

Kingdom of Cambodia

Nation Religion King

CS/RKM/0300/10

KRAM

We,

Preah Bat Samdech Norodom Sihanouk,

King of the Kingdom of Cambodia,

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Kram NS/RKM/0399/01 dated June 08, 1999, promulgating the Constitutional law regarding the amendments to Articles 11, 12, 13, 18, 22, 24, 26, 28, 30, 34, 51, 90, 91, 93 and Articles in Chapter 8 through Chapter 14 of the Constitution of the Kingdom of Cambodia;
- Having seen the Kret NS/RKT/1198/72 dated November 30, 1998 regarding the Appointment of the Royal Government of Cambodia;
- Having seen the Kram 02/NS/94 dated January 20, 1994, promulgating the Law on the Establishment and Organization of the Council of Ministers;
- Having seen the Kram 01/NS/93 dated December 28, 1993, promulgating the Law on Financial System;
- Having seen the Kram NS/RKM/1096/18 dated January 24, 1996, promulgating the Law on the Establishment of the Ministry of Justice;
- Pursuant to the proposal of Samdech Prime Minister and the Senior Minister and Minister of Economy and Finance;

HEREBY PROMULGATES

The Law on Audit of the Kingdom of Cambodia enacted by the National Assembly on the 12th of January 2000 at its plenary session of the second legislature and entirely approved by the Senate on its form and legal concepts on the 21st of January 2000 at its second plenary session of the first legislature and was declared constitutional, except Article 40, by the Constitutional Council and include the following principles and provisions:

LAW ON AUDIT

CHAPTER 1: General Provisions

Article 1:

The purpose of this Law shall be to establish an independent National Audit Authority. The National Audit Authority will be responsible for executing the external auditing function of the Government. The Auditor-General shall be empowered to conduct an audit of transactions, accounts, systems, controls, operations and programs of government institutions, in accordance with generally accepted auditing standards and Government auditing standards.

This Law also provides for the establishment of an internal auditing function in government ministries and public enterprises.

Article 2:

The institutions that are subject to this Law shall include ministries, agencies, authorities of national treasury, and public financial institutions and public financial joint-ventures, public enterprises, public establishments, municipalities, provincial and local government offices, contractors or suppliers of goods and services to the government under contracts, and other organizations that have received financial assistance from the government for their equity and loans, including tax and duty exemptions and concessions granted by the government to non-profit organizations and private investment enterprises.

Article 3:

As used in this Law, an external auditing shall include the undertaking of the following audits:

- (a) Financial statement audits;
- (b) Externally funded loans and project administration audits;
- (c) Audits of ministerial/institution systems and operations;
- (d) Evaluation, procurement, performance audits;
- (e) Audits of non-profit organizations, associations, political parties, private investment enterprises as stipulated in Article 2 of this Law;
- (f) Audits of private investment organizations; and
- (g) Special request audits.

Article 4:

External auditing is an examination or review of the accounting records, systems, operations and controls of government institutions, in accordance with generally accepted auditing standards and government auditing standards in order to ensure that:

- (a) The financial and economic activities are fairly presented in statements and reports;
- (b) Such activities were performed in accordance with generally accepted accounting principles;
- (c) The controls, procedures and practices are adequate to assure compliance with laws, regulations, agreements, systems, contracts, programs and other criteria related to revenues, expenditures and application of government resources.

CHAPTER 2: Types of Audits

Article 5:

An audit of the financial statements and reports of ministries and institutions which form the basis of the government's consolidated financial statement, at the end of each financial year, which shall be prepared by the Ministry of Justice before presentation to the legislative body.

An audit to the accuracy, completeness, authorization, validation and consistency of the financial data appearing on the statements of ministries and institutions and the government's consolidated financial statements.

An audit to the financial statement of public enterprise or authorities comprising of balance sheet, profit and loss statement and statements of accounts forming part of the financial statements. Such audit shall cover the financial statements of business enterprises of the ministries, institutions, and municipalities, provincial and local government agencies.

Article 6:

An audit of the financial statements and reports required by international aid agencies and lenders under the external funding projects. Such audit shall illustrate the appropriateness and accuracy of receipts for drawing and the payments/expenditure for each project enclosed by an illustrated minutes of compliance with the terms and conditions of the loan and project agreements. The audit shall further evaluate achievement of objectives of projects after their completion.

Article 7:

An audit of the system is to form an opinion on the adequacy of controls in the system and process, which is established by an institution that managed such activities and operations.

Article 8:

A functional or crosscutting audits are to ensure that the activities and operations related to a function within government institutions are being conducted in a manner that complies with applicable laws, regulations and policies. Such audits inter alias include public procurement, personnel payroll, contracts, management of public property and travel.

Article 9:

The audits shall be undertaken to assess the government's economy, efficiency and effectiveness of operations and program outcomes. These audits shall include a review or examination of any aspect of any operation public institutions, whether or not it is a financial institution.

Article 10:

The compliance audits shall be undertaken over the operations of non-profit organizations and associations, political parties, which have received financial assistance from the government in the form of exemptions from customs duties, income tax, any form of tax as well as other privileges, and immunities which has not been provided by the law. The objective of such audit is to ensure that the government is not being deprived of revenue associated with the exemptions granted by abuse thereof and that the institution is conducting its affairs within the framework of its purpose.

Article 11:

The compliance audits on private investment enterprises that have received exemptions and/or concessions from the Royal Government of Cambodia to exploit the natural resources in the Kingdom of Cambodia. Such audits will focus on compliance with the agreements and the terms and conditions of the government approvals.

Article 12:

The audits at the request of the Finance and Banking Committee of the National Assembly, National Assembly, Senate or ministries/institutions or authority for a special review of some or all areas of any aspect of their own operations. The implementation of such audits shall be at the discretion of the Auditor-General.

Article 13:

The audits covered in Articles 5 through 12 shall be undertaken by a National Auditor Authority.

CHAPTER 3: The National Audit Authority (NAA)

Article 14:

The National Audit Authority is an independent, public entity and shall report directly to the National Assembly, Senate and to the government for purpose of giving information. One Auditor-General who shall be assisted by two Deputy Auditor-Generals shall govern the National Audit Authority.

Article 15:

In order to accomplish its mission and enforce this Law, the National Audit Authority is empowered to issue decisions, regulations, circulars, and other instructions.

Article 16:

The staff of the National Audit Authority shall have its own separate statute.

Article 17:

The National Audit Authority shall have its own separate budget provided by the National Budget. The revenues and expenditures of the National Audit Authority shall be subject to the Law on Financial System.

CHAPTER 4: Appointment of the Auditor-General

And Deputy Auditor-Generals

Article 18:

The Auditor-General and the two Deputy Auditor-Generals shall be appointed by a Royal Decree at the recommendation of the Government and approved by a two-third-majority vote of the whole National Assembly members.

The appointment of the Auditor-General and the Deputy Auditor-Generals shall be for a term of five (5) years and can be re-appointed upon the expiration of the first term of office for another five-year term with no further reappointment after the second term.

In case of death, resignation, disability, gross mistake of the Auditor-General or the Deputy Auditor-Generals, the new Auditor-General and Deputy Auditor-Generals shall be appointed for such vacancy under the provisions of this law.

The Auditor-General shall have a rank and privilege equivalent to that of a Senior Minister and the Deputy Auditor-General shall have a rank equivalent to that of a Minister.

Article 19:

The candidates for an appointment to be Auditor-General and Deputy Auditor-General must be dignitaries who have:

- Cambodian nationality at birth;
- At least forty (40) years of age;
- Degree of higher education or equivalent degree accounting or economics or finance or law or commerce with a proper certification;
- Professional or working experience at least ten (10) years; and
- No position in the governing body of any political party.

Article 20:

The Auditor-General shall serve as the chief executive officer of the National Audit Authority and be responsible for the execution of its policy, direction and objectives and have an authority to act all matters that are stipulated in this Law.

Article 21:

The Auditor-General shall appoint, replace, and apply sanctions to the civil servants and staff of the National Audit Authority and determine their salaries, fringe benefits, allowance and bonus.

CHAPTER 5: Auditing Reports

Article 22:

The government shall submit the documents of settlement of annual budget to the National Assembly and Senate for their examination and approval, and at the same time the government shall also submit these statements to the National Audit Authority for auditing. The National Audit Authority must certify these statements and report to the National Assembly and the Senate.

Article 23:

If the government failed to submit the statements of settlement budget to the National Audit Authority within a period of nine (9) months after the close of the financial year, the Auditor-General shall report such failure to the National Assembly and Senate.

Article 24:

If at any time it appears to the Auditor-General that any serious irregularities have occurred in the accounting or custody of public moneys or public assets in the entity, the Auditor-General shall immediately bring the matter to the attention of the National Assembly, the Senate and Council of Ministers, Ministry of Justice and the related ministries.

Article 25:

The Auditor-General prepare reports and in accordance with the provisions of this Law or otherwise make general comment upon all matters relating to public accounts, moneys and public assets and liabilities.

Article 26:

Notwithstanding any provision of any other law that relates to audit, where the Auditor-General audits the accounts of any other authority or body he/she shall issue a certificate and reports that he/she thinks necessary for such accounts to the head of that authority or body and to the National Assembly, the Senate and other relevant ministries.

Article 27:

The Auditor-General shall regularly submit a report to the National Assembly and the Senate upon any matter arising out of the performance of duties or the exercise of any of his/her powers under this Law.

Article 28:

In respect of performance audits conducted by the Auditor-General, after preparing a proposed report on an audit, the Auditor-General must give a copy of the proposed report to the head of the government institution. If the head of the government institution gives written comments to the Auditor-General within twenty-eight (28) days after receiving the proposed report, the Auditor-General must consider

those comments before preparing a final report. Otherwise, if the head of such institution has not replied during the time period specified above, the proposed reports shall be considered as the valid reports.

Article 29:

The reports issued by the Auditor-General shall be deemed to be public documents.

CHAPTER 6: Information Gathering Powers

Article 30:

The Auditor-General may, by written notice, direct to the head or representative of the relevant institution to:

- (a) Provide the Auditor-General authorized official with any required information;
- (b) An "authorized official" means an official who is authorized by the Auditor-General, in writing, to exercise powers or perform functions under Chapter 6 of this Law;
- (c) Attend and give evidence before the Auditor-General or an authorized official;
- (d) Produce to the Auditor-General or an authorized official any documents in the custody or under the control of the head or representative of such relevant institution.

Article 31:

The Auditor-General may direct that:

- (a) To provide information either orally or in writing and legally certified as accurate; and
- (b) The Auditor-General has the rights have the information and all submitted evidence certified as true.

Article 32:

The Auditor-General or an authorized official:

- (a) May, at any business hours, enter and remain on any entity to be audited (auditee);
- (b) Shall be entitled to full and free access to any documents, reports or property belonging to such Government ministry/institution;
- (c) May examine, make copies of or take extracts from any document or reports.

Article 33:

Prior to entry or remaining in premises occupied by auditor, an authorized official shall show such auditor the written authorization signed by the Auditor-General. The auditor must provide the authorized official with all reasonable facilities for the effective exercise of the audit.

Article 34:

A person is prohibited from making false statements whether in an oral or written report.

CHAPTER 7: Confidentiality of Information**Article 35:**

If an authorized official has obtained information directly or indirectly in the course of performing a function under this Law, such official must not disclose, divulge or communicate the information except in the course of performing an internal function of the National Audit Authority.

Article 36:

The restriction in Article 35 of this Law shall not prevent the Auditor-General from making, divulging or communicating his/her conclusions, observations or recommendations in any report.

Article 37:

The Auditor-General must not include a detail information in a public report if:

- (a) The Auditor-General is of the opinion that disclosure of such information would be contrary to the public interest for any of the reasons set out Article 38 of this Law; or
- (b) The Royal Government has issued a certificate to the Auditor-General stating that disclosure of the information would be contrary to the public interest for any of the reasons set out Article 38 of this Law;

Article 38:

For the purpose of Article 37 of this Law, the following reasons shall be treated as information that would be contrary to the public interest:

- (a) It would prejudice the security, defense, integrity, or international relations of the Kingdom of Cambodia;
- (b) It would unfairly prejudice the commercial interest of any legal entity or person.

Article 39:

Under Article 37 of this Law, the Auditor-General may decide:

- (a) Not to prepare a report for public disclosure; or
- (b) To omit detailed information from a public report;

However, the Auditor-General shall include the detailed information restricted under Article 37 of this Law into a report to be submitted to the National Assembly, the Senate and or other relevant ministries.

CHAPTER 8: Audit of the National Audit Authority

Article 40:

In case of emergency, the Finance and Banking Committee of the National Assembly shall select an independent Auditor to review the activities and operations of the National Audit Authority.

SECTION 9: The Establishment of Internal Audit Function

Article 41:

An Internal Audit Department shall be established within each ministry and state enterprise. The Internal Audit Department shall report to its head of ministry, institution and public enterprise and shall submit its report and conclusion of each audit assignment to the National Audit Authority. The procedures for the organization and functioning of the Internal Audit Function shall be determined by a Sub-Decree.

Article 42:

Internal Auditing is an independent function to examine and evaluate the effectiveness, economy and efficiency of the systems of internal controls established within the institution, ministry and enterprise.

Article 43:

Internal Control System is a process effected by government and management body within the institution, ministry and public enterprise, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (a) Effectiveness of operations;
- (b) Reliability of financial reporting; and
- (c) Compliance with applicable laws, regulations, policies, procedures, and arrangements

SECTION 10: Penalties

Article 44:

Regardless of any other possible penalties, any person who violates Articles 31 or 33 of this Law shall be liable to a fine from one million (1,000,000) Riel to five million (5,000,000) Riel or imprisonment for a term from one (1) to three (3) months or both.

Article 45:

Regardless of any other possible penalties, any person who violates Article 34 of this law shall be liable to a fine of five millions (5,000,000) Riel or more or imprisonment for a term from one (1) to five (5) years or both.

SECTION 11: Final Provisions

Article 46:

All provisions contrary to this Law shall be abrogated.

Article 47:

This Law is declared to be urgent.

The National Assembly of the Kingdom of Cambodia adopts this on January 12, 2000 at its third session of the second legislature.

Phnom Penh, January 13, 2000

President of the National Assembly: **Norodom Ranaridh**