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**Kingdom of Cambodia
Nation Religion King**

Royal Government of Cambodia
No. 05/ANK/BK

**ANUKRET
on
Forest Management Concessions
The Royal Government of Cambodia**

- Referring to the Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/1198/72 dated November 1, 1993, on the Formation of the Royal Government of Cambodia;
- Referring to Reach Kram No. 02/NS/RKM/94 of July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Referring to Reach Kram No. NS/RKM/0196/13 of January 24, 1996 promulgating the Law on the Establishment of the Ministry of Agriculture, Forestry and Fisheries;
- Referring to Kret No. 35/KR/C of June 25, 1988 promulgating the Law on Forestry Management;
- Referring to Reach Kram No. NS/RKM/1296/36 of December 24, 1996 promulgating the Law on Environmental Protection and Natural Resources Management;
- Referring to Reach Kram No. 03/NS/94 of August 4, 1994 promulgating the the Law on Investment of the Kingdom of Cambodia;
- Referring to Anu-kret No. 72/ANK/BK of January 25, 1999 on the Environmental Impact Assessment Process;
- Referring to Prakas No. 011/PRK of the Royal Government of January 25, 1999 on Measures for the Management of Forest Resources and Elimination of Illegal Forest Activities;
- Pursuant to the approval of the Council of Ministers at its plenary session on 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 forest concession planning, implementation, and control systems which will lead to the balanced, sustainable, and technically competent management 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;
- 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 concessions; and
- Protect and maintain the rights of access to those forest resources located in 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 and encouragement for applications by the Cambodian timber industry for international forest management certification.

Article 3: The Ministry of Agriculture, Forestry and Fisheries has the primary regulatory and supervisory responsibility for the protection and management of forests 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 Fisheries (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 concessions to the public by tenders or bids. An application for a forest concession shall be made in accordance with 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 Fisheries (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 aspects 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 Fisheries (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 on forest concessions;
 - (b) Define practical and 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 expectations of the concessionaire, including, but not limited to, 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 the model Forest Concession Agreement (Section 5.1 below);
 - (f) Define the criteria by which bids will be evaluated by the Royal Government of Cambodia;

Where a forest concession is offered for public competitive bidding under this Anu-kret, the tendering process shall be defined by a Prakas of the Ministry of Agriculture, Forestries and Fishery and shall 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 are 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 Fisheries (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 Fisheries (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 being offered;
- (g) At the time and place advertised, according to sub-paragraph (e) above, the Ministry of Agriculture, Forestry and Fisheries (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 tenderer;
- (h) Following the disclosure of financial bids referred to in sub-paragraph (g), the Minister of Agriculture, Forestry and Fisheries 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;
- (j) 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 the successful bidder, deposits referred to in sub-paragraph (d) above shall be returned to the unsuccessful bidders;
- (l) 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 (j) 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 that shall be prepared by the Ministry of Agriculture, Forestry and Fisheries (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 Fisheries and at least clearly specify:
 - (a) Date and term of forest concession;
 - (b) Size of forest land subject to 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 concessions.
- 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. Any termination resulting from unexecuted agreements or for non-

conformity with the terms 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 Fisheries (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 Fisheries (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 for sale and not for customary traditional subsistence use or 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 request.
- 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 concession management plan according to the limit, size, and duration of the concession. 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, and social, environmental, and financial planning criteria;
 - (b) Delineate forest zones, based on participatory rural appraisals, broad forest resources 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
 - The net operational forest land;
 - (c) Prepare a medium term concession management plan for operable forest, based on a management-level inventory, which describes:
 - 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 sustainable 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 cultural 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 the code of practice for forest concession management. No forest management plans shall be approved if such plans are not consistent with the policies 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 the development of forest concession management plans 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 Appraisal Guidelines in Cooperation with the Ministry of Environment.
- 7.3 The Ministry of Agriculture, Forestry and Fisheries (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 sanctuaries, watershed protection, forest monitoring and control, etc.

Article 8: Based on the approval of the Ministry of Agriculture, Forestry and Fisheries of 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 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 the 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 a period from 5 to 10 years.

Such monitoring requires high technology and statistical standards and may be implemented with technical assistance programs from international organizations when necessary.

- 9.3 The Ministry of Agriculture, Forestry and Fisheries (Department of Forest and Wildlife) shall form a compliance monitoring team with clearly assigned roles, responsibilities, and authority for each forest harvesting concession. 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 Fisheries for circulation and 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 Fisheries (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, 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 the 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 Fisheries.
- 10.3 In case of a violation of the terms of the Forest Concession Agreement or Forest Management Plan and if such violations continue unremedied for ninety (90) days, the Royal Government shall declare a suspension or terminate the concession.
- 10.4 The concessionaire shall be required to relinquish in favor of the State any claim of right or possession of any logs or other natural resources taken in the course of any breach of the Forest Concession Agreement and the Forest Management Plan.

Chapter 6: Final Provisions

Article 11: Any provisions which are contrary to this Anu-kret shall be abrogated

Article 12: The Minister in charge of the Office of the Council of Ministers, the Minister of Agriculture, Forestry and Fishery, ministers and state secretaries of ministries and institutions concerned, and provincial/municipal governors shall be responsible for implementing this Anu-kret from the date of its signature.

Article 13: This Anu-kret shall enter into force from the date of its signature.

Phnom Penh, February 7 2000
Prime Minister

Hun Sen

Having informed Samdech Prime Minister,
Minister of Agriculture, Forestry and Fishery

Chhea Song

Annex to Anu-kret No. 05/ANK/BK, 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 AAC 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 a 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 a basis for a permanent record of forest operations.

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

"Forest" means natural ecosystems, land, water, plants, micro-organisms, etc. which are dominated by woody plants or bamboo of more than ten (10%) percent and having a size of 0.5 hectare or more, including dry land and wetland forest formations and any wetlands without trees covering most or part of land, or open land within a forest that forms 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 was 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, the rights and responsibilities for forest management and harvesting on a defined area of land subject to the terms and conditions established in the law and regulations.

"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, fibers, rattans, spices, tanstuffs, dyestuffs, moulds, fungi, medicines, drugs, cosmetics, fodder, cultural and ceremonial items, and building and thatching materials derived from trees, shrubs, and plants (dead or alive); and
- (c) Such other forest and wildlife products that are not covered by this Anu-kret which 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, concessionaires, local communities, and other forest users for the 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 underground or on the surface of forest concession land such as mines, metals, gas, petroleum, precious stones, gemstones, sand, waters, etc. These items shall be subject to 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 the bidding process.

"Village Development Committee (VDC)" means an elected body at the village level established by a Anu-kret 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 value that requires a different management regime from adjacent zones.