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A Recent Practice and Regulations Concerning Cambodia Intellectual Property

The 6th Annual Meeting on Intellectual Property Achievements of 2014 and Action Plan for 2015 at the Ministry of Commerce (MoC) on February 9, 2015, noticed some positive trends in the area of the Intellectual Property Law (IP) in the Kingdom as the IP law in Cambodia is in its early stage of development.

Cambodia deposited the “instrument of Accession to the Madrid Protocol for International Registration of Mark” with the Director General of the World Intellectual Property Organization (WIPO) on March 5th, 2015. This is the proof that Cambodia IP is about to be recognized and accepted internationally. Further on the basis of the Press Release of the Ministry of Commerce on March 5, 2015, Cambodia will benefit from the Accession to the Madrid Protocol for International Registration of Mark is as follows:

- Cambodians can now export products bearing a Cambodian brand to 111 countries under the Madrid System, including the main trading partners such as EU, US, China, and Japan
- Filing international trademark registration application in Cambodia for only 10% of basic fee of WIPO
- Filing international trademark registration application only at the Ministry of Commerce for 111 countries
- One single application form for all countries, in one language (English), in one currency
- A single procedure for managing the entire lifecycle of a trademark
- Ideal for SMEs – reduced complexity and cost compared with filing and maintaining



registrations directly with multiple countries.

Upon the supplement documents of the Madrid Protocol membership, the certain topics and issues are still being discussed by the Cambodia representative and with the WIPO such as the implementation of the Madrid Protocol, the follow-up digitization Projection, the implementation of the Intellectual Property (IP) strategy of Cambodia, special projects related to IP and branding of Origin-Based Products, capacity building of trademark examiners, automation solutions, creating a hub for IP education and development to accelerate Technology Innovation. Cambodia will enforce the Madrid Protocol System on June 05, 2015. In the meantime, the Department of Intellectual Property of the MoC will introduce new administrative procedures and certain changes to comply with the Madrid Protocol system filing as per the Prakas No. 206 of the Division of International Registration of the Marks.

The second new implementation in regard to the Intellectual Property is the Notification No. 738 dated March 12, 2015 on Record of License Contract and Franchise Contract at the Ministry of Commerce. As per the Notification No. 738 of the MOC, the License contract and Franchise contract shall be filed to MoC enclosed along with the request form for license or franchise and the certified Khmer translation recognized by Ministry of Commerce. The details of the supporting documents accompanying the application are:

- License/Franchise contract or notarized copy thereof
- License/Franchise contract translated to Khmer if in foreign languages
- Notarized Power of Attorney and Deed of Substitution
- A copy of Principle Mark Registration or Renewal Certificate

Further the Ministry of Commerce has introduced the new requirements for the submission of all Intellectual Property application forms to the Ministry of Commerce set out under Notification No. 1182 of the MOC dated April 22, 2015. The notification to be effective from September 1, 2015, states that all applications in relevant to the Intellectual Property which is under the authority of the MOC is now available in the website of www.cambodiaaip.gov.kh and to be thumbprint or signed and stamped by the applicant or the

ABOUT US

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BNG Legal believes expanding access to legal information is crucial to rule of law. To that end, several of our legal professionals write a blog discussing recent developments in the legal landscape.

LEGAL DATABASE

The laws and regulations in our database are based upon the Official Gazettes, law compendiums and other collections from the ministries and institutions of the Royal Government of Cambodia. These are available to the public through our partner site, www.bnqlaw.net.

legal trademark agent. Importantly, all application forms shall be submitted in the original forms or certified copied documents enclosed with the proof of payment of the official fee along with the original form.

LEGAL UPDATE

Sub Decree No. 49 (RGC) dated 09 April 2015 on the Organization and Functioning of Committee in Charge of Treatment and Rehabilitation of Drug Users

Recently the Royal Government of Cambodia decided to establish the Committee who is in charge to treat and rehabilitate drug users in order to serve as the General Secretary of the National Authority for Combating Drugs. The committee composes of representatives from 25 ministries and public institutes in which the Minister of the Ministry of Health is the head of the Committee.

The committee have the following roles and duties: (i) Reduced morbidity and mortality among current and recovering drug users; (ii) Reduction in relapse rates among those with drug dependence problems; (iii) Improved access to health and social services for people with drug related problems, including drug dependence; and, (iv) Enhanced community safety, including through drug use prevention and re-integration program.

The Sub Decree is in effective from the date of the signature.

Sub-Decree No 55 (RGC) dated 04 May 2015 on Organization and Function of the Ministry of Environment

The Royal Government has issued a Sub-Decree that establishes the structures and functions of the Ministry of Environment. The Ministry of Environment has three level of administration:

1. Central Level:
 - General Department of Environmental Knowledge and Information
 - General Department of Environment Protection
 - General Department of Nature Conservation and Protection Administration
 - General Department of Administration and Finance
 - Department of Inspection
 - Department of Internal Audition
 - Cabinet of Minister

Each organ has their own function and structure, and each general department is composed or several departments.

2. This level of administration consists of provincial/municipal department of environment and environment bureau

attached to each communes.

3. Public Establishment: The type of entity is prescribed under separate sub-decree.

Prakas No 142 (MOC) dated 03 June 2015 on Formality and Procedure for Registration in any Change and Amendment of Enterprise-Company

Incorporator or Director or individual shareholder is held responsible for undertaking commercial registration, depositing of documents and publication which are required by law.

After undertaking Commercial Registration, during the tenure of business operation, the company, at any time, can amend its Articles of Incorporation. For the amendment of articles of incorporation, the following amendments are allowed:

- Changing the name of the Company;
- Adding, reducing or changing company's business objective or business activities;
- Reclassifying number of shares by amending their absolute and comparative characteristic of any type of shares.
- Amending dividends of any particular share.
- Increasing capital by creating new type of shares which are consisting of absolute and comparative characteristics to be better than or less than the existing type of shares.
- Reducing registered capital by reducing par value of particular shares or reducing numbers of the allotted shares.
- Changing duration of the company.
- Changing location of the registered head office.
- Changing quorum.
- Adding any provisions, allowed by the Law on Commercial Enterprise into the Articles of Incorporation.
- Transferring shares as permitted by laws
- Further, the transfer of shares shall be conformed with certain requirements as listed below:
 - Any shares transfers whom transferor is in Cambodia, the shares transfer documents shall be certified by a lawyer or public notary of Cambodia;
 - Any shares transfers whom transferor reside outside Cambodia shall be certified by public notary or any authority who is competent in the Country where the transferor reside;
 - In case shares transfer documents are not certified by lawyer, public notary or competent authority, the transferor shall sign and affix their thumbprints before the commercial registrar.

Prakas No 099 (MOC) dated 07 April 2008 is abrogated from the date of signature of this Prakas.