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ADMINISTRATION AND PUBLIC SECTOR

Decision N° 39 (RGC) dated 05 June 2015 on the Creation of a Mixt Technical Sub-Committee for Cambodia-Thailand Maritime Overlapping Claim Zones

After creating in late 2014 a mixt technical Committee in charge of border demarcation and joint-development on the petroleum resource in the Cambodia-Thailand maritime overlapping claim zones, the Royal Government of Cambodia (RGC) decides on 05 June 2015 to create a Mixt Technical Sub-Committee for Cambodia-Thailand Maritime Overlapping Claim Zones. This Sub-Committee is chaired by Secretary of State of Ministry of Mines and Energies, assisted by two vice-chairmen, one from the Ministry of Foreign Affairs and International Cooperation, and another from the Ministry of National Defense, along with 17 members from inter-ministerial institutions.

The Sub-Committee is established as dialogue mechanism regarding the cooperation with Thailand on the negotiation process related to the maritime overlapping claim zones. This Sub-Committee is also a counterpart mechanism with that recently established by Thailand.

In term of financing, the Sub-Committee may use, in fulfilling its duties, the fund allocated to the mixt technical Committee in charge of border demarcation and joint-development on the petroleum resource in the Cambodia-Thailand maritime overlapping claim zones.

Decision N°40 (RGC) dated 05 June 2015 on the Creation of the Sub-Committee of the Mixt Committee for Cambodia-Thailand Land Border Affairs

This Sub-Committee is chaired by a Secretary of State of Ministry of Foreign Affairs and International Cooperation, assisted by a vice-chairman from the Ministry of National Defense, with 16 members from various ministries and institutions. This Sub-Committee is considered as a dialogue mechanism with Thailand on the cooperation with this matter. It is also a counterpart mechanism with that recently established in Thailand.

Sub-Decree No 59 (RGC) dated 18 May 2015 on the Organization and Functioning of the General Secretariat of National Council for Sustainable Developments

The General Secretariat is chaired by a General Secretary, assisted by some Vice General Secretaries. This General Secretariat is composed of departments as following:

- Department of Administration, Planning, Finance
- Department of Climate Change
- Department of Green Economy
- Department of Science and Technology
- Department of Bio-Diversity

The General Secretariat has roles to:

- Coordinate, conduct routine activities of the National Council for Sustainable Developments (NCSD);
- Planning programs and strategies and submit to NCSD;
- Coordinate the implementation political policy, legislative acts, planning strategies, planning activities adopted by NCSD;
- Promote the sustainable developments into policy by cooperating with other related ministries and institutions;
- Coordinate the cooperation with development partners, civil society, private sector, research centers and other related parties;
- Examine international environmental agreement for the possibility of ratification by Cambodia;

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ABOUT US

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LEGAL DATABASE

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- Manage finance and budget of NCSD;
 - Report periodically to NCSD;
- Ministry of Environment is in charge of appointing government officials who work for the General Secretariat.

BANKING, FINANCE AND CAPITAL MARKET

Prakas No.B5. 015. 188 (NBC) dated 29 May 2015 on the Establishment of Check Exchange Center located at National Bank of Cambodia Branch in Svay Rieng

The purpose of this establishment is to facilitate the payment in Province or between Provinces. The exchange check center of National Bank of Cambodia Branch in Svay Rieng has the duties to:

- Provide location to banking institution members for physical check exchange;
- Cooperate and facilitate to member for any important and relevant requests which are related to deduction;
- Transmit payment instruments data to the national team of clearance for clearance and settlement;
- Receive information of clearance and settlement result from the national team of clearance;
- Provide final report to member for the verification of settlement instruments.

The exchange check center of National Bank of Cambodia Branch in Svay Rieng shall be in compliance with Prakas No.B9.013.125 dated 06 June, 2013 on the Implementation of Rules and Procedures of Clearance Facility and Prakas No.B9.015.006 dated 09 January, 2015 on the amendments of Rules and Procedures of Clearance Facility.

Prakas No. B5.015.189 (NBC) dated 29 May 2015 on “The Entire Exchange Check at National Bank Branches of Banteay Meanchey Province” of Governor of National Bank of Cambodia

Its duties as the following:

- To provide the individual residence of Fundamental banking;
- To cooperate the coordination to the member regarding all the necessities requested payment;
- To transmission the instrument of payment;
- To receive the information regarding the result of payment and instrument of payment;
- To provide the total report to the member for verifying.

Instructive Circular N° 05 (RGC) dated 05 June 2015 on the Preparation of the Draft Law on the Budget for Management 2016

In accordance with the article 39 of the Law on Financial Management System (FMS), the schedule of preparation of draft law for each management year is divided into three steps:

- First step: the preparation of budget strategy plan from March to May
- Second step: the preparation of budget allocation from June to September
- Third step: the budget approval from October to December.

The Instructive Circular provides detail about the Cambodian macroeconomic background for the recent years and the prediction for 2016, and about the financial policy. This will be served as information for each ministry and institution as well as sub-national level authority to better prepare its respective budget planning for 2016. We understand that Cambodian macroeconomic framework keep growing and strengthened in 2014 with the rise of construction sector, tourism sector, the garment export and the drop of oil price in international market. In 2014, Cambodian economy growth is 7% as expected where the inflation rate is 3.9% and the average exchange rate is 4,039 KHR/USD. For 2015 and 2016, the economic growth is predicted to be around 7%.

This important Instructive Circular of 22 pages also highlights the Royal Government's financial policies for 2016 ensuring the prosperity and development of Cambodia, based on the Rectangular Strategy Phase III and the National Strategic Development Plan 2014-2018. In order to accomplish these financial policies, the Instructive Circular further sets the expected budget income, budget expense by sector, and so the principles and technical for 2016 budget preparation.

Prakas No. 533 (MEF) dated 07 May 2015 on the Oversea and Domestic Mission Allowances for the Officials of Securities and Exchange Commission of Cambodia (SECC)

This Prakas aims to set out the allowances in both domestic and oversea mission for the SECC's officials based on the article 25 of the Sub Decree No. 97 dated July 23, 2008 on the organization and functioning of SECC.

The Prakas defines the mission as the performance of the functions and duties in both domestic and oversea. The mission allowance includes pocket money, food, accommodation, transportation, souvenirs, and other expenses.

The mission allowance in both domestic and oversea of the SECC's officials is in compliance with the allowances set out in Sub Decree No. 216 dated July 22, 2014 concerning with the mission fee in domestic and oversea mission for administration national and under national level. This Prakas will come into force at the same date of the enforcement of the Sub Decree No. 216 dated July 22, 2014.

This Prakas will amend the Prakas No. 010/12 dated December 25, 2012 on the determination of the allowances for domestic and oversea mission of the SECC's officials.

BUSINESS

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

This Prakas reaffirms that 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 issuing 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 the registered head office.
- Changing quorum.
- Adding any provisions, allowed by the Law on Commercial Enterprises 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:

- For any shares transfers whom transferor is in Cambodia, transfer documents shall be certified by a lawyer or public notary of Cambodia;
- Any shares transfers whom transferor resides outside Cambodia shall be certified by public notary or any authority who is competent in the Country where the transferor resides;
- 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 099MOC/SM2008 dated April 07, 2008 is abrogated from the date of signature of this Prakas.

Decision No 38 (RGC) dated 05 June 2015 on the Organization and Functioning of the National Committee for the Implementation of the Action Plan on the Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS)

The purpose of the decision was to create a National Committee to implement the Action Plan on the Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS). The Committee consists of 12 members, with H.E. Hor Namhong, the Deputy Prime Minister, Minister of Foreign Affairs and International Cooperation, as the Chairman of the Committee.

Two of the main roles of the Committee are to discuss with the partner country in strategies on the economic cooperation, especially Thailand in order to promote the implementation of the Action Plan to meet with the deadline; and to be able to propose direct negotiation with the relevant institutions in the form of strategies on the economic cooperation in order to promote the implementation of the Action Plan.

EDUCATION, YOUTH AND SPORT

Sub-decree No.20 (RGC) dated 05 March 2015 on the Management on the Informal System of Education Program Service

The main objectives of the sub-decree are to describe the procedure of recruiting the teacher by the contract and to set their respective benefit.

To be a teacher by the contract, the candidate has to complete the condition as the following:

- At least having Baccalaureate level or the candidate that has its proper expert in accordance to the request of the training.
- All the retirement teacher in the previous framework
- The priority of the Candidate in local residence where the system of informal education program is placed
- The priority for the woman
- The benefit of recruited teacher as the following:
 - 50% of the total salary of local and the final cash of the teaching official in the junior primary level for the new recruiting teacher of literacy and equivalent junior level program
 - 60% of the total salary of local and the final cash of the teaching official in the junior level for the previous framework teacher of literacy and equivalent junior level program
 - 80% of the total salary of local and the final cash of the teaching official in the junior level for the new recruiting teacher of re-enter school program
 - 90% of the total salary of local and the final cash of the teaching official in the junior level for the previous framework teacher for re-enter school program
 - 100% of the total salary of local and the final cash of the teaching official in the junior level for the expert in or outside the community.

ENVIRONMENT

Inter-ministerial-Prakas No. 073 dated 06 February 2015, on the Use of Environmental Hygiene Service Budget at Sub-national Level Administration for Solid & Liquid Waste Management in Urban Areas

This Prakas aims to strengthen the management and the use of national budget given to sub-national level administration for the purpose of promoting environmental hygiene. Environmental hygiene service budget is derived from three main sources as following:

- Allocation from national budget collected from 2% specific tax on plastic and electronic products.
- Participation of charity
- Participation of development partner, and others financial institutions

Every year, Ministry of Economy and Finances shall prepare a Sub-Decree and Prakas to transfer the budget for environmental hygiene service to each targeted City Administration. The budget shall be allocated to each City Administration based on a transparent and equitable formula of which population is one of its criteria. In counterpart to those budgets, each City Administration shall be responsible for preparing waste management and environmental hygiene plans and, needless to say, execute those plans in an effective way.

As for the control over the performance by City Administration, the Ministry to Environment is in charge. In case of failure or misconduct of City Administration, the Ministry can propose to the Ministry of Economics and Finance to suspend the budget and/or request the Ministry of Interior to warn or punish the city administration.

INTELLECTUAL PROPERTY

Press Release dated 28 April 2015 on the Celebration of World IP Day and the workshop on the Mark Registration for SMEs

On April 28, 2015, the National Committee for Intellectual Property Rights (NCIPR) of the Ministry of Commerce celebrated and organized the World Intellectual Property Day and the workshop of Mark Registration for SMEs. World IP Day is celebrated to raise awareness about patents, copyright, trademarks and designs impact on daily life” and “to celebrate creativity, and

the contribution made by creators and innovators to the development of societies across the globe, and April 26 was chosen as the date for World Intellectual Property Day because it is the date on which the Convention Establishing the World Intellectual Property Organization entered into force.

For the progress in IP development in ASEAN under IP Action Plan 2011-2015, all ASEAN Member States formulated common Guidelines of ASEAN for the substantive examination of applications for mark registration in the IP offices of all ASEAN Member States. These Guidelines are very important tools for trademark examiner in harmonizing their decisions and reduce the duration of a trademark's registration to six months for the sake of the business community.

Recently, Cambodia acceded to the "Madrid Protocol Concerning International Registration of Marks" so that applicants can apply through the Ministry of Commerce for the registration of their trademarks to 111 countries. Please see our newsletter for further detail.

JUDICIARY AND ADR

Instruction No 01 (MoJ) dated 29 May 2015 of the Ministry of Justice on Sustainability, Efficiency and Harmonization of Administrative Entity of the Court

The aims of this instruction are as follows:

1. The structure of court and the prosecutor entity need to be organized in accordance with the law on the organization of court as soon as possible.
2. Since the nomination of president of administrative entity of the court, in accordance with the law on the organization of court, the position of president of clerk of the court and president of clerk of the prosecutors do not exist.
3. All presidents of clerks and/or clerks need to transfer financial, staff and administrative affairs of court and prosecution service that they are in charged, to the president of administrative entity of court, in order to execute in accordance with the law on the organization of court.
4. Nominated clerks, in the structure of administrative entity of court, still need to continue to work as clerks but they cannot work as assistant of judges and prosecutors in the court procedure and the prosecution service.
5. In the case that the administrative entity of the court does not have enough officials for the court process, the president of court can make a request to the Ministry to nominate temporary clerks for administrative works.
6. Administrative Officials, Clerks, Prosecutors, Contractor Officials and all Casual Officials who work at court need to be under the management of administrative entity of court.
7. Judges and Deputy Prosecutors cannot manage works of administrative entity of court.

President of court, President of Prosecution service and President of administrative entity of court need to strengthen the cooperation and the coordination in order to organize the administrative entity of court and in the necessary case, they need to report to the Ministry of Justice.

Sub-Decree No 33 dated 12 March 2015 on the Creation of "Nitei Niron Notary Public"

"Nitei Niron Notary Public" or "N&N Notary Public" has the roles as following:

- Write contracts, agreements, other legal documents, stamp to certify signature and thumbprint of parties
- Legal consultation related to family law, movable and immovable properties, business and investment
- Certify true copies
- Write will and other authentic documents to be compliance with civil code, law on the implementation of civil code and other laws and regulations of Cambodia
- Other tasks of notary profession to be compliance with codes, laws and other regulations of Cambodia

PUBLIC SERVICE FEE

Prakas 077 (MOH) dated 20 March 2015 On Delegation on the Functions of Health Service to the Sub-National Level in Delivering Public Service of Ministry of Health

The Functions of Health Service is delegated to Sub-National Level Administration. The Sub-National Administration is delegated to grant permission letter regarding the public service of the Ministry of Health and to determine the type of service, the fee for the service, the length of the service, the validity of the service through the request for opening, closing, moving, extending the validity of the service of Health Administration.

The delegation covers targeted city, district, Khan that has mechanism to provide health administration service through One Window Service Office, and city, district, Khan that has not had the mechanism to provide health administration service through One Window Service Office. The functions that will be delegated from the Ministry of Health to the Sub-National Administration to grant permission letter includes:

- Consultation room for pregnant women before and after delivery
- Patient room
- Physiotherapy room
- Sub-pharmacy A
- Sub-pharmacy B
- General consultation room
- Dental care room
- The issuance of health certificate

The office of municipality, district, Khan through the Health Administration has the authority to provide warning, suspension or termination of the opening of health service.

The fee of the service, the length of service and the validity of the service of health administration were stipulated in the joint-Prakas No 1432 between the Ministry of Economy and Finance and the Ministry of Health, dated 20 November, 2014.

REAL ESTATE

Notification (MLMUC) dated 26 February 2015, Issued by Ministry of Land Management Urbanization and Construction

The MLMUC has issued a notice to ensure the implementation of laws and regulations relating to construction. The notice aims to inform the public about certain requirements that construction owner has to follow:

1. Every construction project shall acquire Construction Permit and Construction Site Opening Letter.
2. For construction project, the owner shall hire construction companies or construction worker groups who are properly registered and hold Certificates of Insurance on Construction Site.

Authorities of all level shall work collaboratively to inspect all construction sites for laws and regulation compliance.

Sub-Decree No 42 (RGC) dated 03 April 2015 on Urbanization of Capital City, Towns and Urban Areas

The Royal Government of Cambodia has issued a Sub-Decree that elaborated in detail the technical and political process of urban planning focused on land using and the design of urban environment. The scope of the Sub-Decree covers all types of land (State Owned Land and Private Owned Land). Urban Planning according to the Sub-Decree are divided into two main types:

Buildable Land: Housing Area, Commercial Area, Industrial Zone etc.

Restricted Buildable Land: Agricultural Zone, Forest, Water Reserved Zone etc.

The provisions set forth in this Sub-Decree impose some requirements for land user, both public and private sector. It contains articles that limit buildable area on a land plot, restrict building's height, define space between buildings and space between streets and buildings etc. It even determines space for garden, the amount of tree required on a land plot as well as space for car parking.

For example: A flat: buildable space cannot exceed 75% of land plot

A commercial building: buildable space cannot exceed 60% of land plot

A tree per 150 sqm of a land plot

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Parking Space:

Super market: space for one car per 20 sqm

Night Club: space for one car per 1 sqm of dance floor

To enforce this Sub-Decree, penalties are also defined such as construction permit removal, reconstruction, construction suspension, and fine.

TAXATION AND CUSTOMS

Prakas No. 209 (MEF) dated 16 February 2015 on Incentive for GDT and Relevant Sub-national Organization

To increase efficiency on tax collection on Immovable Property tax for 2014, 2015 and 2016, Government provides incentive as below:

1. 1% of total annual tax collected on immovable property of ownership transfer. This incentive is provided to the authorities and tax department of the property location.
2. 10% of total monthly tax collected on immovable property of ownership transfer for unregistered land. This incentive is provided to the authorities and tax department that related to this transaction.
3. 5% of total annual tax on property collected. This incentive is provided to the authorities and tax department of the property location.
4. 10% of total monthly tax collected on property tax if the authorities cooperated with tax department found the new properties that did not register and paid tax. This incentive is provided to the authorities and tax department of the property location.

Director of GDT shall requests to Minister of MEF to share this incentive based on equity principle.

Notification No. 3434 (GDT) dated 02 June 2015 on Reminding on Excise tax Stamp for Cigarette

Ministry of Economy and Finances (MEF) and General Department of Taxation (GDT) have informed to stick the stamp of Excise Tax for Cigarette Imported Company, Local Cigarette Producer, Cigarette Wholesaler and retailer. Currently, some companies followed and some companies did not follow this Prakas.

GDT would like to remind Cigarette Imported Company, Local Cigarette Producer, Cigarette Wholesaler and Retailer has to follow the Prakas No.539 dated April 30, 2014. There are 87 brands of Cigarette did not stick this stamp.

If the enterprises do not stick the excise tax stamp, stick the fake stamp, used stamp or improperly stick the stamp, GDT will cooperate with authority to seize this cigarette. The enterprises will be subjected to tax evasion as stated in article 16 of Prakas No.539 and article 127, 128, 133, 135 and 136 of Law on Taxation which will be fined from 10 Million Riel to 20 Million Riel or will be imprisonment from 1 to 5 years or both.

TELECOM, POST & ICT

Sub Decree No. 74 (RGC) dated 08 June 2015 Concerning with the Amendment of the Article 26, 27, 28 and 29 and Modification of Double Article 29 of the Sub Decree 39 dated 28 January 2014 on the Organizing and Functioning of the Ministry of Posts and Telecommunications

This Sub Decree is adopted to amend the certain provision of the Sub Decree 39 specifically article 26, 27, 28 and 29. The Institute of Post, Telecommunication, Technology and Information play roles in regard to educational training, research regarding the post, telecommunication technology and information. The institute proved the training for Bachelor, Post Graduate and the Doctoral Decree based on the program approved by the Ministry of Post and Telecommunications.

The amendment of the article 27 provides the obligation of the National Institute of the Post, Telecommunication, Technology and Information while the amendment of the article 28 provides the structure of the National Institute of the Post, Telecommunication, Technology and Information such as one Secretariat, three universities, three centers, and three schools. The institute can develop its own structures if necessary. Under the provision of the amended article 29, it provides the roles of the Secretariat, Centers, Universities and other legal entities which are under the Institutes, and the governance structure of each of these entities.