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Royal Government of Cambodia
No. 05/ANK/BK/February 7, 2000

ANUKRET on Forest Concessions Management

- Referring to the Constitution of the Kingdom of Cambodia;
- Referring to Preah Reach Kret No. NS/RKT/1198/72 of November 1, 1993 on the Formation of the Royal Government of Cambodia;
- Referring to Preah Reach Kram No. 02INS194 of July 20, 1996, promulgating the Law on the Organization and Functioning of the Council of Ministers,
- Referring to Preah Reach Kram No. NS/RKM/0196/06 of January 24, 1996 promulgating the Law on the Establishment of the Ministry of Agriculture, Forestry and Fishery,
- Referring to Kret No. 35/KR/C of June 25, 1988 promulgating the Law on Forestry Management
- Referring to Preah Reach Kram No. NS/RKM/1296/36 of December 24, 1996, promulgating the Law on Environmental Protection and Natural Resource Management,
- Referring to Preah Reach Kram No. 03/NS/194 of August 4, 1994, promulgating the Law on Investment of the Kingdom of Cambodia;
- Referring to Anukret No. 72/ANK/BK, of January 25, 1999 on the Environmental Impact Assessment Process;
- Referring to Prakas No. 01/BK of the Royal Government dated January 25, 1999 on the Measures for Forest Management and Elimination of Forest Illegal Activities,
- Pursuant to the approval of the Council of Ministers in its plenary session dated February 4, 2000;

HEREBY DECIDES

CHAPTER 1: General Provisions

Article 1:

This Anukret shall determine the management of and apply to all forest harvesting activities and, forest concession agreements approved by the Royal Government of Cambodia.

Article 2:

The purposes of this Anukret are to:

- Develop a forest concession planning, implementation and control system which will lead to the balanced, sustainable and technically competent management of the of forest products in the Kingdom of Cambodia;
- Ensure that forest concession tenures are in the public interest and meet long-term integrated resource management objectives, and that the process by which concessions are granted and managed is fair and transparent;
- Ensure forest management regimes, conserve and protect the natural bio-diversity, ecosystem functions and important forest services such as soil conservation and watershed regulation,

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- Ensure full communication, cooperation and coordination in concession management between all ministries and agencies whose responsibilities and mandates may be impacted by the establishment and management of concessions;
- Ensure regular consultation with, and participation by, local communities and other relevant stakeholders in the development of concession management plans and monitoring of operational activities over the life of concession, and
- Protect and maintain the rights of access to those forest resources occurring on concession areas that are of economic, subsistence and spiritual value to local communities,
- Establish a competent forest management planning and control system that will provide a context for, and encouragement to, applications by the Cambodian timber industry for international forest management certification.

Article 3:

The Ministry of Agriculture, Forestry and Fishery has the primary regulatory and supervisory responsibility for the protection and management of forest that comprise all national forest resources implemented through the Department of Forests and Wildlife (DFW).

CHAPTER 2: Forest Concession Application and Approval

Article 4:

4.1 Upon the recommendation of the Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife), following consultation with all relevant institutions and local communities, the Council of Ministers may from time to time offer commercially unoccupied areas of production forest as forest concession to public competition by tenders or bids. An application for forest concession shall be made in accordance with the national and provincial development goals and existing local integrated land use plans.

4.2 Tenders or bids will be accepted only from the commercial entities who have been selected and listed in the "Pre-selection List" prepared and maintained by the Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife). Commercial entities may not be selected for the Pre-selection List unless such entities have applied and proved that they have:

- (a) Demonstrated competence in all aspect of forest management, including planning, harvesting, forest regeneration, stand management, environmental protection and community relations,
- (b) A good compliance record, with an absence of serious technical violations, in all jurisdictions in which it has been engaged in forestry operations; and
- (c) Adequate financial and professional staff resources to carry out effective forest operations-

4.3 The tendering or bidding documents prepared by the Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife) relating to the invitation to bid shall:

- (a) Define all criteria of selection in the Tender terms and conditions Book for tendering or bidding of forest concession;
- (b) Define practical, enforceable forest boundaries for the proposed concession-
- (c) Identify the forest resources available for harvest and identify prohibited or specially protected areas of environmental or social/cultural values through pre-concession inventory and by reconnaissance level survey techniques such as satellite or aerial remote sensing and rapid rural appraisals-
- (d) Describe the management requirements and specifications of the concession and the Royal Government of Cambodia's expectation of the concessionaire, including, but limited to,

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forest planning, forest protection and management, environmental protection and conservation, consultation and cooperation with local communities, implementation of customary rights in the territory of concession and its vicinity, infrastructure development, recruitment and employment (particularly of local people), human resource development, procurement of goods and services, monitoring and evaluation, permits and other regulatory controls and penalties for non-compliance and working conditions-, if necessary-,

- (e) Contain a copy of model Forest Concession Agreement (Section 5.1 below);
- (f) Define the criteria on which bids will be evaluated by the Royal Government of Cambodia, Where a forest concession is offered for public competitive bidding under this Sub-decree, the tendering process shall be defined by a Prakas of the Ministry of Agriculture, Forestry and Fishery and include the following considerations:
 - (a) The bidding procedures shall be administered by a joint committee nominated by the Royal Government of Cambodia;
 - (b) Public notice of the time and place at which the bids must be tendered shall be given at least ninety (90) days in advance on radio, television and at least one national newspaper;
 - (c) The public **notice shall define the deposit**, form and contents of bidding submissions; such documents required to comprise a financial bid and a statement of commitment to fulfill the specifications and expectations referred to in Article 4, paragraph 4.3 (c) and (d) above;
 - (d) all bidders shall pay the deposits to the national account of the Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife) upon submission of their bids, the amount of such deposit shall be determined by the committee for forest concession bidding;
 - (e) The public notice described in sub-paragraph (b) above shall specify the time and place at which bids are to be opened and officially invite bidders and other interested individuals to be present at the opening of the bids-,
 - (f) Prior to the opening of the bids, and upon the recommendation of the Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife), the Council of Ministers shall fix a reserved price, which may be or may not be disclosed, for the forest concession on offer,
 - (g) At the time and place advertised according to sub-paragraph (e) above the Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife) shall open all received financial bids and other relevant aspects as listed in the Tender Terms and Conditions Book of tenderers and disclose to all persons who are present the financial bids offered by each tendered,
 - (h) Following the disclosure of financial bids referred to in sub-paragraph (g), the Minister of Agriculture, Forestry and Fishery shall announce the tentative selection of successful bidders until there is a final approval from the Royal Government;
 - (i) The bid submissions referred to in sub-paragraph (c) shall be made freely available for public review for a period of six weeks after identification of the approved bidder, during which time any concerned parties in the bidding process may appeal the bidding decision to the Royal Government-,
 - o) At the expiration of the six-week appeal period and upon the decision by the Royal Government the successful bidder shall be confirmed;
 - (k) Upon the confirmation of successful bidder, deposits referred to in sub-paragraph (d) above shall returned to the unsuccessful bidders-,

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- (1) If the successful bidder fails to sign the Forest Concession Agreement or fails to pay the additional amount to reach their bidding price within thirty (30) days of the confirmation decision referred to in sub-paragraph (0) above, the deposit shall be automatically forfeited to the Royal Government.

Article 5:

5.1 All new concessions shall be governed by a Model Forest Concession Agreement which shall be prepared by the Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife). All existing concessionaires shall be governed by the New Forest Concession Agreement with a bilateral agreement through negotiation or at the expiration of the existing Forest Concession Agreement.

5.2 The Forest Concession Agreement shall comply with the formalities defined by the Ministry of Agriculture, Forestry and Fishery and at least clearly specify:

- (a) Date and term of forest concession-
- (b) Size of forest land as the subject of the forest concession;
- (c) Quantity and types of authorized forest products;
- (d) The Concessionaire's need for documents, plans, reports, data, and information related to the efficiency of protection and management of forest resources; and
- (e) Other conditions necessary to ensure the functioning of sustainable management of forest concession.

5.3 While it remains in force the Forest Concession Agreement shall confer conclusive rights to carry on:

- (a) Harvesting and management operations in **the concession** area in respect of any forest products specified in the agreement; and
- (b) Such other operations and execute such works as may be approved as necessary for the harvesting and management activities referred to in sub-paragraph (a).

5.4 A Forest Concession Agreement may be terminated through a transfer back to the Government or revocation by the Government due to non-compliance with its terms or by a renewal before the expiration of the term shall be decided by the Government. Any termination of unexecuted agreements or for non conformity with the term of the agreement shall be done following an order specified by the procedures. All revoked or transferred forest concessions shall be preserved natural forest zones and the managed forest shall not be conceded to any other company.

5.5 The Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife) shall cooperate with the local authorities and all concessionaires to establish a permanent Community Consultation Committee as a coordinating mechanism for discussion of and consultation on all issues of joint concerns between the concessionaire and communities inside or in the vicinity of the concession for the purpose of protection and preservation of traditional rights of the local communities. The consultation committee members shall be elected among the chairpersons of the Village Development Committees or from the chairpersons of social organizations.

5.6 The Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife) may grant licenses or permits to parties other than the concessionaire to collect other sub-forest products in the forest concession zone, providing that such collections do not conflict with the rights and responsibilities of the concessionaire as established by the Forest Concession Agreement. Such permits and licenses shall be issued for a period not exceeding one (1) year and may be renewed upon application. The licenses are granted for collection of sub-forest products

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for sale and not for customary traditional subsistence use and collection of forestry products for personal use by local people.

5.7 All concession documents shall be made available to pertinent government agencies and the concerned parties upon requests.

5.8 The management of operations associated with other natural resources located in the forest concession zone shall be governed by the State under the laws in force.

CHAPTER 3: Forest Concession Planning

Article 6:

6.1 Effective forest management shall require a necessary Concession Management Planning according to the limit, size, and duration and thus the forest concession shall be allocated for the purpose of development of the annual management plan for coupe-forest and operational block.

6.2 All forest management plans shall be prioritized as follows:

- (a) Develop management terms-of-reference by consultation with all relevant parties to define forest management, social, environmental and financial planning criteria;
- (b) Delineate forest zones, based on participatory rural appraisals and broad forest resource and environmental inventory and mapping, to define:
 - Non-operational areas (bio-diversity reserves, buffer zones and corridors, watershed protection areas, community forest areas and forest regeneration zones); and
- (c) Prepare a medium-term concession management plan for operable forest, based on a management-level inventory, which describe:
 - Appropriate silvicultural systems and harvesting techniques for different forests and terrain types, based on a detailed assessment of natural disturbance regimes;
 - A medium and long-term sustained yield, derived both from the growth and yield information and from cutting constraints designed to maintain forest composition, structure and ecological function,
 - Environmental and social impact management and monitoring programs;
 - On-going community consultation, participation programs and community arrangements; and Monitoring and evaluation systems.
- (d) Prepare annual operational plans for the coupe and block levels guided by the Code-of-Practice, prescribing:
 - Harvesting methods and equipment,
 - Timber volumes to be removed;
 - Log marking and tracking procedures;
 - Location and design of forest access;
 - Regeneration and stand-tending activities;
 - Site-specific environmental and culture resources protection; and
 - Annual community consultation.

Article 7:

7.1 In the development, preparation and implementation of forest concession plans concessionaires are required to apply the following Cambodian forest management codes of practice at various levels of concession management planning as provided in code of practice for forest concession management. No forest management plans shall be approved if such plans are

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not consistent with the policy and purpose guidelines defined in the code of practice for forest concession management.

7.2 The codes of practice for forest concession management shall provide directions for development of forest concession management plan as set forth in Article 6 above, including:

- (a) Guidelines for Forest Concession Management Planning;
- (b) Guidelines for Inventories in the Forest Management Cycle;
- (c) Bio-diversity Conservation Guidelines for the Managed Forest-;
- (d) Social Forestry Guidelines for Forest, Concession;
- (e) Timber Theft Management Guidelines;
- (f) The Cambodian Forest Harvest Code of Practice;
- (g) Construction Guidelines for Forest Engineering Works;
- (h) Guidelines for Special Management Areas; and
- (i) Environmental Impact Assessment Guidelines in cooperation with the Ministry of Environment.

7.3 The Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife) shall develop other necessary guidelines and -codes of practice for forest concession management, such as silvicultural systems, reforestation, preservation, regeneration, wildlife sanctuary, watershed protection, and forest monitoring and controls etc.

Article 8:

Based on the approval of the Ministry of Agriculture, Forestry and Fishery on such plans, the Department of Forests and Wildlife shall issue permits for forest harvesting and a "Tender terms and conditions book" as additional conditions upon the concessionaire for annual harvesting of the forest products in the coupe. These plans shall form the main body of the permit conditions and provide the basis for the assessing the regulatory compliance.

CHAPTER 4: Monitoring and Enforcement

Article 9:

9.1 The monitoring of forest harvesting shall be done in two ways: the monitoring of forest conditions and monitoring of forestry regulatory compliance:

- the monitoring of forest conditions shall be conducted to observe the change of forestry ecology associated the use of land forest harvesting, or silvicultural process;
- the monitoring of forestry regulatory compliance shall be conducted to assess the regulatory enforcement as stated in the approved Forest Management Plan and conditions set forth in the tender terms and conditions book and forest harvesting permits.

9.2 The program for the monitoring of forest conditions shall be incorporated in the Forest Management Plan for which the concessionaire shall be accountable. Such monitoring shall include:

- (a) the monitoring of the conditions for use of the land;
- (b) the monitoring of regeneration conditions before and after a forest harvesting and standing logs;
- (c) the monitoring of existing wildlife;
- (d) the monitoring of vegetation trees before and after a forest harvesting; and
- (e) further observation of bio-diversity status for the period from 5 to 10 years.

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Such monitoring requires high technology and statistic standards and may be implemented with technical assistance programs with international organization when necessary.

9.3 The Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife) shall form a compliance monitoring team with clearly assigned roles, responsibilities and authority for each forest harvesting. The team will carry out periodic concession boundary inspections and regular inspections of annual coupe and operation blocks, and shall bring forward non-compliance violations for enforcement action consistent with the laws. All inspections shall use the reporting form documents referred to in Chapter 14 of the code of practice for forest harvesting. The team will assess completed blocks and make recommendation to the Department of Forests and Wildlife on closure prior to approval of new blocks. The Department of Forests and Wildlife shall prepare an annual monitoring, compliance and enforcement report for each concession and submit these reports to the Ministry of Agriculture, Forestry and Fishery for circulation and seeking further comments from the public.

9.4 All concessionaires may establish their own compliance monitoring programs for internal quality control and quality assurance for effective law enforcement purposes,

9.5 Every five (5) years during the Forest Management Plan period, the Ministry of Agriculture, Forestry and Fishery (Department of Forests and Wildlife) shall consult with the concessionaires and community consultation committee to:

- (1) Review the compliance records-
- (2) Evaluate the effectiveness of the regulations, codes and guidelines and other forest management prescriptions, and
- (3) Determine what improvements are necessary to be made on overall performance.

CHAPTER 5: Penalties

Article 10:

10.1 In case of non-performance of obligations defined in the Forest Concession Agreement and Forest Management Plan, the Department of Forests and Wildlife shall give notice of such breach to the concessionaire. If any damage occurred as a consequence of such breach, the concessionaire shall be granted a cure ' period of ninety (90) days to repair such damages. If the concessionaire fails to repair such damages, the Department of Forests and Wildlife shall assess liquidated damages.

10.2 Notwithstanding the application of any applicable laws and regulations, in case of breach of the terms of the Forest Concession Agreement or Forest Management Plan, the Royal Government may require the concessionaire to pay liquidated damages that shall be assessed by the Ministry of Agriculture, Forestry and Fishery.

10.3 In case of violation of the terms of the Forest Concession Agreement or Forest Management Plan and if such violations continue unremedied after ninety (90) days, the Royal Government shall declare a suspension or cause the concession terminated date to occur.

10-4. The concessionaire shall be required to relinquish in favor of the State any claim of right or possession to any logs or other natural resource taken in the course of any breach of the Forest Concession Agreement and the Forest Management Plan.

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CHAPTER 6: Final Provisions

Article 11:

Any provisions which are contrary to this Sub-decree shall be abrogated.

Article 12:

The Minister in charge of the Council of Ministers, Minister of Agriculture, Forestry and Fishery, all Ministers and State Secretaries of ministries and institutions concerned and provincial/Municipal governors shall be responsible for implementing this Sub-decree from the date of signature herein.

Article 13:

This Sub-decree shall become effective from the date of signature herein.

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Annex to Sub-decree No. 051ANKIBK, dated February 7, 2000

Definitions of Technical Terms

"Annual Allowable Cut (AAC)" means the volume of wood that can be harvested each year from the concession, while maintaining ecological integrity and not exceeding the long-term sustainable yield. The ACC may vary from year to year but must balance at the sustainable level over a ten-year period.

"Annual Operational Plan (AOP)" means documents that regulate access development, forest harvesting, regeneration and stand-tending activities at the coupe level in the manner consistent with the annual "Forest Management Plan".

"Bio-diversity" means the diversity of plants, animals and other living organisms in all their forms and organizations, including genes, species, ecosystems and the evolutionary and functional processes that link them.

"Block" means the smallest unit of management and has the function of being a unit for cutting control for harvesting operations.

"Tender terms and conditions Book" means a policy and specification document applicable to the forest operation and liability of the concessionaire for coupe operation in order to maintain the balance between the operation, regeneration, protection and saving of forest.

"Codes of Practice for Forest Management" means a set of technical prescriptions for forest management intended to guide forest management planning and implementation at all levels.

"Coupe" means a geographical recognizable area of forest forming the basis of each "Annual Operational Plan" and serving as basis for permanent record of forest operations.

"Environmental Impact Assessment (EIA)" means the process by which natural resources, ecological resources, and public health and social safety impacts of development activities are identified, assessed and monitored.

"Forest" means natural ecosystems, land, water, plants, and micro-organisms etc. which are dominated by woody plants or bamboo of more than ten (10%) percent and has a size of 0.5 hectare or more, including dryland and wetland forest formations and any non-treed wetlands covering most part of land or open land within a forest that form ten (10%) of that ecosystem. All stages of natural forest succession and planted trees for forestry purposes with a leaf density smaller than ten (10%) percent or former forest land that were degraded by human action or natural acts but is expected to be repaired/improved shall be deemed forest.

"Forest Concession" means a tenure system by which the Government provides to companies, through negotiation or bidding, and the rights and responsibilities for forest management and harvesting on defined area of land subject to the terms and conditions established in the law and regulations.

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"Forest Concession Agreement" means an agreement or contract between the Royal Government and a person or commercial entity granting rights to occupy and manage an area of the permanent forest estate for the purpose of harvesting designated forest products, subject to conditions or prescriptions, as established by the Royal Government of Cambodia.

"Forest Management Plan" means a document that translates national forest and natural resource policies into a coordinated management program for forest concessions as a whole-defining forest "Zones" and regulating wood production and environmental and social activities for a set time period (15 years) through the use of prescriptions specifying broad objectives, management actions, and monitoring and control arrangements.

"Forest Products" include:

- (a) logs, lumber, charcoal, firewood, bark and extracts of bark;
- (b) Latex, gums, resins, flowers, fruits, seeds, nuts, leaves, fibres, rattans, spices, tanstuffs, dyestuffs, moulds, fungi, medicines, drugs, cosmetics, fodder, cultural and ceremonial items, and building and thatching materials derived from growing trees, shrubs and plants (dead or alive); and
- (c) Such other forest and wildlife products that are not covered by this Sub-decree, the Ministry of Agriculture, Forestry and Fishery may declare to be forest products.

"Guidelines" means a set of forest planning and operational prescriptions which are usually not, in themselves, mandatory requirements but become enforceable when stipulated in a license, plan, permit or contract (synonymous with codes of practices).

"Permanent Forest Estate" means legally and geographically identified lands of all tenure types comprising forests or areas capable of forest production to be managed by the State, concessionaire, local communities and other forest users for a long-term objectives of sustainable production of forest products and maintenance of forest composition, structure, and ecological function.

"Natural Resource" means a resource naturally produced in the depth of land or on the surface of forest concession land such as mines, metal, gas, petroleum, precious stone, gemstones, sand, waters etc. shall be subject to the State management under other laws in force.

"Reserve Price" means the minimum price that the Royal Government of Cambodia will accept in the bidding process for awarding any particular forest concession. The reserve price may or may not be disclosed prior to commencement of bidding process.

"Village Development Committee (VDC)" means an elected body at the village level established by a Sub-decree under rural development legislation to advise the Royal Government of Cambodia on local development needs and initiatives.

"Zone" means a sub-division of a "Forest Concession" with specific ecological, biophysical characteristics or resource values that indicate a different management regime from adjacent zones.