



No. NS/RKM/ 0508/ 015

ROYAL DECREE

We

Preahkaruna Preahbat Samdech Preah Boromneath Norodom Shihamoni Samanphoum Cheatsasna Rakhatkhateya Khemrarotheas Puthinthreathoreamohaksat Khemreachnea Samohopheas Kampuchekreachroathboranaksanti Sopheak Mongkolea Sereyvibolea Khemarasreypireas Preah Chau Krong Kampuchea Thipdey

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/0704 /124 of July 15, 2004 on the appointment of the Royal Government of the Kingdom of Cambodia;
- Having seen Royal Decree No. 02/NS /94 of July 20, 1994 enacting the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Royal Decree No. NS/RKM /0196 /13 of January 24, 1996 enacting the Law on the Establishment of the Ministry of Agriculture, Forestry and Fishery;
- Having seen the proposals of Samdech Akka Moha Sena Padei Techo Hun Sen, the Prime Minister of the Kingdom of Cambodia and the Minister of Agriculture, Forestry and Fisheries;

Hereby enact

The Law on Seed Management and Plant Breeder's Right which was adopted by the National Assembly on April 8, 2008 during the seventh plenary session of its third legislature and ratified by the Senate as to its entire form and legality on April 29, 2008 during the fourth plenary session of its second legislature, the whole meaning of which shall be as follows:

**LAW
ON
SEED MANAGEMENT
AND
PLANT BREEDER'S RIGHT**

CHAPTER 1 GENERAL PROVISIONS

Article 1.-

The purpose of this Law is to manage and control the breeding, release for use, production, processing, registration, distribution, import and export of seeds and to protect new plant varieties in the Kingdom of Cambodia.

Article 2.-

The purpose of the Law is to secure the management and sustainable development of varieties and to encourage the development thereof for social, economic, and environmental benefits.

Article 3.-

This Law shall cover all plant varieties, including existing and new plant varieties, with the exception of those covered by other relevant laws.

Article 4.-

The grant of protection of new plant varieties shall be determined by the Ministry of Industry, Mines and Energy.

All seed shall be managed by the Ministry of Agriculture, Forestry and Fishery.

Article 5.-

The key terms used in the present Law are defined in the annex thereto.

CHAPTER 2 NEW PLANT VARIETY PROTECTION

SECTION 1 CONDITIONS FOR THE GRANT OF PLANT BREEDER'S RIGHT

Article 6.-

A plant variety shall be protected if it satisfies the following criteria:

- novelty;
- distinctness;
- uniformity;
- stability.

Article 7.-

A variety shall be deemed to be new if, at the date of filing of the application for a plant breeder's right, it has not been sold or otherwise marketed, by or with the consent of the breeder, in the Kingdom of Cambodia for more than one year, or more than six years in the case of trees or of vines, or more than four years for all other varieties outside the

Kingdom of Cambodia.

Article 8.-

A variety shall be deemed to be distinct if it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of filing of the application or from the priority right date.

Article 9.-

A variety shall be deemed to be uniform if it is sufficiently uniform in its relevant characteristics, regardless of whether it is reproduced sexually or asexually.

Article 10.-

A variety shall be deemed to be stable if its relevant characteristics remain unchanged at the end of each cycle of propagation and in each generation.

**SECTION 2
SCOPE AND VALIDITY OF PLANT BREEDER'S RIGHT**

Article 11.-

A natural person or legal entity who has bred, discovered and developed a variety and is seeking protection in the form of plant breeder's right shall file an application with the Ministry of Industry, Mines and Energy, which shall transmit said application to the Ministry of Agriculture, Forestry and Fishery for technical tests in accordance with the provisions of the Law.

Following receipt of the results of the technical tests carried out by the Ministry of Agriculture, Forestry and Fishery, the Ministry of Industry, Mines and Energy shall issue a new plant variety protection certificate.

Article 12.-

The Ministry of Industry, Mines and Energy, the competent authority concerning the registration of varieties, shall have the following duties:

- 1- granting protection in the form of plant breeder's right;
- 2- changing right owners;
- 3- declaring nullity and cancellation;
- 4- receiving applications and changing or cancelling variety denominations;
- 5- issuing compulsory licenses; and,
- 6- recording licensing contracts.

Article 13.-

Applicants for plant breeder's right shall be:

(a) Cambodian nationals, or, in the case of foreign applicants, domiciled in the Kingdom of Cambodia; or,

(b) habitually resident in a Contracting Party of UPOV or in any State that has concluded a reciprocal Memorandum of Understanding (MoU) with the Kingdom of Cambodia.

Article 14.-

Plant breeder's right owner shall be entitled to assign or transfer his right. The assignment or transfer to a natural person or legal entity shall be made in writing, signed by the relevant parties, and shall be recorded at the Ministry of Industry, Mines and Energy, which shall inform the Ministry of Agriculture, Forestry and Fishery.

Article 15.-

Any production or reproduction, conditioning for the purpose of propagation, offering for sale, selling or marketing, importing and exporting, stocking of a variety or protected material shall require the right owner's authorization.

The right owner may authorize the use of his variety subject to certain conditions or limitations.

Any unauthorized exploitation and use of harvest material, referred to in paragraph 1 of this Article, shall require the authorization of the right owner.

The right owner has a reasonable period of time to exercise his right. When the right owner is aware of unauthorized use and exploitation but fails to exercise his right, he shall lose his appeal right.

The scope of plant breeder's right shall also cover varieties:

- which are essentially derived from the protected variety;
- which are not clearly distinguishable from the protected variety;
- whose production requires the repeated use of the protected variety.

Article 16.-

The scope of plant breeder's right shall not cover:

- 1- acts done for experimental purposes;
- 2- acts done privately and for non-commercial purposes; and,
- 3- acts done for the purpose of breeding other varieties, except where paragraph 4 of Article 15 of the present Law applies.

Subject to the safeguarding of the legitimate interests and limits of plant breeder's right, the Ministry of Industry, Mines and Energy may, in cooperation with Ministry of Agriculture, Forestry and Fishery, set forth provisions restricting the plant breeder's right in order to enable farmers to produce and use for the purpose of propagation, on their own holdings, the products of the harvest which they have obtained by planting the protected variety.

Article 17.-

Plant breeder's right shall not extend to acts concerning any material of the protected variety, or of a variety covered by the provisions of paragraph 4 of Article 15, which has been sold or marketed by the breeder or with his consent in the Kingdom of Cambodia. Plant breeder's right shall cover cases where any material of or derived from the protected variety has been used for further propagation of the variety in question, or has been exported to enable the propagation of the variety, into a country which does not protect the

variety, except where the exported material is for final consumption purposes.

Article 18.-

During the exercise period, and as required by the competent authority, the right owner shall furnish said authority with a sample of the propagating material which has the same characteristics as those stated in the application.

In order to maintain his variety and to facilitate inspection by the competent authority, the right owner shall also be required to provide any available information concerning the variety.

Article 19.-

The period of protection shall be 20 years from the date of the grant of the breeder's right, and 25 years for varieties with special characteristics, such as trees and vines.

**SECTION 3
TERMINATION, NULLITY AND CANCELLATION**

Article 20.-

Plant breeder's right may be terminated prior to the expiration date on the condition that the right owner renounces his right in a written notification to the Registrar of the Ministry of Industry, Mines and Energy.

The termination date shall be specified in the notification or, in absence thereof, said date shall be the date of receipt of the notification by the Registrar.

Article 21.-

The Registrar shall declare the plant breeder's right to be null and void if it is found that:

- 1- the conditions laid down in Articles 7 or 8 of the present Law were not complied with at the time of the grant of plant breeder's right,
- 2- based upon the information and documents provided by the breeder, the conditions laid down in Articles 9 or 10 of the present Law were not complied with at the time of the grant of plant breeder's right,
- 3- plant breeder's right has been granted to a person who is not entitled to it.

Article 22.-

The Registrar shall cancel plant breeder's right in the following cases:

- 1- the conditions laid down in Articles 9 or 10 of the Law are no longer fulfilled;
- 2- plant breeder's right does not comply with the requirement(s) of the Registrar by failing to:
 - a- provide information, documents, or material deemed necessary for verification purposes;
 - b- pay fees to the Authority to maintain his right; or,
 - c- propose another suitable denomination in cases where the denomination of the variety is cancelled.

SECTION 4 FILING OF APPLICATIONS AND RIGHT OF PRIORITY

Article 23.-

Applications for the protection of a new variety shall be filed with the Registrar in the prescribed form.

Applicants shall provide the required information, documents or material, on the date and at the place determined by the Registrar.

After the fee is paid, applications shall be date-stamped by the Registrar.

Application forms, documents and material shall be determined by decision of the Minister of Industry, Mines and Energy.

Article 24.-

Applicants may enjoy a right of priority for the first application which has been duly filed in a foreign country, for the purposes of filing an application for the same variety with any Contracting Party to the International Union for the Protection of New Varieties of Plants.

In cases of multiple applications in various countries, the right of priority shall be granted to the first application.

Applicants shall clearly claim the right of priority in the application submitted to the Registrar and shall enjoy the right for a period of 12 months from the filing date of the first application.

Article 25.-

In order to benefit from the right of priority, applicants shall provide, within a period of three months from the filing date in the Kingdom of Cambodia, a copy of the documents contained in the first application, certified by the Office with which that application was filed.

Upon request, the Registrar shall grant applicants additional and appropriate time to provide any necessary information, documents or material.

In cases where the Registrar finds that the requirements contained in paragraph 1 of this Article have not been fulfilled, the claim for the right of priority shall be deemed to be void.

SECTION 5 VARIETY DENOMINATIONS AND THEIR USE

Article 26.-

Applicants shall denominate varieties in accordance with the provisions contained in this Section.

A variety denomination shall be deemed to be unsuitable where it:

- a- cannot be identified;
- b- consists solely of figures, except in cases where those figures enable identification of the variety;
- c- is liable to mislead the public or to cause confusion concerning the characteristics, value or identity of the variety or the breeder's identity;
- d- is similar to an existing denomination used for the same species in the Kingdom of Cambodia or any other Contracting State;
- e- is similar to the denomination of a granted variety.

Only denominations designated or registered in the Contracting States shall be proposed or registered in the Kingdom of Cambodia, except where the denomination is unsuitable in terms of the culture of the Kingdom of Cambodia. In such cases, the Registrar shall require the applicant to submit another denomination.

Article 27.-

The person(s) exploiting a protected variety in the Kingdom of Cambodia shall be obliged to use the registered denomination of that variety, even after the expiration of plant breeder's right, except where any prior right prevents such use.

When the variety is exploited, a trademark, trade name or any other similar indication may be associated with the registered variety denomination.

Article 28.-

Registered variety denominations deemed to be inappropriate for registration shall be cancelled by the Registrar. In such cases, the right owner shall propose another suitable denomination.

Article 29.-

The following acts shall be prohibited:

- the exploitation of a protected variety in the Kingdom of Cambodia with no intention to use the registered denomination;
- exploitation involving a party or parties knowingly using the denomination of a protected variety in the Kingdom of Cambodia to refer to another variety of the same species.

SECTION 6

EXAMINATION OF APPLICATIONS AND PUBLICATION

Article 30.-

The Registrar shall examine applications to determine whether they fulfill the requirements of novelty, distinctness, uniformity and stability. Where these requirements are not fulfilled, the Registrar shall reject the application.

As a part of the examination of distinctness, uniformity and stability, the Registrar shall transmit the application to the Ministry of Agriculture, Forestry and Fishery for technical tests.

If the result of the technical tests is positive and if the proposed denomination is eligible for protection, the Registrar shall grant the certificate of protection and publish it in the Official Bulletin.

If it is found that the denomination is not eligible for protection, the Registrar shall require the applicant to propose another denomination within a period not exceeding 3 (three) months. If the applicant fails to comply with this requirement, the application shall be rejected.

When the certificate is granted, the right owner shall be entitled to equitable remuneration from the acts specified in paragraph 1 of Article 15 of the present Law, from the publication date of the application to the date of grant of the right.

Article 31.-

The Ministry of Industry, Mines and Energy shall publish the necessary information concerning the new plant variety protection in the Official Bulletin.

**SECTION 7
OPPOSITION AND APPEAL**

Article 32.-

Any interested person may file an opposition against new plant variety protection with the Registrar within a period of 3 (three) months from the date of publication of the results of the examination of the relevant application.

Article 33.-

Any person who does not agree with the decision of the Registrar to grant a new plant variety protection may lodge an appeal against this decision with the Ministry of Industry, Mines and Energy.

**SECTION 8
LICENSES AND COMPULSORY LICENSES**

Article 34.-

Applicants or the right owners of new plant varieties shall be entitled to grant to other natural persons or legal entities an exclusive or non-exclusive license concerning all or part of the rights provided by the Law.

Article 35.-

Any natural person or legal entity may request the Minister of Industry, Mines and Energy and the Minister of Agriculture, Forestry and Fishery to grant a compulsory license to use a new plant variety on the grounds that it is necessary to protect the public interest of the Kingdom of Cambodia. In such cases, the licensee shall pay adequate remuneration to the right owner.

**SECTION 9
REGULATIONS AND PAYMENT OF FEES**

Article 36.-

Regulations implementing Chapter 2 of the present Law shall be established by Orders of the Minister of Industry, Mines and Energy and of the Minister of Agriculture, Forestry and Fishery.

Article 37.-

Any natural person or legal entity who applies for a new plant variety protection certificate shall pay an administrative registration fee and an annual fee to maintain the right(s) to the Ministry of Industrial, Mines and Energy.

Any natural person or legal entity who requests that technical tests concerning new plant varieties be conducted shall pay a technical service fee to the Ministry of Agriculture, Forestry and Fishery.

The administrative registration fee, the annual fee and the technical service fee as set forth in paragraphs 1 and 2 shall be set by joint Orders of the Minister of Economy and Finance, the Minister of Industry, Mines and Energy and the Minister of Agriculture, Forestry and Fishery.

**SECTION 10
REPRESENTATIVES**

Article 38.-

Applications may be filed by the breeders themselves, or by their representatives.

Where an applicant's permanent residence or principal place of business is located outside the Kingdom of Cambodia, he shall be represented by an agent residing and practicing in the Kingdom of Cambodia.

Representatives applying for the registration of new plant varieties in the Kingdom of Cambodia shall be sufficiently qualified and shall fulfill the requirements set forth in the joint Orders (Prokas) of the Minister of Agriculture, Forestry and Fishery and of the Minister of Industry, Mines and Energy.

**CHAPTER 3
SEED MANAGEMENT**

**SECTION 1
NATIONAL LIST OF VARIETIES**

Article 39.-

The Ministry of Agriculture, Forestry and Fishery shall prepare a national list of varieties that shall include both existing and new plant varieties.

Article 40.-

Existing varieties may be included in the national list of varieties on the condition that they:

- 1- have a specific denomination, in order to avoid confusion with other registered varieties and to ensure that the public is not misled as to the characteristics of the variety;
- 2- retain their original denominations where the varieties are imported from foreign

countries;

3- are distinct from the denominations of registered varieties;

4- possess characteristics that are sufficiently uniform and that make it possible to identify them;

5- are the subject of field tests that give satisfactory results and that are carried out by a laboratory, specialized institute, or public or private research institution which provides technical services and which is recognized by the Ministry of Agriculture, Forestry and Fishery.

SECTION 2 SEED QUALITY CERTIFICATE

Article 41.-

Any natural person or legal entity intending to produce seed for sale shall apply to the Ministry of Agriculture, Forestry and Fishery for a seed quality certificate.

Model forms and procedures to grant the certificate shall be determined by Order of the Minister of Agriculture, Forestry and Fishery.

The fee for granting the certificate shall be determined by joint Order of the Minister of Agriculture, Forestry and Fishery and of the Minister of Economy and Finance.

SECTION 3 EXPLOITATION OF SEED

Article 42.-

Permits for the exploitation of seed shall be issued by the Ministry of Agriculture, Forestry and Fishery.

Permits may only be transferred to another person or persons with the agreement of the Ministry of Agriculture, Forestry and Fishery.

Article 43.-

Laboratories wishing to exploit seeds shall employ an agronomist(s) recognized by the Ministry of Agriculture, Forestry and Fishery.

Article 44.-

No person or legal entity shall market, sell or offer for sale any seed which:

1- is not packed, is incorrectly packed or is labeled with counterfeit labels;

2- has passed the expiry date of the relevant variety;

3- does not comply with the information indicated on the packaging or labeling;

4- does not bear the labeling required by law, or bears counterfeit or damaged labeling.

The information indicated on the packaging or the labeling shall be determined by Order of the Minister of Agriculture, Forestry and Fishery.

SECTION 4 SEED QUALITY CONTROL

Article 45.-

Seed approved for exploitation in the Kingdom of Cambodia shall be of good quality and shall be tested or grown by a specialized institute, or a public or private research institution which provides technical services and which is recognized by the Ministry of Agriculture, Forestry and Fishery.

Article 46.-

Seed testing, sampling, classification, standardization and seed quality control procedures shall be determined by Order of the Ministry of Agriculture, Forestry and Fishery.

Article 47.-

Seed which gives rise to test results that do not meet the relevant standards shall be re-classified under the supervision and evaluation of the Ministry of Agriculture, Forestry and Fishery. Such seed cannot be put on sale.

Article 48.-

Seed producers and sellers shall have a responsibility towards consumers concerning the quality of the seed, in line with the information indicated on the packaging or labeling.

Article 49.-

In cases where the seed user questions the authenticity of the seed, the user may request written certification from the Ministry of Agriculture, Forestry and Fishery.

Complaints about seed quality shall be filed within 30 days from the purchasing date but prior to the seeding, propagation or growing date. Complaints about the characteristics or a change in genotype shall be filed between the purchasing date and the harvesting date.

The complaint procedure shall be determined by Order of the Minister of Agriculture, Forestry and Fishery.

Article 50.-

The Ministry of Agriculture, Forestry and Fishery shall be empowered to suspend, withdraw or cancel exploitation licenses and seed quality certificates in the following cases:

- 1- following research results establishing that use of the seed causes serious harm to humans, animals and the environment;
- 2- the exploited seed is of a different quality from that which is indicated on the seed quality certificate or on the packaging or labeling;
- 3- the holder of the exploitation license and the seed quality certificate does not comply with the requirements set forth by the Ministry of Agriculture, Forestry and Fishery.

CHAPTER 4

IMPORT, EXPORT AND TRANSIT

SECTION 1

IMPORT AND EXPORT

Article 51.-

The exporting, importing, testing and study of seed, as well as experimentation on

seed, shall require authorization from the Ministry of Agriculture, Forestry and Fishery.

The transfer of an export/import permit to another person or persons shall also require authorization from the Ministry of Agriculture, Forestry and Fishery.

Article 52.-

All seed-importing natural persons or legal entities shall:

- 1- submit proper notification of goods;
- 2- obtain a seed quality certificate issued by the authority of the exporting country;
- 3- obtain an import permit issued by the Ministry of Agriculture, Forestry and Fishery;
- 4- notify the Ministry of Agriculture, Forestry and Fishery at least 10 working days before the arrival of the seed at the border of the Kingdom of Cambodia;
- 5- comply with the phytosanitary requirements of the Kingdom of Cambodia.

Article 53.-

The importing of contaminating seed into the Kingdom of Cambodia shall be strictly prohibited.

The list of contaminating seed shall be determined by the Minister of Agriculture, Forestry and Fishery.

Article 54.-

The Ministry of Agriculture, Forestry and Fishery shall be empowered to withdraw export/import permits and to halt the export/import of seed should it find that said seed fails to comply with seed quality standards

Article 55.-

Seed-related products imported for industrial use or for other purposes shall not be used as seed.

Article 56.-

All natural persons or legal entities exporting seed shall:

- 1- submit proper notification of goods;
- 2- obtain an export permit issued by the Ministry of Agriculture, Forestry and Fishery;
- 3- notify the nearest phytosanitary agent at least one working day before the arrival of the seed at the border of the Kingdom of Cambodia;
- 4- obtain a seed quality certificate;
- 5- comply with the phytosanitary requirements of the importing country.

Article 57.-

Where it is justified by national or public interest, the Minister of Agriculture, Forestry and Fishery shall be empowered to stop, temporarily or permanently, the export of seed from the Kingdom of Cambodia.

SECTION 2 TRANSIT

Article 58.-

All natural persons or legal entities wishing to transport seed across the Kingdom of Cambodia shall:

- 1- submit proper notification of goods;
- 2- obtain a seed quality certificate issued by the authority of the exporting country;
- 3- notify the Ministry of Agriculture, Forestry and Fishery at least five working days before the arrival of the seed at the point of import on the border, indicating the date and the point of export;
- 4- ensure the quality and safety of the seed packaging, seed storage facilities and the sanitation of transport vehicles;
- 5- ensure that no phytosanitary pests or hazardous components are transported which may be spread during transit.

Article 59.-

During transit, if the safety seal is broken, or the container or packaging is damaged, the variety owner or his representative shall promptly report to the nearest phytosanitary agent and relevant authority in order to enable appropriate actions to be taken.

Article 60.-

The phytosanitary agent shall inspect the sanitation of transport vehicles, external means of storage and the exporting country's seed quality certificate, as well as other certificates, and shall facilitate further transportation.

CHAPTER 5 THE NATIONAL FUND FOR SEED DEVELOPMENT

Article 61.-

The Royal Government of Cambodia shall establish a fund called "The National Fund for Seed Development", an administrative public establishment, aimed at supporting seed research and development of seeds for the improvement of agricultural productivity.

The National Fund for Seed Development shall be under the technical control of the Ministry of Agriculture, Forestry and Fishery.

Article 62.-

The National Fund for Seed Development shall be financed from the following sources:

- 1- donations, funds or other contributions of the Royal Government for seed research and development of seeds;
- 2- donations from charities, associations, non-governmental organizations (NGOs), international organizations and development partners;
- 3- transitional fines for seed offenses;

4- other fees from the seed sector.

The budget and all income of the National Fund for Seed Development shall be deposited into the National Fund for Seed Development's account.

Article 63.-

The National Fund for Seed Development's budget may be allocated to the following activities:

- 1- research concerning seed selection;
- 2- seed experimentation, testing and breeding;
- 3- Seed technology dissemination, education and training;
- 4- membership of relevant international or regional organizations.

The Royal Government shall encourage natural persons or legal entities who develop, improve, or create genetic resources, and who endeavor to conserve, produce, experiment on, test, select, release for use and process seed.

CHAPTER 6 SEED INSPECTOR

Article 64.-

The Seed Inspector of the Ministry of Agriculture, Forestry and Fishery shall have the competences and duties of a judicial police officer and agent.

The accreditation form and procedure for judicial polices and agents shall be determined by joint Order of the Ministers of Justice and of Agriculture, Forestry and Fishery as provided for in Article 82 of the Criminal Procedure Code of the Kingdom of Cambodia.

Article 65.-

The Seed Inspector shall be empowered to:

- 1- monitor and inspect on a regular basis all types of exploitations and activities relating to seed in the Kingdom of Cambodia;
- 2- inspect all seed exploitation locations, warehouses, factories, and enterprises, including farms which are/may be linked to activities that contravene the present Law;
- 3- seize and remove for testing any seed samples suspected of violating the Law;
- 4- require business persons to show relevant permits or other documents concerning seed exploitation;
- 5- temporarily confiscate all types of permits or relevant documents where a permit holder has committed an offense against the present Law;
- 6- in cases of flagrante delicto, have the right to halt vehicles or the operations of seed storage facilities in order to examine and temporarily confiscate evidence and the means used to commit any offense, and shall report to the Office of the Prosecutor.

Article 66.-

Phytopsanitary agents shall have the authority and right to carry out their duties at national, international and bilateral land and maritime port border checkpoints throughout the Kingdom of Cambodia.

Article 67.-

The local authorities at all levels, armed forces, customs and excise, airport and port offices, and other relevant authorities shall co-operate in the uncovering, prevention and suppression of seed offenses and in the temporary storage of evidence relating to seed offenses upon request by the Seed Inspector.

Article 68.-

When on duty, the Seed Inspector shall wear a uniform and insignia and shall carry a letter stating his mission.

The uniform and insignia of the Seed Inspector shall be determined by Sub-decree.

**CHAPTER 7
PENALTIES**

SECTION 1

OFFENSES AGAINST THE PROTECTION OF NEW VARIETIES OF PLANTS

Article 69.-

All complaints arising from the implementation of Chapter 2 of the present Law and relevant regulations shall be lodged with the Plant Varieties Registrar.

Before exercising his mandate granted by the Law and regulations, the Registrar shall provide the parties with the opportunity to be heard before him.

Article 70.-

Right owners of new plant varieties may lodge a complaint with the competent court requesting that damages be paid, according to the following procedures:

- by filing a civil action or seeking provisional measures to prohibit the infringement or further infringement(s) of plant breeder's right;
- by requesting that fines be imposed, or that the variety infringing plant breeder's right be seized or destroyed; and,
- by requesting compensation.

Article 71.-

Any individual making a false statement in any document filed for the protection of new plant varieties shall be guilty of an offense punishable by a fine of between 1 million and 5 million Riels, or by a period of imprisonment of one to six months, or by both a fine and a period of imprisonment. Re-offenders shall have their previous sentences doubled.

Article 72.-

Any individual who knowingly commits an act which constitutes an infringement of plant breeder's right, as defined in Article 15 of Chapter 2 of the present Law, shall be guilty of an offense punishable by a fine of between 5 million Riels and 20 million Riels, or by a period of imprisonment of one to five years, or by both a fine and a period of imprisonment. Re-offenders shall have their previous sentences doubled.

Article 73.-

Where an individual is found guilty under the present Section of this Law, a competent court may order the seizure, for the State, or the destruction of, the infringing varieties, evidence, material and instruments used to commit the offense.

**SECTION 2
OFFENSES RELATED TO SEED EXPLOITATION**

Article 74.-

Penalties for any individual who commits an offense related to seed exploitation shall include: transitional punishment; confiscation, seizure and/or destruction of any evidence; payment of compensation following the issuing of an award for damages; the confiscation or suspension of the exploitation license, seed import/export permits and the seed quality certificate; fines and imprisonment.

Transitional punishment for an offense related to seed exploitation, the detention of evidence, the confiscation or suspension of the relevant seed exploitation license and import/export permits and the seed quality certificate shall be carried out under the authority of the Ministry of Agriculture, Forestry and Fishery.

Where the infringer does not comply with the decision of the authority as defined in paragraph 2 of the present Article, the Ministry of Agriculture, Forestry and Fishery shall lodge a complaint with the courts.

The seizure and destruction of evidence, payment of compensation, fines and imprisonment shall fall within the competence of the courts.

Article 75.-

The procedure for determining transitional punishment and the market value of the seed that may serve as a basis for the application of the transitional punishment shall be determined by Order of the Minister of Agriculture, Forestry and Fishery.

Article 76.-

Any fines collected shall be re-distributed to State inspectors who have met their targets, and the budget for the National Fund for Seed Development shall be determined by joint Order of the Ministers of Agriculture, Forestry and Fishery and of Economy and Finance.

Article 77.-

Holders of seed exploitation licenses and export/import permits who transfer their rights to others, without prior consent from the Ministry of Agriculture, Forestry and

Fishery, shall have their licenses/ permits suspended for a period of one year.

In the case of repeat offenses, the seed exploitation license or export/import permit shall be permanently confiscated, and transitional punishment shall be applied in accordance with Article 78 of the present Law.

Article 78.-

A fine of 500,000 Riels to 5 million Riels shall be imposed on any individual who:

- 1- does not regulate, in accordance with the Law, seed which has been registered within a period of six months from the entry into force of the present Law;
- 2- does not employ an agronomist recognized by the Ministry of Agriculture, Forestry and Fishery to work in his laboratory on a regular basis;
- 3- exports, imports or transits seed:
 - without submitting a proper notification of goods;
 - without notifying the Ministry of Agriculture, Forestry and Fishery;
 - without promptly reporting to a phytosanitary agent to enable appropriate action to be taken, during transit, where the safety seal is broken, the container is torn or the packaging is damaged;
 - does not comply with phytosanitary requirements;
 - does not properly pack the seed, or causes the packaging or labeling to be damaged.

For repeat offenses, transitional punishment shall be doubled or the case may be submitted to the competent court.

Article 79.-

Transitional punishment shall be doubled according to the market value of evidence, for any individual who:

- 1- exploits or imports seed for testing without the authorization of the Ministry of Agriculture, Forestry and Fishery;
- 2- exploits seed without obtaining a seed quality certificate;
- 3- uses as seed imported products destined for industries, consumption or other purposes or processes the products and then uses them as seed,
- 4- exports or imports seed:
 - without authorization from the Ministry of Agriculture, Forestry and Fishery;
 - without obtaining a seed quality certificate.
- 5- transports seed without the seed quality certificate issued by the competent exporting country;
- 6- exploits or markets seed which:
 - is not of the quality indicated on the packaging or labeling;
 - has passed its use-by date;
 - is not labeled in accordance with the Law.

For repeat offenses, the transitional punishment shall be doubled and the seed exploitation license, export/import permit or seed quality certificate shall be revoked, or the case shall be submitted to the courts for determination.

Article 80.-

Any individual who:

- 1- imports contaminating seeds into the Kingdom of Cambodia;
- 2- exports varieties the subject of a State export ban when they are needed in the Kingdom of Cambodia;
- 3- counterfeits seed quality.

shall be imprisoned for a period of one month to one year and/or shall be fined from 5 million Riels to 10 million Riels, and his permits and seed quality certificate shall be revoked; the evidence or the variety or seed shall be destroyed or seized as a State asset.

For repeat offenses, punishment shall be doubled when any breach of the present Law harms public health or damages the agricultural environment, independently of any civil liability.

**SECTION 3
OFFENSES COMITTED BY OFFICIALS**

Article 81.-

Any inspector or officer who is negligent, careless, or violates the provisions of the present Law shall be subject to the imposition of administrative sanctions and/or shall be prosecuted.

Any inspector or officer who conspires with offenders, or facilitates, either directly or indirectly, the committing of an offense shall be punished as an offender.

**CHAPTER 8
TRANSITIONAL PROVISION**

Article 82.-

Any seed which is granted a seed quality certificate and exploitation license under another provision shall comply with and be regulated by the Law within a period of six months from date of entry into force of the Law.

**CHAPTER 9
FINAL PROVISIONS**

Article 83.-

Any provisions which are contrary to the present Law shall be repealed.

Article 84.-

This Law is declared to be urgent.

The Royal Palace, Phnom Penh, May 13, 2008
Royal Signature

NORODOM SIHAMONI

Has informed to His Majesty the King for Royal Signature
Prime Minister

Signature

SAMDECH AKKA MOHA SENA PADEI TECHO HUN SEN

Has informed to Samdech Akka Moha Sena Padei Techo Hun Sen
Prime Minister of the Kingdom of Cambodia
Minister of Agriculture, Forestry and Fishery
Signature

CHAN SARUN

Phnom Penh, May 20, 2008

ANNEX

TERMINOLOGY

A- Seed Processing

“seed processing” means drying, cleaning, processing and packing the seed for sale.

B- Transit

“transit” means the transportation of seed across the territory of the Kingdom of Cambodia. Transit does not include unloading, stopping to upload the goods to the warehouse, opening the package or changing of vehicles.

C- Seed Inspection

“seed inspection” means control of seed quality and analysis of seed samples, research, and the uncovering and prevention of offenses related to seed.

D- Seed Testing

“seed testing” means experimentation conducted in the field and analysis of seed quality in a laboratory.

E- Release

“release” means making seeds available for public use following approval by the technical evaluation committee.

F- Container

“container” means any instrument used to load goods for transportation.

G- Seed Quality

“seed quality” means the technical criterion of a seed(s) which include: moisture content, germination capacity, purity, seed health, etc.

H- Seed Marketing

“seed marketing” means the sale, purchase, distribution and storage of seeds.

I- Registration Department

“Registration Department” means the Department of Industrial Property of the Ministry of Industry, Mines and Energy.

J- Gene

“gene” means a group of chromosomes which form a reproductive unit and which are able to transmit genetic information from one generation to another or from parents.

K- Variety

“variety” means any plant grouping within a single botanical taxon which is defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of one of the said

characteristics, and considered as a unit with regard to its suitability for being propagated unchanged.

L- Seed

“seed” means a gamete (mature ovule) consisting of embryonic parts, nutrients and seed-protecting coat, or a propagated organ being used for sowing, propagating or planting for crop production even if it is sexually or asexually reproduced. Seed includes all seed classifications or reproductive organs (food, fuel and animal feed crops, as well as crops for use in industry and flowers or other ornamental crops) and also includes seedlings, tubers, roots, cuttings and grafting material which are micro-breeding, and other organically-bred organs.

M- Existing Variety

“existing variety” means any variety which does not belong to anyone and which is being publicly used and exploited.

N- New Variety

“new variety” means any variety which has recently been discovered and developed by a plant breeder and is exclusively exploited for a specific period determined by the Law.

O- Contracting Party

“Contracting Party” means a State or an international organization party to the International Union for the Protection of New Varieties of Plants (UPOV).

P- Registrar

“Registrar” means the Director of the Registration Department of the Ministry of Industry, Mines and Energy.

Q- Phytosanitary Conditions

“phytosanitary conditions” means the requirements of the national phytosanitary authority in terms of preventing the spread of pests into the Kingdom of Cambodia through the importing of certain goods.

R- New Plant Variety Protection Certificate

“new plant variety protection certificate” means a certificate granted to a natural person or legal entity; a plant breeder’s right issued by the Ministry of Industry, Mines and Energy.

S- Seed Quality Certificate

“seed quality certificate” means a certificate attesting to the quality of a seed, granted to a natural or legal person aiming at seed exploitation, issued by the Ministry of Agriculture, Forestry and Fishery.

T- Pest

“pest” means all insects and/or plants, whether dead or alive, at any stage of growth,

capable of endangering or destroying a seed/variety. Such pests include insects, lice, mice, snails, birds, pathogens and grasses causing disease to a seed/variety.

U- Safety Seal

“safety seal” means a seal fixed to a container to ensure that the goods contained therein remain in their original state.

V- Standard

“standard” means a model scale determined by the Law to certify seed quality.

W- Seed Inspector

“seed inspector” means representatives of well-structured entities in charge of administering and controlling seed quality, including the Department of Agronomy, Agriculture and Land Improvement and the Bureau of Agronomy, Agriculture and Land Improvement of each province and the municipality.

X- Seed Business

“seed business” means acts of producing, processing, propagating, exporting, importing and marketing a seed.

Y- Plant Breeder

“plant breeder” means a natural person or legal entity who conserves, develops or breeds, experiments on, tests, selects and releases a seed and plant in order sustainably to improve variety, food and agriculture.