

**INFORMATION PROVIDED BY CAMBODIA FOR THE FOURTH INTER-SESSIONAL  
MEETING OF THE WORKING GROUP ON PREVENTION ON 8<sup>th</sup>-10<sup>th</sup> SEPTEMBER, 2014**

**I. Please describe the measures you have taken to implement article 6 of the convention.**

- 1. Each state party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:
    - a. Implementing the policies referred to in article 5 of this convention and, where appropriate, overseeing and coordinating the implementation of those policies;**
    - b. Increasing and disseminating knowledge about the prevention of corruption.****
  - 2. Each state party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.**
  - 3. Each state party shall inform the secretary-general of the United Nations of the name and address of the authority or authorities that may assist other States parties in developing and implementing specific measures for the prevention of corruption.**
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**1. Please describe the measures you have taken to implement art. 6 of the Convention.**

+ Institutions/Ministries involve in preventing and fighting against corruption are:

1.1 Anti-Corruption Institution: It was established in accordance with anti-corruption law, which contains National Anti-Corruption Council and Anti-Corruption Unit, as a specialized authority with administrative and investigative characteristics which has the duty to fight against corruption through 3 prongs including education, prevention and law enforcement with the participation from the public and international cooperation. This institution holds monopoly on investigation of corruption cases. This institution can perform their functions independently with duties, competent, privileges and enough resources like budgets, human resources, equipments, and related technical knowledge. Various sub-decrees have been issued and one of them requires the set-up of anti-corruption focal points within the institutions-ministries in order to facilitate anti-corruption tasks and especially to develop corruption preventive and anti-corruption plans in the institutions-ministries. Anti-corruption Unit (ACU) is mandated to receive and review all complaints on corruption and take action accordingly.

1.2 National Audit Authority and internal audit departments within the ministries/institutions and other public enterprises:

The National Audit Authority is responsible for executing the external audit function of the Royal Government. The Auditor-General is empowered to conduct audits on accounting records, accounts, management systems, operation controls and programs of government institutions in accordance with generally accepted auditing standards and Royal Government auditing standards. This Law also established the internal audit function in government ministries, institutions, and

public enterprises.

**1.3 Ministry of National Assembly-Senate Relations and Inspection:** Its missions are to lead and control the facilitation task between National Assembly-Senate and inspect in all sectors in Cambodia.

**1.4 Financial Intelligence Unit:** Cambodian Financial Intelligence Unit was established in 2008 as a unit under the control of Cambodian national bank with the administrative characteristic and has played a role as a center for receiving, analyzing, and disseminating the confidential report to law enforcement authority.

+ ACU's procedure for receiving the complaint and further action taken.

1. To open preliminary investigation through the complaints filed to the Unit by all means and it ensures to keep all information confidential as well as to protect the source of information properly. The complaints shall be reviewed and if the clue of corruption is found, the preliminary investigation shall be done by the ACU. In the case that, the clue of corruption is not found, the ACU shall coordinate with the complainant to collect more relevant information in order to come up with the conclusion whether the preliminary investigation shall be opened or not.

2. To open the preliminary investigation based on the information from the source of intelligence.

3. To open preliminary investigation based on the open source of information.

4. All the complaints filed to the ACU shall be reviewed every morning by team of experts of about 20 people in order to study and give comments for action taken against all the complaints filed.

5. When there is a decision requesting for further collecting relevant information or to open preliminary investigation, then that specific case shall be handled to judicial police officials or one particular group in charge of the said case.

+ **The extraction of some articles of some laws stipulates about the organization and functioning of Anti-corruption Institution:**

Law on Anti-Corruption (Promulgated by Royal Kram No. NS/RKM/0410/004 dated 17 April 2010): Article 3 Scope, Article 5 Anti-corruption Institution, Article 6 Establishment of National Council Against Corruption, Article 10 Duties of National Council Against Corruption, Article 11 The establishment of the Anti-corruption Unit, Article 13 Duties of the Anti-corruption Unit, Article 15 Branches of the Anti-corruption Unit, Article 22 Officials competent to investigate corruption offences, Article 25 Investigative power of Anti-corruption Unit, Article 26 Special Privileges of Anti-corruption Unit, Article 27 Privileges of Anti-corruption Unit related to monitoring, Article 28: Privileges of ACU related to freezing an individual's assets, Article 29 Privileges of ACU in cooperation with public authority, Article 31 Procedures at criminal court, Article 40 Obstruction or Interference offenses in the work of the Anti-Corruption Unit.

Law on the Amendment of Anti-Corruption Law (Promulgated by Royal Kram No. NS/RKM/0811/017 dated 01 August 2011): Article 16.- New. Budget and resource of Anti-Corruption Institution

Sub-Decree No. 05 dated 10 January 2011 on the organization and functioning of the Anti-Corruption Unit: Article 28

Sub-Decree No. 06 dated 10 January 2011 on Budget Management and Allocation of Anti-Corruption Unit: Article 2,3,4,5

**2. Please provide information demonstrating the impact of the work conducted by national bodies with mandates in respect of the prevention of corruption.**

- increase of state revenue
- improve public service delivery
- improve the awareness on corruption and increase the public trust on the government
- raise the integrity in the institutions-ministries
- absorb new investments.

**3. Please outline actions required to strengthen or improve the measures described above and any specific challenges you might be facing in this respect.**

- To urge ministries/institutions to eliminate all form of illegal facilitation fee as well as to cooperate with the Ministry of Economy and Finance to issue joint-proclamations to precisely determine the official facilitation fee including the service fee, timeframe needed for the service to be done, and the validity period of the licenses.....
- MOU between ACU and other public and private institutions will be signed in order to ensure swift and effective collaboration
  - o For example, on 9 December 2013, Cambodia Beverage Company Ltd. (Coca Cola), as a model to other private sectors, signed the Memorandum of Understanding on Cooperation with Anti-corruption unit to develop and strengthen collaborative efforts in preventing and combating corruption in Cambodia
- More engagement between ACU and the private sector will be made with the effort to enhance anti-corruption ethics and compliance within the private sector
- Serial workshops on Anti-corruption Law with the judiciary body included judges, prosecutors, and court clerk

**4. Do you require technical assistance in relation to the measures described above? If so, please specify the forms of technical assistance that would be required.**

Cambodia requires to have technical assistance in addition to all the measures mentioned above.

## **II. Article 5 and 7 of the United Nations Convention against Corruption**

Each state party shall also considers taking appropriate legislative and administrative measures, consistent with the objectives of this convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

**1. Please describe the legislative and administrative measures you have taken to prevent corruption in the public sector. In particular, please provide information on measures you have taken to enhance transparency in the funding of candidatures for elected public office and the funding of political parties.**

Some of preventive measures taken by the Anti-Corruption Unit:

In accordance with the Anti-Corruption Action Plan (2011-2013), preventive strategies which have been implementing are:

- a. Elimination of facilitation payment in public service delivery
- b. Establishment and implementation of the assets and liabilities declaration system

- c. Monitoring/observing the process of issuing licenses, contracts, and procurements in the target ministries- institutions
- d. Monitoring/observing the process of the recruitment of civil servants in the ministries/institutions as requested

## **a. Elimination of facilitation payment in public service delivery**

### **1. Overall Aspects**

#### **1.1 Legal Aspect**

- Anti-Corruption Law has come to effect on 02 August, 2011.
- Anti-Corruption Law criminalizes facilitation payment.

#### **1.2 Impact of the law**

The business activity of private sector would face big challenges in its operation and the citizens would also face difficulties in receiving public service deliveries after the law has come into effect as the practice of facilitation payment has been in place in public service deliveries for many years. At the same time, the civil servants would use low salary excuse as far as the facilitation payment is concerned.

#### **1.3 Responses**

##### **(1) Option 1**

- ACU enforces the law for all forms of facilitation fee and this can decrease cases related to the facilitation fee.

##### **(2) Option 2**

- ACU focuses mainly on the prevention and education together with law enforcement (this is appropriate to the current situation of Cambodia).

Option 2 is very necessary in addition to Option 1. The key focus here is to bring in new concept and reform of the Public Service Deliveries.

## **2. The Reform on Public Service Deliveries**

### **2.1 The situation of public services (before reform)**

- Public services and related fees are mostly not appropriate to the current situation, for example, certain fees for certain services were set some 10 to 15 years ago and certain services were never formalized.
- Public institutions are not making their effort to collect revenue for the state (they have not fulfilled their work and services well) even though in some cases the Ministry of Economy and Finance (MEF) promises to offer some cash incentive to them, in practice it is difficult to reimburse such incentive once it is paid to MEF (the process is that all state income has to be sent to the MEF first before it can be reimbursed as incentive).
- No clear procedure or checklist on the standard of services, there was lack of broad dissemination. For example, there is no clear specific duration specified on the services deliveries; there is no existing complaint and resolution based mechanism in each institution.
- Revenue collection and follow up mechanism and the use of national receipt are not effective.

### **2.2 Measures taken**

- Prepare the updated public services at all public institutions by:
  - o advising all concerned public institutions to collect and provide all information related to all sorts of public services, the new proposed fee based on the current practice, the duration needed to provide the service, etc.

- collecting information from the private sector and the public on public services at all concerned institutions for comparative studies
- Prepare clear standard of services; this includes :
  - Clear list of public services with service name, fee, duration, validity and so on
  - Internal complaint mechanism in each institution
  - Displaying the public service list on seeable board at delivery place
  - Creating One Window Service at delivery place
  - Use of national receipt for service delivery
  - Monthly reporting of the service delivery and revenue to the MEF
- Decide on the incentive for revenue collecting from Public Service Deliveries. This must be based on the principle of equity and work contribution. The in-charged institutions are allowed to keep the revenue meant for incentive, while sending the rest to the MEF.
- In the future, the Ministry of Economy and Finance shall study and modify the incentive mechanism to ensure fair benefits for all civil servants.

### **2.3 Results:**

- Out of the 22 ministries/institutions that provide public services, 21 has issued Inter-Ministerial Proclamations (Joint Proclamation/Prakas), attached with their respective public service list as annexes, with the Ministry of Economy and Finance (MEF). The proclamation lays out uniformed service standards and obligations to be met by the implementing ministries/institutions. The uniformed service standards come in the form of clear service fee, duration needed to provide the service and so on. Among the obligations required are the publicizing of the proclamation in all available means; the creation of One Window Service at the service provision place, should it require; the setting-up of the internal complaint resolution mechanism and the reporting of the proclamation implementing to the MEF.
- Concerted commend from the private sector and the public are widespread (though some challenges are still there).

### **3. Challenges:**

While recognizing that the issued proclamations attached with their annexes essentially lay out the foundation for transparent and effective public service delivery in general, it is acknowledged that significantly the level of its effectiveness rest at the implementing ministries/institutions as well as the MEF who will continue to play an important role in monitoring and evaluating of the proclamation implementation. Also, while it is tremendously encouraged to see serious collaborations of various institutions and motivated with the progress that has been made, it is observed that certain implementing ministries/institutions have not fully adhered themselves to the obligations set forth in the proclamations yet.

### **4. Ways forward:**

It is recognized that there remains the continuous need to fine-tuning certain public service features such as the fee, the duration needed to provide such services and more importantly the methodologies used to provide them. Further amendments of the issued proclamation is also needed as long as it is done in a way that truly reflects the technical practicality of the service provision and in a way that it can further ensure transparent and effective public services deliveries. The thorough and in-depth dissemination to competent officials as well as to the public is very necessary and it is for sure more dissemination activities need to be done.

### **b. Anti-Corruption Education (ACE)**

## **I. ACE Plan**

### **1.1 Scope of Work**

Anti-Corruption Unit plans to develop Anti-Corruption Education to be incorporated into the curriculum of:

1. General education (Primary School, Lower and Upper Secondary School)
2. Tertiary Education
3. Various Royal Academies (such as Royal School of Administration, Royal Academy of Judicial Profession, Royal Military Academy, Royal Police Academy and Senior Military School)

### **1.2 Timeframe**

This task is divided into 3 phases over the years (2014-2018):

**Phase 1:** is for students from grades 7 through 12 (**lower and higher secondary level**). Each grade will have 4 units. In general, this phase will focus on developing the pupils to be good and responsible citizens, citizens who will understand what corruption is, its impacts and how to join hand in creating a society where corrupted acts are not tolerated by themselves, by their peers and by the society as a whole.

**Phase 2:** is for pupils of grade 1 through 6 (**primary level**) and students who will do the foundation year of the **tertiary education** (or first year of university life). This phase will focus on building up the foundation for being a good citizen as well as shaping the personality of the young pupils, helping them grow good into the future. As for the university students, they will learn more about what constitute to corruption, its impact, the law in place and the approach towards reducing and eliminating corruption in the society.

**Phase 3:** anti-corruption education will be further streamlined into various subjects and training provided in both formal and informal education system which includes various **Royal Academies**. Extra curricula activities will be initiating also during the implementation of the 3 phases.

### **2. Achievement of Phase 1**

For phase 1, ACU has:

- Designed anti-corruption modules for Upper Secondary School students and teachers by working with Ministry of Education, Youth and Sport. Anti-corruption Student's and Teacher's books for students and teachers in charge of moral education/civic classes from grade 10 to grade 12, which contain 12 modules, has been developed and published (for the first stage: 140,000 ACE Student's Books and 5,000 ACE Teacher's Books were published). The ACE course will be launched in the high school curriculum from the academic year 2014-2015.
- In cooperation with Ministry of Education, Youth and Sport, ACU held the 3-day workshop (25-27 March 2014) to provide the training for selected trainers (around 100 trainers) from all the provinces of Cambodia on the content of ACE modules. The objectives of the workshop are to train the civic teachers or key education staff on the newly developed books which are quite new in concept, content, and teaching style so as to help them further provide the training to all the morality/ civic teachers throughout the country.

- Follow on, Ministry of Education, Youth and Sport and its department in the provinces throughout Cambodia, has organized the training for the selected trainers to impart their knowledge to all the civic/moral education teachers in their respected provinces.

**NB:** ACE book for students can be downloaded from ACU's website: [www.acu.gov.kh](http://www.acu.gov.kh)

### **3. Challenges:**

With the goal, vision, mission and plan are in place and being put into practice, this will require a strong commitment from all stakeholders to do it not just for the sake of doing but doing it for substantive impact. In the meantime, there will be many challenges along the way, among these are the meaningful participation from all relevant stakeholders, making sure that all key players are on board, the developing of the learning and teaching materials, the training of the trainers and so on.

### **4. Ways forward:**

With the close collaboration from Ministry of Education, Youth and Sport, ACE book for high school students will be placed for teaching pilot in the second semester of the academic year 2014-2015.

ACU is also in the process of studying and collecting the documents to design modules for other levels of educational institutions in order to push up the concrete outcomes of the other phases. ACU will continue and strive to get the cooperation from all the stakeholders in this task and especially to facilitate the teaching process to make sure that the goal are reached with efficiency and effectiveness.

#### **c. Establishment and implementation the assets and liabilities declaration system.**

Chapter 4: The Anti-Corruption Law stipulates about the assets and liabilities declaration

Article 17: Persons required to assets and liabilities

Article 18: Regime of declaration of assets and liabilities

Article 19: Suspected non-listed person to declare assets and liabilities

Article 20: Stipulates about the storage and keeping the assets and liabilities declaration documents

Chapter 6: Article 38 stipulates about the punishment of the persons for not declaring his/her assets and liabilities.

Sub-Decree No.05 Sub-Decree on the Organization and the Functioning of the Anti-Corruption Unit, the Article 14 clearly stipulates the role and duties of the Department of Assets and Liabilities Declaration.

#### **d. Monitoring/observing the process of issuing licenses, contracts, and procurements in the target ministries- institutions and the involvement in the monitoring and observing process in the Upper Secondary School Graduates Examination held in early August 2014.**

Although ACU has not brought about any particular and remarkable result in the process of looking into industries with high risk of corruption, it has achieved fruitful result by taking steps to independently observe many bidding activities such as timber bidding process within the forestry sector and fishing lots bidding in the field of fishery as well as at some other various state ministries/institutions aiming to ensure the transparency and minimize all risk of corruption in these sectors. This initiative really shows the transparency and build trust among all the bidders, especially it could attract more companies to join

in the bidding process. Moreover, to contribute to minimizing all negative images and to promoting and strengthening the quality of education in Cambodia, in the event of upper secondary school graduate examination of the academic year 2013-2014, the ACU and Ministry of Education Youth and Sports together with individuals, Civil Society Organizations representatives shall work together to monitor and observe the process of this exam in the 25 capital city and provinces in Cambodia nationwide with the total participation of over 100,000 candidates.

**e. Monitoring/observing the process of the recruitment of civil servant in the ministries as requested.**

So far whenever there is requests made by the concerned ministries/institutions, the ACU always actively involves in monitoring and observing the civil servants recruiting examination process from the stages of organizing the examination committee, exam paper preparation, preparing the list of candidates, preparation of examination room and examination center, the observation and monitoring during the process of the examination, the process of scoring students' examination papers, the calculation of the total scores, oral interview if it is required, till the final and official of the result of the examination is released. This kind of task has made the public, especially the candidates taking part in the examination process build the trust on the institution he/she is trying to compete to get a place in.

**f. Signing an MOU with Cambodia Beverage Company Ltd.**

Working to contribute to promoting the integrity in doing business as well as to draw more participation from the private sector, on National Anti-Corruption Day celebrated on 9<sup>th</sup> December, 2013, the Anti-Corruption Unit and Cambodia Beverage Company Ltd signed an MOU on the cooperation of fighting against corruption aiming to create culture of transparency, integrity, clean in operating its business. It is expected that such MOU of its kind shall lead to more participation from other private companies to sign MOU with the ACU working toward the establishment of a firm and trusted club of MOU in the future.

**g. Measure on political financing:**

Law on Political Parties stipulates the financial source of political parties, oversight the financial reporting of political parties as well as the penalty made in the case of having any violation. However, the financial reporting of political parties are not required to disclose publicly. In addition to this, Law on the Election of Members of National Assembly requires political parties to create a logbook of accounting in order to register all income, revenue sources, and expenses used within electoral campaigns where the National Election Committee can control and monitor this accounting logbook when necessary and in this case the income and expenses shall come from the same account.

1. Law on Political Parties dated 19 December, 1997: Chapter VI on Political Parties' Finances. Article 27, 28, 29 (stipulate about the source of income), Chapter VII: Reporting and Controlling/Inspection. Article 30, 31, 32. Chapter IX: Penalty. Article 38, 39

2. Law on the Election of Members of National Assembly dated 19 December, 1997. Article 81, 82, 83 (stipulates about the creation of the account in order to record all source of income transactions.)

3. Law on the amendment of the Law on the Election of Members of National Assembly promulgating the Royal Kram No. NS/RKM/0902/017 dated 17 September, 2002. New Article 37 (stipulates about the declaration of the bank account and paying the deposit)

4. Royal Kram NS/RKM/0301/05 dated 19 March, 2001 promulgating the Law on Commune/Sangkat Council Election , New article 81 (stipulates on the banning all NGOs or local associations, national and international NGOs operating in Cambodia from donating political parties).

Law on Political Parties dated 19 December, 1996 Chapter 6 stipulates about the political parties' finances

**Article 27:** Shall be considered as finances of a political party, those incomes which are from:

- 1- Contributions or fixed levies from members;
- 2- Incomes of the political party which comes from lawful business activities;
- 3- State's budget as stated in the Article 28 of this law;
- 4- Donation from Khmer private enterprises or Khmer generous persons;
- 5- Political party's own assets.

**Article 28:** The State could allocate the national budget of equal amounts to all political parties, for a purpose of using only in the campaign for election of Representatives of the people (members of parliament). Any political party which fails to receive 3% (three percent) of the total of valid ballots of the whole country or which fails to gain one (1) seat in the Parliament, shall, within a period of 3 months from the date of proclamation of the election final result, pay back such above allocated budget in full amount to the State.

**Article 29:** Political parties shall be banned from receiving contributions of any form from government's institutions, associations, NGOs, public enterprises, public establishments, public institutes or foreign firms, except only for the case as stated in the article 28 of this law.

**Article 30:** All reports and documents related to the accounting, shall be kept files for at least 7 (seven) years and shall give access for control/inspection in accordance with the political party's Statutes, Internal Rules or decision or of the court or of the competent institution.

**Article 31:** Registered political parties shall respectively send reports to the Ministry of Interior and Ministry of Economy and Finance before the 31st of December of every year. The reports shall be signed by the political party's president or treasurer. This report shall contain the following contents and documents:

- 1- Main activities of the Political Party;
- 2- A balance sheet stating of incomes and expenses for the year by category. Such balance sheet shall be prepared by the political party's accountants;
- 3- Statement of bank accounts of the political party;
- 4- Statement of all the assets, including ownership properties or business outcomes and liabilities of the political party.

**Article 32:** The Ministry of Economy and Finance shall be responsible in examining the financial statements specified in paragraphs 2, 3, 4 of the article 31 of this law.

**Article 38:** Shall be subject to a fine penalty in cash of 3,000,000 (three million) riels for any political party which violates the article 31 of this Law. In case of repeated offenses, shall be subject to pay in

double amount of the above fine and, may in addition, be punishable to temporary cease the activities of such political party.

**Article 39:** Shall be subject to a fine penalty in cash of 3,000,000 Riels to 5,000,000 Riels for any political which violates the article 7 and article 29 of this law. In case of repeated offences, shall be subjected to pay in double amount of the above fine and, may in addition, be punishable to temporary cease of the activities of such political party.

**Article 40:** Any political party acting in contrary to the provisions in article 31 of this law shall be fined 3 million Riels. In case of repeated offense, the fine shall be doubled and may result in temporary postponement of all activities of that political party.

#### **Law on Election of Members of the National Assembly dated 19 December 1997**

**Article 81:** All expenses for the electoral campaign incurred by a political party and each candidate shall be covered by that political party or candidate [as its own expenses].

**Article 82:** Every political party that has registered for running in the Election shall have an account book to record the incomes, the source of income and the expenses for the electoral campaign.

The National Election Committee may examine the account book, when there is a necessity.

**Article 83:** All contributions received by the political party shall be deposited in a bank account and all electoral campaign expenses shall be debited from the same account.

#### **Law on the amendment of Law on the Election of Members of the National Assembly promulgated by Royal Kram No.NS/RKM 0902/017 dated 17 September, 2002**

##### **Article 37 (new)**

To officially register the political party running for the Election, a political party shall submit, to the National Election Committee, an application in a form approved by the National Election Committee, no later than seventy (70) days before the polling day, and shall provide the following documents:

- [...] 6. A bank statement indicating the party's bank account in which revenue, including contributions from whatever sources, has been deposited by the political party in any bank in the Kingdom of Cambodia accredited by the National Bank of Cambodia;
10. A receipt for deposit of fifteen million (15,000,000) Riels issued by the National Treasury. This deposit shall be returned to the concerned political party if it receives at least 3 % of the valid votes or it wins one (1) seat in the National Assembly.

#### **Royal Kram No.NS/RKM/0301/05 dated 19 March 2001 promulgating the Law on the Commune/Sangkat Council Election;**

**Article 81 (new)**

Non-Government Organizations or local associations and international associations based in Cambodia are not allowed to do, direct or indirect, any of the following acts:

Provide means as materials, finance, human resources to support any political party, candidate or any supporter.

**2. Please provide the information demonstrating implementation of the measures described above. Please, outline actions required to strengthen or improve the measures described above and any specific challenges you might be facing in this respect.**

Although all political parties in Cambodia so far have not filed any complaints related to all the measures mentioned above, recently all political parties shows their great interest and commitment in the process of the amendment of these important laws.

Anti-Corruption Institution does not have the authority to draft or make amendment of these laws.