section 103. A political party presenting its members as candidates in the election in any constituency shall present its members as candidates in an equal amount to the number of members of the House of Representatives in such constituency.

In the case where there occurs, after presenting the complete number of candidates as required in paragraph one, any cause resulting in the remaining candidates being less than the required number, it shall be deemed that such political party has presented the complete number of candidates.

After presenting its members as candidates in the election, neither a political party nor a candidate shall revoke such presentation or alter the candidates.

Section 104. The term of the House of Representatives is four years from the election day.

During the term of the House of Representatives, the amalgamation of the political parties having their members

as members of the House of Representatives shall not be made.

Section 105. Membership of the House of Representatives commences on the election day.

Section 106. Membership of the House of Representatives terminates upon:

- (1) expiration of the term or dissolution of the House of Representatives;
- (2) death;
- (3) resignation;
- (4) being disqualified under section 101;
- (5) being under any prohibition under section 102;
- (6) acting in contravention of any prohibition under section 265 or section 266;
- (7) resignation from membership of his political party or his political party passing a resolution, with the votes of not less than three-fourths of the joint meeting of the Executive Committee of that political party and members of the House of Representatives belonging to that political party, terminating his membership of the political party. In such cases, his membership shall be deemed to have terminated as from the date of the resignation or the resolution of the political party except where such member of the House of Representatives appeals to the Constitutional Court within thirty days as from the date of the resolution of the political party for raising an objection that such resolution is of such nature as specified in section 65 paragraph three. If the Constitutional Court decides that the said resolution is not of the nature as specified in section 65 paragraph three, his membership shall be deemed to have terminated as from the date of the decision of the Constitutional Court. If the Constitutional Court decides that the said resolution is of such nature as specified in section 65 paragraph three, that member of the House of Representatives may become a member of another political party within thirty days as from the date of the decision of the Constitutional Court;
- (8) loss of membership of the political party in the case where the political party of which he is a member is dissolved by an order of the Constitutional Court and he is unable to become a member of another political party within sixty days as from the date on which the Constitutional Court issues its order. In such case, his membership shall be deemed to have terminated as from the day following the date on which such period of sixty days has elapsed;
- (9) the Senate passing a resolution under section 274 removing him from office or the Constitutional Court having a decision terminating his membership under section 91. In such cases, his membership shall be deemed to have terminated as from the date on which the Senate passes a resolution or the Constitutional Court has a decision, as the case may be;
- (10) having been absent for more than one-fourth of the number of days in a session the length of which is not less than one hundred and twenty days without permission of the President of the House of Representatives;
- (11) being sentenced by a judgment to imprisonment notwithstanding the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offense.

Section 107. Upon the expiration of the term of the House of Representatives, the King will issue a Royal Decree calling for a general election of members of the House of Representatives in which the election day must

be fixed within forty five days as from the date of the expiration of the term of the House of Representatives and the election day must be the same throughout the Kingdom.

Section 108. The King has the prerogative to dissolve the House of Representatives for a new election of members of the House.

The dissolution of the House of Representatives shall be made in the form of a Royal Decree in which the day for a new general election must be fixed for not less than forty-five days but not more than sixty days as from the day the House of Representatives has been dissolved and such election day must be the same throughout the Kingdom.

The dissolution of the House of Representatives may be made only once under the same circumstance.

Section 109. When the office of member of the House of Representatives becomes vacant for any reason other than the expiration of the term or the dissolution of the House of Representatives, the following actions shall be taken:

(1) in the case where the vacancy is that of the office of a member of the House of Representatives elected from the election on a constituency basis, an election of a member of the House of Representatives to fill the vacancy shall be held within forty-five days as from the date of the vacancy unless the remainder of the term of the House of Representatives is less than one hundred and eighty days.

(2) in the case where the vacancy is that of the office of a member of the House of Representatives elected from the election on a proportional basis, the President of the House of Representatives shall, by publication in the Government Gazette within seven days as from the date of the vacancy, elevate the person whose name in the list of that political party is placed in the next order to be a replacing member of the House of Representatives, except where there is no person to be elevated and, in such case, the House of Representatives consists of the remaining members;

Membership of the replacing member of the House of Representatives under (1) shall commence as from the day on which the election to fill the vacancy is held, while membership of the replacing member of the House of Representatives under (2) shall commence as from the day following the date of the publication of the name of the replacing member in the Government Gazette. The replacing member of the House of Representatives may serve only for the remainder of the term of the House.

Section 110. After the Council of Ministers has assumed the administration of State affairs, the King will appoint as Leader of the Opposition in the House of Representatives a member of the House who is the leader of the political party having its members holding no ministerial positions and having the largest number of members among the political parties having their members holding no ministerial positions, provided that such number must not be less than one-fifth of the total number of members of the House of Representatives at the time of the appointment.

In the case where no political party in the House of Representatives has the description as prescribed under paragraph one, the leader of the political party, who receives a majority of supporting votes from the members of the House who belong to the political parties having their members holding no ministerial positions, shall be the Leader of the Opposition in the House. In case of an equality of supporting votes, it shall be decided by lot.

The President of the House of Representatives shall countersign the Royal Command appointing the Leader of the Opposition in the House of Representatives.

The Leader of the Opposition in the House of Representatives shall vacate office upon being disqualified as specified in paragraph one or paragraph two, and section 124 paragraph four shall apply mutatis mutandis, and in such case, the King will appoint a new Leader of the Opposition in the House of Representatives to fill the

vacancy.

Part 3 The Senate

Section 111. The Senate consists of one hundred and fifty members acquired upon the basis of election in each Changwat, one elected senator for each Changwat, and upon the selection basis in an amount equal to the total number of senators deducted by the number of senators from the election basis.

In the case where the number of Changwat is increased or decreased during the term of office of the senators whom acquired by the election basis, the Senate shall be regarded as consisting of the existing senators.

Upon the vacancy of a senator by whatever reasons and the election or selection for the fulfilment of the vacancy has not yet conducted, as the case may be, the Senate shall be regarded as consisting of the remaining senators.

In the case where there occurs any cause resulting in the number of senators being less than the total number of the senators under paragraph one but not less than ninety-five per cent of the total number of senators, such senators is deemed to constitute the Senate. In this case, the election or selection for the fulfilment of the total number of senators under paragraph one shall be completed within one hundred and eighty days as from the date the aforesaid situation has occurred and the new coming senator shall hold office for the remaining term of the Senate.

Section 112. In an election of senators, the area of Changwat shall be regarded as one constituency and the number of senator for each Changwat is one. The person having the right to vote at an election of senators may cast ballot, at the election, for one candidate and the election shall be by direct suffrage and secret ballot.

For the purpose of the election of senators, the campaign to be launched by the candidates in the election is limited to the matters related to the performance of duties of the Senate.

The rules, procedure and conditions for the election of, and the launching of election campaign of candidates for, senators shall be in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

Section 113. There shall be the Senators Selective Committee consisting of the President of the Constitutional Court, the Chairperson of the Election Commission, the President of the Ombudsmen, the Chairperson of the National Counter Corruption Commission, the Chairperson of the State Audit Commission, a judge of the Supreme Court of Justice holding the position of not lower than judge of the Supreme Court of Justice as entrusted by the general meeting of the Supreme Court of Justice and a judge of the Supreme Administrative Court as entrusted by the general meeting of the Supreme Administrative Court, having a duty to select persons under section 114 within thirty days as from the date of receiving the list of candidates from the Election Commission and to notify the selection result to the Election Commission for publication of the persons selected as senators.

Members of the Committee under paragraph one shall select one among themselves to be the Chairperson of the Committee.

In the absent of any member or a member is unable to perform his duty and the remaining members are not less than one-half of the total number of members, the Senators Selective Committee shall consist of the remaining members.

Section 114. The Senators Selection Committee shall carry out the selection process for persons who may be beneficial to the performance of powers and duties of the Senate from persons nominated by academic institutions, public sector, private sector, professional organisations and other organisations to be senators in an

amount as prescribed in section 111 paragraph one.

In selection of person under paragraph one, regard shall be had to knowledge, skills or experience of the nominated persons which will be beneficial to the performance of the Senate, and the composition of the selected persons shall be regarded to interdisciplinary knowledge and experience, genders opportunity and equality, closely apportion of the persons nominated by the organisations under paragraph one and opportunity of social vulnerable groups.

The rules, procedure and conditions for the selection of senators shall be in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

Section 115. A person having the qualifications and having no any of the prohibitions as mentioned below has the right to be a candidate in an election or selection of senators:

- (1) being of Thai nationality by birth;
- (2) being of not less than forty years of age on the election day or the date of nomination;
- (3) having graduated with not lower than a Bachelor's degree or its equivalent;
- (4) a candidate in an election of senators shall also possess any of the following qualifications:
 - (a) having his name appear on the house register in Changwat where he stands for election for a consecutive period of not less than five years up to the date of applying for candidacy;
 - (b) being born in Changwat where he stands for election;
 - (c) having studied in an education institution situated in Changwat where he stands for election for a consecutive period of not less than five academic years;
 - (d) having served in the official service or having had his name appear in the house register in Changwat where he stands for election for a consecutive period of not less than five years;
- (5) not being ascendants, spouse or child of a member of the House of Representatives or a person holding a political position;
- (6) not being a member or a person holding any position in a political party, or having been a member or having been holding a position in a political party and his membership has terminated or he vacates office in a political party for a period of not more than five years on the date of applying for candidacy or the date of nomination;
- (7) being disfranchised under section 102 (1), (2), (3), (4), (5), (6), (7), (8), (9), (11), (12), (13) or (14);
- (8) not being a Minister or a person holding a political position other than a member of a local assembly or a local administrator or vacating office for a period of not more than five years.

Section 116. A senator shall not be a Minister or a person holding any political position or a person holding position in the independent constitutional organisation.

The person having held office of senator with membership having terminated for not more than two years shall

not be a Minister or a person holding any political position.

Section 117. Membership of the senators acquired on the election basis commences on the election day and membership of the senators acquired on the selection basis commences on the day the Election Commission publishes the result of the selection.

The term of membership of the senates is six years as from the election day or the day the Election Commission publishes the result of the selection, as the case may be, and no senator shall hold office more than one term.

At the end of the term of office, the senators vacating office shall remain in office to continue their duties until the acquisition of the new senators.

Section 118. Upon the expiration of membership of the senators acquired on the election basis, the King will issue a Royal Decree calling for a new general election of senators in which the election day must be fixed within thirty days as from the date of the expiration of membership of the senator acquired on the election basis and the election day must be the same throughout the Kingdom.

Upon the expiration of membership of the senators acquired on the selection basis, the Senators Selection Committee shall announce the commencing and period for selection process which shall complete within sixty days as from the date of the expiration of membership of the senator acquired on the selection basis.

Section 119. Membership of the Senate terminates upon:

- (1) expiration of membership;
- (2) death;
- (3) resignation;
- (4) being disqualified under section 115;
- (5) acting in contravention of any of the prohibitions under section 116, section 265 or section 266;
- (6) the Senate passing a resolution under section 274 removing him from office or the Constitutional Court having a decision terminating his membership under section 91 or the Supreme Court having a decision under section 239 paragraph two or section 240 paragraph three; in such cases, his membership shall be deemed to have terminated as from the date of the resolution of the Senate or the decision of the Court, as the case may be;
- (7) having been absent for more than one-fourth of the number of days in a session the length of which is not less than one hundred and twenty days without permission of the President of the Senate;
- (8) being sentenced by a judgment to imprisonment notwithstanding the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offense.

Section 120. When the office of a senator becomes vacant under section 119, the provisions of section 112, section 113, section 114 and section 118 shall apply mutatis mutandis to the election or selection of a senator, as the case may be, and the replacing senator shall remain in office for the unexpired term of office of the member he replaces. In the case where the term of office of a senator who vacates office is less than one hundred and eighty days, the election or selection may be omitted.

Section 121. In considering the selection of a person to hold any position under this Constitution, the Senate shall appoint a committee for examining past records, behaviours and ethics of the person nominated for holding such position as well as gathering necessary facts and evidences to be reported to the Senate for its further consideration.

The proceeding of the committee under paragraph one shall be in accordance with the rules of procedure of the Senate.

Part 4 Provisions Applicable to both Houses

Section 122. Members of the House of Representatives and senators are representatives of the Thai people and free from any mandate, commitment or control, and shall honestly perform the duties for the common interests of the Thai people without conflict of interest.

Section 123. Before taking office, a member of the House of Representatives and a senator shall make a solemn declaration at a sitting of the House of which he is a member in the following words:

"I, (name of the declarer), do solemnly declare that I shall perform my duties in accordance with the honest dictates of my conscience for the common interests of the Thai people. I shall also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Section 124. The House of Representatives and the Senate shall each have one President and one or two Vice-Presidents who are appointed by the King from the members of such House in accordance with its resolution.

The President and the Vice-Presidents of the House of Representatives hold office until the expiration of the term or the dissolution of the House.

The President and the Vice-Presidents of the Senate hold office until the day preceding the date of the election the new President and Vice-Presidents.

The President and the Vice-Presidents of the House of Representatives and the President and the Vice-Presidents of the Senate vacate office before the expiration of the term of office under paragraph one or paragraph two, as the case may be, upon:

- (1) loss of membership of the House of which he is a member;
- (2) resignation;
- (3) holding a position of Prime Minister, Minister or other political official;
- (4) being sentenced by a judgment to imprisonment notwithstanding the case is not come to an end or the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offense.

While being in office, the President and the Vice-Presidents of the House of Representatives shall not be members of the Executive Committee of a political party or members of a political party simultaneously.

Section 125. The President of the House of Representatives and the President of the Senate shall have the powers and duties to carry out the business of each House in accordance with its rules of procedure. The Vice-presidents have the powers and duties as entrusted by the President and act on behalf of the President when the

President is not present or unable to perform his duties.

The President of the House of Representatives, the President of the Senate and the persons who act on behalf of the President shall be impartial in the performance of duties.

When the President and the Vice-Presidents of the House of Representatives or the President and the Vice-Presidents of the Senate are not present at any sitting, the members of each House shall elect one among themselves to preside over such sitting.

Section 126. At a sitting of the House of Representatives or the Senate, the presence of not less than one-half of the total number of the existing members of each House is required to constitute a quorum, except that in the case of considering the agenda on interpellation under section 156 and section 157, the House of Representatives and the Senate may otherwise prescribe a quorum in the rules of procedure.

A resolution on any issue shall be made by a majority of votes, unless it is otherwise provided in this Constitution.

In casting a vote, each member has one vote. In case of an equality of votes, the presiding member shall have an additional vote as a casting vote.

The President of the National Assembly, the President of the House of Representatives and the President of the Senate shall cause the voting of each member to be recorded and disclose such record in a place where the public entry for its inspection is possible, except for the case of the voting by secret ballot.

The casting of votes to elect or give approval to a person for holding office shall be secret, unless otherwise provided in this Constitution, and members shall have autonomy and shall not be bound by resolutions of their political parties or any other mandate.

Section 127. The National Assembly shall, within thirty days as from the date of the election of members of the House of Representatives, be summoned for the first sitting.

Each year, there shall be a general ordinary session and a legislative ordinary session.

The day on which the first sitting under paragraph one is held shall be considered as the first day of the general ordinary session, and the first day of the legislative ordinary session shall be fixed by the House of Representatives. In the case where the first sitting under in paragraph one has less than one hundred and fifty days up to the end of a calendar year, the legislative ordinary session may be omitted in that year.

During the legislative ordinary session, the National Assembly shall hold a sitting only in such cases as prescribed in Chapter 2 or in cases of the consideration of bills or organic law bills, the approval of an Emergency Decree, the approval of the declaration of war, the hearing and approval of a treaty, the election or approval of a person for holding office, the removal of a person from office, the interpellation and the amendment of the Constitution, unless the National Assembly has passed a resolution, by the votes of more than one-half of the total number of the existing members of both Houses, for considering other matters.

An ordinary session of the National Assembly shall last one hundred and twenty days but the King may prolong it.

An ordinary session may be prorogued before the end of one hundred and twenty days only with the approval of the National Assembly.

Section 128. The King convokes the National Assembly, opens and prorogues its session.

The King may be present to perform the opening ceremony of the first general ordinary session under section 127 paragraph one or may command the Heir to the Throne who is sui juris or any person to perform the

ceremony as His Representative.

When it is necessary for the interests of State, the King may convoke an extraordinary session of the National Assembly.

Subject to section 129, the convocation, the prolongation of session and the prorogation of the National Assembly shall be made by a Royal Decree.

Section 129. Members of both Houses or members of the House of Representatives of not less than one-third of the total number of the existing members of both Houses have the right to present their petition to the King for the issuance of a Royal Command convoking an extraordinary session of the National Assembly.

The petition referred to in paragraph one shall be lodged with the President of the National Assembly.

The President of the National Assembly shall present the petition to the King and countersign the Royal Command.

Section 130. At a sitting of the House of Representatives or the Senate or at a joint sitting of the National Assembly, words expressed in giving statements of fact or opinions or in casting the vote by any member are absolutely privileged. No charge or action in any manner whatsoever shall be brought against such member.

The privilege under paragraph one does not extend to a member who expresses words at a sitting which is broadcast through radio or television if such words appear out of the precinct of the National Assembly and the expression of such words constitutes a criminal offence or a wrongful act against any other person, who is not a Minister or member of that House.

In the case of paragraph two, if the words expressed by the member cause damage to other person who is not a Minister or member of that House, the President of that House shall cause explanations to be published as requested by that person in accordance with procedure and within such period of time as prescribed in the rules of procedure of that House, without prejudice to the right of such person to bring the case before the Court.

The privilege provided in this section extends to printers and publishers of the minutes of sittings in accordance with the rules of procedure of the House of Representatives, the Senate or the National Assembly, as the case may be, and to persons permitted by the presiding member to give statements of fact or opinions at such sitting as well as to persons who broadcasts the sitting through radio or television with the permission of the President of such House *mutatis mutandis*.

Section 131. No member of the House of Representatives or senator shall, during a session, be arrested, detained or summoned by a warrant for inquiry as the suspect in a criminal case unless permission of the House of which he is a member is obtained or he is arrested in *flagrante delicto*.

In the case where a member of the House of Representatives or a senator has been arrested in *flagrante delicto*, it shall be forthwith reported to the President of the House of which he is a member and such President may order the release of the person so arrested.

In the case where a criminal charge is brought against a member of the House of Representatives or a senator, whether the House is in session or not, the Court shall not try the case during a session, unless permission of the House of which he is a member is obtained or it is a case concerning the organic law on election of members of the House of Representatives and acquisition of senators, the organic law on Election Commission or the organic law on political parties; provided that the trial of the Court shall not hinder such member from attending the sitting of the House.

The trial and adjudication of the Court conducted before it is invoked that the accused is a member of either House are valid.

If a member of the House of Representatives or a senator is detained during the inquiry or trial before the beginning of a session, when the session begins, the inquiry official or the Court, as the case may be, must order his release as soon as the President of the House of which he is a member has so requested.

The order of release under paragraph one shall be effective as from the date of such order until the last day of the session.

Section 132. During the expiration of the term or the dissolution of the House of Representatives, the Senate shall not hold its sitting except in the following cases:

(1) a sitting at which the Senate shall act as the National Assembly under section 19, section 21, section 22, section 23 and section 189, and the votes taken shall be based on the number of senators;

(2) a sitting at which the Senator shall consider of a person for holding office under the provision of this Constitution;

(3) a sitting at which the Senate shall consider and pass a resolution removing a person from office.

Section 133. A sitting of the House of Representatives and of the Senate and a joint sitting of the National Assembly shall be in public under the conditions stipulated in the rules of procedure of each House. Nevertheless a sitting in camera shall be held at the request of the Council of Ministers or members of not less than one-fourth of the total number of the existing members of each House or of both Houses, as the case may be.

Section 134. The House of Representatives and the Senate have the power to make the rules of procedure governing the election and performance of duties of the President, Vice-Presidents, matters or activities which are within the powers and duties of each standing committee, performance and quorum of committees, sittings, submission and consideration of bills and organic law bills, submission of motions, consultation, debate, passing of a resolution, recording and disclosure of the passing of a resolution, interpellation, general debate, observation of the rules and orders and other relevant matters and the power to make the codes of ethics of members and committee members and other matters for the execution under this Constitution.

Section 135. The House of Representatives and the Senate have the power to select and appoint members of each house to constitute a standing committee and have the power to select and appoint persons, being or not being its members, to constitute a non-standing committee in order to perform any act, inquire into or study any matter within the powers and duties of the House and report its findings to the House. The resolution appointing such non-standing committee must specify its activities or the responsible matters clearly and without repetition or duplication.

The committee under paragraph one has the power to demand documents from any person or summon any person to give statements of fact or opinions on the act or the matter under its inquiry or study and such demand or summoning is enforceable as provided by law but it is not applicable to a judge performing his powers and duties in trial of the case or to the personnel management of each Court and to the Ombudsman or members of the independent Constitutional organisation in the performance of their powers and duties under the Constitution or the organic laws, as the case may be.

In the case where the person under paragraph two is a government official, official or employee of government agency, State agency, State enterprise or local government organisation, the Chairperson of the committee shall notify the Minister who supervises and controls the agency to which such person is attached in order to instruct him to act as prescribed in paragraph two, except that, in the case of the safety of or important benefit to the State, it shall be deemed as a ground for the exemption to the compliance with paragraph two.

The privileges provided in section 130 shall also extend to the persons performing their duties under this section.

The number of members of a standing committee appointed solely from members of the House of Representatives shall be in proportion to or in close proportion to the number of members of the House of Representatives of each political party or group of political parties in the House of Representatives.

In the absence of the rules of procedure of the House of Representatives under section 134, the President of the House of Representatives shall determine the proportion under paragraph five.

Part 5 Joint Sitzings of the National Assembly

Section 136. The National Assembly shall hold a joint sitting in the following cases:

- (1) the approval of the appointment of the Regent under section 19;
- (2) the making of a solemn declaration by the Regent before the National Assembly under section 21;
- (3) the acknowledgment of an amendment of the Palace Law on Succession, B.E. 2467 under section 22;
- (4) the acknowledgment or approval of the succession to the Throne under section 23;
- (5) the passing of a resolution for the consideration by the National Assembly of other matters during a legislative ordinary session under section 127;
- (6) the approval of the prorogation of a session under section 127;
- (7) the opening of the session of the National Assembly under section 128;
- (8) the making of the rules of procedure of the National Assembly under section 137;
- (9) the approval of the further consideration of a bill or an organic law bill under section 145;
- (10) the reconsideration of a bill or an organic law bill under section 151;
- (11) the approval of the further consideration of a Constitution Amendment, a bill or an organic law bill under section 153 paragraph two;
- (12) the announcement of policies under section 176;
- (13) the holding of a general debate under section 179;
- (14) the approval of the declaration of war under section 189;
- (15) the hearing and approval of a treaty under section 190;
- (16) the amendment of the Constitution under section 291;

Section 137. At a joint sitting of the National Assembly, the rules of procedure of the National Assembly shall apply. While the rules of procedure of the National Assembly has not yet been issued, the rules of procedure of

the House of Representatives shall apply mutatis mutandis.

The provisions applicable to both Houses shall apply mutatis mutandis to the joint sitting of the National Assembly, except that, for the appointment of a committee, the number of committee members appointed from the members of each House must be in proportion to or in close proportion to the number of members of each House.

Part 6 **The Enactment of the Organic Law**

Section 138. There shall be the following organic law:

- (1) the organic law on election of members of the House of Representative and acquisition of Senators;
- (2) the organic law on Election Commission;
- (3) the organic law on political parties;
- (4) the organic law on referendum;
- (5) the organic law on rules and procedure of the Constitutional Court;
- (6) the organic law on criminal proceeding against persons holding political positions;
- (7) the organic law on Ombudsman;
- (8) the organic law on counter corruption;
- (9) the organic law on State Audit.

Section 139. An organic law bill may be introduced only by the followings:

- (1) the Council of Ministers;
- (2) members of the House of Representatives of not less than one-tenth of the total number of the existing number of the House of Representatives or members of the House of Representatives and senators of not less than one-tenth of members of the both Houses; or
- (3) the Constitutional Court, the Supreme Court of Justice or other independent Constitutional organisation by through the President of such Court or of such organizations whom having charge and control of the execution of the organic law.

Section 140. The consideration of the organic law bill of the House of Representatives and the Senate shall be made in three readings as follows:

- (1) the voting for the acceptance of the principle of the bill in the first reading and for each section of the bill in the second reading shall be made by majority of votes of each House;
- (2) the voting for approval of the bill to be enacted as the organic law in the third reading shall be made by more than one-half of the total number of the existing members of each House.

The provisions in Chapter 6, Part 7 the enactment of the Act shall apply mutatis mutandis to the consideration of the organic law bill.

Section 141. Before presenting the organic law bill as approved by the National Assembly to the King for His signature, it shall be submitted to the Constitutional Court for considering of its constitutionality and, in such case, the Constitutional Court shall have a decision thereon within thirty days as from the date of receiving thereof.

If the Constitutional Court decides that the provisions of an organic law bill are contrary to or inconsistent with the Constitution, such provisions shall lapse and if the Constitutional Court decides that such provisions are the essential element thereof or the organic law bill is enacted inconsistent with the provisions of the Constitution, such organic law bill shall lapse.

In the case where the decision of the Constitutional Court resulting in the lapse of the provisions which are contrary to or inconsistent with the Constitution under paragraph two, such organic law bill shall be returned to the House of Representatives and the Senate respectively for their reconsideration. In such case, the House of Representatives or the Senate shall make an amendment to the organic law bill for its constitutionality by through the votes of more than one-half of the total number of the existing members of each House and the Prime Minister shall then proceed further under section 90 and section 150 or section 151, as the case may be.

Part 7 The Enactment of an Act

Section 142. Subject to section 139, a bill may be introduced only by the followings:

- (1) the Council of Ministers;
- (2) members of the House of Representatives of not less than twenty in number;
- (3) the Court or the independent Constitutional organisation, only for the bills relating to the administration of their organisations and the law in which the President of such Court or of such organisations whom having charge and control of the execution of the Act;
- (4) the persons having the right to vote of not less than ten thousand in number whom jointly introduce a bill under section 163.

If the bill under (2), (3) or (4) is a money bill, it shall be introduced only with the endorsement of the Prime Minister.

In the case where the person having the right to vote have introduced the bill under (4) and thereafter the person under (1) or (2) introduces the bill having the same principle thereto, the provisions of section 163 paragraph four shall apply to the consideration of such bill.

A bill shall be first submitted to the House of Representatives.

In an introduction of a bill under paragraph one, a bill and its explanatory memorandum shall be submitted altogether.

A bill introduced to the National Assembly shall be opened to public and the public shall get access thereto conveniently.

Section 143. A money bill means a bill with provisions dealing with any of the following matters:

- (1) the imposition, repeal, reduction, alteration, modification, remission, or regulation of taxes or duties;
- (2) the allocation, receipt, custody, payment of the State funds, or transfer of expenditure estimates of the State;
- (3) the raising of loans, or guarantee or redemption of loans, or any binding of State's properties;
- (4) currency.

In case of doubt as to whether a bill is a money bill which requires the endorsement of the Prime Minister or not, it shall be the power of a joint sitting of the President of the House of Representatives and Presidents of all its standing committees to make a decision thereon.

The President of the House of Representatives shall hold a joint sitting to consider the case under paragraph two within fifteen days as from the date such case occurs.

The resolution of the joint sitting under paragraph two shall be decided by a majority of votes. In case of an equality of votes, the President of the House of Representatives shall have an additional vote as a casting vote.

Section 144. For any bill introduced by members of the House of Representatives which, at the stage of the adoption of its principle, was not a money bill but was then amended by the House of Representatives and, in the opinion of the President of the House, such amendment has rendered it to exhibit the characteristic of a money bill, the President of the House shall suspend the consideration of such bill and, within fifteen days as from the day on which such case occurs, shall refer it to a joint sitting of the President of the House of Representatives and Chairpersons of all its standing committees to make a decision thereon.

If the joint sitting under paragraph one decides that the amendment resulted in such bill exhibiting the characteristic of a money bill, the President of the House shall refer it to the Prime Minister for endorsement. In the case where the Prime Minister does not endorse it, the House of Representative shall amend it so as to prevent it from being a money bill.

Section 145. When a bill which has been specified by the Council of Ministers, in its policies stated to the National Assembly under section 176, as necessary for the administration of State affairs, if it is not approved by a resolution of the House of Representatives and the votes disapproving it are less than one-half of the total number of the existing members of the House, the Council of Ministers may request the National Assembly to hold a joint sitting for passing a resolution on another occasion. If it is approved, the National Assembly shall appoint the persons, being or not being its members, in such an equal number as proposed by the Council of Ministers, to constitute a joint committee of the National Assembly for considering such bill, and the joint committee of the National Assembly shall prepare a report thereon and submit the bill which it has already considered to the National Assembly. If such bill is approved by the National Assembly, further proceedings under section 150 shall be taken. If it is not approved, such bill shall lapse.

Section 146. Subject to section 168, when the House of Representatives has considered a bill submitted under section 142 and resolved to approve it, the House of Representatives shall submit such bill to the Senate. The Senate must finish the consideration of such bill within sixty days; but if it is a money bill, the consideration thereof must be finished within thirty days; provided that the Senate may, as a special case, resolve to extend the period for not more than thirty days. The said period shall mean the period during a session and shall be counted as from the day on which such bill reaches the Senate.

The period referred to in paragraph one shall not include the period during which the bill is under the consideration of the Constitutional Court under section 149.

If the Senate has not finished the consideration of the bill within the period referred to in paragraph one, it shall

be deemed that the Senate has approved it.

In the case where the House of Representatives submits a money bill to the Senate, the President of the House of Representatives shall also notify the Senate that the bill so submitted is a money bill. The notification of the President of the House of Representatives shall be deemed final.

In the case where the President of the House of Representatives does not notify the Senate that the bill is a money bill, such bill shall not be deemed a money bill.

Section 147. Subject to section 168, after the Senate has finished the consideration of a bill,

(1) if it agrees with the House of Representatives, further proceedings under section 150 shall be taken;

(2) if it disagrees with the House of Representatives, such bill shall be withheld and returned to the House of Representatives;

(3) if there is an amendment, the amended bill shall be returned to the House of Representatives. If the House of Representatives approves such amendment, further proceedings under section 150 shall be taken. In other cases, each House shall appoint persons, being or not being its members, in such an equal number as may be fixed by the House of Representatives, to constitute a joint committee for considering the bill and the joint committee shall prepare a report thereon and submit the bill which it has already considered to both Houses. If both Houses approve the bill already considered by the joint committee, further proceedings under section 150 shall be taken. If either House disapproves it, the bill shall be withheld.

The joint committee has the power to demand documents from any person or summon any person to give statements of fact or opinions in respect of the consideration of the bill and the privileges provided in section 130 shall also extend to the person performing his duties under this section.

At a meeting of the joint committee, the presence of the members of the joint committee appointed by both Houses of not less than one-half of the total number of its members is required to constitute a quorum and the provisions of section 137 shall apply *mutatis mutandis*.

If the Senate fails to return the bill to the House of Representatives within the period under section 146, it shall be deemed that the Senate approves such bill and further proceeding under section 150 shall be taken.

Section 148. A bill withheld under section 147 may be reconsidered by the House of Representatives only after the lapse of one hundred and eighty days as from the date the bill or the organic law bill is returned to the House of Representatives by the Senate in case of withholding under section 147 (2) and as from the date either House disapproves it in case of withholding under section 147 (3). In such cases, if the House of Representatives resolves to reaffirm the original bill or the bill considered by the joint committee by the votes of more than one-half of the total number of the existing members of the House of Representatives, such bill shall be deemed to have been approved by the National Assembly and further proceedings under section 150 shall be taken.

If the bill withheld is a money bill, the House of Representatives may forthwith proceed to reconsider it. In such case, if the House of Representatives resolves to reaffirm the original bill or the bill considered by the joint committee by the votes of more than one-half of the total number of the existing members of the House of Representatives, such bill shall be deemed to have been approved by the National Assembly and further proceedings under section 150 shall be taken.

Section 149. While a bill is being withheld under section 147, the Council of Ministers or members of the House of Representatives may not introduce a bill having the same or similar principle as that of the bill so withheld.

In the case where the House of Representatives or the Senate is of the opinion that the bill so introduced or referred to for consideration has the same or similar principle as that of the bill being withheld, the President of the House of Representatives or the President of the Senate shall refer the said bill to the Constitutional Court for decision. If the Constitutional Court decides that it is a bill having the same or similar principle as that of the bill so withheld, such bill shall lapse.

Section 150. The Prime Minister shall present the bill approved by the National Assembly to the King for His signature within twenty days as from the date of receiving such bill from the National Assembly and the bill shall come into force as an Act upon its publication in the Government Gazette.

Section 151. If the King refuses His assent to a bill and either returns it to the National Assembly or does not return it within ninety days, the National Assembly must reconsider such bill. If the National Assembly resolves to reaffirm the bill with the votes of not less than two-thirds of the total number of existing members of both Houses, the Prime Minister shall present such bill to the King for signature once again. If the King does not sign and return the bill within thirty days, the Prime Minister shall cause the bill to be promulgated as an Act in the Government Gazette as if the King had signed it.

Section 152. In considering a bill the substance of which is decided by the President of the House of Representatives to be concerned with children, the youth, women, the elderly, the disabled or handicapped, if the House of Representatives does not consider it by its full committee, the House of Representatives shall appoint an non-standing committee consisting of representatives, from private organisations concerned with the respective types of persons, of not less than one-third of the total number of members of the committee and the members thereof shall consist of women and men in closely apportion.

Section 153. In the case where the term of the House of Representatives expires or the House of Representatives is dissolved, the draft Constitution Amendment or all bills to which the King has refused His assent or which have not been returned by the King within ninety days, shall lapse.

In the case where the term of the House of Representatives expires or where the House of Representatives is dissolved, the National Assembly, the House of Representatives or the Senate, as the case may be, may, after a general election of members of the House of Representatives, continue the consideration of the draft Constitution Amendment or the bill which has not yet been approved by the National Assembly if the Council of Ministers which is newly appointed after the general election so requests within sixty days as from the first sitting day of the National Assembly after the general election and the National Assembly approves it. If the Council of Ministers does not so request within such period of time, such draft Constitution Amendment or bill shall lapse.

The further consideration of the draft Constitution Amendment or the bill under paragraph two shall be in accordance with the rules of procedure of the House of Representatives, the Senate or the National Assembly, as the case may be.

Part 8 Constitutionality of Laws

Section 154. After any bill has been approved by the National Assembly under section 150 or has been reaffirmed by the National Assembly under section 151, before the Prime Minister presents it to the King for signature:

- (1) if members of the House of Representatives, senators or members of both Houses of not less than one-tenth of the total number of the existing members of both Houses are of the opinion that provisions of the said bill are contrary to or inconsistent with this Constitution or such bill is enacted contrary to the provisions of this Constitution, they shall submit their opinion to the President of the House of Representatives, the President of the Senate or the President of the National Assembly, as

the case may be, and the President of the House receiving such opinion shall then refer it to the Constitutional Court for decision and, without delay, inform the Prime Minister thereof;

(2) if the Prime Minister is of the opinion that the provisions of the said bill are contrary to or inconsistent with this Constitution or it is enacted contrary to the provisions of this Constitution, the Prime Minister shall refer such opinion to the Constitutional Court for decision and, without delay, inform the President of the House of Representatives and the President of the Senate thereof.

During the consideration of the Constitutional Court, the Prime Minister shall suspend the proceedings in respect of the promulgation of the bill until the Constitutional Court gives a decision thereon.

If the Constitutional Court decides that the provisions of such bill are contrary to or inconsistent with this Constitution or it is enacted contrary to the provisions of this Constitution and that such provisions of the bill form the essential element thereof, such bill shall lapse.

If the Constitutional Court decides that the provisions of such bill are contrary to or inconsistent with this Constitution otherwise than in the case specified in paragraph three, such conflicting or inconsistent provisions shall lapse and the Prime Minister shall proceed further in accordance with section 150 or section 151, as the case may be.

Section 155. The provisions of section 154 shall apply mutatis mutandis to draft rules of procedure of the House of Representatives, draft rules of procedure of the Senate and draft rules of procedure of the National Assembly which have already been approved by the House of Representatives, the Senate or the National Assembly, as the case may be, but remain unpublished in the Government Gazette.

Part 9

Control of the Administration of State Affairs

Section 156. Every member of the House of Representatives or senator has the right to interpellate a Minister on any matter within the scope of his authority, but the Minister has the right to refuse to answer it if the Council of Ministers is of the opinion that the matter should not yet be disclosed on the ground of safety or vital interest of the State.

Section 157. In the administration of State affairs on any matter which involves an important problem of public concern, affects national or public interest, or requires urgency, a member of the House of Representatives may notify the President of the House of Representatives in writing prior to the commencement of the sitting of the day, that he will interpellate the Prime Minister or the Minister responsible for the administration of State affairs on that matter without specifying the question, and the President of the House of Representatives shall place such matter on the agenda of the meeting of that day.

The interpellation and the answer to the interpellation under paragraph one may be made once a week, and a verbal interpellation by a member of the House of Representatives on a matter involving the administration of State affairs may be made not exceeding three times on each matter in accordance with the rules of procedure of the House of Representatives.

Section 158. Members of the House of Representatives of not less than one-fifth of the total number of the existing members of the House have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister. Such motion must nominate the suitable next Prime Minister who is also a person under section 171 paragraph two and, when the motion has been submitted, the dissolution of the House of Representatives shall not be permitted, except that the motion is withdrawn or the resolution is passed without being supported by the vote in accordance with paragraph three.

In the submission of the motion for a general debate under paragraph one, if it is concerned with the behaviour of the Prime Minister, which involves circumstances of unusual wealthiness, exhibits a sign of malfeasance in office or intentionally violates the provisions of the Constitution or law, it shall not be submitted without the petition under section 271 having been presented. Upon the submission of the petition under section 271, it may be proceeded without awaiting the outcome of the proceedings under section 272.

If the general debate is concluded with a resolution not to pass over the agenda of the general debate, the House of Representatives shall pass a vote of confidence or no-confidence. Voting in such case shall not take place on the date of the conclusion of the debate. The vote of no-confidence must be passed by more than one-half of the total number of the existing members of the House of Representatives.

In the case where a vote of no-confidence is passed by not more than one-half of the total number of the existing members of the House of Representatives, the members of the House of Representatives who submit the motion for the general debate shall no longer have the right to submit another motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Ministers throughout the session.

In the case where a vote of no-confidence is passed by more than one-half of the total number of the existing members of the House of Representatives, the President of the House of Representatives shall submit the name of the person nominated under paragraph one to the King for further appointment and section 172 shall not apply.

Section 159. Members of the House of Representatives of not less than one-sixth of the total number of the existing members of the House of Representatives have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in an individual Minister and the provisions of section 158 paragraph two, paragraph three and paragraph four shall apply *mutatis mutandis*.

In the case where the Minister vacates his portfolio but being appointed to hold another portfolio after the submission of a motion under paragraph one, he still be a subject of a general debate for the purpose of passing a vote of no-confidence under paragraph one.

The provisions of paragraph two shall apply *mutatis mutandis* to the Minister who vacates his portfolio for the period of not exceeding ninety days before the submission of a motion under paragraph one but being appointed to be the Minister of another portfolio.

Section 160. In the case where the number of members of the House of Representatives whose their political parties having members holding no ministerial positions is less than the number of members of the House required for the making of submission of a motion for a general debate under section 158 or section 159, more than one-half of the existing number of such members of the House of Representatives have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister or in an individual Minister under section 158 or section 159 if the Council of Ministers conducts the administration of State affairs for more than two years.

Section 161. Senators of not less than one-third of the total number of the existing members of the Senate have the right to submit a motion for a general debate in the Senate for the purpose of requesting the Council of Ministers to give statements of fact or explain important problems in connection with the administration of State affairs without a resolution to be passed.

The motion for the general debate under this section may be submitted only once in each session.

Section 162. In the sitting of the House of Representatives or the Senate for consideration of an interpellation on any matter within the scope of the authority of Minister or for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister or in an individual Minister, the Prime Minister or such Minister shall attend the sitting of the House of Representatives or the Senate for giving statement or answer thereon by himself, provided that there occurs an inevitable cause which hinder him in so doing but he shall notify the

President of the House of Representatives or the President of the Senate on or before the sitting date.

A member of the House of Representatives is not bound by the resolution of his political party in submitting an interpellation, debating and voting of no-confidence.

CHAPTER VII

Direct Political Participation of the Public

Section 163. The persons having the right to vote of not less than ten thousand in number shall have a right to submit a petition to the President of the National Assembly to consider such bill as prescribed in Chapter 3 and Chapter 5 of this Constitution.

A bill must be attached to the petition referred to in paragraph one.

The rules and procedure for the petition and the examination thereof shall be in accordance with the provisions of the law.

In considering the bill under paragraph one, the House of Representatives and the Senate shall facilitate representatives of the persons submitting a petition to state the principles of the bill and the non-standing committee for considering such bill shall consist of representatives of the persons submitting a petition in an amount of not less than one-third of the total number of its members.

Section 164. The persons having the right to vote of not less than twenty thousand in number shall have a right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution under section 274 removing the persons under section 270 from office.

The request under paragraph one shall clearly itemise circumstances in which such persons have allegedly committed the act.

The rules, procedure and conditions for the lodging of the complaint by the voters under paragraph one shall be in accordance with the organic law on counter corruption.

Section 165. A person having the right to vote in an election shall have the right to vote in a referendum.

A referendum shall be held when:

(1) the Council of Ministers is of the opinion that any issue may affect national or public interests, the Prime Minister, with the approval of the Council of Ministers, may consult the President of the House of Representatives and the President of the Senate for the purpose of publishing in the Government Gazette calling for a referendum;

(2) it is required by law.

A referendum under (1) or (2) may be held for the purpose of finding solution of the subject matter of a referendum through the majority of votes in a referendum or for the purpose of public consultation to the Council of Ministers, provided that otherwise prescribed by law.

A vote in a referendum shall be made for either approval or not approval to the subject matter of a referendum. A referendum shall not be held on an issue specifically relating to any individual or group of persons.

Before the referendum day, the State shall provide sufficient information to the public and provide equal

opportunity to the peoples who agree or disagree with the subject matter of a referendum to state their opinions.

The rules and procedure for voting in a referendum shall be in accordance with the organic law on referendum which shall at least consist of details of the procedure for voting, referendum period and the number of votes required for final decision.

CHAPTER VIII **Monetary, Finance and Budget**

Section 166. The expenditure estimates of the State shall be made in the form of an Act. If the Annual Appropriations Act for the following fiscal year is not enacted in time, the law on annual appropriations for the preceding fiscal year shall apply for the time being.

Section 167. In an introduction of the annual appropriations bill, the bill shall be annexed with documents stating estimated incomes, obscure objectives, activities, plans or projects of each item of expenditures including monetary and financial status of the country through the overview of economic condition arising from spending and gathering of incomes, benefits and deficiencies resulting from any specific tax exemption, justification for binding of over-year obligations, State debts and its incurring and financial status of State enterprises of that year and the previous year.

If any expenditure is unable to be directly allocated to a government agency, State enterprise or other State agencies, it shall be allocated to the item of reserved expenditure and, in such case, justification and necessary of such allocation shall also be stated.

There shall be a law on State monetary and finance laying down monetary and financial disciplines as well as the rules relating to a financial planning for medium term range, the gathering of incomes, a determination of guidelines for the making of expenditure estimates of State, the financial and properties management, an accounting, the public funds, an incurring of debts or any act resulting in the binding of properties of or the incurring of financial obligation of State, the rule for a determination of the amount of reserved money to be paid for emergency or necessity situation and other relevant acts which are the scope for the gathering of incomes and supervising of spending in accordance with the principles of balancing, economic sustainable development and social fairness.

Section 168. The House of Representatives must finish the consideration of an annual appropriations bill, a supplementary appropriations bill and a transfer of appropriations bill within one hundred and five days as from the date the bill reaches the House of Representatives.

If the House of Representatives has not finished the consideration of the bill within the period referred to in paragraph one, such bill shall be deemed to have been approved by the House of Representatives and shall be submitted to the Senate.

In the consideration by the Senate, the Senate must approve or disapprove the bill without any amendment within twenty days as from the date the bill reaches the Senate. Upon the lapse of such period, such bill shall be deemed to have been approved; in such case and in the case where the Senate approves it, further proceedings under section 150 shall be taken.

If the Senate disapproves the bill, the provisions of section 148 paragraph two shall apply *mutatis mutandis*.

In the consideration of the annual appropriations bill, the supplementary appropriations bill and the transfer of appropriations bill, a member of the House of Representatives shall not submit a motion adding any item or amount to the bill, but may submit a motion reducing or abridging the expenditures which are not expenditures according to any of the following obligations:

- (1) money for payment of the principal of a loan;
- (2) interest on a loan;
- (3) money payable in accordance with the law.

In the consideration by the House of Representatives, the Senate or a committee, any proposal, submission of a motion or commission of an act, which results in direct or indirect involvement by members of the House of Representatives, senators or members of a committee in the use of the appropriations, shall not be permitted.

In the case where members of the House of Representatives or senators of not less than one-tenth of the total number of the existing members of each House are of the opinion that the violation of the provisions of paragraph six has occurred, they shall refer it to the Constitutional Court for decision and the Constitutional Court shall decide it within seven days as from the date of its receipt. In the case where the Constitutional Court decides that the violation of the provisions of paragraph six has occurred, such proposal, submission of the motion, or commission of the act shall be ineffective.

The State shall allocate adequate budgets for the autonomous administration of the National Assembly, the Constitutional Court, the Courts of Justice, the Administrative Courts and other Constitutional organisations.

In the consideration of the expenditure estimates of the National Assembly, the Courts and the organisations under paragraph eight, if such organisation is of the opinion that the allocated budget is insufficient, it shall submit a motion to the committee directly.

Section 169. The payment of State funds shall be made only when it has been authorised by the law on appropriations, the law on budgetary procedure, the law on transfer of appropriations or the law on treasury balance, except that it may be prepaid in the case of urgent necessity under the rules and procedure provided by law. In such case, the expenditure estimates for reimbursement must be set aside in the Transfer of Appropriations Act, the Supplementary Appropriations Act, or the Annual Appropriations Act for the following fiscal year, and the sources of incomes for reimbursement of expenditures paid-up from the treasury balance must be stated.

During the time when the country is in state of war or fighting, the Council of Ministers has the power to transfer or shift the budget allocated for any government agency or State enterprise to be used for other items forthwith even it is different from the provisions of the Annual Appropriation Act and it shall be reported to the National Assembly without delay.

If there is a transfer or shift of the budget allocated for any item to be used for other items of any government agency or State enterprise, the Government shall report the National Assembly for information every six months.

Section 170. A State agency having income which is not required to be remitted as State revenue shall report the receipt and spending of such money to the Council of Ministers at the lapse of each fiscal year and the Council of Ministers shall report further to the House of Representatives and the Senate.

A spending of income under paragraph one shall be in accordance with the monetary and financial disciplines under this Chapter.

CHAPTER IX The Council of Ministers

Section 171. The King appoints the Prime Minister and not more than thirty-five other Ministers to constitute the Council of Ministers having the duty to carry out the administration of State affairs with collective accountability.

The Prime Minister must be a member of the House of Representatives appointed under section 172.

The President of the House of Representatives shall countersign the Royal Command appointing the Prime Minister.

The Prime Minister shall not hold office for more than eight consecutive years.

Section 172. The House of Representatives shall complete its consideration and approval of the person suitable to be appointed as Prime Minister within thirty days as from the day the National Assembly is convoked for the first sitting under section 127.

The nomination of a person who is suitable to be appointed as Prime Minister under paragraph one shall be endorsed by members of the House of Representatives of not less than one-fifth of the total number of the existing members of the House.

The resolution of the House of Representatives approving the appointment of a person as Prime Minister shall be passed by the votes of more than one-half of the total number of the existing members of the House of Representatives. The passing of the resolution in such case shall be by open votes.

Section 173. In the case where the period of thirty days as from the date the National Assembly is convoked for the first sitting of members of the House of Representatives has elapsed and no one has been approved for appointment as Prime Minister under section 172 paragraph three, the President of the House of Representatives shall, within fifteen days as from the lapse of such period, present to the King for the issuance of a Royal Command appointing the person who has received the highest votes as Prime Minister.

Section 174. A Minister must possess the qualifications and must not be under any of the prohibitions as follows:

- (1) being of Thai nationality by birth;
- (2) being not less than thirty five years of age;
- (3) having graduated with not lower than a Bachelor's degree or its equivalent;
- (4) not being under any of the prohibitions under section 102 (1), (2), (3), (4), (6), (7), (8), (9), (11), (12), (13) or (14);
- (5) having been discharged for a period of less than five years before the appointment after being sentenced by a judgment to imprisonment, except for an offence committed through negligence or petty offence;
- (6) not being a senator or having been a senator whose membership has terminated for not more than two years up to the date of the appointment as Minister.

Section 175. Before taking office, a Minister must make a solemn declaration before the King in the following words:

"I, (name of the declarer), do solemnly declare that I will be loyal to the King and will faithfully perform my duty in the interests of the country and of the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every respect."

Section 176. The Council of Ministers which will assume the administration of State affairs must, within fifteen days as from the date it takes office, state its policies and explanation for an implementation of the directive

principles of fundamental State policies under section 75; provided that no vote of confidence shall be passed, and must, after giving such statement, prepare a plan for the administration of State affairs as guideline for the administration of State affairs for each year under section 76.

Before stating policies to the National Assembly under paragraph one, if there occurs a case of importance and necessary urgency which, if left delayed, will affect material benefits of State, the Council of Ministers which has taken office may, for the time being, carry out such acts in so far as it is necessary.

Section 177. A Minister has the right to attend and give a statement of facts or opinions at a sitting of the House. In the case where the House of Representatives or the Senate has passed a resolution requiring Ministers to attend a sitting for any matter, he shall attend the sitting. The provisions of section 130 governing privileges shall apply *mutatis mutandis*.

In the case where a Minister is a member of the House of Representatives simultaneously, he must, in the sitting of the House of Representatives, abstain from voting in relation to the matter concerning with the holding of his position or the performance of his duty or the matter he has interests therewith.

Section 178. Ministers shall carry out the administration of State affairs in accordance with the provisions of the Constitution, laws and the policies stated under section 176, and shall be accountable individually to the House of Representatives for the performance of their duties and shall also be accountable collectively to the National Assembly for the general policies of the Council of Ministers.

Section 179. In the case where there is an important problem in the administration of State affairs in regard to which the Council of Ministers deems it advisable to take opinion of members of the House of Representatives and senators, the Prime Minister may give a notice to the President of the National Assembly requesting that a general debate be held at a joint sitting of the National Assembly. In such case, no resolution shall be passed by the National Assembly on the issue put in the debate.

Section 180. Ministers vacate office *en masse* upon:

- (1) the termination of ministership of the Prime Minister under section 182;
- (2) the expiration of the term or the dissolution of the House of Representatives;
- (3) the resignation of the Council of Ministers.

In the case where the ministership of the Prime Minister terminates under section 182 (1), (2), (3), (4), (5), (7) or (8), the procedure under section 172 and section 173 shall apply *mutatis mutandis*.

Section 181. The outgoing Council of Ministers shall remain in office for carrying out duty until the newly appointed Council of Ministers takes office, but in case of vacation of office under section 180 (2) the Council of Ministers and a Minister is able to carry out any duty as necessary within the following conditions:

- (1) refraining from the exercise of power which resulting in the appointment or transfer of government officials holding permanent positions or salaries or of officials of State agency, State enterprise or any enterprise in which the State is a major shareholders or resulting in leaving such persons from the performance of their duties or offices or replacing other persons to replace him except by prior approval of the Election Commission;
- (2) refraining from doing an act which resulting in giving of approval to spend budget reserved for emergency or necessity situation except by prior approval of the Election Commission;
- (3) refraining from doing an act which resulting in giving approval of work or project or which the forthcoming Council of Ministers may be bound;

(4) refraining from using resources or personnel of State to do an act which may affect the result of a general election, and refraining from the violation of any prohibitions under the rules prescribed by the Election Commission.

Section 182. The ministership of an individual Minister terminates upon:

- (1) death;
- (2) resignation;
- (3) being sentenced by a judgment to imprisonment notwithstanding the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offense;
- (4) the passing of a vote of no-confidence by the House of Representatives under section 158 or section 159;
- (5) being disqualified or being under any of the prohibitions under section 174;
- (6) the issuance of a Royal Command to remove a Minister from office under section 183;
- (7) having done an act prohibited by section 267, section 268 or section 269;
- (8) being removed from office by a resolution of the Senate under section 274.

Apart from the termination of ministership of individual Minister under paragraph one, the ministership of the Prime Minister terminates upon the lapse of the period under section 171 paragraph four.

The provisions of section 91 and section 92 shall apply to the termination of ministership under (2), (3), (5) or (7) or paragraph two and, in such case, the Election Commission may also refer the matter thereof to the Constitutional Court for decision.

Section 183. The King has the prerogative to remove a Minister from his office upon the advice of the Prime Minister.

Section 184. For the purpose of maintaining national or public safety or national economic security, or averting public calamity, the King may issue an Emergency Decree which shall have the force as an Act.

The issuance of an Emergency Decree under paragraph one shall be made only when the Council of Ministers is of the opinion that it is the case of emergency and necessary urgency which is unavoidable.

In the next succeeding sitting of the National Assembly, the Council of Ministers shall submit the Emergency Decree to the National Assembly for its consideration without delay. If it is out of session and it would be a delay to wait for the opening of an ordinary session, the Council of Ministers must proceed to convoke an extraordinary session of the National Assembly in order to consider whether to approve or disapprove the Emergency Decree without delay. If the House of Representatives disapproves it or approves it but the Senate disapproves it and the House of Representatives reaffirms its approval by the votes of not more than one-half of the total number of the existing members of the House, the Emergency Decree shall lapse; provided that it shall not affect any act done during the enforcement of such Emergency Decree.

If the Emergency Decree under paragraph one has the effect of amending or repealing any provisions of any Act and such Emergency Decree has lapsed in accordance with paragraph three, the provisions of the Act in force before the amendment or repeal shall continue to be in force as from the day the disapproval of such Emergency

Decree is effective.

If the House of Representatives and the Senate approve the Emergency Decree, or if the Senate disapproves it but the House of Representatives reaffirms its approval by the votes of more than one-half of the total number of the existing members of the House, such Emergency Decree shall continue to have the force as an Act.

The Prime Minister shall cause the approval or disapproval of the Emergency Decree to be published in the Government Gazette. In case of disapproval, it shall be effective as from the day following the date of its publication in the Government Gazette.

The consideration of an Emergency Decree by the House of Representatives and the Senate in case of reaffirmation of an Emergency Decree must take place at the first opportunity when such Houses hold their sittings.

Section 185. Before the House of Representatives or the Senate approves an Emergency Decree under section 184 paragraph three, members of the House of Representatives or senators of not less than one-fifth of the total number of the existing members of each House have the right to submit an opinion to the President of the House of which they are members that the Emergency Decree is not in accordance with section 184 paragraph one or paragraph two, and the President of such House shall, within three days as from the date of receipt of such opinion, refer it to the Constitutional Court for decision. After the Constitutional Court has given a decision thereon, it shall notify such decision to the President of the House referring such opinion.

When the President of the House of Representatives or the President of the Senate has received the opinion from members of the House of Representatives or senators under paragraph one, the consideration of such Emergency Decree shall be deferred until the decision of the Constitutional Court under paragraph one has been notified.

In the case where the Constitutional Court decides that any Emergency Decree is not in accordance with section 184 paragraph one or paragraph two, such Emergency Decree shall not have the force of law ab initio.

The decision of the Constitutional Court that an Emergency Decree is not in accordance with section 184 paragraph one or paragraph two, must be given by the votes of not less than two-thirds of the total number of judges of the Constitutional Court.

Section 186. If, during a session, it is necessary to have a law on taxes, duties or currency, which, in the interests of State, requires an urgent and confidential consideration, the King may issue an Emergency Decree which shall have the force as an Act.

The Emergency Decree issued under paragraph one must be submitted to the House of Representatives within three days as from the day following the date of its publication in the Government Gazette, and the provisions of section 184 shall apply mutatis mutandis.

Section 187. The King has the prerogative to issue a Royal Decree which is not contrary to the law.

Section 188. The King has the prerogative to declare and lift the martial law in accordance with the conditions and manner under the Martial Law.

In the case where it is necessary to declare the martial law in a certain locality as a matter of urgency, the military authority may do so under the Martial Law.

Section 189. The King has the prerogative to declare war with the approval of the National Assembly.

The approval resolution of the National Assembly must be passed by the votes of not less than two-thirds of the total number of the existing members of both Houses.

During the expiration of the term or the dissolution of the House of Representatives, the Senate shall perform the function of the National Assembly in giving the approval under paragraph one, and the resolution shall be passed by the votes of not less than two-thirds of the total number of the existing senators.

Section 190. The King has the prerogative to conclude a peace treaty, armistice and other treaties with other countries or international organisations.

A treaty which provides for a change in the Thai territories or the Thai external territories that Thailand has sovereign right or jurisdiction over such territories under any treaty or an international law or requires the enactment of an Act for its implementation or affects immensely to economic or social security of the country or results in the binding of trade, investment budget of the country significantly must be approved by the National Assembly. In such case, the National Assembly must complete its consideration within sixty days as from the date of receipt of such matter.

Before the conclusion of a treaty with other countries or international organisations under paragraph two, the Council of Ministers must provide information thereon to the public, conduct public consultation and state information in relevant thereto to the National Assembly. In such case, the Council of Ministers must submit negotiation framework to the National Assembly for approval.

Upon giving signature to the treaty under paragraph two, the Council of Ministers shall, prior to give consent to be bound, facilitate the public to get access to the details of such treaty. In the case where the application of such treaty has affected the public or small and medium entrepreneurs, the Council of Ministers must revise or render remedy to such effects rapidly, expediently and fairly.

There shall be a law determining measure and procedure for the conclusion of a treaty having immense effects to economic or social security of the country or resulting in the binding of trade or investment of the country significantly and the revision or rendering of remedy to the effects of such treaty with due regard to the fairness among the beneficiaries, the affected persons and the general public.

A matter arising from the provisions of paragraph two falls within the jurisdiction of the Constitutional Court and the provisions of section 154 (1) shall apply mutatis mutandis to the referring of the matter to the Constitutional Court.

Section 191. The King has the prerogative to grant a pardon.

Section 192. The King has the prerogative to remove titles and recall decorations.

Section 193. The King appoints and removes officials in the military service and civil service who hold the positions of Permanent Secretary of State, Director-General and their equivalents except in the case where they vacate office upon death.

Section 194. A government official and a State official holding a permanent position or receiving a salary and not being a political official shall not be a political official or hold other political positions.

Section 195. All laws, Royal Prescripts and Royal Commands relating to State affairs must be countersigned by a Minister unless otherwise provided in this Constitution.

All laws which have been signed or deemed to have been signed by the King shall forthwith be published in the Government Gazette.

Section 196. Emoluments and other remuneration of Privy Councillors, President and Vice-Presidents of the House of Representatives, President and Vice-Presidents of the Senate, Leader of the Opposition in the House of Representatives, members of the House of Representatives and senators shall be prescribed by the Royal Decree which the provisions thereof must not allow payment prior to the date such persons taking offices.

Gratuities, pensions or other remuneration of Privy Councillors who vacate their office shall be prescribed by the Royal Decree.

CHAPTER X The Courts

Part 1 General Provisions

Section 197. The trial and adjudication of cases are the power of the Courts, which must be proceeded by justice in accordance with the Constitution and the law and in the name of the King.

Judges are independent in the trial and adjudication of cases with accurate, rapid and impartial practice in accordance with the Constitution and the law.

The transfer of a judge without his prior consent shall not be permitted except in the case of termly transfer as provided by law, promotion to a higher position, being under a disciplinary action or becoming a defendant in a criminal case, being affected to justice in the trial and adjudication or in case of force majeure or any other inevitable necessity as provided by law.

Judges shall not be political officials or hold political positions.

Section 198. All Courts may be established only by Acts.

A new Court for the trial and adjudication of any particular case or a case of any particular charge in place of the Court existing under the law and having jurisdiction over such case shall not be established.

A law having an effect of changing or amending the law on the organisation of Courts or on judicial procedure for the purpose of its application to a particular case shall not be enacted.

Section 199. In the case where there is a dispute on the competent jurisdiction among the Court of Justice, the Administrative Court, the Military Court or any other Court, it shall be decided by a committee consisting of the President of the Supreme Court of Justice as Chairperson, the President of the Supreme Administrative Court, the President of such other Court and not more than four qualified persons as provided by law as members.

The rules for the submission of the dispute under paragraph one shall be as provided by law.

Section 200. The King appoints and removes judges except in the case of removal from office upon death.

The appointment and removal from office of a judge of any Court other than the Constitutional Court, the Court of Justice, the Administrative Court and the Military Court as well as the adjudicative jurisdiction and procedure of such Courts shall be in accordance with the law on the establishment of such Courts.

Section 201. Before taking office, a judge shall make a solemn declaration before the King in the following words:

"I, (name of the declarer) do solemnly declare that I will be loyal to His Majesty the King and will faithfully perform my duty in the name of the King without any partiality in the interest of justice, of the people and of the public order of the Kingdom. I will also uphold and observe the democratic regime of government with the King as Head of the State, the Constitution of the Kingdom of Thailand and the law in every respect."

Section 202. Salaries, emoluments and other benefits of judges shall be as prescribed by law; provided that the system of salary-scale or emoluments applicable to civil servants shall not be applied.

The provisions of paragraph one shall apply to Election Commissioners, Ombudsmen, members of the National Counter Corruption Commission and members of the State Audit Commission *mutatis mutandis*.

Section 203. No person may simultaneously become a member, whether an *ex officio* member or a qualified member, of the Judicial Commission of the Courts of Justice, the Administrative Court or any other Court as provided by law.

Part 2 The Constitutional Court

Section 204. The Constitutional Court consists of the President and eight judges of the Constitutional Court to be appointed by the King upon advice of the Senate from the following persons:

- (1) three judges of the Supreme Court of Justice holding a position of not lower than judge of the Supreme Court of Justice and elected at a general meeting of the Supreme Court of Justice by secret ballot;
- (2) two judges of the Supreme Administrative Court elected at a general meeting of the Supreme Administrative Court by secret ballot;
- (3) two qualified persons in law who having orientated knowledge and experience in this field and having been selected under section 206;
- (4) two qualified persons in political science, public administration or other social sciences who having orientated knowledge and experience in the administration of State affairs and having been selected under section 206.

In the case where no judge of the Supreme Court of Justice or judge of the Supreme Administrative Court having been elected under (1) or (2), the Supreme Court of Justice or the Supreme Administrative Court, as the case may be, shall elect, at its general meeting, other persons whom qualified and not being under the prohibitions provided in section 205, having orientated knowledge and experience in law and suitable for the performance of the duty as judges of the Constitutional Court to be judges of the Constitutional Court under (1) or (2), as the case may be.

The elected persons under paragraph one shall hold a meeting and elect one among themselves to be the President of the Constitutional Court and notify the result to the President of the Senate accordingly.

The President of the Senate shall countersign the Royal Command appointing the President and judges of the Constitutional Court.

Section 205. The qualified persons under section 204 (3) and (4) shall possess the qualifications and shall not be under any of the prohibitions as follows:

- (1) being of Thai nationality by birth;
- (2) being not less than forty five years of age;
- (3) having been a Minister, a judge of the Supreme Military Court, an Election Commissioner, an

Ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission or a member of the National Human Rights Commission, or having served in a position of not lower than Deputy Prosecutor General, Director-General or a person holding an administrative position in a government agency having administrative power equivalent to Director-General, or holding an academic position of not lower than Professor or having been a lawyer practicing legal profession regularly and continuously for not less than thirty years up to the date of nomination;

(4) not being under any of the prohibitions under section 100 or section 102 (1), (2), (4), (5), (6), (7), (13) or (14);

(5) not being a member of the House of Representatives, senator, political official, member of a local assembly or local administrator;

(6) not being or having been a member or holder of other position of a political party over the period of three years preceding the taking of office;

(7) not being an Election Commissioner, an Ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission or a member of the National Human Rights Commission.

Section 206. The selection and election of judges of the Constitutional Court under section 204 (3) and (4) shall be proceeded as follows:

(1) there shall be a Selective Committee for Judges of the Constitutional Court consisting of the President of the Supreme Court of Justice, the President of the Supreme Administrative Court, the President of the House of Representatives, the Leader of the Opposition in the House of Representatives and the President of the Constitutional independent organisations whom elected among themselves to be one in number, as members. The Selective Committee must complete the selection under section 204 (3) and (4) within thirty days as from the date a ground for the selection occurs and then nominates the selected persons, with their consents, to the President of the Senate. The selection resolution shall be by open votes and passed by the votes of not less than two-thirds of the total number of the existing members of the Selective Committee. In the case where there is no member in any position or a member is unable to perform his duty and the number of the remaining members is not less than one-half thereof, the Selective Committee shall consist of the remaining members; provided that the provisions of section 113 paragraph two shall apply mutatis mutandis;

(2) the President of the Senate shall convoke a sitting of the Senate for the passing of approval resolution to the selected persons under (1) within thirty days as from the date of receipt of the nomination. A resolution shall be made by secret ballot. In case of approval resolution, the President of the Senate shall tender the nominated persons to the King for His appointment. In the case where the Senate disapproves the nomination, whether wholly or partly, it shall be returned to the Selective Committee for reselection. In such case, if the Selective Committee disagrees with the Senate and reaffirms its resolution unanimously, the names of the selected person shall be nominated to the President of the Senate to present to the King for His appointment, but if the reaffirmation is not passed by unanimous resolution, the reselection shall be commenced and it shall complete within thirty days as from the date a ground for the selection occurs.

If it is unable to complete the selection under (1) within the specified period by any cause, the Supreme Court of Justice shall, at its general meeting, appoint three judges of the Supreme Court of Justice holding a position of not lower than a judge of the Supreme Court of Justice and the Supreme Administrative Court shall, at its general meeting, appoint two judges of the Supreme Administrative Court to be members of the Selective Committee for the carrying out the duty under (1).

Section 207. The President and judges of the Constitutional Court shall not:

- (1) be a government official holding a permanent position or receiving a salary;
- (2) be an official or employee of a State agency, State enterprise or local government organisation or a director or adviser of a State enterprise or State agency;
- (3) hold any position in a partnership, a company or an organisation carrying out business with a view to sharing profits or incomes, or be an employee of any person;
- (4) engage in any independent profession.

In the case where the general meeting of the Supreme Court of Justice or of the Supreme Administrative Court or the Senate, has approved the person in (1), (2), (3) or (4) with the consent of that person, the selected person can commence the performance of duty only when he has resigned from the position in (1), (2) or (3) or has satisfied that his engagement in such independent profession has ceased to exist. This must be done within fifteen days as from the date of the selection or approval. If such person has not resigned or has not ceased to engage in the independent profession within the specified period, it shall be deemed that that person has never been selected or approved to be a judge of the Constitutional Court and the provisions of section 204 and section 206, as the case may be, shall apply.

Section 208. The President and judges of the Constitutional Court shall hold office for nine years as from the date of their appointment by the King and shall hold office for only one term.

The outgoing President and judges of the Constitutional Court shall remain in office to perform duty until the newly appointed President and judges of the Constitutional Court take office.

The President and judges of the Constitutional Court shall be judicial officials under the law.

Section 209. In addition to the vacation of office upon the expiration of term, the President and judges of the Constitutional Court vacate office upon:

- (1) death;
- (2) being of seventy years of age;
- (3) resignation;
- (4) being disqualified or being under any of the prohibitions under section 205;
- (5) having done an act in violation of section 207;
- (6) the Senate passing a resolution under section 274 for the removal from office;
- (7) being sentenced by a judgment to imprisonment notwithstanding the suspension of the execution of imprisonment has been granted, except for an offence committed through negligence, a petty offence or a defamation offense.

When a case under paragraph one occurs, the remaining judges shall continue to perform their duties subject to section 216.

Section 210. In the case where the President and judges of the Constitutional Court vacate office en masse at the expiration of term, the proceedings under section 204 and section 206 shall be taken within thirty days as

from the date of the vacation of office.

In the case where the President and judges of the Constitutional Court vacate office otherwise than in the case under paragraph one, the following proceedings shall be taken:

(1) in the case of the judge of the Constitutional Court who was selected at the general meeting of the Supreme Court of Justice, the proceedings under section 204 shall complete within thirty days as from the date of the vacation of office;

(2) in the case of the judge of the Constitutional Court who was selected at the general meeting of the Supreme Administrative Court, the proceedings under section 204 shall complete within thirty days as from the date of the vacation of office;

(3) in the case of the judges of the Constitutional Court under section 204 (3) or (4), the proceedings under section 206 shall complete within thirty days as from the date of the vacation of office.

In the case where some or all judges of the Constitutional Court vacate office out of a session of the National Assembly, the proceedings under section 206 shall be taken within thirty days as from the date of the opening of a session of the National Assembly.

In the case where the President of the Constitutional Court vacates office, the provisions of section 204 paragraph three shall apply.

Section 211. In the application of the provisions of any law to any case, if the Court by itself is of the opinion that, or a party to the case raises an objection with reasons that, the provisions of such law fall within the provisions of section 6 and there has not yet been a decision of the Constitutional Court on such provisions, the Court shall submit, in the course of official service, its opinion to the Constitutional Court for consideration and decision. During such period, the Court may continue the trial, but the adjudication to the case shall be suspended until the Constitutional Court has made its decision.

In the case where the Constitutional Court is of the opinion that the objection of a party under paragraph one is not essential for decision, the Constitutional Court may refuse to accept the case for consideration.

The decision of the Constitutional Court shall apply to all cases but shall not affect final judgments of the Courts.

Section 212. A person whose rights and liberties recognised by this Constitution are violated, has the right to submit a motion to the Constitutional Court for its a decision as to whether the provisions of the law are contrary to or inconsistent with the Constitution.

The exercise of right under paragraph one must be in the case of unable to exercise the right by other means as provided in the organic law on rules and procedure of the Constitutional Court;

Section 213. In the performance of duty, the Constitutional Court shall have the power to demand documents or relevant evidence from any person or summon any person to give statements of fact as well as request inquiry officials, a government agency, State agency, State enterprise or local government organisation to carry out any act for the purpose of its consideration.

The Constitutional Court shall have the power to appoint a person or a group of persons to carry out duty as entrusted.

Section 214. In the case where a dispute arises as to the power and duty among the National Assembly, the Council of Ministers or the Constitutional organisation other than the Courts and such dispute arises between two or more of such organisations, the President of the National Assembly, the Prime Minister, or such organisation

shall submit a matter together with its opinion to the Constitutional Court for decision.

Section 215. In the case where the Constitutional Court is of the opinion that a matter or issue submitted for its consideration has been decided, the Constitutional Court may refuse to accept such matter or issue for consideration.

Section 216. The quorum of judges of the Constitutional Court for hearing and rendering a decision shall consist of not less than five judges. The decision of the Constitutional Court shall be made by a majority of votes, unless otherwise provided in this Constitution.

Every judge of the Constitutional Court who constitutes a quorum shall give a decision on his own part and make an oral statement to the meeting before passing a resolution.

The decisions of the Constitutional Court and all judges thereof shall be published in the Government Gazette.

The decision of the Constitutional Court must at least consist of the background or allegation, summary of facts obtained from hearings, reasons for the decision on questions of fact and questions of law and the provisions of the Constitution and the law invoked and resorted to.

The decision of the Constitutional Court shall be deemed final and binding on the National Assembly, Council of Ministers, Courts and other State organs.

The rules and procedure of the Constitutional Court shall be in accordance with the organic law on rules and procedure of the Constitutional Court.

Section 217. The Constitutional Court shall have its autonomous secretariat, with the Secretary-General of the Office of the Constitutional Court as the superintendent responsible directly to the President of the Constitutional Court.

A person to be appointed as the Secretary-General of the Office of the Constitutional Court must be nominated by the President of the Constitutional Court with approval of judges of the Constitutional Court as provided by law.

The Office of the Constitutional Court shall have autonomy in its personnel administration, budget and other activities as provided by law.

Part 3 Courts of Justice

Section 218. The Courts of Justice have the power to try and adjudicate all cases except those specified by this Constitution or the law to be within the jurisdiction of other Courts.

Section 219. There shall be three levels of Courts of Justice, viz, Courts of First Instance, Courts of Appeal and the Supreme Court of Justice, except otherwise provided by this Constitution or other laws.

The Supreme Court of Justice has the power to try and adjudicate cases provided by the Constitution or the law to submit directly to the Supreme Court of Justice and appeals against judgments or orders of Courts of First Instance or Courts of Appeal as provided by law, except where the Supreme Court of Justice is of the opinion that the question of law or the question of fact of the such appeals is not essential for decision, it has the power to refuse the acceptance of such cases for consideration in accordance with the rule provided by its general meeting.

The Supreme Court of Justice has the power to try and adjudicate the election related cases and the suspension of the right to vote at an election of members of the House of Representatives and acquisition of senators, and

the Court of Appeal has the power to try and adjudicate the election related cases and the suspension of the right to vote at an election of members of a local assembly or local administrators; provided that, the rules and procedure for trial and adjudication of such cases shall base upon inquisitorial system in accordance with the rules and procedure provided by a general meeting of the Supreme Court of Justice and shall be conducted without delay.

There shall be in the Supreme Court of Justice a Criminal Division for Persons Holding Political Positions, the quorum of which consists of nine judges of the Supreme Court of Justice holding a position of not lower than judge of the Supreme Court of Justice or senior judges having held a position of not lower than judge of the Supreme Court of Justice whom elected at a general meeting of the Supreme Court of Justice by secret ballot and on a case-by-case basis.

The competence of the Supreme Court of Justices Criminal Division for Persons Holding Political Positions and the criminal procedure for such persons shall be as provided by this Constitution and the organic law on criminal procedure for persons holding political positions.

Section 220. The appointment and removal from office of a judge of a Court of Justice must be approved by the Judicial Commission of the Courts of Justice before they are tendered to the King.

The promotion, increase salaries and punishment of judges of the Courts of Justice must be approved by the Judicial Commission of the Courts of Justice. In such case, the Judicial Commission of the Courts of Justice shall appoint a sub-committee in each level of Courts for rendering opinion thereon for its consideration.

In giving approval of the Judicial Commission of the Courts of Justice under paragraph one and paragraph two, regard shall be had to knowledge, competency and moral behaviour of such person.

Section 221. The Judicial Commission of the Courts of Justice consists of the following persons:

- (1) President of the Supreme Court of Justice as Chairperson;
- (2) qualified members of all levels of Courts, viz, six members from the Supreme Court of Justice, four members from the Courts of Appeal, and two members from the Courts of First Instance, who are judges of each level of Courts and elected by judicial officials of all levels of Courts;
- (3) two qualified members who are not judicial officials and elected by the Senate.

The qualifications, prohibitions and procedure for the election of the qualified members shall be in accordance with the provisions of law.

In the case where there is no qualified member under paragraph one (3) or the number of such members is less than two and if not less than seven members of the Judicial Commission of the Courts of Justice are of the opinion that there is an urgent matter to be approved, the said number of the members of the Judicial Commission of the Courts of Justice shall constitute a quorum to consider such urgent matter.

Section 222. The Courts of Justice shall have an autonomous secretariat, with the Secretary-General of the Office of the Courts of Justice as the superintendent responsible directly to the President of the Supreme Court of Justice.

A person to be appointed as the Secretary-General of the Office of the Courts of Justice must be nominated by the President of the Supreme Court of Justice with approval of the Judicial Commission of the Courts of Justice as provided by law.

The Office of the Courts of Justice shall have autonomy in its personnel administration, budget and other activities, as provided by law.

Part 4 Administrative Courts

Section 223. Administrative Courts have the power to try and adjudicate cases of dispute between a government agency, State agency, State enterprise, local government organisation or Constitutional organisation, or between State officials and private individual, or between a government agency, State agency, State enterprise, local government organisation or Constitutional organisation, or among State officials themselves, as a consequence of the exercise of an administrative power provided by law, or of the carrying out of an administrative act of a government agency, State agency, State enterprise, local government organisation, Constitutional organisation or State officials, as provided by law, as well as to try and adjudicate matters prescribed by the Constitution or the law to be under the jurisdiction of the Administrative Courts.

The jurisdiction of the Administrative Courts under paragraph one does not include the adjudication of disputes made by Constitutional organisation as the direct exercise of their powers under the Constitution.

There shall be the Supreme Administrative Court and Administrative Courts of First Instance, and there may also be the Appellate Administrative Court.

Section 224. The appointment and removal from office of an administrative judge must be approved by the Judicial Commission of the Administrative Courts as provided by law before they are tendered to the King.

Qualified persons in the field of law or the administration of State affairs may be appointed as judges of the Supreme Administrative Court. Such appointment shall be made in the number of not less than one-third of the total number of judges of the Supreme Administrative Court and must be approved by the Judicial Commission of the Administrative Courts as provided by law and by the Senate before it is tendered to the King.

The promotion, increase of salaries and punishment of administrative judges must be approved by the Judicial Commission of the Administrative Courts as provided by law.

The number of administrative judges in each level of the Courts shall be as prescribed by the Judicial Commission of the Administrative Courts.

Section 225. The appointment of an administrative judge as President of the Supreme Administrative Court, shall, when already approved by the Judicial Commission of the Administrative Courts and the Senate, be tendered by the Prime Minister to the King for appointment.

Section 226. The Judicial Commission of the Administrative Courts consists of the following persons:

- (1) President of the Supreme Administrative Court as Chairperson;
- (2) nine qualified members who are administrative judges and elected by administrative judges among themselves;
- (3) three qualified members, two of whom are elected by the Senate and the other by the Council of Ministers.

The qualifications, prohibitions and procedure for the election of the qualified members shall be in accordance with the provisions of law.

In the case where there is no qualified member under paragraph one (3) or the number of such members is less than three and if not less than six members of the Judicial Commission of the Administrative Courts are of the opinion that there is an urgent matter to be approved, the said number of the members of the Judicial Commission of the Administrative Courts shall constitute a quorum to consider such urgent matter.

Section 227. The Administrative Courts shall have an autonomous secretariat, with the Secretary-General of the Office of the Administrative Courts as the superintendent responsible directly to the President of the Supreme Administrative Courts.

A person to be appointed as the Secretary-General of the Office of the Administrative Courts must be nominated by the President of the Supreme Administrative Courts with approval of the Judicial Commission of Administrative Courts as provided by law.

The Office of the Administrative Courts shall have autonomy in its personnel administration, budget and other activities as provided by law.

Part 5 Military Courts

Section 228. Military Courts have the power to try and adjudicate the cases which offenders are subjected to the jurisdiction of the Military Courts and other cases, as provided by law.

The appointment and removal from office of military judges shall be as provided by law.

CHAPTER XI Constitutional Organisation

Part 1 Independent Organisations

1. The Election Commission

Section 229. The Election Commission consists of a Chairperson and other four Commissioners appointed, by the King with the advice of the Senate, from persons of apparent political impartiality and integrity.

The President of the Senate shall countersign the Royal Command appointing the Chairperson and Commissioners under paragraph one.

Section 230. An Election Commissioner shall have the qualifications and shall not be under any prohibition as follows:

- (1) being of not less than forty years of age;
- (2) having graduated with not lower than a Bachelor's degree or its equivalent;
- (3) having qualifications and not being under any of the prohibitions under section 205 or section 205 (1), (4), (5) and (6);
- (4) not being a judge of the Constitutional Court, an Ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission or a member of the National Human Right Commission.

The provisions of section 207 shall also apply mutatis mutandis to the Election Commissioner.

Section 231. The selection and election of Chairperson and Election Commissioners shall be proceeded as follows:

(1) there shall be a Selective Committee of seven members consisting of the President of the Supreme Court of Justice, the President of the Constitutional Court, the President of the Supreme Administrative Court, the President of the House of Representatives, the Leader of the Opposition in the House of Representatives, a person selected at a general meeting of the Supreme Court of Justice and a person selected at a general meeting of the Supreme Administrative Court as members to be in charge of the selection and nomination of three persons, who have the qualifications under section 230 and suitable to be Election Commissioners, to the President of the Senate upon their consents. The selection resolution shall be passed by the votes of not less than two-thirds of the total number of the existing members of the Selective Committee. In the case where there is no member in any position or a member is unable to perform his duty and the number of the remaining members is not less than one-half thereof, the Selective Committee shall consist of the remaining members; provided that the provisions of section 113 paragraph two shall apply *mutatis mutandis*;

Persons selected by the Supreme Court of Justice and the Supreme Administrative Court at their general meeting under paragraph one shall not be judges and shall not be members of the Selective Committee for other Constitutional organisations simultaneously.

(2) the Supreme Court of Justice shall, at its general meeting, consider and select two persons who have qualifications under section 230 and suitable to be Election Commissioners for making nomination to the President of the Senate upon their consents;

(3) the selection under (1) and (2) shall be made within thirty days as from the date when a ground for the section of persons to be in such office occurs. In the case where it is unable to make nomination within specified period, or unable to make nomination in the complete number within the period specified in (1), the Supreme Court of Justice shall, at its general meeting, make selection to obtain the complete number within fifteen days as from the date of the expiration of the nomination time under (1);

(4) the President of the Senate shall convoke the Senate for passing a resolution, by secret ballot, approving the nominated persons under (1), (2) and (3);

(5) in the case where the Senate approves the nomination, the proceedings under (6) shall be proceeded, but in the case where the Senate disapproves the nomination, whether wholly or partly, it shall be returned to the Selective Committee or the Supreme Court of Justice, at its general meeting, for reselection. In such case, if the Selective Committee or the Supreme Court of Justice, at its general meeting, disagrees with the Senate and reaffirms its resolution unanimously or by the votes of not less than two-thirds of the general meeting of the Supreme Court of Justice, as the case may be, the proceedings (6) shall be proceeded, but in the case where the reaffirmation is not passed unanimously or by the votes of less than the required number, the reselection shall be commenced and it shall complete within thirty days as from the date a ground for the selection occurs.

(6) the person approved under (4) or (5) shall meet and elect among themselves to be Chairperson of the Election Commission and, then, notify the President of the Senate of the result. The President of the Senate shall tender to the King for further appointment.

Section 232. Election Commissioners shall hold office for a term of seven years as from the date of their appointment by the King and shall serve for only one term.

The Election Commissioners who vacate office upon the expiration of the term shall remain in office to continue to perform their duties until the newly appointed Election Commissioners take office.

The provisions of section 209 (1), (2), (3), (5), (6), (7) and the disqualifications and the prohibitions under section 230 shall also apply mutatis mutandis to the vacation of office of Election Commissioners.

Section 233. Members of the House of Representatives, senators, or members of both Houses of not less than one-tenth of the total number of the existing members of the two Houses have the right to lodge with the President of the National Assembly a complaint that any Election Commissioner is disqualified or is under any of the prohibitions or has acted in contravention of any of the prohibitions under section 230 and the President shall refer that complaint, within three days as from the date of receipt of the complaint, to the Constitutional Court for its decision.

When the Constitutional Court has passed a decision, it shall notify the President of the National Assembly and the Chairperson of the Election Commission of such decision.

The provisions of section 92 shall also apply mutatis mutandis to the vacation of office of Election Commissioners.

Section 234. In the case where the Election Commissioners have vacated office en masse at the expiration of term, the selective process under section 231 shall be taken within ninety days as from the date of the vacation.

In the case where Election Commissioners vacate office for any reason other than the expiration of term, the selection process under section 231 shall be completed within sixty days as from the date in which the reason has occurred, and the approved person shall serve only for the remainder of the term of the replaced Commissioners.

Section 235. The Election Commission shall control and hold, or cause to be held, an election of members of the House of Representatives, senators, members of a local assembly and local administrators, as the case may be, including the voting in a referendum for the purpose of rendering it to proceed in an honest and fair manner.

The Chairperson of the Election Commission shall have the charge and control of the execution of the organic law on election of members of the House of Representatives and acquisition of senators, the organic law on political parties, the organic law on Election Commission, the organic law on referendum and the law on election of members of local assemblies or local administrators and shall be the political-party registrar.

There shall be the Office of the Election Commission being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

Section 236. The Election Commission shall have the following powers and duties:

(1) to issue notifications or regulations determining all acts necessary for the execution of the laws referred to in section 235 paragraph two including regulations relating to a launching of election campaigns and any act of political parties, candidates and persons having the right to vote to proceed in an honest and fair manner and determining rules to be complied by State in giving support of fair election and equal opportunity in campaigning;

(2) to lay down regulations determining prohibitions in performance of duties of the Council of Ministers and portfolio Minister under section 181 with due regard to the maintenance of interest of State and to honesty, fairness, equality and equal opportunity in an election;

(3) to determine measures for controlling of a donation of money to political parties, rendering of financial support by State, spending of money of political parties and candidates and auditing publicly of accounts of political parties, and to control a disbursement and receipt of money for benefit in voting at an election;

(4) to give orders instructing government officials, officials or employees of a State agency, State enterprise or local government organisation or other State officials to perform all necessary acts under the laws referred to in section 235 paragraph two;

(5) to conduct investigations and inquiries and to make decisions on arising problems or disputes under the laws referred to in section 235 paragraph two;

(6) to order a new election or a new voting at a referendum to be held in any or all polling stations when there occurs convincing evidence that the election or the voting at a referendum in that or those polling stations has not proceeded in an honest and fair manner;

(7) to announce the result of an election and the voting in a referendum;

(8) to promote and support or co-ordinate with government agency, State agency, State enterprise or local government organisation or to support private organisations in giving education to the public on the democratic regime of government with the King as Head of State and the enhancement of public participation in politics;

(9) to perform other acts as provided by law.

In the performance of duties, the Election Commission has the power to summon any relevant document or evidence from any person, or summon any person to give statements as well as to request public prosecutors, inquiry officials, government agencies, State agencies, State enterprises or local government organisations to take action for the purpose of performing duties, investigating, conducting inquiries and passing decisions.

The Election Commission has the power to appoint persons, a group of persons or representatives of private organisations to perform such duties as entrusted.

Section 237. A candidate in an election who commits an act or causes or supports another person to act in violation of the organic law on election of members of the House of Representatives and acquisition of senators or regulations or notifications of the Election Commission which resulting in the election not to be honest and fair, his right to vote at an election shall be suspended under the organic law on election of members of the House of Representatives and acquisition of senators.

If it appears convincing evidence, through an act of the person under paragraph one, that the President or an executive board of director of a political party connives or neglects at such commission or such commission is known to him but he fails to deter or revise such commission for the maintenance of honest and fair election, it shall be deemed that such political party doing an act for the acquisition of the power to rule the country by means which is not in accordance with the provisions of this Constitution under section 68. In such case, if the Constitutional Court orders to dissolve such political party, the right to vote at an election of the President or the executive board of directors of a political party shall be suspended for the period of five years as from the date such order is made.

Section 238. The Election Commission shall conduct an investigation and inquiry forthwith upon the occurrence of any of the followings;

(1) an objection is made by a voter, a candidate at an election or a political party having its members stand for at an election in any constituency that an election in that constituency is not appropriate or unlawful;

(2) an objection is made by a candidate in the selection or a member of the organisation referred to in section 114 paragraph one that the selection of senators is not appropriate or unlawful;

(3) it appears convincing evidence that, prior to being elected or selected, a member of the House of Representatives, senator, member of a local assembly or local administrator had committed any dishonest act to enable him to be elected or selected or he has been elected or selected dishonestly as a result of any act committed by any person or political party in violation of the organic law on election of members of the House of Representatives and acquisition of senators, the organic law on

political parties or the organic law on election of members of local assemblies and local administrators;

(4) it appears convincing evidence that voting in a referendum is in violation of law or an objection is made by a person having the right to vote that voting in a referendum in any polling station is not appropriate or unlawful.

The Election Commission shall, at the completion of the conducts under paragraph one, pass forthwith a decision thereon.

Section 239. In the case where the Election Commission passes the decision to have re-election or suspend the right to vote at an election before the announcement of the result of the election of members of the House of Representatives and senators, such decision shall be final.

If the Election Commission is of the opinion, after the announcement of the result of election, that re-election must be held or the right to vote at an election of a member of the House or Representatives or a senator must be suspended, it shall submit a complaint to the Supreme Court of Justice for decision. When the Supreme Court of Justice receives the complaint of the Election Commission, such member of the House or Representatives or senator shall not be able to perform his duty until the complaint is dismissed by the Supreme Court of Justice. In the case where the Supreme Court of Justice has an order for re-election in any constituency or for suspension of the right to vote at an election of any member of the House of Representatives or senator, the membership of the House of Representatives or the membership of the Senate in such constituency shall terminate.

In the case where the person under paragraph two is unable to perform his duty, he shall not be regarded as one of the existing members of the House of Representatives or the Senate, as the case may be.

The provisions of paragraph one, paragraph two and paragraph three shall apply mutatis mutandis to the election of members of local assemblies and local administrators and, in such case, a submission of a complaint under paragraph two shall be made to the Courts of Appeal and the order of the Courts of Appeal shall be final.

Section 240. If there is an objection that the selection of a senator is not appropriate or unlawful or there is convincing evidence that a senator committed an act under section 238 prior to be selected, the Election Commission shall conduct an investigation and inquiry forthwith.

Upon reaching any decision, the Election Commission shall forthwith submit its decision to the Supreme Court of Justice for decision and the provision of section 239 paragraph two and paragraph three shall apply mutatis mutandis to an inability of such senator.

In the case where the Supreme Court of Justice orders to revoke the selection or suspend the right to vote at an election of a senator, the membership of the Senate of such senator shall terminate as from the date such order is made, and the selection to fulfil the vacancy shall be taken.

The Chairperson of the Election Commission shall not participate in the proceeding or the giving of decision under paragraph one or paragraph two and, in this case, it shall be deemed that the Election Commission consisting of the remaining Commissioners.

The objection and consideration of the Election Commission shall be in accordance with the organic law on election of members of the House of Representatives and acquisition of senators.

Section 241. During the period in which a Royal Decree calling for an election of members of the House of Representatives or senators, a Notification calling for selection of senators or a Notification calling for the voting in a referendum is effective, no Election Commissioner shall be arrested, detained or summoned by a warrant for inquiry except in the case where permission of the Election Commission is obtained or where the arrest is made in flagrante delicto.

In the case where an Election Commissioner has been arrested in flagrante delicto, or where an Election Commissioner is arrested or detained in other cases, it shall be forthwith reported to the Chairperson of the Election Commission and the Chairperson may order a release of the person so arrested, but in the case where the Chairperson of the Election Commission is arrested or detained, the remaining Election Commissioners shall have the power to order a release.

2. The Ombudsmen

Section 242. There shall be three Ombudsmen who shall be appointed by the King with the advice of the Senate from the persons recognised and respected by the public, with knowledge and experience in the administration of State affairs, enterprises or activities of common interests of the public and with apparent integrity.

The elected persons to be Ombudsmen shall hold a meeting and elect one among themselves to be the President of the Ombudsmen and notify the result to the President of the Senate accordingly.

The President of the Senate shall countersign the Royal Command appointing the Ombudsmen.

The qualifications and prohibitions of the Ombudsmen shall be in accordance with the organic law on Ombudsmen.

The Ombudsmen shall hold office for a term of six years as from the date of their appointment by the King and shall serve for only one term.

There shall be the Office of the Ombudsmen being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

Section 243. The provisions of section 206 and 207 shall apply mutatis mutandis to the selection and election of the Ombudsmen. In such case, there shall be a Selective Committee of seven members consisting of the President of the Supreme Court of Justice, the President of the Constitutional Court, the President of the Supreme Administrative Court, the President of the House of Representatives, the Leader of the Opposition in the House of Representatives, a person selected at a general meeting of the Supreme Court of Justice and a person selected at a general meeting of the Supreme Administrative Court and the provisions of section 231 (1) paragraph two shall apply mutatis mutandis.

Section 244. The Ombudsmen have the powers and duties as follows:

(1) to consider and inquire into the complaint for fact-findings in the following cases:

(a) failure to perform in compliance with the law or performance beyond powers and duties as provided by law of a government official, an official or employee of a government agency, State agency, State enterprise or local government organisation;

(b) performance of or omission to perform duties of a government official, an official or employee of a government agency, State agency, State enterprise or local government organisation, which unjustly causes injuries to the complainant or the public whether such act is lawful or not;

(c) investigation any omission to perform duties or unlawful performance of duties of the Constitutional organisation or agencies in the administration of justice, except the trial and adjudication of the Courts;

(d) other cases as provided by law;

(2) to conduct the proceeding in relation to ethics of persons holding political positions and State officials under section 279 paragraph three and section 280;

(3) to monitor, evaluate and prepare recommendations on the compliance with the Constitution including considerations for amendment of the Constitution as deemed necessary;

(4) to report the result of its investigation and performance together with comments to the Council of Ministers, the House of Representatives and the Senate annually. Such report shall be published in the Government Gazette and disclosed to the public.

In exercising of powers and duties under (1) (a), (b) and (c), the Ombudsmen shall proceed where there is a complaint thereon, provided that the Ombudsmen is of the opinion that such act causes injuries to the public or it is necessary to protect public interests and, in such case, the Ombudsmen may consider and conduct investigation irrespective of a complaint.

Section 245. The Ombudsmen may submit a case to the Constitutional Court or Administrative Court in the following cases:

(1) if the provisions of any law begs the question of the constitutionality, the Ombudsmen shall submit the case and the opinion to the Constitutional Court and the Constitutional Court shall decide without delay in accordance with the organic law on rules and procedure of the Constitutional Court;

(2) if rules, orders or actions of any person under section 244 (1) (a) begs the question of the constitutionality or legality, the Ombudsmen shall submit the case and the opinion to the Administrative Court and the Administrative Court shall decide without delay in accordance with the Act on Establishment of the Administrative Courts and Administrative Courts Procedure.

3. The National Counter Corruption Commission

Section 246. The National Counter Corruption Commission consists of the President and eight members appointed by the King with the advice of the Senate.

Members of the National Counter Corruption Commission shall be persons of apparent integrity, with qualifications and without any of the prohibitions under section 205 and having been a Minister, an Election Commissioner, an Ombudsman, a member of the National Human Rights Commission or a member of the State Audit Commission, or having served in a position of not lower than a Director-General or a person holding an administrative position in a government agency having administrative powers equivalent to a Director-General or a person holding an academic position of not lower than Professor, or a representative of a private development organisation or a professional practitioner of a professional organisation established under the law who practises such profession for not less than thirty years whom certified and nominated to the selection by such private development organisation or professional organisation.

The provisions of section 204 paragraph three and paragraph four, section 206 and section 207 shall apply *mutatis mutandis* to the selection and election of members of the National Counter Corruption Commission and, in such case, the Selective Committee shall consist of five members, viz, the President of the Supreme Court of Justice, the President of the Constitutional Court, the President of the Supreme Administrative Court, the President of the House of Representatives and the Leader of the Opposition in the House of Representatives.

The President of the Senate shall countersign the Royal Command appointing the President and members of the

National Counter Corruption Commission.

There shall be a Counter Corruption Commissioner to each Changwat and its qualifications, selection and powers and duties shall be in accordance with the organic law on counter corruption.

Section 247. Members of the National Counter Corruption Commission shall hold office for a term of nine years as from the date of their appointment by the King and shall serve for only one term.

Members of the National Counter Corruption Commission who vacate office at the expiration of term shall remain in office to continue to perform their duties until the newly appointed members take office.

The provisions of section 209 and section 210 shall apply mutatis mutandis to the vacation from office, the selection and an election for the fulfilment of the vacancy of members of the National Counter Corruption Commission.

Section 248. Members of the House of Representatives of not less than one-fourth of the total number of the existing members of the House or voters of not less than twenty-thousand in number have a right to lodge with the President of the Senate a complaint that any member of the National Counter Corruption Commission has acted unjustly, intentionally violated the Constitution or laws or has been under any circumstance which is seriously detrimental to the dignity of the holding of office, in order to request the Senate to pass a resolution removing him from office.

The resolution of the Senate removing the member of the National Counter Corruption Commission from office under paragraph one shall be passed by the votes of not less than three-fourths of the total number of the existing members of the Senate.

Section 249. Members of the House of Representatives, senators or members of both Houses of not less than one-fifth of the total number of the existing members of both Houses have a right to lodge with the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions an allegation that any member of the National Counter Corruption Commission has become unusually wealthy or has committed an offence of corruption or malfeasance in office.

The request under paragraph one shall clearly itemise the circumstance in which such person has allegedly committed the act under paragraph one and shall be submitted to the President of the Senate. When the President of the Senate has received the said request, the President shall refer it to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions for trial and adjudication.

The alleged member of the National Counter Corruption Commission shall not perform his duty until the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions has dismissed the said request.

In the case where a member of the National Counter Corruption Commission is unable to perform his duty under paragraph three and the remaining members of the National Counter Corruption Commission are less than one-half of the total number thereof, the President of the Supreme Court of Justice and the President of Supreme Administrative Court shall jointly appoint a person having qualifications and is not under the same prohibitions of members of the National Counter Corruption Commission as acting member of the National Counter Corruption Commission pro tempore. The appointed person shall acting as a member of the National Counter Corruption Commission until a member of the National Counter Corruption Commission he acting for is able to perform his duty or until there is a decision of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions that such person has committed an offence.

Section 250. The National Counter Corruption Commission shall have the following powers and duties:

- (1) to inquire into facts, summarise the case and prepare opinions in relation to the removal from office to be submitted to the Senate according to section 272 and section 279 paragraph three;

(2) to inquire into facts, summarise the case and prepare opinions in relation to a criminal proceedings of the persons holding political positions to be submitted to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions in accordance with section 275;

(3) to inquire and decide whether a State official of high administration level or a government official holding a position of a Divisional Director or its equivalent or higher level has become unusually wealthy or has committed an offence of corruption, malfeasance in office or malfeasance in judicial office, and to take such actions against a State official or a government official of lower level who participates in the commission of such offence with the person holding the said position or the person holding political position or who commits an offence in the manner deemed appropriate by the National Counter Corruption Commission in accordance with the organic law on counter corruption;

(4) to inspect the accuracy, actual existence as well as change of assets and liabilities of the persons holding positions under section 259 and section 264 as stated in the account and supporting documents submitted in accordance with the rules and procedures prescribed by the National Counter Corruption Commission;

(5) to supervise and monitor moral and ethics of persons holding political positions;

(6) to submit an inspection report and a report on the performance of duties together with recommendations to the Council of Ministers, the House of Representatives and the Senate annually. The report shall be published in the Government Gazette and disclosed to the public;

(7) to carry on other acts as provided by law.

The provisions of section 213 shall apply mutatis mutandis to the performance of duties of the National Counter Corruption Commission.

The President of the National Counter Corruption Commission shall be judicial officials under the law.

Section 251. The National Counter Corruption Commission shall have an autonomous secretariat, with the Secretary-General of the National Counter Corruption Commission as the superintendent responsible directly to the President of the National Counter Corruption Commission.

A person to be appointed as the Secretary-General of the National Counter Corruption Commission must be nominated by the President of the National Counter Corruption Commission with approval of members of the National Counter Corruption Commission.

The Office of the National Counter Corruption Commission shall have autonomy in its personnel administration, budget and other activities as provided by law.

4. The State Audit Commission

Section 252. The State audit shall be carried out by the State Audit Commission that is independent and impartial.

The State Audit Commission consists of the Chairperson and six other members appointed by the King from persons with expertise and experience in state audit, accounting, internal audit, finance and other fields.

The provisions of section 204 paragraph three and paragraph four, section 206 and section 207 shall apply

mutatis mutandis to the selection and election of members the State Audit Commission and the Auditor-General, provided that the composition of the Selective Committee shall be in accordance with section 243.

The President of the Senate shall countersign the Royal Command appointing the Chairperson and members of the State Audit Commission and the Auditor-General.

Members of the State Audit Commission shall hold office for a term of six years from the date of their appointment by the King and shall serve for only one term.

Qualifications, prohibitions and vacation of office of members of the State Audit Commission and the Auditor-General as well as powers and duties of the State Audit Commission, the Auditor-General and the Office of the State Audit Commission shall be in accordance with the organic law on State Audit.

The determination of qualifications and procedure for the selection of persons to be appointed as members of the State Audit Commission and the Auditor-General shall be made in the manner which can secure persons of appropriate qualifications an integrity and which can provide for the guarantee of the independence in the performance of duties of such persons.

Section 253. The State Audit Commission has the powers and duties to determine standards relating to State audit, to provide opinions, suggestions and recommendations for the correction of faults in State audit and to appoint the independent Financial Disciplinary Committee to render decisions on actions relating to financial discipline, finance and budget and the cases of dispute in relation to the decisions of the Financial Disciplinary Committee shall be under the jurisdiction of the Administrative Courts.

The Auditor-General shall have the powers and duties in relation to State Audit and shall be independent and impartial.

Section 254. The State Audit Commission shall have an autonomous secretariat, with the Auditor-General as the superintendent responsible directly to the Chairperson of the State Audit Commission.

There shall be the Office of the State Audit Commission being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

Part 2 Other Organisations

1. The Public Prosecutors

Section 255. Public prosecutors shall have the powers and duties as provided in this Constitution and the law on powers and duties of public prosecutors and other laws.

Public prosecutors are independent in considering and making orders to the cases and in the performance of duties for fairness.

The appointment and removal from office of the Prosecutor General shall be by the resolution of the Public Prosecutors Committee upon the approval of the Senate.

The President of the Senate shall countersign the Royal Command appointing the Prosecutor General.

The Public Prosecutors shall have its autonomous secretariat having autonomy in its personnel administration, budget and other activities, with the Prosecutor General as the superintendent as provided by law.

A public prosecutor shall neither being a member of the board of directors of a State enterprise or other enterprises of State having similar nature; provided that an approval is given by the Public Prosecutors Committee, nor engaging in any occupation or profession or in any enterprise that may affect the performance of his duties or may detriment the dignity of his office and shall not be a member of the board of directors, director, legal advisor or holding any other position having similar nature in any partnership or company.

The provisions of section 202 shall apply mutatis mutandis.

2. The National Human Rights Commission

Section 256. The National Human Rights Commission consists of a President and six other members appointed, by the King with the advice of the Senate, from the persons having apparent knowledge and experiences in the protection of rights and liberties of the people with due regard to the participation of representatives from private organisations in the field of human rights.

The President of the Senate shall countersign the Royal Command appointing the President and members of the National Human Rights Commission.

The qualifications, prohibitions, selection, election, removal and determination of the remuneration of members of the National Human Rights Commission shall be as provided by law.

The members of the National Human Rights Commission shall hold office for a term of six years as from the date of their appointment by the King and shall serve for only one term.

The provisions of section 204 paragraph three, section 206, section 207 and section 209 (2) shall apply mutatis mutandis, provided that the composition of the Selective Committee shall be in accordance with section 243.

There shall be the Office of the National Human Rights Commission being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

Section 257. The National Human Rights Commission has the powers and duties as follows:

(1) to examine and report the commission or omission of acts which violate human rights or which do not comply with obligations under international treaties to which Thailand is a party, and propose appropriate remedial measures to the person or agency committing or omitting such acts for taking action. In the case where it appears that no action has been taken as proposed, the Commission shall report to the National Assembly for further proceeding;

(2) to submit the case together with opinions to the Constitutional Court in the case where the Commission agrees with the complainant that the provisions of any law are detrimental to human rights and beg the question of the constitutionality as provided by the organic law on rules and procedure of the Constitutional Court;

(3) to submit the case together with opinions to the Administrative Courts in the case where the Commission agrees with the complainant that any rule, order or administrative act is detrimental to human rights and begs the question of the constitutionality and legality as provided by the law on establishment of Administrative Courts and Administrative Court Procedure;

(4) to bring the case to the Courts of Justice for the injured person upon request of such person if it deems appropriate for the resolution of human rights violation problem as a whole as provided by law;

(5) to propose to the National Assembly and the Council of Ministers policies and recommendations with regard to the revision of laws, rules or regulations for the promotion and protection of human

rights;

(6) to promote education, researches and the dissemination of knowledge on human rights;

(7) to promote co-operation and co-ordination among government agencies, private organisations and other organisations in the field of human rights;

(8) to prepare an annual report for the appraisal of situations in the sphere of human rights in the country and submit it to the National Assembly;

(9) other powers and duties as provided by law.

In the performance of duties of the National Human Rights Commission, regard shall be had to interests of the country and the public.

The National Human Rights Commission has the power to demand relevant documents or evidence from any person or summon any person to give statements of fact including other powers for the purpose of performing its duties as provided by law.

3. The National Economic and Social Council

Section 258. The National Economic and Social Council has the duties to give advice and recommendations to the Council of Ministers on economic and social problems as well as related laws.

A national economic and social development plan and other plans as provided by law shall obtain opinions of the National Economic and Social Council before they can be adopted and published.

The composition, sources, powers and duties and operation of the National Economic and Social Council shall be in accordance with the provisions of law.

There shall be the Office of the National Economic and Social Council being an agency having autonomy in its personnel administration, budget and other activities as provided by law.

CHAPTER XII Inspection of the Exercise of State Power

Part 1 Inspection of Assets

Section 259. Persons holding the following political positions shall submit an account showing particulars of assets and liabilities of themselves, their spouses and children who have not yet become sui juris to the National Counter Corruption Commission on each occasion of taking or vacating office:

(1) Prime Minister;

(2) Ministers;

(3) members of the House of Representatives;

- (4) senators;
- (5) other political officials;
- (6) local administrators and members of a local assembly as provided by law.

The account under paragraph one shall be submitted together with supporting documents evidencing the actual existence of such assets and liabilities as well as a copy of the personal income tax return of the previous fiscal year.

The account showing particulars of assets and liabilities under paragraph one and paragraph two shall include assets of the persons holding political positions under direct or indirect possession or care of other persons.

Section 260. The account showing particulars of assets and liabilities under section 259 shall disclose the particulars of assets and liabilities actually existing as of the date of taking or vacating office, as the case may be, and shall be submitted within the following period:

- (1) in the case of the taking of office, within thirty days as from the date of taking office;
- (2) in the case of the vacation of office, within thirty days as from the date of the vacation;
- (3) in the case where the person under section 259, who has already submitted the account, dies while being in office or before submitting the same after the vacation of office, an heir or an administrator of an estate of such person shall submit an account showing the particulars of assets and liabilities existing on the date of such person's death within ninety days as from the date of the death.

In addition to the submission of the account under (2), the person holding a position of Prime Minister, Minister, local administrator, member of a local assembly or the person holding a political position but having vacated office shall also re-submit an account showing particulars of assets and liabilities within thirty days as from the date of the expiration of one year after the vacation of office.

Section 261. The account showing particulars of assets and liabilities and supporting documents submitted by the Prime Minister, Ministers, members of the House of Representatives and senators shall be disclosed to public without delay but not later than thirty days as from the date of the expiration of the time limit for the submission of such account. The account of the persons holding other positions shall be disclosed in the case where the disclosure thereof may be beneficial to the trial and adjudication of case or for the making of decision and a request is made by the Courts, an interest person or the State Audit Commission.

The President of the National Counter Corruption Commission shall convene a meeting of the Commission to inspect the accuracy and the actual existence of assets and liabilities without delay.

Section 262. In the case where the submission of the account is made by reason of the vacation of office or death of any person holding a political position, the National Counter Corruption Commission shall inspect the change of assets and liabilities of such person and prepare a report of the inspection. Such report shall be published in the Government Gazette.

In the case where it appears that the assets of the person under paragraph one have unusually increased, the President of the National Counter Corruption Commission shall send all documents together with the inspection report to the Prosecutor General to institute an action in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions so that the unusually increasing assets shall vest in the State and the provisions of section 272 paragraph five shall apply mutatis mutandis.

Section 263. Any person holding a political position who intentionally fails to submit the account showing assets

and liabilities and the supporting documents as provided in this Constitution or intentionally submits the same with false statements or conceals the facts which should be revealed, the National Counter Corruption Commission shall refer the matter to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions for further decision.

If the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions decides that any person holding a political position committed an offence under paragraph one, such person shall vacate office on the date such decision is made and the provision of section 92 shall apply mutatis mutandis. In this case, such person is prohibited from holding any political position or any position of a political party for the period of five years as from the date the decision of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions is made.

Section 264. The provisions of section 259, section 260, section 261 paragraph two and section 263 paragraph one shall apply mutatis mutandis to State officials as determined by the National Counter Corruption Commission.

The National Counter Corruption Commission may disclose the account showing particulars of assets and liabilities as submitted to interested parties if such disclosure is beneficial to the trial or decision of offences as provided by the organic law on counter corruption.

Part 2 Conflict of Interests

Section 265. Members of the House of Representatives and senators shall not:

- (1) hold any position or have any duty in a government agency, State agency or State enterprise, or hold a position of a member of a local assembly, local administrator or local government official;
- (2) receive or interfere or intervene in, whether directly or indirectly, any concession from State, a government agency, State agency or State enterprise, or become a party to a contract of the nature of economic monopoly with State, a government agency, State agency or State enterprise, or become a partner or shareholder in a partnership or company receiving such concession or becoming a party to the contract of that nature;
- (3) receive any special money or benefit from a government agency, State agency or State enterprise apart from that given by a government agency, State agency or State enterprise to other persons in the ordinary course of business.
- (4) act in violation of the prohibitions under section 48.

The provisions of this section shall not apply in the case where a member of the House of Representatives or a senator receives military pensions, gratuities, pensions, annuities for royalty or any other form of payment of the same nature, and shall not apply in the case where a member of the House of Representatives accepts or holds a position of committee member of the National Assembly, the House of Representatives or the Senate, or committee member appointed in the course of the administration of State affairs.

The provisions in (2), (3) and (4) shall apply to spouses and children of members of the House of Representatives or senators and to other persons other than spouses and children of such members of the House of Representatives or senators who act as agents or partners of, or who are entrusted by, members of the House of Representatives or senators to act under this section.

Section 266. A member of the House of Representatives and a senator shall not, through the status or position of member of the House of Representatives or senator, interfere or intervene the following matters, directly or

indirectly, for the benefit of his own or other persons or of political party:

(1) the performance of official duties or routine works of a government official, official or employee of a government agency, State agency, State agency, an enterprise in which the State is a major shareholders or a local government organisation;

(2) the recruitment, appointment, reshuffle, transfer, promotion and elevation of the salary scale of a government official holding a permanent position or receiving salary and not being a political official, an official or employee of a government agency, State agency, State enterprise or local government organisation;

(3) the removal from office of a government official holding a permanent position or receiving salary and not being a political official, an official or employee of a government agency, State agency, State enterprise or local government organisation.

Section 267. The provisions of section 265 shall apply to the Prime Minister and Ministers, except for the holding of position or an act to be done under the provisions of law. The Prime Minister and Ministers shall neither hold any position in a partnership, a company or an organisation carrying out business with a view to sharing profits or incomes nor being an employee of any person.

Section 268. The Prime Minister and a Minister shall not perform any act in violation of the provisions of section 266, except the performance of powers and duties for the administration of State affairs as stated to the National Assembly or as provided by law.

Section 269. The Prime Minister and a Minister shall not be a partner or shareholder of a partnership or a company or retain his being a partner or shareholder of a partnership or a company up to the limit as provided by law. In the case where the Prime Minister or any Minister intends to continue to receive benefits in such cases, the Prime Minister or such Minister shall inform the President of the National Counter Corruption Commission within thirty days as from the date of the appointment and shall transfer his shares in the partnership or company to a juristic person which manages assets for the benefit of other persons as provided by law.

The Prime Minister and a Minister shall not do any act which, by nature, amounts to the administration or management of shares or affairs of such partnership or company.

This section apply to the spouse and children who have not yet become sui juris of the Prime Minister and a Minister and section 259 paragraph three shall apply mutatis mutandis.

Part 3 Removal from Offices

Section 270. A person holding a position of Prime Minister, Minister, member of the House of Representatives, senator, President of the Supreme Court of Justice, President of the Constitutional Court, President of the Supreme Administrative Court or Prosecutor General, who is under the circumstance of unusual wealthiness indicative of the commission of corruption, malfeasance in office, malfeasance in judicial office or an intentional exercise of power contrary to the provisions of the Constitution or law or seriously violates or fails to comply with ethical standard, may be removed from office by the Senate.

The provisions of paragraph one shall also apply to the persons holding the following positions:

(1) judge of the Constitutional Court, Election Commissioner, Ombudsman and member of the State Audit Commission;

(2) judge, public prosecutor or high ranking official in accordance with the organic law on counter corruption.

Section 271. Members of the House of Representatives of not less than one-fourth of the total number of the existing members of the House have the right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution under section 274 removing the persons under section 270 from office. The said request shall clearly itemise circumstances in which such persons have allegedly committed the act.

Senators of not less than one-fourth of the total number of the existing members of the Senate have the right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution under section 274 removing a senator from office.

Voters of not less than twenty-thousand in number have the right to lodge a complaint in order to request the Senate to pass a resolution under section 164 removing the persons under section 270 from office.

Section 272. Upon receipt of the request under section 271, the President of the Senate shall refer the matter to the National Counter Corruption Commission for inquisition without delay.

When the inquisition is complete, the National Counter Corruption Commission shall prepare a report thereon for submission to the Senate. The said report shall clearly state whether, and to what extent, the accusation put in the request is prima facie case together with convincing evidences and shall state the resolutions therefor.

In the case where the National Counter Corruption Commission is of the opinion that the accusation put in the request is an important matter, the National Counter Corruption Commission may make a separate report specifically on the said accusation and refer it to the Senate in advance.

If the National Counter Corruption Commission passes a resolution by the votes of not less than one-half of the total number of the existing members that the accusation has a prima facie case, the holder of the position against whom the accusation has been made shall not, as from the date of such resolution, perform his duties until the Senate has passed its resolution. The President of the National Counter Corruption Commission shall submit the report, existing documents and its opinion to the President of the Senate for proceeding in accordance with section 273 and to the Prosecutor General for instituting prosecution in the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. If the National Counter Corruption Commission is of the opinion that the accusation has no prima facie case, such accusation shall lapse.

In the case where the Prosecutor General is of the opinion that the report, documents and opinion submitted by the National Counter Corruption Commission under paragraph four are not so complete as to institute prosecution, the Prosecutor General shall notify the National Counter Corruption Commission for further proceedings and, for this purpose, the incomplete items shall be specified on the same occasion. In such case, the National Counter Corruption Commission and the Prosecutor General shall appoint a working committee, consisting of their representatives in an equal number, for collecting complete evidence and submit it to the Prosecutor General for further prosecution. In the case where the working committee is unable to reach a decision as to the prosecution, the National Counter Corruption Commission shall have the power to prosecute by itself or appoint a lawyer to prosecute on its behalf.

Section 273. Upon receipt of the report under section 272, the President of the Senate shall convoke a sitting of the Senate for considering the said matter without delay.

In the case where the National Counter Corruption Commission submits the report out of session of the Senate, the President of the Senate shall inform the President of the National Assembly in order to tender a petition to the King for the issuance of a Royal Command convoking an extraordinary session of the National Assembly. The President of the Senate shall countersign the Royal Command.

Section 274. A senator shall have autonomy in casting a vote, which must be by secret ballot. A resolution for

the removal of any person from office shall be passed by the votes of not less than three-fifths of the total number of the existing members of the Senate.

A person who is removed from office shall vacate office or be released from government service as from the date of the resolution of the Senate. Such person shall be deprived of the right to hold any political position or to serve in the government service for five years.

The resolution of the Senate under this section shall be final and no request for the removal of such person from office shall be made on the same ground, without, however, prejudice to the trial of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

Part 4

Criminal Proceedings Against Persons Holding Political Positions

Section 275. In the case where the Prime Minister, a Minister, member of the House of Representatives, senator or other political official has been accused of becoming unusually wealthy, or of the commission of malfeasance in office according to the Penal Code or a dishonest act in the performance of duties or corruption according to other laws, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall have the competent jurisdiction to try and adjudicate the case.

The provisions of paragraph one shall also apply to the case where the said person or other person is a principal, an instigator or a supporter including a person who gives, asks to give or promises to give property or other benefits to the person under paragraph one with a view to induce him from acting or omitting or delaying an act resulting in a dishonest act in the performance of duties.

The submission of an accusation requesting the National Counter Corruption Commission to conduct the proceedings under section 250 (2) shall be in accordance with the organic law on counter corruption.

In the case where the accused under paragraph one is a person holding position of Prime Minister, Minister, President of the House of Representatives or President of the Senate, the person injured by such act may submit an accusation to the National Counter Corruption Commission to conduct the proceedings under section 250 (2) or to the Supreme Court of Justice to appoint, at its general meeting, an independent inquisitor under 276. If the injured person has submitted the said accusation to the National Counter Corruption Commission, he may submit the accusation to the Supreme Court of Justice only when the National Counter Corruption Commission refuses to accept the accusation for further inquisition, proceeds the inquisition with materially delay or is of the opinion that the accusation has no prima facie case.

If the National Counter Corruption Commission is of the opinion that there is a ground under paragraph four and it has the resolution to conduct the proceedings under section 250 (2) by the votes of not less than one-half of the total number of its existing member, the National Counter Corruption Commission shall conduct the proceedings under section 250 (2) forthwith and, in such case, the injured person shall not submit an accusation to the Supreme Court of Justice under paragraph four.

The provisions of section 272 paragraph one, paragraph four and paragraph five shall apply mutatis mutandis.

Section 276. In the case where the Supreme Court of Justice, at its general meeting, is of the opinion that the submitted accusation should be proceeded under section 275 paragraph four, the Supreme Court of Justice, at its general meeting, may appoint an independent inquisitor from a person of apparent political impartiality and integrity or refer the matter to the National Counter Corruption Commission for inquisition under section 250 (2) in lieu of the appointment of an independent inquisitor.

Qualifications, powers and duties, inquisition and other necessary acts of an independent inquisitor shall be

provided by law.

If the independent inquisitor, after inquiring into facts, summarising the case and preparing opinions, is of the opinion that accusation has prima facie case, he shall submit the report and existing documents together with his opinion to the President of the Senate for further proceedings under section 273 and shall submit the inquisition file and opinion to the Prosecutor General to bring the case to the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. The provisions of section 272 paragraph five shall apply mutatis mutandis.

Section 277. In a trial, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall rely on the file of the National Counter Corruption Commission or of the independent inquisitor, as the case may be, and may conduct an inquisition in order to obtain additional facts or evidence as it thinks fit.

The rules and procedure of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall be as provided in the organic law on criminal proceedings against persons holding political positions, and the provisions of section 213 shall apply mutatis mutandis to the performance of duties of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

The provisions on the immunity of members of the House of Representatives and senators under section 131 shall not apply to a trial of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

Section 278. An adjudication of a case shall be made by a majority of votes; provided that every judge constituting the quorum shall prepare his written opinion and make oral statements to the meeting prior to the passing of a resolution.

Orders and decisions of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions shall be disclosed and final, unless in case of paragraph three.

In the case where a person who has been sentenced by a judgement of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions finds newly-discovered evidence which may alter the fact of the case materially, he may appeal to the general meeting of the Supreme Court of Justice within thirty days as from the date of rendering of a judgement of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

An appeal and the consideration and adjudication of the general meeting of the Supreme Court of Justice shall be prescribed in the regulation laid down by the general meeting of the Supreme Court of Justice.

CHAPTER XIII

Ethics of Persons Holding Political Positions and State Officials

Section 279. Ethical standard of each kind of person holding political position, government official or State official shall be in accordance with the established Code of Ethics.

Ethical standard under paragraph one shall consist of mechanism and system that ensure its effective enforcement and shall have punishment procedure for each degree of violation.

Any violation or failure to comply with ethical standard under paragraph one is deemed to be in breach of discipline. In the case where a person holding political position violates or fails to comply therewith, the Ombudsmen shall report to the National Assembly, the Council of Ministers or related local assemblies, as the case may be, and shall refer the matter, in case of serious violation or failure, to the National Counter Corruption Commission for further proceedings and it is deemed the cause for removal from office under section 270.

The consideration, selection, scrutiny or appointment of any person to hold the position relating to the exercise of

power of State power, including the transfer, promotion and elevation of the salary scale and punishment of such person shall be in accordance with merit system with due regard to ethical behaviour of that person.

Section 280. For the purpose of this Chapter, the Ombudsmen have the powers and duties in giving suggestion or recommendation in the making of or improving the Code of Ethics under section 279 paragraph one and enhances ethical consciousness of persons holding political positions, government officials and State officials, and have duties to report any violation of the Code of Ethics to the responsible person for the enforcement of the Code under section 279 paragraph three.

In the case where the violation or failure to comply with the ethical standard is made in a serious manner or there is a reasonable ground to believe that the responsible may act unfairly, the Ombudsmen may conduct inquisition and disclose the result thereof to the public.

CHAPTER XIV Local Administration

Section 281. Subject to section 1, the State shall give autonomy to local government organisation with the principle of self-government according to the will of the people in a locality and shall encourage local government organisation to be the principal public services provider and to participate in rendering resolution to any problem occurs within its vicinity.

Any locality has a tendency to self-government shall have the right to be formed as a local government organisation as provided by law.

Section 282. The supervision of local government organisations shall be exercised in so far as it is necessary under the rules, procedure and conditions which are clear, expedient and appropriate for each type of local government organisation as provided by law but must be protecting local interest or the interests of the country as a whole, provided, at any rate, that it shall not substantially affect the principle of self-government according to the will of the people in the locality otherwise than as provided by law.

In the conduct of supervision under paragraph one, there shall be a supervision standard to be applied to local government organisations, upon their own selection, with regard to the appropriateness and difference of level of development and efficiency in the administration of each type of local government organisation without prejudice to capability of local government organisations in making decision for the fulfillment of their requirements and there shall be a mechanism for the examination of performance thereof which is executed mainly by the people.

Section 283. Local government organisations have the powers and duties to maintain and provide, in general, public services for the benefit of the people in localities and enjoys autonomy in laying down policies, administration, provision of public services, personnel administration, finance and shall have powers and duties particularly on their own part with regard to the compliance with the development of Changwat and the country as a whole.

Local government organisations shall receive any promotion and support to strengthen their autonomous in administration and capability to response efficiently to requirements of the people in their localities, to develop locally financial system so as to provide all public services under their powers and duties and to establish or jointly establish organisations to provide public services under their powers and duties with a view to provide valuable and beneficial services to public thoroughly.

There shall be a law determining plans and process for decentralisation prescribing the delineation of powers and duties and the allocation of revenue between central and provincial administrations and local government organisation and between local government organisations themselves with due regard to an increasing of distributed powers along the capability of each type of local government organisation. In such case, an

examination and evaluation system by the committee consisting of representatives of concerned government agencies, representatives of local government organisations and qualified persons in an equal number shall be provided by law.

There shall be a law on local revenue prescribing powers and duties for the collection of taxes and other revenues of local government organisations and the provisions of which shall be in compliance with the nature of each type of taxes, the distribution of resources in public sector and the balance of revenue and expenditure of local government organisations. In such case, regard shall be had to level of economic development of localities, financial status of local government organisations and sustainability of State finance.

In the case where the delineation of powers and duties and the distribution of revenue to local government organisations has made, the committee under paragraph three shall review them every five years in order to consider the suitability of the delineation of powers and duties and the allocation of revenue previously made, having particular regard to the promotion of decentralisation.

The proceeding under paragraph five shall be effective when the approval of the Council of Ministers has been obtained and the National Assembly has been notified thereof.

Section 284. A local government organisation shall have a local assembly and local administrative committee or local administrators.

Members of a local assembly shall be elected.

A local administrative committee or local administrators shall be directly elected by the people or shall be from the approval of a local assembly.

An election of members of a local assembly and local administrative committee or local administrators who must be directly elected by the people shall be made by direct suffrage and secret ballot.

Members of a local assembly, local administrative committee or local administrators shall hold office for the period of four years.

A member of a local administrative committee or local administrator shall not be a government official holding a permanent position or receiving a salary or an official or employee of a government agency, State agency, State enterprise or local government organisation and shall not have any conflict of interest in the holding of position as provided by law.

The qualifications of the person having the right to vote and the person having the right to apply for candidacy in an election of members of a local assembly, members of a local administrative committee and local administrators and rules and procedure therefor shall be in accordance with the provisions of the law.

In the case where a local administrative committee has vacated office en masse or local administrators vacate office and a local administrative committee or local administrators must be temporarily appointed, the provisions of paragraph three and paragraph six shall not apply, as provided by law.

The establishment of the special local government organisation having different organisational structure from the provisions in this section shall be as provided by law, provided that a local administrative committee or local administrators thereof shall be elected.

The provisions of section 265, section 266, section 267 and section 268 shall apply mutatis mutandis to members of local assembly and local administrative committee or local administrators.

Section 285. If persons having the right to vote in an election in any local government organisation consider that any member of the local assembly or any administrator of that local government organisation is not suitable

to remain in office, such persons shall have the right to vote for removal of such member of the local assembly or any administrator from office. The number of persons having the right to lodge such request, rules and procedure for lodging a request, the examination of request and voting shall be provided by law.

Section 286. Persons having the right to vote in any local government organisation shall have the right to lodge with the President of the local assembly a request for the issuance by the local assembly of local ordinances.

The number of persons having the right to lodge such request, rules and procedure for lodging a request and the examination of request shall be provided by law.

Section 287. People in a locality have the right to participate in the administration of local government organisation and the local government organisation shall facilitate the people to have participation thereto.

In the case where any act of the local government organisation may be detrimental to way of life of the people within its locality materially, the local government organisation shall provide information thereof to the people prior to the commencement of such act within a reasonable period. If it deems appropriate or upon the request of people having the rights to vote at an election in such locality, the local government organisation shall conduct public consultation on such matter before the commencement of such act or conduct the referendum for decision thereon as provided by law.

The local government organisation shall report to the public of its preparation of appropriation, expenditures and the result of the performance of its duties in each year with a view to enhance public examination and supervision of its administration.

The provisions of section 168 paragraph six shall apply mutatis mutandis to the preparation of appropriation of a local government organisation under paragraph three.

Section 288. The appointment and removal of officials and employees of a local government organisation shall be in accordance with the need of and suitability to each locality but personnel administration of local government organisations shall be based upon similar standard and it may be jointly developed or personnel transfer among local government organisations shall be made and it shall obtain prior approval from the Local Officials Committee, the central personnel administration of local government organisations, as provided by law.

There shall be the Local Officials Merit Protection Committee, in personnel administration of local government organisations, so as to establish and maintain merit and ethics protection system in personnel administration as provided by law.

The Local Officials Committee under paragraph one shall consist, in an equal number, of representatives of relevant government agencies, representatives of local government organisations and qualified persons possessing the qualifications as provided by law.

The transfer, promotion, increase of salaries and the punishment of the officials and employees of a local government organisation shall be in accordance with the provisions of law.

Section 289. A local government organisation has the duty to conserve local arts, custom, wisdom and good culture of locality.

A local government organisation has the right to provide education and professional training in accordance with the suitability to and the need of that locality and participate in the provision of education and training by State with regard to the compliance with the national education standard and system.

In providing education and training under paragraph two, the local government organisation shall also have regard to the conservation of local arts, custom, wisdom and good culture.

Section 290. A local government organisation has the powers and duties to promote and conserve the quality of the environment as provided by law.

The law under paragraph one shall at least contain the following matters as its substance:

- (1) the management, preservation and exploitation of the natural resources and environment in the area of the locality;
- (2) the participation in the preservation of natural resources and environment outside the area of the locality only in the case where the living of the inhabitants in the area may be affected;
- (3) the participation in considering the initiation of any project or activity outside the area of the locality which may affect the quality of the environment, health or sanitary conditions of the inhabitant in the area;
- (4) the participation of local community.

CHAPTER XV Amendment of the Constitution

Section 291. An amendment of the Constitution may be made only under the rules and procedure as follows:

- (1) a motion for amendment must be proposed either by the Council of Ministers or members of the House of Representatives of not less than one-fifth of the total number of the existing members of the House of Representatives or members of both Houses of not less than one-fifth of the total number of the existing members thereof or persons having the right to votes of not less than fifty thousand in number under the law on the public submission of a bill;

A motion for amendment which has the effect of changing the democratic regime of government with the King as Head of State or changing the form of State shall be prohibited;

- (2) a motion for amendment must be proposed in the form of a draft Constitution Amendment and the National Assembly shall consider it in three readings;
 - (3) the voting in the first reading for acceptance in principle shall be by roll call and open voting, and the amendment must be approved by votes of not less than one-half of the total number of the existing members of both Houses;
 - (4) in the consideration section by section in the second reading, consultation with the people who submit a draft Constitution Amendment shall be held;
- The voting in the second reading for consideration section by section shall be decided by a simple majority of votes;
- (5) at the conclusion of the second reading, there shall be an interval of fifteen days after which the National Assembly shall proceed with its third reading;
 - (6) the voting in the third and final reading shall be by roll call and open voting, and its promulgation as the Constitution must be approved by votes of more than one-half of the total number of the existing members of both Houses;

(7) after the resolution has been passed in accordance with the above rules and procedure, the draft Constitution Amendment shall be presented to the King, and the provisions of section 150 and section 151 shall apply mutatis mutandis.

Transitory Provisions

Section 292. The Privy Council holding office on the date of the promulgation of this Constitution shall be the Privy Council under the provisions of this Constitution.

Section 293. The National Legislative Assembly under the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall act as the National Assembly, the House of Representatives and the Senate under the provisions of this Constitution until the first meeting of the National Assembly under section 127.

During the period under paragraph one, if the provisions of this Constitution or other laws prescribes that the President of the National Assembly, the President of the House of Representatives or the President of the Senate shall countersign the Royal Command, the President of the National Legislative Assembly shall countersign the Royal Command in lieu thereof.

At the initial period, if there is the first meeting of the National Assembly under section 127 but the Senate is unavailable, the National Legislative Assembly shall act as the Senate; except the consideration for appointment or removal any person from office under the provisions of this Constitution, until there is the Senate under this Constitution. In such case, any act done by the National Legislative Assembly during such period is deemed to be an act of the Senate and in the case where this Constitution or other laws prescribes that the President of the Senate shall countersign the Royal Command, the President of the National Legislative Assembly shall countersign the Royal Command in lieu thereof.

The provisions of section 93, section 94, section 101, section 102, section 106, section 109, section 111, section 113, section 114, section 115, section 119, section 120, section 197 paragraph four and section 261 and the provisions of other laws which prohibit persons from holding political positions shall not apply to the holding of positions of members of the National Legislative Assembly.

The provisions of section 153 shall apply mutatis mutandis to the lapse of the National Legislative Assembly.

Section 294. The Constituent Assembly and the Constitution Drafting Commission under the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall lapse on the date of the promulgation of this Constitution.

In order to deter conflict of interest, no member of the Constitution Drafting Commission shall apply for candidacy in an election of members of the House of Representatives or holding a position of senator within two years as from the date of vacation from office under paragraph one.

Section 295. The National Legislative Assembly shall complete the consideration of the organic law bill on election of members of the House of Representatives and acquisition of senators, the organic law bill on political parties and the organic law bill on Election Commission as submitted by the Constitution Drafting Commission within the period prescribed in the Constitution of the Kingdom of Thailand (Interim), B.E. 2549.

In the case where the National Legislative Assembly is unable to finish the consideration of such organic law bills within the period under paragraph one, the President of the National Legislative Assembly shall present the organic law bills submitted by the Constitution Drafting Commission to the King for His signature within seven days as if the approval of the National Legislative Assembly is given thereto.

During the period the organic law on political parties and the organic law on Election Commission under paragraph one is not come into force, the Organic Law on Political Parties, B.E. 2541 and the Organic Law on

Election Commission, B.E. 2541 shall still in force until the said organic laws come into force.

Section 296. The election of members of the House of Representatives under this Constitution shall be held within ninety days and the acquisition of senators under this Constitution shall be held within one hundred and fifty days as from the date the organic law under section 295 comes into force.

At the first general election of members of the House of Representatives after the promulgation of this Constitution, a person who is eligible to be a candidate in an election shall be member of only one political party for not less than thirty days up to the election day and, in such case, the period under section 101 (4) (a) shall be one year and the period under section 101 (4) (c) and (d) shall be two years.

At the initial period, the persons having been senators elected for the first time under the Constitution of the Kingdom of Thailand, B.E. 2540 shall not hold positions of senators whom will be firstly acquired under this Constitution, and the provisions of section 115 (9) and section 116 paragraph two shall not apply to the persons whom elected for the last time under the Constitution of the Kingdom of Thailand, B.E. 2540.

Section 297. At the initial period, senators acquired upon the selection basis hold office for a term of three years as from the commencement of membership and the provisions prohibiting senators form holding office for more than one term shall not apply to such persons in the subsequence selection.

Section 298. The Council of Ministers carrying out the administration of State affairs on the date of promulgation of this Constitution shall be the Council of Ministers under this Constitution and shall vacate office en masse when the Council of Ministers appointed under this Constitution taking office.

The National Security Council under the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall vacate office en masse at the time when the Council of Ministers carrying out the administration of State affairs on the date of promulgation of this Constitution vacate office.

The provisions of section 171 paragraph two, section 172, section 174 and section 182 (4), (7) and (8) shall not apply to the holding of office of the Prime Minister and Ministers carrying out the administration of State affairs on the date of promulgation of this Constitution.

Section 299. The Ombudsmen holding positions on the date of promulgation of this Constitution shall be the Ombudsmen under this Constitution and shall be in offices until the expiration of the term of office. In such case, the term of office shall commence as from the date the appointment is made by the King and the Ombudsmen shall elect one among themselves to be the President of the Ombudsmen within sixty days as from the date of promulgation of this Constitution and the provisions of section 242 paragraph two and paragraph three shall apply mutatis mutandis.

Election Commissioners, members of the National Counter Corruption Commission and members of the National Economic and Social Council holding positions on the date of promulgation of this Constitution shall be in office until the expiration of the term of office and, in such case, the term of office shall commence as from the date of appointment.

Members of the National Human Rights Commission holding positions on the date of promulgation of this Constitution shall be in office until the appointment of the National Human Rights Commission under this Constitution. In the case where such persons hold office for not more than one year as from the date of promulgation of this Constitution, the provisions prohibiting members of the National Human Rights Commission form holding office for more than one term shall not apply to such persons in the first appointment of members of the National Human Rights Commission under this Constitution.

The persons under this section shall continue the performance of duties under the organic laws or other relevant laws which are in force on the date of promulgation of this Constitution until the enactment of the organic laws or other laws for the compliance with this Constitution, unless the provisions thereof are contrary to or inconsistent

with the provisions of this Constitution, the provisions of this Constitution shall replace.

Section 300. The Constitutional Tribunal under the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall be the Constitutional Court under this Constitution and the person holding the position of President of the Supreme Court of Justice shall be the President of the Constitutional Court, the person holding the position of President of the Supreme Administrative Court shall be the Vice-President of the Constitutional Court and the judges of the Supreme Court of Justice and of the Supreme Administrative Court selected under section 35 of the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall be judges of the Constitutional Court until the appointment of the Constitutional Court under this Constitution which shall finish within one hundred and fifty days as from the date of appointment of the President of the House of Representatives and the Leader of the Opposition in the House of Representatives after the first general election of members of the House of Representatives under this Constitution.

The provisions of section 205 (3), section 207 (1) and (2) and section 209 (5) shall not apply to the holding of position of the judges of the Constitutional Court under paragraph one.

The provisions of section 35 paragraph two, paragraph three and paragraph four of the Constitution of the Kingdom of Thailand (Interim), B.E. 2549 shall continue in force until the enactment of the organic law on rules and procedure of the Constitutional Court.

All cases or acts under the consideration of the Constitutional Tribunal under paragraph one shall be considered by the Constitutional Court under this section and when the Constitutional Court under this Constitution is appointed, all pending cases or acts shall be in the jurisdiction of the newly appointed Constitutional Court.

During the period the organic law on rules and procedure of the Constitutional Court is not yet enacted, the Constitutional Court has the powers to prescribe a determination related to its trial and rendering of decisions but such organic law shall be enacted within one year as from the date of promulgation of this Constitution.

Section 301. The selection for the State Audit Commission and the Auditor-General shall finish within one hundred and twenty days as from the date of appointment of the President of the House of Representatives and the Leader of the Opposition in the House of Representatives after the first general election of members of the House of Representatives under this Constitution and, if the President of the Constitutional Court from the selection proceedings under this Constitution does not exist, the Selective Committee shall consist of the existing members.

In the case where the State Audit Commission does not exist, the Auditor-General shall act as the President of the State Audit Commission and the State Audit Commission.

Section 302. The following organic laws shall continue in force under the conditions under this section:

(1) Organic Law on Ombudsmen, B.E. 2542 and the President of the Ombudsmen shall have charge and control of the execution of this Organic Law;

(2) Organic Law on Counter Corruption, B.E. 2542 and the Chairperson of the National Counter Corruption Commission shall have charge and control of the execution of this Organic Law;

(3) Organic Law on State Audit, B.E. 2542 and the Chairperson of the State Audit Commission shall have charge and control of the execution of this Organic Law;

(4) Organic Law on Criminal Proceeding Against Persons Holding Political Positions, B.E. 2542 and the President of the Supreme Court of Justice shall have charge and control of the execution of this Organic Law.

Amendment to the organic laws by the Acts promulgated during the period the Constitution of the Kingdom of

Thailand (Interim), B.E. 2549 being in force is deemed to be made by the organic laws under this Constitution.

Persons having charge and control of the execution of the organic laws under paragraph one shall cause revision to the organic laws for the compliance with this Constitution within one year as from the date of promulgation of this Constitution or, in the case where the person having charge and control of the execution of such organic law does not exist, the period of one year shall commence as from the date of appointment of such person.

The House of Representatives shall complete the consideration of the organic law bills under this section within one hundred and twenty days as from the date of receipt of such organic law bills and the Senate shall finish its consideration thereon within ninety days as from the date of receipt of such organic law bills.

A resolution approves such amendment or disapproves the organic law bills under paragraph one shall be made by the votes of not less than one-half of the total members of each House.

The Election Commission shall prepare the organic law bill on referendum for the compliance with this Constitution and the provisions in paragraph three, paragraph four and paragraph five shall apply mutatis mutandis.

Section 303. At the initial period, the Council of Ministers taking office after the first general election under this Constitution shall cause a preparation or amendment to laws in the matters and within the specific period as follows:

(1) laws related to the determination of measures for supporting and protecting rights and liberties under section 40, section 44, Freedom of Expression of Individual and the Press in Part 7, Rights and Liberties in Education in Part 8, Rights to Public Health Services and Welfare in Part 9 and Rights to Information and Petition in Part 10 as well as laws on personal data under section 56, Community Rights in Part 12, law establishing autonomous consumer protection organisation under section 61 paragraph two, law on political development council under section 78 (7), law establishing organisation for reforming the judicial process under section 81 (4), law establishing farmer council under section 84 (8), law establishing civil politics development fund under section 87 (4) and law on National Human Rights Commission under section 256; within one year as from the date its policies is stated to the National Assembly under section 176;

(2) law for the development of national education under section 80 which promotes formal education, non-formal education, education-at-will, self-learning, life-long learning, community college or other forms of education and causes amendment to law for determining agencies to be responsible for the provision of education appropriately and in conformity with all levels of all education systems of basic education; within one year as from the date its policies is stated to the National Assembly under section 176;

(3) law under section 190 paragraph five which consists of, at least, detailed measure and procedure for the conclusion of treaty having system for the balancing of powers thereon between the Council of Ministers and the National Assembly and securing transparency, efficiency and actual public participation, and details of studies or researches conducted independently before the commencement of negotiation in which there is no conflict of interests between interests of State and the of researchers through the binding period of the treaty; within one year as from the date its policies is stated to the National Assembly under section 176;

(4) law under section 86 (1) and section 167 paragraph three; within two years as from the date its policies is stated to the National Assembly under section 176;

(5) law determining plans and process for decentralisation, law on local revenue, law on establishment of local government organisation, law on local officials and other laws as referred to in Chapter XIV Local Administration for the compliance with this Constitution; within two years as

from the date its policies is stated to the National Assembly under section 176. Such law may be complied in form of Local Administration Code.

In the case where the laws enacted before the date of promulgation of this Constitution have compatible substances with this Constitution, the execution of this section to such laws is exempted.

Section 304. The Code of Ethics under section 279 shall finish within one year as from the date of promulgation of the Constitution.

Section 305. At the initial period, the some provisions of this Constitution shall not apply to specific cases under specific conditions as follows:

(1) the provisions of section 47 paragraph two shall not apply until the enactment of the law under section 47 to establish the regulatory body having duty to distribute the frequencies and supervise radio and television broadcasting and telecommunication businesses which shall not more than one hundred and eighty days as from the date the government policies is stated to the National Assembly. Such law shall, at least, establish specialised committees within such regulatory body whereby one of which for supervision of radio or television broadcasting and the other one for supervision of telecommunication businesses and they work apart, and shall have details on the supervision and protection of business, the establishment of telecommunication resources development fund and the promotion of public participation in running of public mass media, but the aforesaid shall not affect the permissions, concessions or legal contracts concluded before the date of promulgation of this Constitution until the termination of such permissions, concessions or contracts;

(2) subject to section 296 paragraph three, the provisions of section 102 (10) particularly to the requirement on having been senator, section 115 (9) and section 116 paragraph two shall not apply to the first election of members of the House of Representatives and the holding of political positions at the first time under this Constitution;

(3) the provisions of section 141 shall not apply to the enactment of the organic law under section 295;

(4) the provisions of section 167 paragraph one and paragraph two, section 168 paragraph nine, section 169 particularly to the requirement on the determination of sources of income for reimbursement of expenditures paid-up from the treasury balance, and section 170 shall not apply within one year as from the date of promulgation of this Constitution;

(5) any act in relation to the conclusion or implementation of treaty which have been done prior to the date of promulgation of this Constitution shall be valid and the provisions of section 190 paragraph three shall not apply; provided, at any rate, that the provisions of section 190 paragraph three shall apply to the pending procedure that must be continued;

(6) the provisions of section 209 (2) shall not apply to members of the National Human Rights Commission holding office on the date of promulgation of this Constitution;

(7) the provisions of section 255 paragraph five and section 288 paragraph three shall not apply within one year as from the date of promulgation of this Constitution.

Section 306. At the initial period, judges of the Supreme Court of Justice having held positions of not lower than judges of the Supreme Court of Justice who turn to sixty years of age in the fiscal year 2550 shall perform the duties of senior judges in the Supreme Court of Justice under section 219 until the amendment of law prescribing rules for the performance of duties of senior judges.

Within one year as from the date of promulgation of this Constitution, there shall enact the law extending term of office of judges of the Courts of Justice to seventy years of age and a judge of the Courts of Justice who turns to sixty years of age or more in any fiscal year, performs of duties for not less than twenty years and passes the performance capability test may request to hold the office of senior judge in the Courts of not higher than the Court he held his last office.

The law to be enacted under paragraph one and paragraph two shall have the provisions that persons who turn to sixty years of age or more in any fiscal year, within the first ten years as from the date such law come into force, gradually and continually vacate their offices and enable such persons to make a request for holding the office of senior judge.

The provisions of paragraph two and paragraph three shall apply mutatis mutandis to public prosecutors.

Section 307. Qualified members of the Judicial Commission of the Courts of Justice holding office on the date of promulgation of this Constitution shall remain in office; except a qualified member who turns to sixty years of age in the fiscal year 2550 and a qualified member in any level of the Courts who transferred from the such level of the Court, but not more than one hundred and eighty days as from the date of promulgation of this Constitution.

Section 308. The Council of Ministers carrying out the administration of State affairs on the date of promulgation of this Constitution shall appoint the independent Law Reform Committee within ninety days as from the date of promulgation of this Constitution having duties to study and give recommendation on the preparation of laws to be enacted for the compliance with this Constitution and to prepare the law establishing the law reform organisation under section 81 (3) within one year as from the date of promulgation of this Constitution and such law shall have, at least, the provisions that entrusting to such organisation a duty to support the preparation of bills of persons having the right to vote in an election.

The execution under paragraph one is not prejudice to the powers and duties of other organisations in the preparation of bills under their responsibilities.

Section 309. Any act that its legality and constitutionality has been recognised by the Constitution of the Kingdom of Thailand (Interim), B.E. 2549, including all acts related therewith committed whether before or after the date of promulgation of this Constitution shall be deemed constitutionally under this Constitution.

Countersigned by:

Meechai Ruchuphan

President of the National Legislative Assembly

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ARBITRATION ACT, B.E. 2545 (2002)**Translation**

BHUMIBOL ADULYADEJ, REX.

Given on the 23rd Day of April B.E. 2545;

Being the 57th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on arbitration;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1.

This Act is called the “Arbitration Act, B.E. 2545 (2002)”

Section 2.

This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3.

The Arbitration Act, B.E. 2530 shall be repealed.

Section 4.

Whenever a reference is made by any law to the provisions of the Civil Procedure Code relating to out-of-court arbitration, such reference shall be deemed to have been made to this Act.

Section 5.

In this Act:

“Arbitral Tribunal” means a sole arbitrator or a panel of arbitrators;

“Court” means a body or any institution employing judicial power under the law of the state where the Court is located;

“Claim” includes a counterclaim, except the claim under Section 31 (1) and Section 38 paragraph two (1);

“Defense” includes the defense to a counterclaim, except the defense to the counterclaim under Section 31(2) and Section 38 paragraph two (1).

Section 6.

Subject to Section 34, in the case where the provisions of this Act authorize the parties to make any decision, the parties may entrust the third party or any agency to make such decision on their behalf.

In the case where the provisions of this Act refer to the fact that shall be, or may be, agreed upon by the parties, or to an agreement in any matters made by the parties, such agreement shall include the Arbitration Rules stipulated therein.

Section 7.

Unless otherwise agreed by the parties, a document delivered under the provisions of this Act shall be deemed to have been received, if it is delivered to the addressee personally or if it delivered at his or her place of business, domicile, or mailing address; if none of those could be found after making a reasonable inquiry, a document shall be deemed to have been received if it is delivered to the addressee’s last-known place of business, domicile, or mailing address by registered letter or advice of delivery in case of domestic delivery or by any other means which provide a record of the attempt to deliver it.

The provision of this Section shall not apply to the delivery of a document in the Court proceedings.

Section 8.

In the case where a party knows that the provisions of this Act may be derogated by an agreement between the parties, or the requirements under the arbitration agreement has not been complied with by the others, and continues the arbitral proceedings without stating his or her objection thereto within a reasonable period or within the time-limited, it shall be deemed that such party has waived his right to object.

Section 9.

The Central Intellectual Property and International Trade Court, or the Region Intellectual Property and International Trade Court, the Court having jurisdiction over the place where the arbitration proceedings are being conducted, the Court having jurisdiction over the domicile of the parties, or the Court having jurisdiction to adjudicate the dispute raised to the arbitrator,

shall be the competent Court under this Act.

Section 10.

The Minister of Justice shall have charge and control of the execution of this Act.

Chapter I
Arbitration Agreement

Section 11.

An arbitration agreement means an agreement by which the parties agree to settle all or certain disputes which arise or which may arise between them in respect of a defined legal relationship, whether contractual or not, by arbitration. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separated arbitration agreement.

An arbitration agreement shall be in writing and signed by the parties. In the case where an agreement is contained in an exchange of letters, facsimile, telegrams, telex, information with electronic signature, or other forms of communication which provide a record of the agreement, or in the case where the existence of an agreement is alleged in a claim or defense by one party and not denied by another, an arbitration agreement shall be deemed to be existed.

A contract, which refers to a document containing an arbitration clause with the purpose of making that clause, as a part thereof shall be deemed to have an arbitration agreement.

Section 12.

The perfection of an arbitration agreement and the appointment of arbitrators shall not be affected even any party is dead, dissolved, subjected to an absolute receivership order, or incompetent or quasi-incompetent by the Court order.

Section 13.

If any claim or liability has been transferred, the transferee shall be bound by an arbitration agreement related thereto.

Section 14.

In the case where an action in a matter which is the subject of a arbitration agreement is brought to the Court by one party without referring to the arbitral tribunal in accordance with an arbitration agreement, the others may submit, within the date for filing his or her statement or the period for filing his or her statement as prescribed by law, his or her request to dispose of the case and refer to arbitration to the competent Court. The Court shall, after making inquiries, dispose of the case, unless it appears that the arbitration agreement is void, inoperative, or incapable of being performed.

While the request is pending before the Court under paragraph one, the arbitral proceedings may be commenced by any party or may be continued by the arbitral tribunal.

Section 15.

In a contract between a government agency and private party, whether administrative contract or not, the parties thereto may agree to settle their disputes by arbitration. The parties to the contract shall be bound by such arbitration agreement.

Section 16.

The parties to the arbitration agreement may, before or during the arbitral proceedings, request the competent Court to impose a provisional measure in order to protect their interests. If the Court considers that such request, if filed to it, is within its jurisdiction, the Court shall consider the request. In this regards, the provisions of the law on Court proceedings related therewith shall be applied *mutatis mutandis*.

If an order imposing a provisional measure has been given upon request of the party under paragraph one and such party fails to refer to the arbitration within thirty days as from the date in which the Court having an order or within the period as prescribed by the Court, such order of the Court shall be deemed to be terminated upon the lapse of the aforesaid period.

Chapter II
Arbitral Tribunal

Section 17.

The arbitral tribunal shall compose of arbitrators in an odd number.

In the case where the parties determine the number of arbitrators in an even number, those arbitrators shall jointly appoint

another arbitrator to be the Chairperson of the arbitral tribunal. The procedure on an appointment of the Chairperson of the arbitral tribunal shall be in accordance with Section 18 paragraph one (2).

If the parties are unable to agree on the number of arbitrators, there shall be a sole arbitrator.

Section 18.

Unless otherwise agreed by the parties, an appointment of the arbitral tribunal shall be made as follows:

- (1) if the parties agree to have sole arbitrator but they are unable to agree on the arbitrator, the arbitrator shall be appointed by the competent Court upon request of a party;
- (2) if the parties agree to have more than one arbitrator, each party shall appoint the arbitrators in an equal number, and those arbitrators shall then jointly appoint another arbitrator. If a party fails to appoint the arbitrators within thirty days as from the date of receiving a request to appoint the arbitrators from another party, or if the arbitrators appointed by each party fail to jointly appoint the Chairperson of the arbitral tribunal within thirty days as from the date of their appointment, the arbitrators or the Chairperson of the arbitral tribunal shall be appointed by the competent Court upon request of a party.

In the case where the appointment procedure agreed upon by the parties under paragraph one provides no means for securing the appointment, the arbitrator shall be appointed by the competent Court upon request of a party if it appears that:

- (1) a party fails to act as required under the agreed procedure;
- (2) the parties, or the arbitrators, are unable to reach an agreement under the agreed procedure;
- (3) a third party, or any institution, fails to act as required under the agreed procedure.

Section 19.

Arbitrators shall be impartial and independent and shall have qualifications as specified by the arbitral agreement or, in the case where the parties appoint an institution established to settle disputes by arbitration, as specified by such institution.

A person being appointed as an arbitrator shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties, unless such circumstances have already been informed to the parties in advance by an arbitrator.

The parties may challenge an arbitrator if there is circumstance that give rise to justifiable doubts as to his or her impartiality or independence, or if he or she has no qualifications as agreed to. A party could not challenge the arbitrator appointed by him or her, or in whose appointment he or she has participated, unless he or she has no knowledge on the grounds for challenge at the time of appointment.

Section 20.

Unless otherwise agreed by the parties, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the appointment of the arbitrator or after becoming aware of circumstances referred to in Section 19 paragraph three, submit a written statement of the reasons for the challenge to the arbitral tribunal. If the challenged arbitrator refuses to withdraw from his or her office, or the other party refuses the challenge, the arbitral tribunal shall decide on the challenge.

If a challenge under any procedure agreed upon by the parties or under the procedure as prescribed in paragraph one is not successful, or in the case of a sole arbitrator, the challenging party may request the competent Court within thirty days as from the date of receiving a written decision on the challenge, or as from the date the appointment of arbitrator, or as from the date the circumstances as prescribed in Section 19 paragraph three has known to him or her, as the case may be. After having inquired the request, the Court shall have an order to allow or dismiss the request. During the Court proceedings, the arbitral tribunal and the challenged arbitrator may continue the arbitral proceedings and make an award, unless the Court otherwise orders.

In the case of necessity, the arbitral tribunal may extend the period for challenging the arbitrator under paragraph one for not more than fifteen days.

Section 21.

The mandate of the arbitrator terminates upon his or her death.

In the case where a person appointed, or will be appointed, to be an arbitrator becomes unable to perform his or her functions, whether he or she rejects the appointment, being under absolute receivership, being incompetent or quasi-incompetent by the Court order, or fails to perform his or her functions within reasonable period of time for other reasons, his or her mandate as an arbitrator shall terminate upon his or her withdrawal from office or upon an agreement between the parties. If there is an argument on these grounds, any party may request the competent Court to decide on the termination of the mandate.

Subject to paragraph two or Section 20 paragraph one, the withdrawal from office of an arbitrator or an agreement between

the parties to terminate an arbitrator shall not be deemed as an acceptance of the grounds under paragraph two or under Section 19 paragraph three.

Section 22.

If the mandate of the arbitrator terminates upon the grounds as prescribed in Section 20 or Section 21, or upon the withdrawal from office of an arbitrator, or upon an agreement between the parties to terminate an arbitrator, or upon other grounds, a substitute arbitrator shall be appointed according to the procedure as imposed for the appointment of the arbitrator.

Section 23.

The arbitrator shall not be responsible for any civil liability on the carrying out of his or her functions as the arbitrator, except where he or she acts willfully, or with gross-negligence, and such acts cause damages to any party.

Any arbitrator who demands, receives, or agrees to receive assets or any other benefits for himself or herself or other persons, without any lawful cause, in order to act or refrain from acting his or her functions, shall be liable to imprisonment for a term not exceeding ten years, or to a fine not exceeding one hundred thousand Baht, or to both.

Any person who provides, offers to provide, or promise to provide assets or any other benefits to the arbitrator to induce him or her to act, refrain from acting, or delay any act, which contrary to his or her functions shall be liable to imprisonment for a term not exceeding ten years, or to a fine not exceeding one hundred thousand Baht, or to both.

Chapter III

Jurisdiction of Arbitral Tribunal

Section 24.

The arbitral tribunal may adjudicate its own jurisdiction, including the existence or validity of the arbitration agreement, the validity of the appointment of the arbitral tribunal, and any disputes within its jurisdiction. For this purpose, it shall be deemed that an arbitration clause that forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is void or invalid shall not affect the invalidity of the arbitration clause.

An objection on the jurisdiction of the arbitral tribunal shall be made no later than the date for submission of the statement of defense. A party shall not be precluded from making an objection by the fact that he or she has appointed, or participated in the appointment of an arbitrator. An objection that the arbitral tribunal performs its functions *ultra vires* shall be raised forthwith by a party when the ground of such objection occurred during the arbitral proceedings. If there is a reasonable delay in making such objection, the arbitral tribunal may allow the parties to make an objection after the prescribed period.

The arbitral tribunal may adjudicate an objection on its jurisdiction either as a preliminary question or in an award on the merits. If the arbitral tribunal adjudicates as a preliminary question that it has jurisdiction, any party may request, within thirty days as from the date of receiving the notice of such adjudication, the competent Court to decide the matter. While such a request is pending before the Court, the arbitral tribunal may continue the arbitral proceedings and make an award.

Chapter IV

Conduct of Arbitral Proceedings

Section 25.

The parties shall, in the arbitral proceedings, be treated equally and shall be given an opportunity to present witnesses, evidences and defenses as suitable for the circumstances of the case.

If there is no agreement between the parties or there is no provision of this Act to cope with, the arbitral tribunal may conduct the arbitral proceedings as it think fit. The arbitral tribunal, in this case, shall be empowered to determine the admissibility and weight of any evidence.

For the purpose of this chapter, the arbitral tribunal may apply the provisions on witness and evidence of the Civil Procedure Code to the arbitral proceedings *mutatis mutandis*.

Section 26.

The parties may agree upon the place of arbitration. If there is no such agreement, the place of arbitration shall be determined by the arbitral tribunal after having considered the circumstances of the case and convenience of the parties.

Unless otherwise agreed by the parties, the arbitral tribunal may determine any place, other than the place as prescribed in

paragraph one, for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, places, or any documents.

Section 27.

In the settlement of dispute by arbitration, it shall be deemed that the dispute has been referred to the arbitral tribunal according to the provision of Section 193/14 (4) of the Civil and Commercial Code. The arbitral proceedings shall commence when:

- (1) a party receives a written request to refer such dispute to arbitration from the others;
- (2) a party informs in writing to the others so as to appoint the arbitrator or to consent to the appointment of arbitrator to settle the dispute;
- (3) in the case where the arbitral tribunal has been appointed by the arbitration agreement, a party informs in writing the dispute to be settled to the arbitral tribunal;
- (4) a party submits the dispute to an institution established to settle the dispute by arbitration as agreed.

Section 28.

The parties may agree on the language to be used in the arbitral proceedings. If there is no such agreement, the language to be used shall be determined by the arbitral tribunal. Unless otherwise agreed, such agreement or determination shall be applied to any statements, objections, written statements of the parties, hearings, awards, decisions and other communication made by or made to the arbitral tribunal.

The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language agreed upon by the parties or as determined by the arbitral tribunal.

Section 29.

Within the period as agreed upon by the parties or as determined by the arbitral tribunal, the claimant shall state the facts supporting his or her claim, the points at issue and the relief or remedy sought, and the respondent shall state his or her defenses in respect of these particulars, unless the parties have otherwise agreed. In this regards, the parties may submit therewith a relevant documents or lists of evidences referring to the documents or other evidences they intend to cite as evidence.

Unless otherwise agreed by the parties, a party may amend his or her claim or defense during the course of the arbitral proceedings, unless the arbitral tribunal considers whether it is inappropriate to allow such amendment with regard to the delay to be incurred.

Section 30.

Unless otherwise agreed by the parties, the arbitral tribunal shall determine whether to hold hearings orally or in writing, or whether the proceedings shall be conducted on the basis of documents or other evidences.

The arbitral tribunal shall have the power to hold hearings under paragraph one at an appropriate stage of the proceedings if so requested by a party, unless the parties agreed that no hearings, whether in oral or in writing shall be held.

The arbitral tribunal shall inform the parties, with sufficient advance notice, the date for hearings and inspecting of any objects, places or other documents.

All statements, defenses, requests, documents, or information submitted to the arbitral tribunal by one party shall be delivered to the others. Any expert reports or evidences on which the arbitral tribunal may rely upon in making its award shall also be delivered to the parties.

Section 31.

Unless otherwise agreed by the parties, the arbitral tribunal shall:

- (1) terminate the proceedings if the claimant fails to deliver his or her statement of claim in accordance with Section 29 paragraph one;
- (2) continue the arbitral proceedings if the respondent fails to deliver his or her statement of defense in accordance with Section 29 paragraph one. In this regards, the failure to deliver the statement of defense shall not be treated as an admission of the allegations of the claimant;
- (3) continue the arbitral proceedings and make the award if any party fails to appear at a hearing or the appointed date or fails to produce any evidence.

The arbitral tribunal shall have the power to inquire any matters as it thinks fit, including the reason why the respondent fails to deliver his or her statement of defense or fails to appear at the hearings or the appointed date, before making decision to get along with the proceedings under paragraph one.

Section 32.

Unless otherwise agreed by the parties, the arbitral tribunal may:

- (1) appoint one or more experts to make a report on specific issues to be decided by the arbitral tribunal;
- (2) require the parties to give the expert any information or to produce, or to undertake the acquisition of any documents or objects relevant to the dispute for examination.

Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his or her written or verbal report, participate in a hearing where the parties have the opportunity to question him or her or to present expert witnesses in order to testify on the points at issue.

Section 33.

The arbitral tribunal, any arbitrator or any party with the consent of the majority of the arbitral tribunal, may request a competent Court to summon witnesses or to order the delivery of any documents or objects.

In the case where the Court considers that such request, if filed to it, is within its jurisdiction, the Court shall consider the request. In this regard, the provisions of the law on Court proceedings related therewith shall be applied *mutatis mutandis*.

Chapter V

Award and Termination of Arbitral Proceedings

Section 34.

The arbitral tribunal shall decide the dispute in accordance with the governing law as designated by the parties. Any designation of the law or legal system of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules.

If the parties fail to designate the governing law, the arbitral tribunal shall apply Thai law to the dispute, except where there is a conflict of laws, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

The parties may determine that the arbitral tribunal shall decide the dispute in good faith and fair.

The arbitral tribunal shall decide the dispute in accordance with the terms of the contract and, in the case of a commercial dispute, shall take into account the usages of the trade applicable to the transaction.

Section 35.

Unless otherwise agreed by the parties, any award, order and decision of the arbitral tribunal shall be made by a majority of votes. If a majority of vote could not be obtained, the chairperson of the arbitral tribunal shall be a person who makes award, order or decision.

The chairperson of the arbitral tribunal shall decide questions of proceedings if so authorized by the parties or all members of the arbitral tribunal.

Section 36.

If the dispute could be compromised, during the arbitral proceedings, by an agreement between the parties, the arbitral tribunal shall terminate the proceedings. If the parties so request and the arbitral tribunal considers that the agreement to compromise the dispute contrary to laws, the arbitral tribunal shall make an award in accordance with such agreement.

An award made in accordance with an agreement to compromise the dispute shall be subjected to Section 37 and shall have the same status and effect as the award on merits of the case.

Section 37.

The award shall be made in writing and signed by the arbitral tribunal. If the arbitral tribunal consists of more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature shall also be stated.

Unless otherwise agreed by the parties, the award shall state the reasons upon which it is based. Any determination or decision beyond the scope of the arbitration agreement or the request of the parties shall not be stated in the award, except where the award made in accordance with the agreement to compromise the dispute under Section 36 or the determination of fee and expense in the arbitration or the commission for the arbitrator under Section 46.

The award shall state its date and the place of arbitration in accordance with Section 26 paragraph one, and it shall be deemed to have been made at that place.

After the award is made, its copy shall be delivered to the parties.

Section 38.

The arbitral proceedings shall be terminated when the award or an order of the arbitral tribunal under paragraph two is made.

The arbitral tribunal shall have an order to terminate the arbitral proceedings when:

- (1) the claimant withdraws his or her claim, unless the respondent has objected to such withdrawal and the arbitral tribunal considers that legal interest of the respondent shall be recognized by awarding;
- (2) the parties agree to terminate the proceedings;
- (3) the arbitral tribunal considers that the continuation of the proceedings has become unnecessary or impossible.

Subject to Section 39 and Section 40 paragraph four, the mandate of the arbitral tribunal shall terminate upon the termination of the arbitral proceedings.

Section 39.

Unless otherwise agreed by the parties, within thirty days as from the date of receiving the award:

- (1) a party, with a copy delivered to the others, may request the arbitral tribunal to correct the award of any computation, clerical or typographical error or any errors of similar nature;
- (2) if so agreed by the parties, a party, with a copy delivered to the others, may request the arbitral tribunal to interpret or clarify any sentences or parts of the award.

If the arbitral tribunal considers that the request under (1) and (2) are justified, it shall correct, interpret or clarify the matter under request within thirty days as from the date of receiving such request. The interpretation and clarification shall form part of the award.

The arbitral tribunal may correct any errors under (1) on its own initiative within thirty days as from the date of award.

Unless otherwise agreed by the parties, a party may, within thirty days as from the date of receiving the award and with notice to the others, request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days of receipt of the request.

The arbitral tribunal may, if necessary, extend the period for making correction, interpretation or additional award under paragraph two and four.

The provision of Section 37 shall be applied to a making of correction, interpretation, or additional award under this Section.

Chapter VI

Recourse against Award

Section 40.

Recourse against an arbitral award may be made only by an application to the competent Court for setting aside in accordance with this Section.

A party may apply to the competent Court to set aside the award within ninety days as from the date of receiving a copy of award or, in the case where a party requests the arbitral tribunal to correct or interpret the award or to make an additional award, within ninety days as from the date of correction, interpretation or making of the additional award.

The Court shall set aside the arbitral award if:

- (1) a party who make the application is able to prove that:
 - (a) a party to the arbitration agreement is incapacity under the law applicable to that party;
 - (b) the arbitration agreement is not legally binding under the law to which the parties have agreed upon or, in the case where there is no such agreement, the law of the Kingdom of Thailand;
 - (c) a party who make the application was not delivered advance notice of the appointment of the arbitral tribunal or the hearings of the arbitral tribunal, or was otherwise unable to present his or her case;
 - (d) the award deals with a dispute not falling within the scope of the arbitration agreement or contains decisions on matters beyond the scope of the submission to arbitration. If the decisions on matters submitted to arbitration could be separated from those not so submitted, only the part of award which contains decisions on matters not submitted to arbitration may be set aside by the Court; or
 - (e) the composition of the arbitral tribunal or the arbitral proceedings was not in accordance with the agreement of the parties or, in the case where there is no such agreement, was not in accordance with this Act;

(2) it appears to the Court that:

- (a) the award deals with the dispute which shall not be settled by arbitration under the law; or
- (b) the recognition or enforcement of the award is contrary to public order or good morals.

In considering a request for setting aside an award, if the parties so requested and the Court thinks fit, the Court may suspend the setting aside proceedings for a period of time as it deems appropriate in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take other actions which, in the opinion of the arbitral tribunal, would eliminate the grounds for setting aside.

Chapter VII

Recognition and Enforcement of Award

Section 41.

Subject to Section 42, Section 43 and Section 44, an arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application to the competent Court, shall be enforced.

In the case where an award made in a foreign country, the competent Court shall enforce such award only if it is governed by a treaty, convention or international agreement to which Thailand is a party, and it shall have effect only to the extent that Thailand agrees to be bound.

Section 42.

A party who wishes to enforce the arbitral award shall apply to the competent Court within three years as from the date the award is enforceable.

After having received the application, the Court shall, without delay, make an inquiry and render its judgment.

The party applying for enforcement of the arbitral award shall submit the following documents to the Court:

- (1) original arbitral award or its a duly certified copy;
- (2) original arbitration agreement or its duly certified copy;
- (3) translations of the arbitral award and the arbitration agreement in Thai language made by the translator who has sworn or made oath before the Court or official or the person having power to accept the oath, or who has made oath to, or represented by, the official authorized to certify the translation or by a diplomatic delegate or the Thai consul in the country in which the award or the arbitration agreement was made.

Section 43.

The Court may refuse to enforce the arbitral award, irrespective of the country in which it was made, if the party against whom the enforcement is invoked can prove that:

- (1) a party to the arbitration agreement is incapacity under the law applicable to that party;
- (2) the arbitration agreement is not legally binding under the law to which the parties have agreed upon or, in the case where there is no such agreement, under the law of the country where the award was made;
- (3) the enforced party was not given advance notice of the appointment of the arbitral tribunal or of the hearings of the arbitral tribunal or was otherwise unable to present his or her case;
- (4) the award deals with a dispute not falling within the scope of the arbitration agreement or contains decisions on matters beyond the scope of the submission to arbitration. If the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters submitted to arbitration may be enforced by the Court;
- (5) the composition of the arbitral tribunal or the arbitral proceedings was not in accordance with the agreement made by the parties or, in the case where there is no such agreement, was not in accordance with the law of the country where the award was made; or
- (6) the award has not yet become binding upon the parties, or it has been set aside or suspended by a competent Court or by the law of the country where it was made, except where the application for setting aside or suspension of the award has been made to the competent Court and the trial is pending, the Court may suspend the proceedings to enforce the award as it thinks fit. If so requested by the party who apply for enforcement of award, the Court may order the enforced party to give security in an amount as it thinks fit.

Section 44.

The Court shall have the power to refuse the application to enforce the award under Section 43 if it appears that the award

deals with the dispute which shall not be settled by arbitration under the law or the enforcement of award is contrary to public order or good moral.

Section 45.

An order or judgment of the Court under this Act shall not be appealed, except where:

- (1) the recognition or enforcement of the award is contrary to public order or good morals;
- (2) the order or judgment is contrary to the provisions of law relating to public order or good morals;
- (3) the order or judgment is not in accordance with the arbitral award;
- (4) the judge who has tried the case gave a dissenting opinion in the judgment; or
- (5) it is an order on provisional measure under Section 16.

An appeal against an order or judgment under this Act shall be made to the Supreme Court or the Supreme Administrative Court, as the case may be.

Chapter VIII

Fee, Expense and Commission

Section 46.

Unless otherwise agreed by the parties, any fee and expense incurred in the arbitral proceedings as well as commission of the arbitrator; except lawyer fee and expense, shall be in accordance with those stipulated in the arbitral award.

In the case where the fee and expense in the arbitral proceedings or the commission of the arbitrator were not stipulated in the arbitral award, any party or the arbitral tribunal may request the competent Court for a ruling on fee, expense and commission of the arbitrator as it thinks fit.

Section 47.

The institution established to settle disputes by arbitration may determine fee, expense and commission for the arbitral proceedings.

Transitional Provisions

Section 48.

The provisions of this Act shall not affect the validity of any arbitration agreement and arbitration proceedings made before the day in which this Act comes into force.

Any arbitral proceedings which is not conducted and the period of time for such proceedings as prescribed by the law enforced before this Act comes into force is not expire shall be continued within the period of time as prescribed by this Act.

Countersigned by Pol. Lt. Col. Taksin Shinawatra as Prime Minister

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Annex 3-27
Viet Nam National Report

COUNTRY REPORT

on

**Compilation of National Practices and Instruments on Addressing Inter-State
Contentious Issues, Differences and Disputes over Trans-boundary Water and
Related Natural Resource Management**

*Prepared by: Luu Phu Hao
Viet Nam National Consultant*

Hanoi, July 2008

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Executive Summary

Almost half of the world is situated in the river basins shared among two or more states (riparian states), and almost half of the world's population is dependent on the shared water resources, which are very limited while the demand of them are much increasing. This unbalance, consequently, will lead to potential of conflicts and disputes among states, which likely happen in many places around the world. However, in the new era of cooperation, riparian countries are aiming at addressing the issues of conflicts and disputes with peaceful means including negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, etc. Those means are stipulated in national constitutions, laws, regulations, etc., and many inter-state agreements of many states.

Viet Nam is among the countries who share their water and natural resources, as well as lands and marine resources with neighboring countries. The water resources of Viet Nam depends very much on the upstream of trans-boundary water course, which Viet Nam shares with other countries in the region, particularly on catchments areas, total volume of flow, and development activities upstream. The principles in the international relation and cooperation in the development and protection of the water and related resources, which are generated within the country's territory or shared with the neighbor countries, have been well reflected in the legal system of Vietnam, including constitution, laws, decrees, regulations, etc. In some provisions of those legal documents, trans-boundary issues, differences, and disputes have been clearly stipulated and elaborated. In the Foreign Policy of Viet Nam, settlement of disagreements and disputes by means of peaceful negotiations for mutual respect, equality and mutual benefit is clearly stated.

This country report is to provide information of practices and instruments of Viet Nam including legislations, agreements, mechanisms, for addressing Inter-State Issues, Differences and Disputes relating to Trans-boundary Water and Related Natural Resource Management. The information will be used as inputs to develop an explanatory note/manual, then for capacity building on addressing trans-boundary flood and water related issues by the Flood Management and Mitigation Program of the Mekong River Commission (MRC) – an inter governmental organization of the four Lower Mekong River Countries namely Thailand, Lao PDR, Cambodia, and Viet Nam. For the compilation, number of legal documents of the state such as constitution, water law, environmental protection law, national strategy on water resources toward the year 2020, national strategy on natural disasters reduction toward the year 2020, etc., has been analyzed in terms of addressing trans-boundary issues; the functions of the Ministry of Foreign Affairs (MOFA), the responsible ministry for any issues relating to international cooperation with other states, and its practices in addressing trans-boundary differences and disputes, has been gathered; and besides, bilateral mechanism/practices currently applied by Viet Nam with Lao PDR and Cambodia, the two neighboring countries, particularly dealing with water and water related trans-boundary issues, has been reviewed.

Abbreviation and Acronyms

ADR	Alternative Dispute Resolution
ASEAN	Association of South East Asian Nations
CNMC	Cambodia National Mekong Committee
CTA	Chief Technical Advisor
FMMP	Flood Management and Mitigation Programme
GMS	Greater Mekong Sub-region
IDDs	Issues, Differences, and Disputes
JEB	Joint Executive Board
JEG	Joint Expert Group
Lao PDR	Laos People Democratic Republic
MAFF	Ministry of Agriculture, Forestry and Fisheries
MARD	Ministry of Agriculture and Rural Development
MDGs	Millennium Development Goals
MIC	Ministry of Industry and Commerce
MOU	Memorandum of Understanding
MOWRAM	Ministry of Water Resources and Meteorology
MOFA	Ministry of Foreign Affairs
MRC	Mekong River Commission
MRCS	Mekong River Commission Secretariat
NMC	National Mekong Committee
SRV	Socialist Republic of Viet Nam
TBIDDs	Trans-boundary Issues, Differences, and Disputes
TOR	Terms of Reference
TWC State	Trans-boundary Water Course State
UN	United Nations
VNMC	Vietnam National Mekong Committee
WTO	World Trade Organization

Chapter 1 - Introduction

1.1 General introduction to TBIDDs from Perspective of Viet Nam

1.1.1 Management of trans-boundary water and natural resources

Waters contained entirely within one country are subject only to that country's administrations. But trans-boundary waters are subject to the politics, cultures, stages of development, and development goals of various riparian countries, and there is no recognized international authority or judicial system for reconciling any differences.

“World Water Vision” presented at the Second World Water Forum in 2000, calls for increased cooperation in trans-boundary river basins, noting that almost half of the world is situated in nearly 300 basins. The Vision recognizes that shared waters offer more potential for cooperation than conflict.

Trans-boundary water resources and their use are of great importance to riparian States. In this connection, cooperation among those States may be desirable in conformity with existing agreements or other relevant arrangements, taking into account the interests of all riparian States concerned. In the case of trans-boundary water resources, there is a need for riparian States to formulate water resources strategies, prepare water resources action programmes and consider, where appropriate, the harmonization of those strategies and action programmes.

Almost half of the world is situated in trans-boundary river basin. From time to time, actions in a broader interest require cooperation from the countries sharing those basins. Typical examples are the development of navigation on a river or the protection of downstream ecosystems from upstream pollution. But cooperation is not accrued equitably to the riparian countries involved or may not even be evident.

Land and water resources of trans-boundary river basins should be managed in an integrated way at the catchments level, just as is the case for national rivers. This means making the most of social, economic and environmental benefits related to the water and sharing the benefits equitably among all parties. This requires establishing institutions-agreements, laws, organized procedures, and joint commissions and administrations. And it requires the cooperation of national organizations and administrative bodies that usually do not even talk to one another.

New cooperation arrangements for trans-boundary water systems are emerging, thanks largely to the moderator role played by international organizations. The trend is to reduce the risk for conflicts and improve the capacity to reach shared solutions through training and better access to negotiation methods.

Ecosystem protection and risk management are new drivers for trans-boundary cooperation. There is a clear move from a mono-sectoral approach towards a more multi-

purpose one. Non-state actors are also gradually becoming more involved. But actions on trans-boundary water systems are still far from integrated water resources management. And integrated water resources management should be reviewed as only one element of broader cooperation in regions that are connected by water systems.

1.1.2 Competition over the World's Trans-boundary water resources - the need to develop a cooperative framework

With 40 per cent of the world's population dependent upon water shared by two or more States and the increasing demands on this limited precious resource, the potential for conflict over competition for water is readily apparent. One half of the world's population will suffer from shortages of water by the year 2025, according to a recent United Nations report. The significance of the forthcoming water crisis led governments at Johannesburg to commit to reducing by "halve by 2015 the proportion of people without access to safe drinking water and basic sanitation" and to "develop integrated water resources management and efficiency plans by 2005". Governments reiterated their commitment to improve water resources management at the most recent and largest international meeting on water – the third World Water Forum, convened in March 2003 in Kyoto.

This focus on decentralizing water resources management may run counter to the basin-wide approach implicit in the current universal trend towards the integrated water resources management. In the context of an international trans-boundary watercourse, this policy of decentralization could lead to unilateral action at the national level. Unilateral development activities with respect to, and in competition for, increasingly scarce water resources may lead to conflicts across borders. There is always the possibility that one State's plans for development may adversely affect the use of the resource by other States. Fundamental questions arise as a result:

- i) How can a Trans-boundary Water course State (TWC State) determine its legal entitlement to, and respective obligations regarding the use of shared freshwater?
- ii) Are the rights and obligations of TWC States different depending upon whether they are upstream or downstream, or if they share ground-waters?
- iii) How can these rights and obligations be operational at the national level – such that a TWC State is assured the right to use its shared Freshwaters in a way that is consistent with the requirements of international law?

1.1.3 National Water Policy Challenges

With the recent emphasis on national governments establishing their own national water policy, it is critical that a TWC State is equipped with the tools necessary for determining its national rights and obligations regarding its shared trans-boundary water resources. At the national level, a TWC State faces serious challenges in assessing the quantity and quality of shared waters it is entitled to (or is obliged to share). Equally demanding is the quest to meet national development needs, while complying with its

international obligations. Effective water management strategies play a key role in the achievement of food security, and more broadly, are critical in the global efforts to alleviate poverty, especially in the context of the imperatives of the newly adopted Millennium Development Goals (MDG). For cooperation between TWC States, between upstream-countries and downstream-countries, the efforts are needed to:

- i) Build confidence between countries that share rivers, gradually leading to the time when countries are willing to work together and allocate resources to solve collective problems;
- ii) Develop international treaties, laws, and dispute resolution mechanisms, all of which usually require long negotiations;
- iii) Encourage voluntary limits on national sovereignty, to allow the principles of integrated water resources management to be applied to trans-boundary water.

1.1.4 Current water resources development and management situation in Viet Nam and the region

Viet Nam is located in the region of tropical monsoon climate with plentiful water resources including 835 billion m³ of surface water and average discharge of 1,500 m³/s of ground water. Annually, total volume of surface water in Viet Nam is 835 billion m³, however, of which, 522 billion m³ (62.5% of total volume) are from outside of the territory, while only 313 billion m³ (37.5% of total volume) are generated locally.

Table 1: Catchments areas and water flow volumes of Mekong and Red Rivers

River Basin		Catchments areas (Km²)	Percentage	Flow volume (10⁹ m³)	Percentage
Mekong River	Total	795,000	100%	475	100%
	In Mekong Delta of VN	39,000	4.9%	20	4.2%
	Upstream of Tan Chau and Chau Doc	756,000	95.1%	455	95.8%
Red River		143,600	100%	120	100%
	In Viet Nam territory	62,360	43.4%	70	58.3%
	In China territory	81,240	56.6%	50	41.7%

The situation is emerging that the water resources of Viet Nam depends very much on the upstream of trans-boundary water course, which Viet Nam shares with other

countries in the region, particularly on catchments areas, total volume of flow, and development activities.

Currently, development activities in the region are continuously increasing. For the economic development purposes which demand much more energy, many hydropower projects have been developed, and not only on tributaries but also spreading onto the Mekong mainstream. Waters used for domestic consumption and agriculture production have also been more and more due to population increase, and the wave of industrialization and urbanization. Those developments which consume or use waters may cause unexpected impacts from upstream to downstream, especially to Viet Nam given its location end of the Mekong River basin. Besides, according to number of studies by various national and international organizations, the phenomena of climate change which may cause the sea water level rise will also adversely impact to Viet Nam the most. It is, therefore, very necessary to promote an equitable sharing and sustainable use and management of water and natural resources in the region in order to minimize the negative impacts caused by development activities in one to another country. It is also very crucial to enhance the cooperation in addressing any Inter-State contentious issues, Differences, and Disputes (IDDs) among riparian countries, which are mostly to happen in the trend of development.

1.2 Scope and Content of Viet Nam Report

The objectives of the study are to provide information of National Practices and Instruments on Addressing Inter-State Contentious Issues, Differences and Disputes over Trans-boundary Water and Related Natural Resource Management. The information will be the inputs for the explanatory note on addressing trans-boundary flood and water related issues that the MRC Flood Management and Mitigation Program will develop, which will be used as a working document for all 4 MRC member states. The information will be also used as training materials for capacity building under Component 3 of FMMP.

During the study, the national consultant will have to collect, review and analyze the national laws, policies and regulations related to water and related natural resources management in light of trans-boundary matters; compile information related to requirements, practices and mechanisms for addressing inter-States issues, differences and disputes (directly or indirectly related to natural resources issues) applied by the Ministry of Foreign Affairs (MOFA), other national and provincial agencies, including juridical matters and possible alternative dispute resolution (ADR); and explore and document information related to the bilateral mechanism/practices currently applied for cooperation, negotiation and resolution of the trans-boundary issues.

In accordance with the TOR of the National Consultant, the national report of Viet Nam is to provide present situations on policies and laws of Viet Nam Government on trans-boundary water and other related resources of Viet Nam in general and the two localities within Mekong River Basin, which are the Mekong Delta of Viet Nam and the Central Highland in particular.

The Report includes:

Executive Summary

Abbreviation and Acronyms

Chapter 1: Introduction

Chapter 2: Legal Aspects and Considerations of TBIDDs

Chapter 3: Practices, Standards and Mechanisms Applied by the Ministry of Foreign Affairs

Chapter 4: Bilateral Mechanism/Practices Currently Applied by National and Local Authorities

Chapter 5: Conclusions and Recommendations

References

Annexes

Chapter 2 - Legal Aspects and Considerations of TBIDDs

The principles in the international relation and cooperation in the development and protection of the water and related resources that are generated within the country's territory or shared with the neighbor countries have been reflected in the legal system of the Socialist Republic of Vietnam, including Constitution, laws, decrees and regulations. In some provisions of these legal documents, TBIDDs have been clearly stipulated and elaborated.

2.1 Constitution Provisions

2.1.1 Administrative, judicial and alternative different resolution (ADR) approaches.

Constitution is the most important national legal document in which Vietnam has confirmed its sovereign, including mainland, islands, territorial waters and air space¹. The constitution also sets the most important principles of Vietnam in the relation and cooperation with all countries in the world. Vietnam carries out a policy of peace and friendship, seeks to expand its relations and cooperation with all countries in the world regardless of political and social system on the basis of respect for each other's independence, sovereignty and territorial integrity, non-interference in each other's internal affairs, equality, and mutual interests; it seeks to strengthen solidarity, friendship and cooperation with the socialist countries and neighboring countries².

Regarding water and related resources, the Constitutions stipulated that the lands, forests, rivers and lakes, water resources, wealth lying underground or coming from the sea, continental shelf and the air and all other property determined by law as belonging to the State, come under ownership by the entire people and confirms the State manages all the resources in accordance with the plan and the law, and guarantees that its use shall conform to the set objectives and yield effective results³.

Concerning the administrative and judicial aspects, the Constitution defines the administrative and judicial system of the State consisting of the National Assembly; the State President, the Government; People's Councils; People's Committees and People's Courts and People's Offices of Supervision and Control. In the System, the National Assembly is the highest representative organ of the highest of State power of the Socialist Republic of Vietnam and the National Assembly is the only organ with constitutional and legislative power. The National Assembly shall decide the fundamental domestic and foreign policies⁴. The State President: is the Head of the State representing the SR of Vietnam internally and externally. Regarding to the international relation, the State President has power and duties to negotiate and sign international agreements on behalf of

¹ Article 1

² Article 14

³ Article 83

⁴ Article 84

the SR of Vietnam with Heads of other States; to approve or join international agreements, except in cases where a decision by the National Assembly is necessary.

2.1.2 Rights and Obligations of the Government Agencies

The Government is defined in the Constitution as the executive body of the National Assembly and the highest administrative State body of the S.R of Vietnam with the role in the external affair of undertaking unified management of the foreign affair of the State; on behalf of the S.R of Vietnam to negotiate and sign international treaties except that under power of President State; on behalf of the Government to negotiate, sign, join to and approve international treaties; direct the implementation of international treaties which Vietnam has signed or joined; to protect the interests of the State and the legitimate interests of Vietnamese organizations and citizens abroad.

2.1.3 Right and Obligations of Citizens, Water Users, Stakeholders

Constitution defines the right of the Citizens in taking part in managing the State and society, in debating on general issues of the whole country or of the locality, and makes petitions or recommendation to the state offices and vote at any referendum held by the State. Beside enjoying the rights and obligations of the Citizens, the water users, stakeholders also enjoy the rights and obligations that are stipulated in the provisions under specific laws and decrees related, such as Law on Water Resources; Environmental Protection Law etc.

2.2 Important Policies, Laws and Regulations

After reunification of the country in 1975, Vietnam has been preceding the establishment and forwarding to completion of its legal system in all the fields of social, economic, human resources developments of the country. Hundreds of laws have been approved by the National Assembly and thousands of by laws documents (Degree/Ordinary/decisions/strategy) have been formulated and published by the Government and Ministries concerned to regulate 28 fields such as ***Agriculture and forestry***, Arbitration and Inspection, Banking and Finance, Construction-Architecture, Customs; ***Diplomatic Affairs***; Domestic Investment; Enterprise; Exhibition and Advertisement; Exit and Entry; Family Law; Forestry Law, Finance; Foreign Investment; Heavy Industry; Labor-Salary; Land and Residential Housing; ***Natural Resources and Environment***; Political Parties, Trade Unions, and Associations; Population and family Planning; Post and Telecommunication; Price Controls; Election and Representative Office; Social Services and Affairs; Taxation and fee; Technology and Science Tourism; and Transportation. Now, Vietnam in the process of the integration with the World, so TBIDDs are reflected better and better in these legal documents.

2.3 Water and related Laws, Policies and Regulations

2.3.1 *The Law on Water Resources*

The Law on Water Resources (the Law) was approved by the National Assembly of Vietnam in 1998. By issuing this law, first time in Vietnam, all aspects relating to the development and protection of the most important resources of the country -water resources are legalized. As presented in the chapter 1 of this Report, in the total annual surface water availability in country's territory of 830 billion m³, about 63% or 520-525 billion m³ come into the country from neighbor/upstream countries so in the Law there are many provisions that reflect/stipulate the relationship and cooperation of Vietnam with neighbor/upstream countries dealing with the international river basins. The TBIDDs are also considered and elaborated in these provisions.

The Law defines the water resources in Vietnam come under the ownership of the entire people under the unified management of the State. However, the Law also defines the responsibilities in the prevention, fight against and overcoming the consequences of flood and other harmful effects of water are of the State agencies, economic organizations, political organizations, socio-political organizations, social organizations, People's Armed Forces units and all individuals.

In the state administrative system, the Government shall decide and direct the Ministries and the People's Committees at various levels to carry out measures to prevent, fight and overcome the consequences of flood and other harmful effects of water and in their turn ministries, and the People's Committees at various levels shall, within their tasks and powers, decide and organize the implementation of measures to prevent, fight and overcome the consequences and other harmful effects of water. The flood is considered as most serious disasters in Vietnam, annually, the economy of the countries is affected, with different scales by the flood, so in the Law there are various provisions in which an extensive mechanism has been set up for prevention and mitigation of damages caused by the flood⁵.

The Law has set up the important Principles in international relations in water resources. These principles can be listed bellows:

- Respect for the sovereignty, territorial integrity and interests of the countries sharing the same source of water;
- Ensuring justice, reasonability, mutual benefit and sustainable development in exploiting and use of international water sources;
- Not to harm the rights and interests of the countries sharing the same source of water in conformity with the international conventions which the Socialist Republic of Vietnam has signed or acceded to;

⁵ Articles from 36 to 46

- Observance of Vietnamese law and implementation of the international conventions which the Socialist republic of Vietnam has signed or acceded to; and respect for international law.

The TBIDDS are reflected clearly in the Law on Water Resources⁶. This reflects the consistency of Vietnam in respecting to the international laws and to the commitment in the agreements that Vietnam has signed or joined with her neighbor/upstream countries. The Law defines that all disputes on sovereignty shall be settled by the Vietnamese State and the related States on the basis of negotiations in conformity with the international conventions which the Socialist Republic of Vietnam has signed or acceded to and with international practice and all disputes on international water sources arising in the river basin involving an international river basin organization with the participation of the Socialist Republic of Vietnam shall be settled by the Vietnamese State and the related States in the framework of that international river basin organization as prescribed by the international conventions which the Socialist Republic of Vietnam has signed or acceded⁷.

It is clear that the above principles of the Law on Water Resources of Vietnam as set forth in these provisions have reflected the observance and respect of Vietnam law to the international laws i.e. The Helsinki Rules on the Uses of the Waters of International Rivers (adopted by the International Law Association in Helsinki- 1966) and the United Nations Convention on the Law of the Non-navigational Uses of International Watercourses (Adopted by the UN General Assembly in resolution 51/229 of 21 May 1997)

2.3.2 *National Water Resources Strategy towards the year 2020*

Together with the legal documents presented above the National Water Resources Strategy towards the year 2020 of Vietnam (approved by the Government of Vietnam in 2006) confirms the principles that Vietnam is following in the relation and cooperation with neighbor countries in development and management of international water courses that flow into the country. Vietnam wants to diversify the international cooperation and enhancing regional and international integration on water resources management through multi-lateral and bilateral cooperation programmes and projects in compliance with international agreement to which Vietnam is a party or signatory. In the Strategy, the cooperation with the neighbor countries through Mekong River Commission and GMS are taking the important roles. In practices, beside the regional cooperation mechanisms as mentioned above, the bilateral cooperation formalities between Vietnam and Lao PDR, Vietnam and Cambodia are succeeded examples (see in chapter 4 of this Report).

2.3.3 *Law on Environmental Protection, Policies and Regulations*

The Law on Environmental Protection was passed on December 27th, 1993 by the National Assembly, 9th Legislature, at it 4th Session and went into effect on January 10th, 1994 and amended in 2005. The Law provides for the protection of the environment with a

⁶ Article 56

⁷ Article 56

view to protecting the health of the people, serving the cause of sustainable development of the country and contributing to the protection of regional and global environment.

In the General Provisions, the Law identifies water is one of main factors that constitute the environment. The Law also stipulates the Environmental Impact Assessment (EIA) means - Environmental impact assessment (E.I.A) means the process of analyzing, evaluating and forecasting the effects on the environment by socio-economic development projects and plans, by production and business establishments, and economic, scientific, technical, medical, cultural, social, security, defense or other facilities, and proposing appropriate solutions to protect the environment.

The linkage between the environmental protection with the use and exploitation of water and related resources and the rights and obligations of the users are stipulated as “Organizations and individuals must protect water sources, water supply and drainage systems, vegetation, sanitation facilities, and observe the regulations on public hygiene in cities, urban areas, countryside, population centres, tourism centres and production areas”. “The discharge of grease or oil, toxic chemicals, radioactive substances exceeding permissible limits, wastes, dead animals or plants, harmful and infective bacteria and viruses into water sources”⁸.

In regard with the TBIDDs relating to the environment, the Law stipulated “The State of Vietnam shall broaden cooperative relations with other countries in the world, with foreign organizations and individuals in the field of Environmental protection” and specifically, the Law has specified “The Government of Vietnam shall implement all international treaties and conventions relating to the environment which it has signed or participated in, honour all international treaties and conventions on environmental protection on the basis of mutual respect for each other's independence, sovereignty, territorial integrity and interests”. Any dispute concerning environmental protection on the Vietnamese territory in which one or all parties are foreigners shall be settled according to Vietnamese law, taking into account international laws and practices. Any dispute between Vietnam and other countries in the field of environmental protection shall be settled on the basis of negotiation, taking into account international laws and practices. All foreign organisations and individuals operating on Vietnamese territory shall abide by Vietnam's environmental protection legislation.

Concerning the policies and regulation in the environmental field, Government of Vietnam has announced the “Vietnam’s National Environmental Protection by 2010 and orientation by 2020” and 15 Ordinaries and Decrees relating to the environmental protections.

2.3.4 National Disaster Prevention and Reduction Strategy toward year 2020

The Strategy has been approved by the Prime Minister of the Government of Viet Nam on 16 November 2007. The objective of the Strategy is to mobilize all resources to effectively implement the natural disasters preventions and reduction activities from now till

⁸ Art. 28, 29 Law on Environmental Protection.

the year 2020 in order to minimize losses on human and properties, and damage to natural resources, environment, and cultural heritages, and to contribute to ensuring the sustainable development of the country.

There are some principles set out in the Strategy so that the natural disasters preventions and reductions activities should follow, of which, integration of structural and non-structural measures, harmonization with environment, commitments in international agreements of which Viet Nam is signatory, in the field of disaster prevention and reduction, are highlighted.

Number of tasks and measures on natural disasters prevention and mitigation has been specified for different zones of Viet Nam, in which, for the Mekong Delta, the “living with floods” concept needs to be recognized in order to implement tasks and measures. Among tasks and measures for the Mekong Delta, the international cooperation with other countries in the Mekong River region needs to be strengthened for equitable and sustainable use and development of the water resources, floods protection and flood emergency assistance among border localities, maintenance of flow in dry season in order to prevent salt water intrusion, and coping with sea level rise.

2.4 Judicial System Laws and Practices

2.4.1 *Administrative structure in Vietnam*

There are four levels of administration in Vietnam. The highest level is called the central level of national administration. Central is a collective term which denotes the National Assembly and the Government. The Government, with capital, consists of the Prime Minister, his Deputies, Ministries, Offices at ministerial level, and Offices under the Government. The term State in the Law denotes a whole administrative system of the country, from the national level to the commune level. The next level of administration is the provincial level consisting provinces and largest cities under central authorities. Each province or city is managed by a People's Committee appointed by the People's Council whose members are elected by the people of the province. The People's Committee controls a number of provincial departments corresponding to the central ministries (or office at ministerial level, offices under the Government) of the same specialized fields.

Each province or city under central authority consists of a number of urban districts, rural districts, provincial cities, and district towns. This is the third level of administration. The provincial city is larger than the district town, but both are essentially districts with significant importance in terms of socio-political, administrative, and commercial activities in the province. Usually they are either the capital of the province or former capital of old provinces which were amalgamated to form larger province. Each district has its own People's Committee and Council, and a number of specialized sections

The lowest level of administration is rural commune, urban commune, and commune town. Commune town is a commune serving as a hub of major socio-political, administrative, commercial activities for adjacent communes. It is usually the capital of the

district. The commune is managed by its own People's Committee and Council, and a number of commune cadres. It may be further divided into a number of hamlets, villages, Groups but these sub-units do not have a legal administrative status.

2.4.2 Judicial System Laws and Practices

The highest court in Vietnam is the Supreme People's Court, whose members are appointed for five-year terms by the National Assembly on the recommendation of the president. In addition, there are local people's courts at each administrative level; military courts; and "special courts" established by the National Assembly in certain cases. Law enforcement is handled by the People's Organs of Control; the president, or procurator-general, of this body is appointed by the National Assembly.

Trials are generally open to the public. Defendants have the right to be present at the trial, to have an attorney, and to cross-examine witnesses. The legal system is based on civil law. During the last decade, Viet Nam has undergone a massive legislative transformation. Emerging from decades of rule through administrative fiat, reforms now aim to shift economic regulation from government edicts to universally applicable legislative norms and macroeconomic levers. In addition to enacting a legal framework broadly in line with a Continental civil law system and international legal norms, the state is belatedly reconfiguring legal institutions to suit the post-*doi moi* environment.

Chapter 3 - Principles, Practices and Mechanisms Applied by MoFA

3.1 Functions of MOFA

The Ministry for Foreign Affairs (MOFA) is an agency of the Government, which performs the function of State management over external affairs, including: the diplomatic work, the national border and territory, the communities of overseas Vietnamese, the signing and implementation of international treaties, and Vietnamese representative agencies in foreign countries; the State management over public services and acts as a representative of the owner of the State capital portions at the State-invested enterprises operating in the domains under the Ministry's State management according to law provisions.

MOFA's tasks and powers in terms of national border and territory are:

a) To study, synthesize and evaluate the situation on management of national border and territory, air space, sea areas, offshore islands and continental shelf of Vietnam; to propose suitable undertakings, policies and appropriate measures for the management thereof;

b) To assist the Government in determining national border and sovereignty scope and rights of the Socialist Republic of Vietnam in the mainland, seas, air space, offshore islands and continental shelf;

c) To assume the prime responsibility in formulating plans on demarcation of national border, to determine the boundaries of the Vietnamese exclusive economic zones and continental shelf with concerned neighboring countries.;

d) To direct, guide and organize the implementation of, and request concerned branches and localities to regularly or irregularly report on, border management; to demarcate and fix national border marker-posts on the basis of international treaties on demarcation of national border, signed between the Socialist Republic of Vietnam and neighboring countries;

e) To submit to the Prime Minister for handling, or to provide guidance according to its competence for the handling of issues which have arisen in the operation of branches and localities are related to the sovereignty and rights of the Socialist Republic of Vietnam on the mainland, seas, air space, offshore islands and continental shelf.

3.2 Principles, Present Practices and Mechanisms Relevant to IDD

3.2.1 Key principles, Standards and Mechanisms for Addressing IDD

According to Article 33 of Charter of the United Nation, in case of disputes, the parties shall seek a solution by peaceful means, including negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement and resort to regional agencies. They are the main means of dispute settlement used by states.

Dispute settlement mechanisms are set up in many international organizations. These mechanisms usually specify detail procedures and time limits for member countries to follow when a dispute arises. The mechanisms vary among international organizations depending on the level of cooperation and commitments of member countries. Some mechanisms are the dispute settlement body in World Trade Organization, the dispute settlement mechanism in ASEAN and European Court of Justice.

Dispute settlement mechanisms available in international organizations that Vietnam is a party can be made use, for example the Association of South East Asian Nations and the World Trade Organization. Since Vietnam has just entered the World Trade Organization for more than one year that is a short time up to now, Vietnam has not yet raised any case to the WTO Dispute Settlement Body. Dispute settlement mechanism in ASEAN is also a choice for Vietnam. The mechanism was set up in 1996 by Protocol on Dispute Settlement Mechanism and Protocol on enhanced Dispute Settlement Mechanism in 2004. However, up to now, there is no case settled by this mechanism and ASEAN member countries have not yet used this mechanism.

Another mechanism that is often indicated in many cooperation agreements is the establishment of the intergovernmental joint committee. This is the committee that is composed of representatives of two governments to review the implementation of agreement as well to settle disputes arising during the agreement implementation. The joint committee is usually set up in framework agreements between the two countries in order to enhance the comprehensive economic cooperation. The Joint Committee in principle is the use of negotiations and consultation to resolve disputes through a framework of regular meetings of the parties concerned.

Arbitration is the measure often used in international investment agreements. Arbitration is also the measure used in many financing agreements. This is the measure to ensure the commitment of government to promote foreign investment and create a guarantee for lending organizations.

3.2.2 Present Practices

As key principle, negotiations are the measures often used by the Government of Vietnam in solving the inter-state contentious issues, differences and disputes. And the legal foundation for negotiations is international laws, international treaties to which the parties are contracting.

In the Foreign Policy of Viet Nam, settlement of disagreements and disputes by means of peaceful negotiations for mutual respect, equality and mutual benefit is clearly stated.

In almost all of cooperation agreements that Vietnam signed with other countries, negotiations and consultations are stipulated as measures to deal with any differences and disputes such as "Any dispute between the Parties arising from the interpretation or application of this Agreement shall be settled amicably through diplomatic channels" or

"All disputes arising out of the interpretation or implementation of this Agreement shall be settled amicably through direct consultation and negotiation between the Parties". And in some agreements, intergovernmental Joint Committee is suggested to be established in order to facilitate to address any dispute arising during the process.

Viet Nam has engaged or strengthened the relationship with neighboring countries like Cambodia, Laos, and China in number of cooperation agreements on land border demarcation, border intersection, border transport, border provinces development, borderline peace, friendship, and development, etc, from which, issues, differences and disputes may arise and need to be resolved in appropriate way. During the implementation of those agreements, exchange visits, talks, promotion, focus, have been held regularly in order to keep up the progress.

The delimitation of maritime boundary is also very important because of valuable natural resources of the sea and that disputes and differences may also arise. Vietnam has signed with Indonesia an Agreement concerning the Delimitation of the Continental Shelf Boundary in 26/6/2003, with China an Agreement on the Delineation of the Territorial Sea, Exclusive Economic Zones and Continental Shelves in the Gulf of Tonkin in 25/12/2000, with Thailand an Agreement on the Delineation of the Maritime Boundary in the Gulf of Thailand in 9/8/1997, with Cambodia an Agreement on Historic Water in 7/7/1982. Viet Nam has also joined China and the ASEAN countries in implementing the Declaration of Conduct of the Parties in the East Sea. Those agreements have reflected the willingness of Viet Nam in cooperation with the countries in the region for contributing to the strengthening of peace, security, cooperation and friendly relations among nations, in conformity with the principle of justice and equal rights. And it is fully in line with the United Nations Convention on the Law of the Sea.

It is remarkably recognized that, besides signing cooperation agreements, Viet Nam has also advocated to handle all arising matters while implementing the signed agreements in order to maintain peace and stability for the interest of all concerned parties. Proper and appropriate investigations for more information of any arising matter have been conducted immediately with cooperative manner. The concern of Hydropower development on Se San River in Central Viet Nam can be given as an example.

The construction of hydropower plants on the Se San River has been implemented under the agreement between the Governments of Vietnam and Cambodia upon taking into account mutual interests of the two countries. Competent agencies of the two countries have worked out concrete co-coordinating measures to minimize possible negative impacts on the downstream of the Se San River in the Cambodia's territory.

Over the past time, the Vietnamese side has faithfully implemented its commitments and this has been recognized by both the Cambodian side and the Mekong River Commission (MRC). In view of cooperation within the MRC, the Se San hydropower development in Vietnam is based on the Agreement on Cooperation for the Sustainable Development of the Mekong River Basin and Procedures/Rules there under, which represent the most important legal framework for hydropower development on the Se San

River. The Agreement and these legal documents include the most important regulations on management, exploitation, and protection of the environment of international rivers. Vietnam always proactively promotes full and strict observation of regulations and agreements within the framework of the MRC cooperation. Vietnam has also invited international consultants to participate in the assessment of environmental impacts of these projects.

To prevent the downstream of the Se San river from possible negative impacts, Vietnam and Cambodia have set up the Se San River Water Management Committee which convenes annually. The two sides have also established a mechanism of regular information exchange such as monthly reports, emergency alerts on the regime, operating process and discharge of water of Ialy hydropower plant as well as flood alerts and river water quality control.

Regular cooperation between the two countries via the above-mentioned mechanism has been created favorable conditions for both sides in updating information on hydropower development on the Se San River and in discussing and reviewing the execution, thus timely adjust agreements between the two countries on solving the Se San River hydropower issues.

Chapter 4 - Bi-/Tri-lateral Mechanisms Applied by National and Local Authorities

4.1 Principles and Approaches

In addition to cooperation under the framework of the Mekong River Commission, Viet Nam has cooperated with her neighbor countries in respective bilateral mechanism. Respect of sovereignty and integrity, and other recognized international laws and cooperation for mutual benefit, especially observation of international agreements/treaties entered between Vietnam and relevant neighbor countries (bilaterally or regionally as the Mekong Agreement) are main principles prevailed in these mechanisms. Normally, specific cooperation is based on relevant provisions of statements or declarations that are usually made during exchange visits of the high level of the state or government or during a bilateral summit meeting. The respective line agencies (ministry or provincial level) would thereafter elaborate in specific sectoral/local cooperation programmes that are reflected in form of either agreement, memorandum of understanding (MOU) or detailed action plans. Hereunder are some of such mechanisms that are mainly related to water resources, especially trans-boundary issues (flood in wet season, water use in dry season, bank erosion etc.).

4.2 Description of Important Practices/Mechanisms

4.2.1 Bilateral mechanisms between Viet Nam and Cambodia

Mechanisms set up

In 1988, based on the 1985 Treaty on Border Demarcation between the Government of the Socialist Republic of Viet Nam and the Government of Cambodia, the two Governments entered in an Agreement on Border Regulations by which the concrete legal requirements for water utilization of rivers and canals located along the border between the two countries had been stipulated. For many years, the use of water in the border areas between Viet Nam and Cambodia has been in conformity with these legal provisions by which the permission of water use were subject to consultation and agreement of respective local authorities.

At national level, two countries set up a mechanism namely Joint Commission for Economical, Cultural, Scientific and Technological Cooperation. This Commission meets annually to discuss and review the progress of various fields of the cooperation (as of 2007, the Commission have met nine times).

At regional or inter-provincial level, an annual conference between representatives of border provinces between Viet Nam and Cambodia (with participation of ministries concerned) is also convened every year. Main agenda of this mechanism meeting are those border issues that relate to security, immigration, customs, and various socio-economical activities. Water utilization along the border is also tabled.

In order to implement the respective activities mentioned in the agreed minutes of the meetings of the above-mentioned mechanisms, several sectoral mechanisms have been established that includes: a Joint Expert Group for Drafting Regulation for Utilization of Water Resources along the Border Areas, a Mechanism for Se San and Srepok Water Regulation (in Viet Nam: Committee for Se San and Srepok Water Regulation; in Cambodia: Committee for Water Utilization in border between Cambodia and Laos, Thailand and Viet Nam). While in Cambodia, the Ministry of Water Resources and Meteorology (MOWRAM) is responsible for both mechanisms, in Viet Nam Ministry of Agriculture and Rural Development (MARD) is main agency for the former mechanism and Ministry of Industry and Commerce (MIC) is key agency for the latter. In addition, a negotiation on protocol or new agreement on trans-boundary and transit navigation on the Mekong and Bassac rivers is entrusted to two ministries of transport (in Viet Nam: Ministry of Transport; in Cambodia: Ministry of Public Works and Transport).

Recognizing the 1995 Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (the 1995 Mekong Agreement) and acknowledging the role of the Mekong River Commission (MRC), under the above-mentioned mechanisms, the two countries have referred to the relevant provisions of the 1995 Mekong Agreement as a legal source for their elaboration in activities relating to water quantity and quality issues, especially environment impact assessment. In some certain cases, the MRC Secretariat staffs have been invited to join as either witness or expert.

Besides the involvement of the MRC as an inter-government organization, Vietnam National Mekong Committee (VNMC) and Cambodia National Mekong Committee (CNMC) are also assigned by the two Governments to act as coordinator and focal point for Mekong cooperation activities in each country. Among other things, the two NMCs are tasked to support and strengthen these bilateral mechanisms dealing with water resources issues in the Mekong Basin. This task had been officially elaborated in a memorandum of understanding (MOU) signed in Hanoi on 10 October 2005 by two Chairmen of VNMC and CNMC under the witness of the two Prime Ministers of Viet Nam and Cambodia. In order to implement this MOU, an action plan for the period of 2005-2007 had been prepared and agreed upon by the CNMC Secretariat and VNMC Office. This action plan is being considered to revise for the coming period of 2008-2010.

Current trans-boundary water issues arisen and resolved

Geographically, Viet Nam is located at both upstream and downstream to Cambodia: while the upstream parts of Se San and Srepok sub-basins are located in Viet Nam (Cambodia is in downstream), the Viet Nam shares the downstream part of the Mekong delta (Cambodia is in upstream). In terms of topography, the use of water in the Se San and Srepok rivers of Viet Nam, mainly for hydropower generation, could cause impact to downstream part in Cambodia. Technically and regulated correctly, the low flows in dry season will be increased and flood during wet season will be reduced. However, there was an incident in early 2000 that the water suddenly discharged from Italy

hydropower plant in Se San River in Vietnam caused flood in short period in downstream part of Cambodia. This was a trigger for a series of meetings between the two countries resulted in a five-point solution had been recommended and agreed by to cope with potential impacts in the future. Following is summary of this five-point solution:

- i) In the normal and extreme cases, sufficient information on reservoir operation will be exchanged well in advance through appropriate channels,
- ii) Water is gradually released from Ialy reservoir so that riparian people along Se San River can recognize and take precautions to cope with water level change.
- iii) Fifteen day advance notice is applied for normal circumstances
- iv) Under emergencies and extreme flood situations, immediate warning will be sent directly to relevant levels,
- v) If needed, the environment mitigation studies will be discussed with participation of the MRC.

Further more, the two sides set up a mechanism to follow up implementation of this five-point solution and has considered to enlarge the function of this mechanism to deal not only with Ialy plant in the Se San river but also other projects located in the Se San and Srepok rivers. The hydropower development in downstream areas in Cambodia of both rivers has been tabled and agreed by the two Governments and put under the agreed minutes of meeting of Joint Commission as above-mentioned. Electricity of Viet Nam has been requested to assist counterpart in Cambodia to expedite respective studies in which the Se San 5 and Lower Se San 2 projects are indicated as promised projects. The five-point solution is therefore recommended to be reviewed/revised accordingly.

In the Mekong delta area, until October 2005, while sharing water in dry season of local people is generally practiced well, some concerns regarding flood level increased in flood season that allegedly caused by heightening of embankment in the Vietnam side for protection of people lives from high-flooded locations. Through cooperation mechanism between MARD and MOWRAM with the facilitator role of the two NMCs, a number of meetings have been organized where the embankment heightening plans was presented by the technical agencies of Viet Nam and two sides discussed, some times visited the sites, and agreed that, the embankment improvement of Vietnam would not cause adverse impacts, in terms of increased flood level in Cambodia side. With the signing of the two Prime Minister (Hanoi, 10 October 2005) of the Amendment Treaty on the 1985 Demarcation Border Treaty, the border line run through canals, rivers has been adjusted by which in navigable rivers/canals, the border line is based on the thalweg line and in non-navigable river/canals, the border line is on median line. This amendment results in the significant change of the Regulation on Water Resources Utilization along Common Border between the Socialist Republic of Vietnam and the Kingdom of Cambodia that has being drafted by the Joint Expert Group consisting officials and representatives of MARD, MOWRAM, NMCs and other line agencies and provinces concerned. (Up to 2007, the Joint Expert Group met 8 times and the last draft Regulation, with one pending issue relating to scope of application had been submitted for consideration by ministers of MARD and MOWRAM before further submission for approval by the two Governments).

As provided for in the Draft Regulation, regarding the trans-boundary issues, among agreed objectives and principles, there are: “*to sustainably use water resources, protect the environment and mitigate drought and flood*”, and “*prevention against harmful effects caused by waters*”. It is noted here that, trans-boundary rivers/canals/streams are defined as “*those rivers/canals/streams flows of which run from one side to the other side*”. In the Draft Regulation, requirements call for water use at various scales (household/small, medium, large) for different purposes (domestic, agriculture) in wet and dry seasons are clearly stipulated. In terms of institutional arrangements, a two-level mechanism is elaborated that includes a Joint Executive Board (JEB) at vice-minister or equivalent level and a Joint Expert Group (JEG) at director general level. The JEB is a body to, among other things, supervise the implementation of the Regulation, to resolve disputes or recommend for disputes settlement. The JEG has duties to implement decisions of the JEB and assist JEB in technical issues such as data collection, survey, investigate, develop water resources plan as well as to prepare the meetings of JEB...

Regarding on-stream use of Mekong River, at present, Vietnam and Cambodia is discussing the content of a Protocol to Implement the Agreement on the Navigation in the Mekong River. (This Agreement was signed, based on “freedom of navigation” as stipulated under article 9 of the 1995 Mekong Agreement, by the two countries in 1998 but not come into force since the Cambodia side did not ratify. The main reason is that the Cambodia side would like to enlarge the scope of application to also Bassac River). With the facilitation role of NMCs, especially of the expertise and financial contribution of Navigation Programme of the MRC, the draft of the Agreement is now being finalized. Though still in its draft form, it is worthy to note that, a Bilateral Mekong Navigation Committee has been proposed to act as a mechanism to assist the two Governments implementing the Agreement. This Committee consists of three levels i.e. an Executive Council (ministerial level), a Permanent Board (head of department level), and Working Groups (representatives of competent authorities). In the Agreement, there is a separate chapter dealing with disputes settlement.

4.2.2 Bilateral Mechanism between Vietnam and Laos

Traditional cooperation between Vietnam and Laos has being fruitfully developed in many fields, at central, local and sectoral areas. As the same as cooperation with Cambodia, the Governments of Vietnam and Laos also set up a bilateral cooperation mechanism namely Joint Commission for Economical, Cultural, Scientific and Technological Cooperation. This Commission also meets annually to review, discuss, and consider cooperation activities in various areas/sectors.

Regarding the water resources sector, two respective ministries, i.e. MARD of Vietnam and Ministry of Agriculture, Forestry and Fisheries (MAFF) of Laos are main agencies in charge for various activities.

Though Laos is a neighbor country of Vietnam, there are a few areas in the Mekong basin directly shared by the two countries. However, as members of the MRC, many issues are shared by Laos and Vietnam.

That common view is reflected in the memorandum of understanding (MOU) signed by the two Chairmen of Lao National Mekong Committee and VNMC (Ho Chi Minh City, 13 December 2006).

Regarding water trans-boundary issues, since flows contribution in Lao territory accounts for 35 % of total run-off volume of the Mekong basin, water resources development in Laos, especially hydropower development may cause certain impact to downstream flows and possible environment in Cambodia and Vietnam. By setting up bilateral mechanism of cooperation through NMC channel, the information exchange is being improved.

4.3 Lesson learnt and relevant to addressing TBIDDs

As above presented, it is obvious that, respecting each other legitimate interests, basing on universal recognized international laws and the agreements, commitments signed or acceded by parties concerned is a main approach for cooperation between Vietnam and neighbor countries. This approach, together with principles of cooperation for mutual benefit, not causes harm to each other has been symbolized in concrete bilateral mechanisms set up between a pair of Vietnam and Cambodia, as well as between Vietnam and Laos.

Based on the provisions of the 1995 Mekong Agreement, bilateral mechanism between sectors/provinces concerned with NMC participation as facilitator/coordinator is considered as an effective and efficient way to address and resolve the issues relating to water resources development as well as trans-boundary issues in particular.

In order to strengthen this arrangement, a combination of bilateral cooperation with the respective MRC programmes is encouraged in which the MRC Secretariat and NMCs need to closely cooperate, coordinate with one another.

Chapter 5 - Conclusions and Recommendations

5.1 Findings and Conclusions

With the data and information collected and provided in, though in summary form, the report reviews the relevant provisions of respective legal documents including policies and laws of Viet Nam and bilateral agreements, MOUs entered between Vietnam and her neighbor's countries in the effort to prevent or settle issues relating to trans-boundary waters and other related resources.

Prevailed by universally recognized international laws and regional legal framework including the UN Charter, ASEAN statute, the 1995 Mekong Agreement, with principles of equitable and reasonable use of the common water resources, environment protection, especially sovereign equality and territorial integrity, through the various bilateral mechanisms, Vietnam and her neighbors are cooperating in resolving all concerns relating to trans-boundary water issues in a peacefully, friendly and mutual beneficial manner. Participating in these mechanisms, in addition to representatives from respective line agencies and provinces, the attendance of other stakeholders including local communities and NGOs who are directly or indirectly affected by various aspects is necessary.

These mechanisms are more effective with the participation of the MRC in the facilitation and neutral role to some relevant issues such as water quantity and quality, fisheries, navigation. With its capacity and database and almost programmes relate to trans-boundary water issues in the Mekong basin, the MRC is considered as useful regional body that the riparian countries can cooperate with, especially those issues that are not resulted from only one direct country but from accumulative upstream countries.

5.2 Recommendations

It is recommended that, bilateral mechanisms set up by a pair of respective countries, based on global or regional international agreements/laws are considered effective and useful for preventing and resolving the Mekong trans-boundary water issues. With its capacity and experiences, both technically and legally, the participation of National Mekong Committee in these bilateral mechanisms is useful and encouraged. In addition, whenever and wherever applicable, especially to those issues assuming with regional dimensions, the MRC Secretariat expert or staff could be also involved so that the advices or measures for the complex issues could be recommended.

References

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- National Water Resources Strategy toward 2020
- Viet Nam Environmental Protection Law (2005)
- Memorandum of Understanding between The Viet Nam National Mekong Committee and The Cambodia National Mekong Committee on Strengthening and Enhancement of Cooperation and Coordination Relating to Water Resources Development and Management in the Viet Nam-Cambodia Border Areas in the Mekong River Basin
- Memorandum of Understanding between The Lao National Mekong Committee And The Viet Nam National Mekong Committee on Strengthening Cooperation and Coordination Relating to Water Resources Development and Management in the Mekong River Basin
- The Helsinki Rules on the Uses of the Waters of International Rivers (adopted by the International Law Association in Helsinki- 1966)
- The United Nations Convention on the Law of the Non-navigational Uses of International Watercourses (adopted by the UN General Assembly in resolution 51/229 of 21 May 1997)
- Charter of the United Nation

Annex

Annex 1: Glossary of TBIDD Key Terms, Definitions and Usages⁹

TERM	DEFINITION	USAGE
Actual		
Address	To deal with issues	Used as to solve issues
Adaptive management approach ⁺	A flexible system which is designed to cope with uncertainty and complexity in natural environmental and social systems, by enabling current information, obtained as part of the management process, to be taken into consideration.	It is often referred to as experimental management or "learning by doing".
Anticipated	To realize beforehand of issues, differences, dispute in order to prepare	
Arbitration	The hearing and determining of a dispute or the settling of differences between parties by a person or persons chosen or agreed to by them	Used mostly in commercial affairs

⁹ Many of the terms and definitions or usages have been extracted from various dictionaries such as Black's Law Dictionary and the Wikipedia Dictionary or defined in subject reports. Other terms are defined based on their usage and application under the MA 95 and region.

* **Wikipedia**, the free encyclopedia ** Black's Law Dictionary *** Merriam-Webster

⁺ Glossary of Terms from Training course on the TDA/SAP approach in the GEF International Waters Programme for WUP in 2001

Bilateral	Pertaining to, involving, or affecting two or both sides, factions, parties, or the like	Agreements among two states
Civil society ⁺	A loose but useful term referring to those persons or organisations not directly involved in government, many of whom may be stakeholders in a trans-boundary issue.	NGOs, women society, red cross society, mass organizations, etc.
Climate change	Variations in climate on many different time scales from decades to millions of years, and the possible causes of such variations.	1) In the most general sense, the term "climate change" encompasses all forms of climatic inconstancy (that is, any differences between long-term statistics of the <u>meteorological elements</u> calculated for different periods but relating to the same area) regardless of their statistical nature or physical causes. Climate change may result from such factors as changes in solar activity, long-period changes in the Earth's orbital elements (eccentricity, obliquity of the ecliptic, precession of equinoxes), natural internal processes of the climate system, or anthropogenic forcing (for example, increasing atmospheric concentrations of carbon dioxide and other greenhouse gases). 2) The term "climate change" is often used in a more restricted sense, to denote a significant change (such as a change having important economic, environmental and social effects) in the mean values of a meteorological element (in particular temperature or amount of precipitation) in the course of a certain period of time, where the means are taken over periods of the order of a decade or longer.

Conciliation	The act or process of conciliating; the state of being conciliated	
Controversy	A dispute, especially a public one, between sides holding opposing views	
Difference		For example, difference in water flow regime due to different flood protection measures
Disagreement	A conflict or difference of opinion	The disagreements between concerned parties, may lead to disputes, or conflicts
Dispute	A debate, controversy, or difference of opinion	For example, dispute in using waters
Environmental impact ⁺	The adverse effect of a trans-boundary problem on the integrity of an ecosystem.	For example, loss of natural productivity and biodiversity as a result of the loss of an ecosystem.
Facilitation	Act of assisting the progress of addressing TBIDDs	Action of a third party to support addressing IDD
Facilitator ⁺	A trained and experienced expert capable of providing technical assistance during TB issue identification, negotiations, etc. including the stakeholder consultation.	The facilitator should be entirely neutral within the process, culturally sensitive and with proven negotiation skills.
Fact-Finding	(Sometimes called Joint fact-finding ⁺) is the scientific and technical process of fact-finding (or diagnosing) the state of, threats to, or causes of an incident concerning trans-boundary/ shared waters	

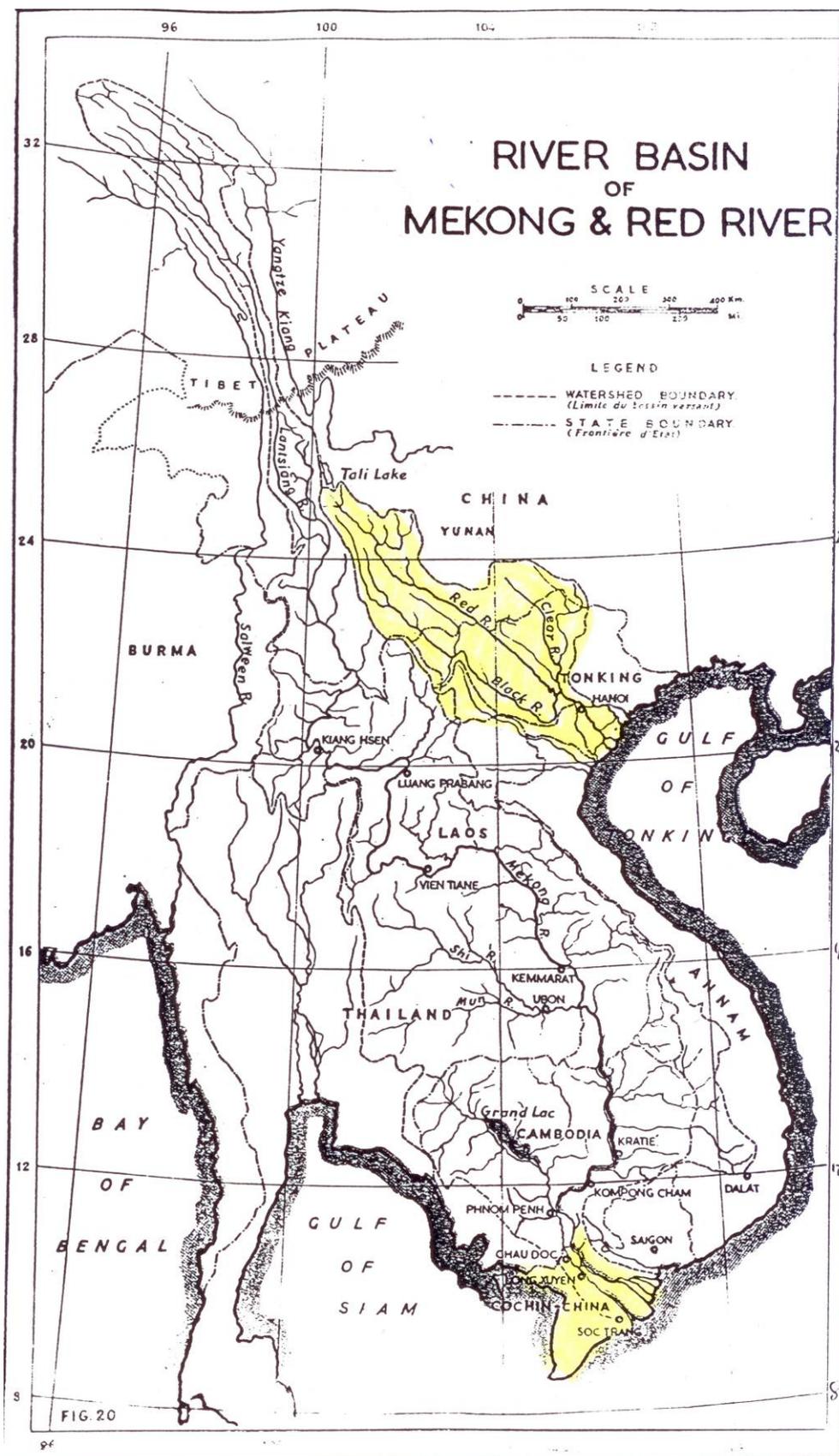
Global Warming	An increase in the earth's atmospheric and oceanic temperatures widely predicted to occur due to an increase in the greenhouse effect resulting especially from pollution	Relating to sea level rise
Human intervention		Human intervention includes development activities
Immediate causes ⁺	(Sometimes known as primary causes) are usually the direct technical causes of a trans-boundary problem.	They are predominantly tangible and with distinct areas of impact
Institutional analysis ⁺	Focuses on key institutions or organizations that either have direct mandates for environmental management or whose activities have environmental impacts.	Not limited to government agencies, but includes private sector organisations, community-based organisations, academic and research institutions.
Issue		Used as a general term indicating something might happen unexpectedly
Incident	An occurrence of seemingly minor importance, esp. involving nations or factions between which relations are strained and sensitive, that can lead to serious consequences, as an outbreak of hostilities or a war	Border incident; international incident
Judicial	Pertaining to judgment in courts of justice or to the administration of justice	Judicial proceedings; the judicial system
Mainstream		Mainstream of a river having tributaries

Man-made	Produced artificially; not resulting from natural processes	
Mediator	One that mediates, especially one that reconciles differences between disputants	
Mediation	An attempt to effect a peaceful settlement between disputing nations through the friendly good offices of another power	
Monitoring and Evaluation (M & E) ⁺	A management tool used to support decision-making, ensure accountability, measure results and impacts of projects, programmes, and activities, and extracts lessons from a given programme and its projects and activities.	M&E system, M&E activities
Multi-lateral	Participated in by more than two nations, parties	Multilateral agreements, multilateral treaties
Perceived		
Potential	The possibility, or likelihood; Possible as opposite to actual	Potential issues, potential impacts, potential conflicts
Protocol	A protocol, in the context of treaty law and practice, has the same legal characteristics as a treaty. The term protocol is often used to describe agreements of a less formal nature than those entitled treaty or convention. Generally, a protocol amends, supplements or clarifies a multilateral treaty.	A protocol is normally open to participation by the parties to the parent agreement. However, in recent times States have negotiated a number of protocols that do not follow this principle. The advantage of a protocol is that, while it is linked to the parent agreement, it can focus on a specific aspect of that agreement in greater detail.

Real	Existing or occurring as fact	Also used as actual
Resolve	An act to address TBIDDs	
Signatory	One that has signed a treaty or other document	
Sovereignty	A territory existing as an independent state. A nation or state's supreme power within its borders. A government might respond, for example, to criticism from foreign governments of its treatment of its own citizens by citing its rights of sovereignty	Sovereignty of a state
Stakeholders ⁺	Anybody with an involvement in, or affected by the problem or its potential solutions.	This may include Government Ministries, Non-Governmental Organisations, Trade and Industry, Agriculture and Fisheries, Religious bodies, the local population and any other affected member of civil society.
Significant	Huge/large, important	Significant impacts
Substantial	Important, considerable, ample	Substantial effects
Territorial integrity	Whole, entire, or undiminished territory	

Trans-boundary ⁺	Concerned with water-related environmental problems which transcend the boundaries of any one country, hence trans-boundary. For TBIDDs this definition is considered to narrow. Trans-boundary IDD's may be more than environmental problems, to include social, economic, political or any other impact on the rights and interests of one riparian caused by action or activities within the boundaries of another riparian.	The environment includes marine and freshwaters (including wetlands, lakes, rivers and aquifers) that are shared by different countries. Trans-boundary includes any action or activity in one riparian that causes an impact or interference with the rights and interests of another riparian whether upstream/downstream/left bank or right bank.
Trans-boundary diagnostic Analysis (TDA) ⁺	TDA is a systematic scientific analysis of the root causes. A TDA is an objective assessment and not a negotiated document. It uses the best available verified scientific and technical information to examine the state of the environment and the root causes for its degradation.	The analysis is carried out in a cross sectoral manner, focusing on trans-boundary problems without ignoring national concerns and priorities. For example of application see Annex Black Sea TDA.
Trans-boundary problem ⁺	A trans-boundary problem is any form of anthropogenic degradation in the natural status of a water body that concerns more than one country.	Anthropogenic means caused by the activities of people rather than natural phenomena. A trans-boundary problem can originate in, or be contributed by, one country and affect (or impact) another.
Tributary	A stream that flows to a larger stream or other body of water	River tributaries
Underlying causes ⁺	Those that contribute to the immediate causes of a trans-boundary problem. They can broadly be defined as underlying resource uses and practices, and their related social and economic causes.	

Annex 2: Map of Mekong River and Red River Basins



Annex 3: The Constitution of the Socialist Republic of Viet Nam (Article 1, 14, 83, 84)

Article 1

The Socialist Republic of Vietnam is an independent, sovereign and united country, which in its territorial integrity comprises its mainland, off-shore island, airspace and territorial waters.

Article 14

The Socialist Republic of Vietnam pursues a policy of peace, friendship and expanded international relations and cooperation with all countries in the world, irrespective of their political and social systems, on the basis of respect for each other's independence, sovereignty and territorial integrity, non-interference in each other's internal affairs, equality and mutual benefit; enhances the friendly solidarity and traditional cooperation with socialist and neighbouring countries; actively supports and contributes to the common struggle of the peoples of the world for peace, national independence, democracy and social progress.

Article 83

The National Assembly is the highest representative body of the people, the highest State authority in the Socialist Republic of Vietnam. The National Assembly is the only body vested with constitutional and legislative powers. The National Assembly decides on fundamental domestic and foreign policies, on national socioeconomic, defense and security tasks and on the main principles governing the organization and functioning of the State apparatus and the social relations and activities of citizens. The National Assembly exercises the right of supreme supervision of all State activities.

Article 84

The National Assembly has the following duties and powers:

1. To draw up and amend the Constitution; to make and amend laws; to decide on the program for the building of Vietnamese laws and decrees.
2. To exercise the right to supreme supervision over the observance of the Constitution, laws and resolutions of the National Assembly; to examine reports by the President, the Standing Committee of the National Assembly, the Government, the Supreme People's Court and the People's Inspectorate General on their respective activities.
3. To decide on the national socio-economic development plan.
4. To decide on national financial and monetary policies, to decide on estimates of the State budget and allocation of the Central budget, to ratify State budget finalisation reports; to determine, revise and repeal the various kinds of taxes.
5. To decide on State policies on ethnic minorities and on religions;

6. To determine the organization and activities of the National Assembly; the President, the Government, the People's Court, the People's Inspectorate and local authorities;
7. To elect, suspend and revoke the President, the Vice-President, the Chairman and Vice-Chairmen and the members of the Standing Committee of the National Assembly, the Prime Minister of the Government; the Chief Justice of the Supreme People's Court, the Chief Prosecutor of the People's Inspectorate General; to ratify the appointment, suspension and revocation of Deputy- Prime Ministers, Ministers and other members of the Government upon the proposal of the Prime Minister; to ratify the list of members of the Defence and Security Council proposed by the President; and to take a vote of confidence in favour of officials elected or approved by the National Assembly.
8. To decide on the institution and dissolution of the Ministries and other Government bodies at the same level; creation, fusion, division of provinces and cities directly under the central authority and modification of their boundaries, institution and dissolution of special administrative economic units;
9. To abrogate texts adopted by the President the Standing Committee of the National Assembly, the Government, the Prime Minister of the Government, the Supreme People's Court and the People's Inspectorate General which are incompatible with the Constitution, the laws and resolutions of the National Assembly.
10. To grant general amnesties.
11. To determine ranks in the armed forces, diplomatic service and other State ranks; to determine medals, decorations and honorific State titles.
12. To decide on matters of war and peace, to determine the state of emergency and other special measures aimed at ensuring national defense and security.
13. To decide on fundamental foreign policies, to ratify or nullify international treaties signed directly by the President; to ratify or nullify the signature of or accession to international treaties upon the proposal of the President.
14. To decide on the holding of popular referendums.

Annex 4: The Law on Water Resources of Viet Nam (articles 36 – 46, 53 - 56)

Article 36

Responsibility and duty to prevent, fight and overcome the consequences of flood and other harmful effects of water

1. State agencies, economic organizations, political organizations, socio-political organizations, social organizations, People's Armed Forces units and all individuals have the duty to take part in the prevention, fight against and overcoming the consequences of flood and other harmful effects of water.
2. The Government shall decide and direct the Ministries, branches and the People's Committees at various levels to carry out measures to prevent, fight and overcome the consequences of flood and other harmful effects of water.
3. The Ministries, branches and the People's Committees at various levels shall, within their tasks and powers, decide and organize the implementation of measures to prevent, fight and overcome the consequences and other harmful effects of water.

Article 37

Setting norms and plans to prevent and combat floods

1. The State managing agency on water resource has the duty to set the norms for preventing and fighting floods in each area of the river basin as basis for the planning and building constructions and programs for preventing and fighting floods in the river basin.
2. The Ministries, branches and People's Committees at various levels shall base themselves on the norms for preventing and combating floods in each area of the river basin and the program of preventing, and combating floods in the river basin to work out plans of each Ministry, branch and locality to prevent and combat floods.
3. Basing themselves on the general plan for preventing and combating floods, the Ministries, branches and People's Committees at various levels shall work out their own plans of preparing manpower, materials, means and other necessary conditions to handle the situation when flood occurs.
4. The State managing agency in meteorology has the responsibility to organize the observation and forecast and issue timely information on rain, flood and the rising of sea water on the national scale.

Article 38

General plan of distributing the population, distributing production and building the infrastructure in the flood-prone regions

1. The planning of the population, distributing production and building the infrastructure in the flood-prone regions must comply with the general plan for prevention and combat against floods of the river basin and with the characteristics of floods in each region.

2. The building of stores for food, noxious substances, explosives, fuel, essential materials and other important assets in the area of flood diversion, flood delay, and areas prone to flood must comply with the overall plan of preventing and combating flood of the river basin and must have the permission of the competent State agency.

Article 39

Water reservoirs and the preventing and fight against flood

1. The building of water reservoirs must comply with the provisions of Article 5 of this Law and ensure the norms for prevention and fight against flood.

2. Organizations and individuals that manage, exploit and protect the water reservoirs must have a plan to ensure the safety of the construction, to prevent and combat flood at the lower reaches in conformity with the general plan of prevention and combat against flood in the river basin and must strictly carry out the process of operation of the reservoir already approved by the competent State agency.

The Government shall provide for the appointment and assignment of responsibility for each level in operating the major water reservoirs.

Article 40

Decision on flood diversion and delaying

1. In emergency situations when the dyke system is seriously threatened, the Prime Minister shall decide measures to divert or delay the flood related to the provinces and cities directly under the Government upward according to the plan already approved by the Government; the Presidents of the People's Committees of the provinces and cities directly under the Central Government shall decide measures of flood diversion and delaying in the locality according to the plan already approved by the Prime Minister.

2. The Government shall make concrete provisions for the emergency situations which warrant the diversion or delaying of floods and measures to evacuate the population safely, ensure production and life of the population, overcome the consequence of flood and provide relief for the population of the areas affected by the flood diversion and delaying.

Article 41

Mobilizing manpower and means for the prevention and combat against flood and overcoming the consequence of flood

1. In emergency situations, the Prime Minister and the Presidents of the People's Committees at various levels have the right to mobilize manpower, materials and means of any organization and individual to rescue victims, rescue constructions and properties threatened or damaged by flood and shall take responsibility for their decision.

2. The mobilized organizations and individuals must carry out the decisions of the competent State agency.

3. Organizations and individuals that have materials and means mobilized according to the decision of the competent State agency shall receive compensation according to prescriptions of law if damage is done to them.

4. If dykes or constructions to prevent and fight against flood or any construction related to the prevention and fight against flood are meeting with accidents or are threatened with accident, the local authorities must mobilize manpower, material and means to protect and rescue them according to the provisions of Article 51 of this Law and must report it to the managing agency of the works and the higher authorities.

5. The Government shall decide and direct the Ministries, branches and the People's Committees at various levels to conduct the overcoming of the consequence of flood. 6. The Ministries, branches and People's Committees at various levels shall, within the ambit of their tasks and powers, have the responsibility to organize the carrying out of measures to overcome the consequence of flood.

Article 42

Draining flooded areas

1. The People's Committees of the provinces and cities directly under the Central Government frequently subjected to water logging must build and organize the implementation of a plan of drainage in line with the planning of the river basin and the requirement for socio- economic development and the protection of the environment. 2. The Ministries, branches, People's Committees at various levels and the related organizations and individuals have the responsibility to coordinate efforts in carrying out the drainage according to the assignment of responsibilities in the general plan of drainage of the locality.

3. The State shall invest in and support the building, exploitation and protection of the drainage works with priority given to the especially vital areas.

Article 43

Preventing, combating and overcoming the consequence of drought

1. The State shall invest in and support the building of water conservancy works in the areas frequently affected by drought in order to provide water source for living, production and to prevent and fight forest fires.

2. Organizations and individuals have the duty to take part in the prevention, fight against and overcoming the consequence of drought.

3. The State managing agency on water resource, the People's Committees at various levels have the responsibility to work out the plan and organize and direct effectively the prevention, fight against and overcoming of the consequence of drought.

4. The State managing agency on meteorology has the responsibility to supply in time information and forecast about meteorology in service of the prevention and fight against drought.

Article 44

Prevention and fight against salinity infiltration, rising and spill of sea water

1. The State shall invest in and support the building of sea dykes and anti-saline and fresh water retaining dams, in the protection and development of protection forests against sea waves, against salinity infiltration and the rising and spilling of sea water.
2. The management and operation of anti-salinity and fresh water retaining dams and water reservoirs, and current regulating works must comply with the process and rules of ensuring the prevention and fight against salinity infiltration.
3. The prospection for and exploitation of underground water in the coastal areas must ensure the prevention and fight against salinity infiltration for the underground water holding layers.

Article 45

Prevention and fight against hail and acid rain

1. The State managing agency on meteorology shall have to supply in time information and forecast on the possibility of hail and warn the population in time with a view to taking measures of prevention, fight against and reduction of damage.
2. Organizations and individuals shall have to take measures to treat waste gas as prescribed by the law on environmental protection in order to avoid causing acid rain. If damage is caused by acid rain due to untreated gas, compensation shall have to be paid according to prescriptions of law.

Article 46

Funding to prevent, combat and overcome the consequence of flood, drought and other serious effects of water

Funding to prevent, combat and overcome the serious effects caused by water include:

1. The State budget for the building and reinforcement of dykes and other works to prevent and fight flood and drought and other serious effects caused by water;
2. The reserve State budget to be spent on the overcoming of the consequences of flood, drought and other serious effects of water;
3. The fund for preventing and fighting against flood and storms of the locality contributed by the population according to prescriptions of the Government;
4. Aid from organizations and individuals in the country; from foreign governments, foreign organizations and individuals and international organizations

Article 53

Principles in international relations in water resource

The Vietnamese State shall apply the following principles in the basic survey, protection, exploitation and use of international water sources; in the prevention, fight against and overcoming the harmful effect of water; in international cooperation and settlement of disputes on international water sources:

1. Respect for the sovereignty, territorial integrity and interests of the countries sharing the same source of water;
2. Ensuring justice, reasonability, mutual benefit and sustainable development in exploiting and use of international water sources;
- 3 Not to harm the rights and interests of the countries sharing the same source of water in conformity with the international conventions which the Socialist Republic of Vietnam has signed or acceded to;
4. Observance of Vietnamese law and implementation of the international conventions which the Socialist republic of Vietnam has signed or acceded to; and respect for international law.

Article 54

Responsibility of protecting the rights and interests of Vietnam with regard to international water sources

1. All organizations and individuals have the responsibility to protect the sovereignty of the national territory along the border on the sea and in the rivers and streams between Vietnam and neighboring countries or in international sea areas.
2. Organizations and individuals have the responsibility to protect the rights and interests of the Vietnamese State in the basic survey, protection, exploitation and use of water resource, in the prevention, fight against and overcoming the harmful effects of water, protection of the environment related to the international water sources as prescribed by this Law and other provisions of Vietnamese law.

Article 55

International cooperation in the management and development of water resource

1. The Vietnamese State shall broaden cooperation with foreign countries, organizations and individuals in the basic survey, protection, exploitation, use and development of water resource; in the training of personnel, in scientific research in water resource; in the prevention, fight against and overcoming the harmful effects of water.
2. The Vietnamese State encourages the exchange of information related to international water resource, coordination in research and planning for the protection, exploitation and use of international water sources, coordination in planning the prevention, combat against and overcoming the harmful effects of water as prescribed by law; create favorable conditions for the management, elaboration and implementation of projects to increase the common interests and limit the damage to the population of the countries sharing the same water sources.

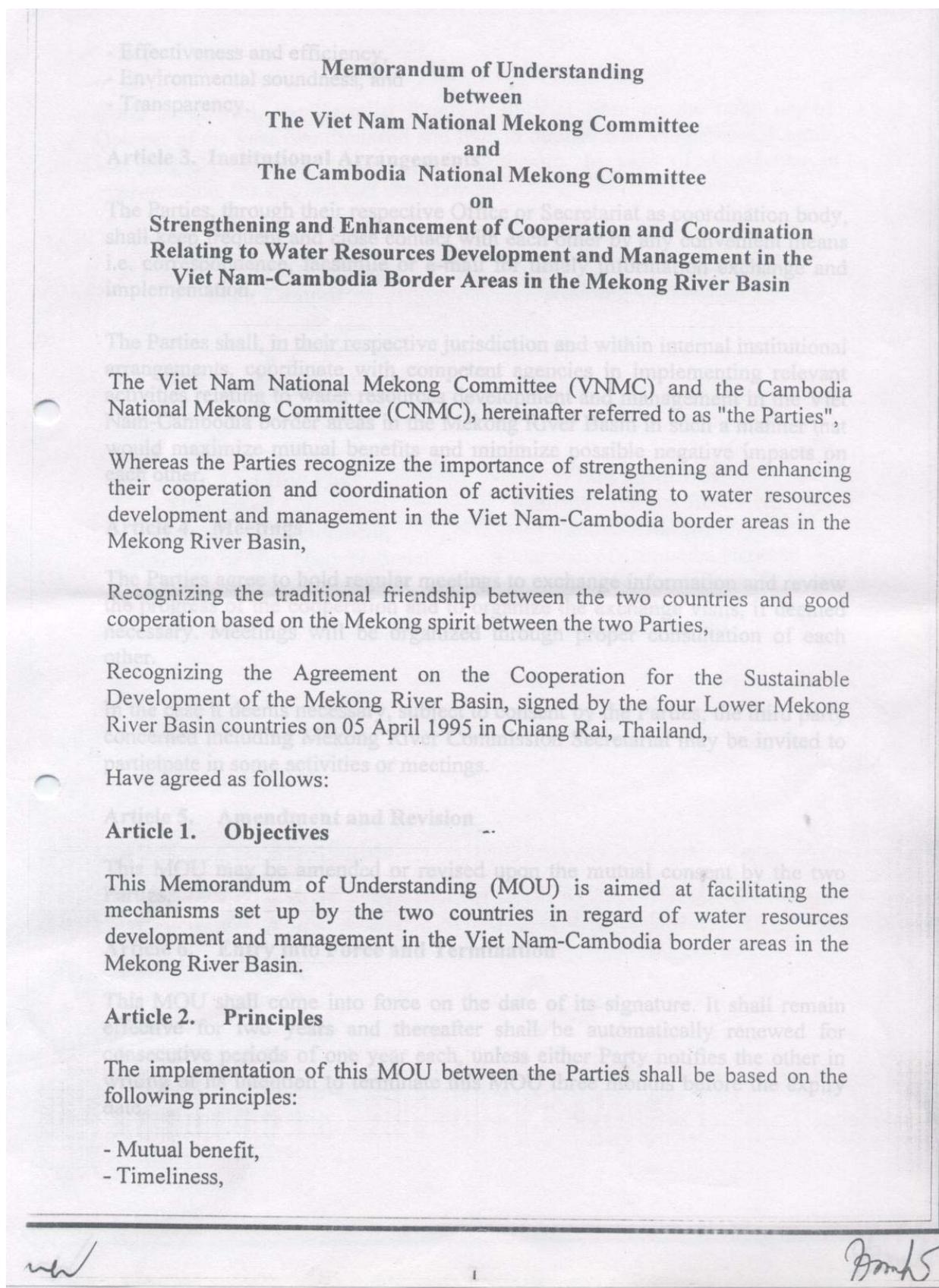
Article 56

Settling disputes on international water sources

In settling disputes on international water sources related to countries in the river basin, besides applying the principles set in Article 53 of this Law, the following prescriptions shall also have to be complied with:

1. All disputes on sovereignty in the basic survey, protection, exploitation and use of international water sources, in the prevention, combat against and overcoming the harmful effects of water among countries sharing the same water sources including Vietnam shall be settled by the Vietnamese State and the related States on the basis of negotiations in conformity with the international conventions which the Socialist Republic of Vietnam has signed or acceded to and with international practice;
2. All disputes on international water sources arising in the river basin involving an international river basin organization with the participation of the Socialist Republic of Vietnam shall be settled by the Vietnamese State and the related States in the framework of that international river basin organization as prescribed by the international conventions which the Socialist Republic of Vietnam has signed or acceded to.

Annex 5: Memorandum of Understanding between the Viet Nam National Mekong Committee and the Cambodia National Mekong Committee



- Effectiveness and efficiency,
- Environmental soundness, and
- Transparency.

Article 3. Institutional Arrangements

The Parties, through their respective Office or Secretariat as coordination body, shall keep frequent and close contact with each other by any convenient means i.e. correspondence, facsimile or e-mail for timely information exchange and implementation.

The Parties shall, in their respective jurisdiction and within internal institutional arrangements, coordinate with competent agencies in implementing relevant activities relating to water resources development and management in the Viet Nam-Cambodia border areas in the Mekong River Basin in such a manner that would maximize mutual benefits and minimize possible negative impacts on each other.

Article 4. Meetings

The Parties agree to hold regular meetings to exchange information and review the progress of the cooperation and to organize the exchange visits, if deemed necessary. Meetings will be organized through proper consultation of each other.

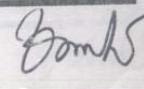
In the case it deems necessary, subject to consent by the Parties, the third party concerned including Mekong River Commission Secretariat may be invited to participate in some activities or meetings.

Article 5. Amendment and Revision

This MOU may be amended or revised upon the mutual consent by the two Parties.

Article 6. Entry into Force and Termination

This MOU shall come into force on the date of its signature. It shall remain effective for two years and thereafter shall be automatically renewed for consecutive periods of one year each, unless either Party notifies the other in writing of its intention to terminate this MOU three months before the expiry date.



Memorandum of Understanding

Done at Ha Noi, the Socialist Republic of Viet Nam on the tenth day of October of the year two thousand and five, in duplicate in Vietnamese, Khmer, and English; all texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

**For the Viet Nam National
Mekong Committee**

**For the Cambodia National
Mekong Committee**

Phat

Lim

Dr. Cao Duc Phat
Minister of Agriculture
and Rural Development,
Chairman of Viet Nam National
Mekong Committee

Lim Kean Hor
Minister of Water Resources
and Meteorology,
Chairman of Cambodia National
Mekong Committee

Recognizing the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin, signed by the four Lower Mekong River Basin countries on 05 April 1995 in Chiang Rai, Thailand,

Have agreed as follows:

Article 1. Objectives

This Memorandum of Understanding (MOU) is aimed at facilitating the mechanisms set up by the two countries in regard of water resources development and management in the Viet Nam-Cambodia border areas in the Mekong River Basin.

Article 2. Principles

The implementation of this MOU between the Parties shall be based on the following principles:

- Mutual benefit,
- Timeliness,

Annex 6: Memorandum of Understanding between the Viet Nam National Mekong Committee and the Laos National Mekong Committee

Memorandum of Understanding
between
The Viet Nam National Mekong Committee
and
The Lao National Mekong Committee
on
Strengthening Cooperation and Coordination Relating to
Water Resources Development and Management
in the Mekong River Basin

The Viet Nam National Mekong Committee (VNMC) and the Lao National Mekong Committee (LNMC), hereinafter referred to as "the Parties";

Whereas the Parties recognize the importance of the strengthening and enhancing their cooperation and coordination of activities relating to water resources development and management in the Mekong River Basin;

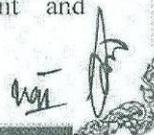
Recognizing the traditional and special friendship between the two countries' people and the Mekong spirit prevailed between the two Parties;

Recognizing the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin, signed by the four Lower Mekong River Basin countries on 05 April 1995 in Chiang Rai, Thailand,

In conformity with the respective national legislation, have agreed as follows:

1. Objectives

This Memorandum of Understanding (MOU) is aimed to strengthen the cooperation and coordination, and facilitate the mechanisms set up by the two countries for implementation of the Mekong Agreement in regard of water resources development and management in the Mekong River Basin.



2. Principles

The implementation of this MOU between the Parties shall be based on the following principles:

- Mutual benefit,
- Timeliness, and
- Effectiveness and efficiency.

3. Institutional Arrangements

The Parties, through their respective Standing Office or Secretariat as coordination body, shall keep frequent and close contact with each other by any convenient means i.e. correspondence, facsimile or e-mail for timely information exchange relating to the MOU implementation.

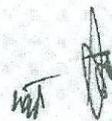
Upon entering in the MOU, the parties shall elaborate an Action Plan for MOU Implementation.

The Parties shall coordinate with competent agencies in implementing relevant activities relating to water resources development and management in the Mekong River Basin in such a manner that would maximize mutual benefits and benefits of all Mekong Riparian States and minimize possible negative impacts.

4. Meetings

The Parties agree to hold regular meetings to exchange information and review the progress of the MOU implementation and to organize the exchange visits, if deemed necessary. Meetings will be organized through proper consultation of each other.

In the case it deems necessary, subject to consent by the Parties, the third party concerned including Mekong River Commission Secretariat may be invited to participate in some activities or meetings.



5. Amendment and Revision

This MOU may be amended or revised upon the consent by the two Parties.

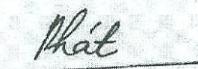
6. Entry into Force and Termination

This MOU shall enter into force on the date of its signature. It shall be terminated three months after the date on that a Party notifies the other in writing of its intention to terminate.

Done at Ho Chi Minh City, Viet Nam on 13 December 2006 in duplicate in English.

**For the Viet Nam National
Mekong Committee**

**For the Lao National
Mekong Committee**



Dr. Cao Duc Phat
Minister of Agriculture and
Rural Development,
Chairman of the Viet Nam
National Mekong Committee

Mr. Khamlouat Sidlakone
Minister
of the Prime Minister's Office,
Chairman of the Lao
National Mekong Committee

