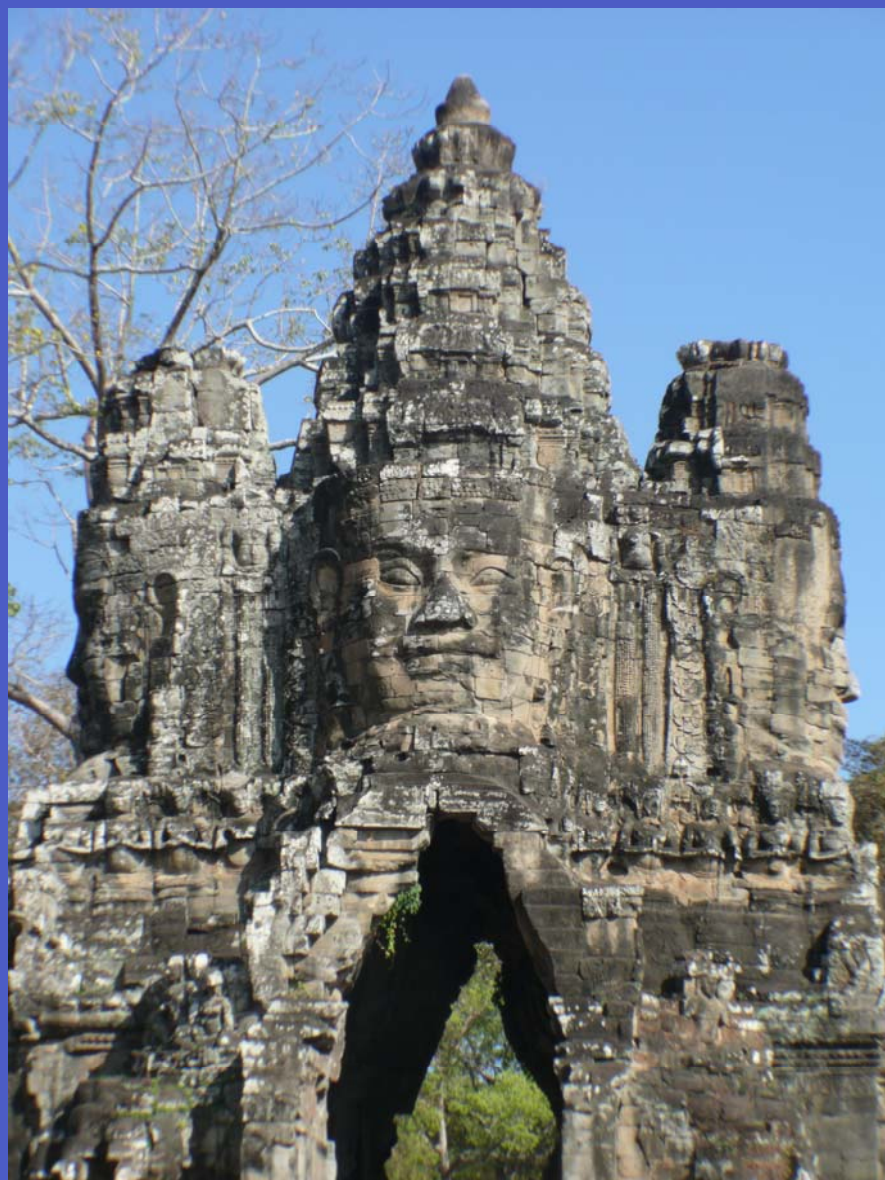


Public Finance in Cambodia



HANG Chuon Naron
Patrick GILBERT-DESVALLONS



2009

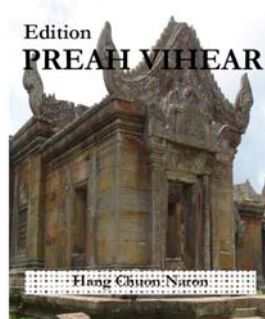
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HANG Chuon Naron

Patrick GILBERT-DESVALLONS



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Preface

From its doctrinal reference framework to its tools and procedures, public finance in Cambodia is still in the making. The number of organic laws and pieces of legislation in force in their many and sundry forms is truly substantial, however, and not easy to render with clarity and coherence. Many obsolete provisions and practices remain in effect. Management principles discussed in this book still need to be effectively and holistically implemented. For lack of sufficient ownership, recent provisions have not yet been fully enforced. Pilot schemes in such areas as priority programs and wage supplements coexist with procedures and practices which narrow down their full force and effect.

Over the years and due to the various influences to which it was subject, the intense modernization efforts that it is going through and new practices that it is constantly integrating, public finance in Cambodia has become overall difficult to understand and thereby to present in an absolutely structured and coherent manner.

Inspired by a pedagogical concern which lies at the heart of their approach, the authors were committed first to address public finance within the legal and organizational framework of the State and in the light of international comparisons, thus making a start at putting public finance in perspective. They also wanted to cover the broadest field, from the budget and its components to public procurement, from taxation to decentralization, privatization and computerization, from external payment and debt issues to public accounting regulations. Legislation is constantly referred to and quoted directly in profusion—even when some uncertainties prevail regarding its interpretation—which highlights the concrete, enabling the individual to go deeper and inviting improvement of the work as amendments and new situations take place. The approach to provide students and future senior managers of the country with a book introducing the sovereign economic missions and financial operations of the State now has a baseline that previously could not be found.

There was no choice but to venture into this exercise, as arduous as it was. Despite pitfalls of all kinds, an attempt had to be made to provide a summary document, albeit one that needs to be rounded out and clarified. It was undeniably a struggle to grasp the full scope of the workings of public finance in Cambodia, to search for more efficiency and transparency and thereby demonstrate its crucial importance as the country emerges as a modern sovereign State.

Jean-Daniel Gardère

Preface

A book about public finance may generate two reactions. People may either deem that subject matter like this should be left to the experts, accountants and economists, who fancy figures and funding, or disregard the book out of frustration towards public finance performance in daily life—too much corruption, too little in the way of positive outcomes for citizens.

On the contrary, the excellent book written by Hang Chuon Naron and Patrick Gilbert-Desvallons highlights the vital importance of an efficient and transparent public finance system. The capacity of the government of Cambodia to collect its revenues and finance government services and investments—critical tasks for the stability and growth of the country, and the welfare of its citizens—depends to a great extent on the quality of the public finance system. The capacity of Cambodia's leaders to make right economic policy decisions and implement them also depends to a great extent on financial information systems and the efficiency of public finance management. And providing relevant information to Cambodia's citizens and electorate depends largely on the quality of financial data and the transparency pertaining thereto.

As presented in this book, Cambodia's public finance system is on a sound platform but with a long list of necessary reforms. The basic system is rational and appropriate for sound management. However, implementation of legislation is inconsistent and the system faces many difficulties. First of all, the capacity of the civil service, eroded by years of conflict, is limited and the government is struggling to attract skilled employees, something particularly challenging because of very low wages. The large number of donors adds to the complexity since many of them follow specific procedures (consequently, instead of having to be experts of one system—their own—civil servants in Cambodia have to be familiar with a great many systems!). This resource fragmentation also harms the readability of public accounts and the government's capacity to manage them efficiently. The list of difficulties and challenges is a long one.

In this book, Hang Chuon Naron and Patrick Gilbert-Desvallons not only develop the system as it operates today, but also the reform program conceived and initiated by the government in 2004. Supported and funded by a consortium of over a dozen donors, including the World Bank, this program's value is that it presents the overall deficiencies of the system while adopting a pragmatic “platform” approach: this approach acknowledges that not everything can be changed immediately, but that all reforms must be coordinated to lead to genuine change (what is the point of having a good budget if it cannot be spent as planned?).

This excellent book will be regarded as a benchmark for anyone who wants to understand how public finance operates in Cambodia—its strengths and weaknesses, its complexities, the reforms now underway. It will be particularly useful to people both within and outside the government who take an interest in or are contributing to the reform process, and will provide a common reference framework for all. It will also be of assistance to a broader concerned public who may possibly be held back by the complexity of this field. I can only hope that this book will be regularly updated in order to keep its relevance over the years to come.

Finally, I would like to pay tribute to the role of Hang Chuon Naron in this public finance reform project.

Stéphane Guimbert,

Economist at the World Bank

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Introduction

This book is intended firstly for students and secondly for practitioners desirous of becoming familiar with and understanding the organization and functioning of public finance in Cambodia. It refers to international good practice and explains, when necessary, the terms used.

The book deals first in an introductory section with public finance in some major countries of the world in order to draw the basic principles therefrom. A second section then addresses the legal framework of public finance in Cambodia: the Constitution and institutions that it establishes, the Act Respecting the Budget Laws and Budget System, as well as the core rules of budget preparation and implementation: Regulation Respecting Public Accounting, Organization of the Financial Audit, Regulation Respecting Public Procurement, Organization of the Internal Audit and of the National Audit Authority. In a third section, the book presents the regional context of public finance. The fourth section concludes with a review of deficiencies and an explanation of the purpose of the reforms underway and the challenges facing them.

Major pieces of legislation appear in the appendixes, along with other documents, such as nomenclatures, that will enable a more detailed study of the reforms. We hope this work will be useful to the publics for whom it is intended.

HANDBOOK on PUBLIC FINANCE in CAMBODIA

SECTION ONE

THE PUBLIC FINANCE SYSTEM IN CAMBODIA

CHAPTER I

Legal and organizational framework of public expenditure

Legal systems are currently often classified under four different families:

- Romano-Germanic system, still known as written law or civil law (which it is incorrect to translate into French as “*droit civil*”).
- Common law system, which it is incorrect to translate into French as “Anglo-Saxon”, still referred to as “jurisprudential”.
- Religious rights.
- Customary rights.

Some countries are classified as having a mixed system: civil law and customary, civil law and common law, such as Quebec, Argentina, etc. The specific features of the Romano-Germanic system, under which Cambodia is classified, are:

Use of abstract notions.

- Formulation of general rules.
- Separation between substantive rules and rules of procedure.

The characteristics of the common law system are:

- Predominance of case law.
- Interweaving of rules of substantive rules and rules of procedure

According to a survey conducted in 1998 by the University of Ottawa (www.uottawa.ca/world-legal-systems), one third of the world's population, mainly the United States and Commonwealth countries, are under common law, while some 60 percent of the world's population is under civil law, sometimes with a tinge of common law, which includes Europe and Africa except for countries under religious law and civil law, Latin America and Asia except for countries under religious law or civil law.

During the first millennium or so of the Common Era, Cambodian law was strongly inspired by the religious law of India. The drafting of the "Codes" in Cambodia is said to be ancient, dating back to King Chey Cheatha (see bibliography: *Introduction to Cambodian Law*), and was carried out by a number of other kings before being completed by King Ang Duong in 1860. These codes are more like a compilation of case law, hence a common law system mingled with religious law.

These Codes were published in 1881, shortly before the French protectorate was established (1884), during the reign of King Norodom. The transition to a Romano-Germanic legal system took place from 1911 with the creation of a Civil Code and a Code of Civil Procedure and Judicial Organization. From the time Cambodia gained its independence (1953), its law has evolved on its own following stages marked by historic events: the Khmer Rouge regime and the communist period. Nowadays, Cambodian law is relatively stabilized into the Romano-Germanic system.

1. The Constitution

The Constitution relates to public finance inasmuch as it addresses or does not address the provisions which govern public finance, in particular in terms of hierarchy of laws, tax or national budget, adoption, promulgation and publication of laws (finance laws as far as we are concerned), in order for such laws to be enforceable and opposable, settlement laws and budget laws for institutions.

Organic laws:

The amended 1993 Constitution of Cambodia provides for three organic laws: for the Supreme Council of the Magistracy (Article 134 - new), for the Constitutional Council (Article 144 - new) and for territorial organization (Article 146 - new).

There is a tenuous difference between organic laws and statutory laws: the internal by-laws of the National Assembly, the internal by-laws of the Senate and other organic laws must be sent to the Constitutional Council before promulgation (Article 140 - new). After promulgation of any law, the King, the President of the Senate, the President of the National Assembly, one quarter of the Senators and one tenth of the

Members of the National Assembly or the Courts may request the Constitutional Council to review the constitutionality of that law. (Article 141 - new)

Supremacy of organic laws over statutory laws is tacit since it stems from doctrine, one of the sources of law together with the Constitution, legislation, case law and custom.

The Constitution is therefore rather non-committal in terms of public finance:

Tax and national budget:

“No tax may be collected without authorization by law. Execution of the national budget shall be in compliance with the law.

The control of foreign currencies and financial system shall be determined by law.” (Article 57 of the Constitution)

“... The National Assembly shall approve the national budget, the State plan, lending and borrowing, the various financial guarantee pledges and the imposition, modification or abolition of tax.” (Article 90 of the Constitution - new)

These provisions have an impact on the organization of regional or local communities or authorities and on the decentralization process, as will be shown further on.

Settlement laws:

“The National Assembly shall approve administration accounts...” (Article 90 of the Constitution)

Adoption of draft laws and proposed (finance) laws

“The Senate shall, within no more than one month, express its opinion on draft laws or proposed laws that have been firstly adopted by the National Assembly... In case of emergency, this period shall be reduced to five days.” (Article 113 of the Constitution - new)

“If the Senate requests a modification of the draft law or the proposed law, the National Assembly shall immediately consider the draft law or the proposed law for a

Draft laws and proposed laws

“Senators, members of the National Assembly and the Prime Minister shall have the right to initiate legislation (Article 91 of the Constitution - new).

The Prime Minister shall prepare draft laws.

The National Assembly or the Senate shall prepare proposals of law”.

Absolute majority, simple majority, qualified majority

Absolute majority: more than half the votes.

Simple majority (or relative majority): the most votes (when there are more than 2 candidates).

Qualified majority: a majority requiring more demanding conditions than the absolute majority, for instance a two-thirds majority vote, as required for revisions or amendments of the Constitution (Article 151 of the Constitution - new).

second time. The National Assembly shall examine and decide on only the provisions or points that have been proposed for modification by the Senate, by either accepting or rejecting the proposed modification in whole or in part. The process of sending the draft law or proposed law back and forth between the Senate and the National Assembly shall be completed within one month. This period shall be reduced to ten days in the case of the national budget and finance laws, and to two days for an urgent law. If the National Assembly does not return the draft law to the Senate within the above specified period or extends the specified period for its examination, the period for examination by the National Assembly and the Senate shall be extended equally.

If the Senate rejects outright the draft law or the proposed law, the National Assembly may not examine this draft or proposed law for a second time within a period of one month. This period shall be reduced to fifteen days in the case of examination for approval of the national budget and finance laws, and to four days if urgent. When examining a draft law or proposed law for a second time, the National Assembly shall decide by an open vote and by an absolute majority of its members.

The draft or the proposed laws adopted in second reading shall then be promulgated.” (Article 113 of the Constitution)

Promulgation of laws:

“The King shall sign the *Kram* promulgating the Constitution, the laws passed by the National Assembly and those given final review by the Senate...” (Article 28 of the Constitution - new)

Promulgation:

An act (Kram) under which the King officially acknowledges the existence of the law and declares the law enforceable..

Entry into force of laws:

“Any laws approved by the National Assembly and given final review by the Senate and signed by the King for promulgation, shall come into force in the royal capital ten clear days after the date of promulgation and throughout the rest of the country twenty days after the date of promulgation.

However, if the law is declared to be urgent, it shall immediately come into force throughout the country the day after promulgation.

The law that is signed and promulgated by the king shall be published in the Royal Gazette and announced to the public throughout the country in accordance with the above set out timeframe.” (Article 93 of the Constitution)

Publication rules may supposedly be the same for regulatory decisions (of general scope): the law of July 19, 1994 on the organization and functioning of the Council of Ministers provides in its Article 13 that “legislative acts of general scope and approved by the Royal Government shall be published in the Royal Gazette.”

Individual act, regulatory act:

Individual Act (in scope): Aims at producing its effects in favor of or against one or more individual intended persons, such as an appointment or a promotion act. Its issuance to the person(s) concerned makes it enforceable. Its publication in the Royal Gazette is optional.

Regulatory act: Is of general scope and impersonal and is to be published in the Royal Gazette to become enforceable.

Rules on entry into force and publication of legislative and regulatory texts and on publication in other countries:

France has modernized its rules by issuing Order 2004-164 of February 20, 2004 “relating to the detailed arrangements and impacts of the publication of laws and certain administrative acts.”

An order could be issued rather than a law passed since Parliament has empowered the government to simplify law in this way. In that matter, the law dated back to the 19th century, with certain provisions even going back to the revolutionary period (year IV). Legislative texts and regulations of general scope come into force on the day stated therein or on the day following their publication. Publication via electronic media has the same impact as “printed” publication.

In many *French-speaking countries of Africa*, a second so-called “emergency publication”

Computation of approval timeframes for budgetary legislation and finance laws:

1st case: Declaration of emergency and the Senate does not call for amendments:

The Senate has five days in order to examine draft laws forwarded by the National Assembly. The National Assembly supposedly has the same deadline for examination of legislation filed by the Prime Minister.

Submission of the text by the Prime Minister:	D -Day
Start of deadline for examination by the National Assembly:	D (no clear days)
End of deadline for examination by the NA:	$D + 5$
Examination by the Senate:	$D + 5 + 5 = D + 10$ days

2nd case: Declaration of emergency and the Senate calls for amendments:

Submission of legislation by the Prime Minister:	D -Day
End of deadline for examination by the NA:	$D + 5$
Examination by the Senate:	$D + 5 + 5$
Second reading of amendments by the NA: approval	$D = 5 + 5 + 2 = 12$ days if
Second reading of amendments by the NA: rejected	$D = 5 + 5 + 4 = 14$ days if

3rd case: Ordinary case and the Senate does not call for amendments:

Submission of legislation by the Prime Minister:	D -Day
Start of deadline for examination by the National Assembly:	D (no clear days)
End of deadline for examination by the NA:	$D + M$
Examination by the Senate:	$D + M + M = J + 2$ months

4th case: Ordinary case and the Senate calls for amendments:

Submission of legislation by the Prime Minister:	D -Day
End of deadline for examination by the NA:	$D + M$
Examination by the Senate:	$D + M + M$
Second reading of amendments by the NA, if approval: and 10 days	$D + M + M + 10 = 2$ months
Second reading of amendments by the NA, if rejection: and 15 days	$D + M + M + 15 = 2$ months

The shortest approval deadline for a finance law by Parliament (National Assembly and Senate) is therefore 10 days (declaration of emergency) and the longest is 2 and a half months.

rule is added to the publication rule in the Official Gazette, which offsets publication

Opposability of laws and publication rules

For a law to be opposable against third parties in Cambodia, the new above-quoted Article 93 of the Constitution suggests that this law shall have been promulgated and published in the Royal Gazette and shall have been announced to the public throughout the country.

The timeframe for announcement of laws is ten clear days in the capital and twenty clear days throughout the rest of the country.

inconsistencies of publication in the Official Gazette. Emergency publication varies over time and from country to country. In the past, it was mostly a bill-posting in prefectures or town halls, the General Secretaries of which had to keep a record in their special register. More recently, it can be one or several announcements in popular newspapers and/or on the radio and/or on television. Publication via electronic media may exist in some countries but does not appear to have the same degree of enforceability as other publication media, due to lack of appropriate legislation.

Budgets of the National Assembly and the Senate:

New Articles 81 for the National Assembly and 105 for the Senate stipulate that they shall have their “own budget to carry out (their) functions.”

On the contrary, the Constitution does not say anything about the budgets of the Supreme Council of the Magistracy (Chapter XI - new) and of the Constitutional Council (Chapter XII - new) (see below).

Parliamentary commissions:

The National Assembly has had 9 operational commissions since 1993:

- Commission on Human Rights and Review of Complaints.
- Banking, Finance and Insurance Commission.
- Commission for Economic Affairs, Planning, Investments, Agriculture, Rural Development and Environment.
- Commission on Home Affairs, National Defense and Investigation.
- Commission on Foreign Affairs, International Cooperation, Communication and Media.
- Commission on Legislation.

- Commission on Education, Cults, Cultural Affairs and Tourism.
- Commission on Health, Labor, Social and Women's Affairs.
- Commission on Public Works, Transport, Telecommunications, Post, Industry, Energy and Commerce.

Similar commissions exist within the Senate.

2. Constitutional Council

The Constitution has established the Constitutional Council, to which it dedicates its new Chapter XII.

“The Constitutional Council shall guarantee observance and respect of the Constitution, interpret the Constitution and laws adopted by the National Assembly and those given final review by the Senate. “ (Article 136 - new)

The rules of organization and functioning of the Constitutional Council are specified by Organic Law No. 6 of April 8, 1998 in compliance with new Article 144 of the Constitution, which specifies that “the Constitutional Council shall have its own separate budget provided by the national budget” and that “the President of the Constitutional Council shall be the main authorizing officer (of this budget).” (Article 13)

3. Supreme Council of the Magistracy

The Constitution provides for the Supreme Council of the Magistracy (Article 134 - new) which stipulates that it is established by an organic law that “determines its composition and terms of reference.”

Composition and duties of the Supreme Council of the Magistracy are determined by Law No. 9 of December 22, 1994, which stipulates that “expenses relating to the functioning of the Supreme Council of the Magistracy shall be entered in the budget of the Ministry of Justice.” (Article 19 of law 94-9)

“The Supreme Council of the Magistracy shall make proposals to the King on the appointment, transfer, secondment, special leave without pay, appointment to the unclassified service and removal of judges and prosecutors from office.

The Supreme Council of the Magistracy shall give an advisory opinion on the promotion of judges and prosecutors.” (Article 11 of Law No. 9 of December 22, 1994 on the organization and functioning of the Supreme Council of the Magistracy); it is noteworthy that due to a semantic shift perhaps arising from the importance of the role

of the Minister of Justice in the functioning of the Supreme Council of the Magistracy, the law of January 28, 1993 on the organization and activities of the courts provides (Article 17) that judges and prosecutors shall be appointed by decree upon proposal of the Minister of Justice rather than the Supreme Council of the Magistracy...

4. Supreme Court and jurisdictions of various levels

The Supreme Court and jurisdictions of various levels are established by new Article 128 of the Constitution. The Constitution provides that “no agency of the legislative or executive body shall exercise judicial power” (Article 130 - new) and that “only the public prosecutor’s department shall be entitled to exercise public right of action.” (Article 131 - new)

Since the Constitution was amended in 1993, there is only one jurisdictional order: the Administrative Court and the Court of Audit no longer exist.

5. Council of Ministers

“The Council of Ministers is the Royal Government of the Kingdom of Cambodia.

The Council of Ministers shall be led by one Prime Minister assisted by Deputy Prime Ministers, and by Senior Ministers, Ministers, and Secretaries of State as members.” (Article 118 of the Constitution - new)

The Prime Minister is appointed by the King “upon the proposal of the President and with the agreement of both Vice Presidents of the National Assembly... a dignitary among the members of the National Assembly of the party holding the largest number of seats in the National Assembly...” (Article 119 of the Constitution - new)

Ministers are to be members of the National Assembly or members of political parties represented in the National Assembly (same Article); after the National Assembly passes a vote of confidence in the proposed Royal Government, the King shall issue a Royal Decree appointing the Royal Government. (Same Article of the Constitution and Article 5 of the Law of July 19, 1994)

The National Assembly may dismiss any member of the Council of Ministers, or bring down the Royal Government, by a motion of censure passed by an absolute majority vote (*Kram* 0306/006 has deleted the two thirds) of all members of the National Assembly (Article 99 of the Constitution). The Council of Ministers is to meet weekly. (Article 123 of the Constitution)

“Organization and functioning of the Council of Ministers shall be determined by law.” (Article 127 of the Constitution; it is the Law of July 19, 1994 promulgated by

Kram of July 20 on the organization and functioning of the Council of Ministers). Ministers may continue as members of the National Assembly. (Article 78 of the Constitution)

“The Royal Government is composed of a Prime Minister, a Deputy Prime Minister, Ministers of State, Ministers and Secretaries of State.” (Article 4 of the Law of July 19, 1994)

“Under-Secretaries of State are appointed by Royal Decree upon proposal of the Prime Minister. Under-Secretaries of State are neither members nor permanent administration agents of the Royal Government. When the Royal Government resigns or is brought down, the Under-Secretaries of State also lose their positions.” (Article 6 of the 1994 Law)

Status of under-secretaries of State:

The status of under-secretaries of State is similar to the status of members of the French ministerial cabinets.

A ministry may be headed and run by two co-ministers; “both Ministers have equal rights and powers. The running and management of the ministry are based on the principle of co-decision.” (Article 23 of the Law of July 19, 1994)

“Where a ministry is headed by a Minister and a Secretary of State, such Minister is chairman of the institution, and such Secretary of State is the vice chairman. The Secretary of State carries out the duties entrusted to him by the Minister. The Minister shall consult with the Secretary of State prior to making any final decision.” (Article 24 of the 1994 Law)

“For standalone ministries or Secretariats of State that are headed by the Secretary of State, such Secretary of is chairman of such institution.” (Article 25 of the 1994 Law)

A Senior Minister or a Minister may be “without portfolio”; his duties are specified by the Prime Minister. (Article 20 of the 1994 Law)

In terms of public finance—what we are interested in—the King appoints senior officials upon proposal of the Council of Ministers (Article 21 of the Constitution); the King shall sign the promulgating of laws (*Kram*) upon proposal of the Council of Ministers. (Article 28 of the Constitution)

The Prime Minister is empowered to raise proposals for appointment (transfer and dismissal) of senior officials as follows: governor and deputy governor of the National Bank of Cambodia, advisers to the Royal Government and to the Prime Minister, the

Secretary General of the Royal Government, the Secretary Generals and Director Generals of ministries, delegates of the Royal Government, governors of provinces or municipalities, ambassadors and envoys extraordinary and plenipotentiary, the Chief and Assistant Chief of the General Staff (of Armed Forces) and flag officers. (Article 14 of the 1994 Law)

“The Prime Minister shall appoint, transfer and dismiss by subdecree senior civil and military officials, the heads of diplomatic missions, province and municipality deputy governors and district governors...” (Article 15 of the 1994 Law)

“In exceptional cases or in case of *force majeure*, the Prime Minister is empowered, in order to settle necessary and urgent matters, to order expenses higher than those allocated in the national budget and shall report immediately on this to the National Assembly.” (Article 16 of the 1994 Law)

The Head of a ministry or State Secretariat shall have the power to “raise proposals for appointment, transfer, dismissal of subordinate officials... for ranks of Chiefs of Department, Colonels, their equivalents and above... (He) appoints, transfers or dismisses subordinate officials for ranks of Chief of Department, their equivalents and below... (Article 28 of the 1994 Law; the translation does not specify what the procedure is for Chiefs of Department and Colonels...) ”

Heads of ministries and State Secretariats have the power to issue *Prakas* and Circulars that “must not go beyond the ministry’s scope of jurisdiction and cannot contradict the various legislative instruments such as the subdecree (*Anukret*) or the Circular of the Royal Government of Cambodia.” (Article 29 of the 1994 Law)

6. Organizational structure of the government

As of November 15, 2006, the government was made up of:

- One Prime Minister.
- 6 Deputy Prime Ministers.
- 16 Ministers of State.
- 13 ministers and 135 Secretaries of State as of June 25, 2004 (6 for the Ministry of Economy and Finance alone).

On the same date, Under-Secretaries of State (who are not members of the government) amounted to 146; these figures remain almost always unchanged.

7. Ministry of Economy and Finance (MEF)

The Ministry of Economy and Finance was established under Decree No. 4 of January 20, 2000 relating to the organization and functioning of the Ministry of Economy and Finance.

“The Ministry of Economy and Finance has the following duties and powers:

- Participate in the organization, implementation and monitoring of the performance of the economic and financial policies of the Royal Government.
- Administer and coordinate the reform of the economic and financial institutions.
- Promote good governance as to economics and public finance management.
- Allocate and re-allocate national revenues through the collection of revenue and the programming and budgeting of public expenses.
- Establish a uniform financial system in the country and ensure its stringent, legal implementation within the framework of an annual management process.
- Prepare drafts of laws and of various regulations for macroeconomic and financial management of the national economy, either annual or ongoing.
- Prepare and manage the national budget.
- Prepare and implement the national budgetary policy.
- Collect tax and non-tax revenues and deposit them in the public treasury; prepare balance sheets and statements of results of the State’s financial operations.
- Audit and endorse the expenses made by ministries and other public institutions.
- Administer State-owned property.
- Analyze, monitor and forecast the economic situation in the short-, mid- and long-term and take measures to provide guidance for and adjust economic management.
- Participate in the development, management and control of financial industries, including insurance business, markets, bonds, lotto games, lotteries, casinos, retirement pension funds and other financial services.
- Cooperate with the relevant ministries and institutions for designing and participation in implementation of the Royal Government’s strategic policy in terms of international cooperation in the economic and financial fields and integration of Cambodia’s economy into the world economy and in particular into ASEAN.

- Participate in lobbying for aid, prepare plans for borrowing and payment of foreign loans, monitor and audit the performance of such plans.
- Manage and audit the public procurement transactions of the various ministries, provinces, municipalities, and State-managed or self-managing institutions.
- Participate in the formulation of policy and management of investments.
- Undertake inspection tasks on public finance.
- Conduct ongoing training and upgrading in economic and financial expertise for officials of the Ministry and other relevant ministries or institutions.” (Article 3 of the 2000 Decree)

To this end, the Ministry of Economy and Finance is organized at the central level into 3 general departments and 17 departments and the Economics and Finance Institute:

1. General Department of Tax Department
2. General Department of Customs and Excise
3. General Department of National Treasury
4. Economic and Public Finance Policy Department
5. Investment and Cooperation Department
6. Administration and Finance Department
7. Non-tax Revenue Department
8. Financial Industry Department
9. Budget Department
10. Financial Affairs Department
11. Local Finance Department
12. Internal Audit Department
13. General Inspectorate Department
14. State Property Department
15. Public Procurement Department
16. Personnel Department

17. Legal Affairs Department
18. Economic Integration and ASEAN Department
19. IT Department
20. Resettlement Department
21. Economics and Finance Institute

At the provincial level, there are: one Provincial Finance Department, one Treasury and one Tax Office in each province or municipality, (counterparts of the central government), and Tax Offices in each rural or urban district, one Customs and Excise Division in each province or city and at border crossing posts.

8. Council for the Development of Cambodia (CDC)

The Council for the Development of Cambodia which was restructured by Decree 2005-147 is a permanent arm of the Council of Ministers. It is chaired by the Prime Minister and made up of 43 members, ministers and Secretaries of State, the governor of the National Bank of Cambodia, the commander-in-chief of the armed forces, the national police commissioner, the commander-in-chief of the paramilitary forces, municipal and provincial governors (the number of whom is not specified), the President of the Phnom Penh Chamber of Commerce, the Director General of the Cambodian Petroleum Authority and a number of senior officials on duty at CDC.

The CDC is organized into three boards under the supervision of the CDC Secretary General, each one with a Secretary General:

- Cambodian Rehabilitation and Development Board (CRDB).
- Cambodian Investment Council (CIB).
- Cambodian Special Economic Zone Council (free zones).

The CDC is an executive agency of the government in charge of:

- Rehabilitation, development, public investment, private investment and special economic zones.
- Formulating development visions and strategies in liaison with the concerned institutions.
- Liaising with bilateral, multilateral and NGO partners to inform them about government strategies aiming at aid coordination in keeping with national priorities.

- Coordinating the work of the ministries in liaison with development partners and foreign investors.
- Providing direction in the area of public and private resources for national development.
- Facilitating and harmonizing administrative procedures for donors.
- Reviewing and making operational decisions pertaining to rehabilitation, development, public and private investment and the establishment and management of special economic zones.

In terms of public investments, the respective roles and responsibilities are as follows:

- The CDC coordinates the formulation of visions and strategies for public investment and the ordering of priorities for one year and the mid-term.
- The Ministry of Foreign Affairs and International Cooperation is the diplomatic window.
- The Ministry of Planning, in liaison with other ministries and standalone agencies, prepares the 5-year plan.
- The Ministry of Economy and Finance prepares the macroeconomic framework for the mid-term, prepares the annual investment budget and monitors implementation of financing.
- Spending ministries prepare sectoral plans in close cooperation with the Ministry of Planning and implement those sectoral investment plans.

A number of provincial and municipal investment subcommittees were established by the Decree of July 1, 2005. These subcommittees represent the central government that shall thereby delegate authority to them and grant them decisional power. Revenues are allocated to them.

9. Territorial organization

On the territory of the Kingdom of Cambodia, a distinction is made between urban and rural areas. The administrative organization (administrative constituencies) use different terms: the province (*khét*) is divided into rural districts (*srok*) and into rural communes (*khum*). Cities or municipalities (*krung*) are divided into urban districts (*khan*) and into urban communes or wards (*sangkat*). (Constitution, Article 145 - new)

The territory is organized in accordance with an organic law (Article 127 of the

Constitution - new). However, since 1996, “while waiting for an organic law to be promulgated... local affairs are dealt with individually within the national general budget...” (Finance Law for the 1996 fiscal year)

The Law of February 10, 1998 on the financial management system and provincial or municipal assets established provinces and municipalities (*khbet* and *krung*) as public legal entities managed by the governor of the province or the city in the capacity of chief authorizing officer. These legal entities are incomplete forms of public institutions: absence of board of directors, designated executive members, financial autonomy, assets, own resources. The governor is the chief authorizing officer for their budget in addition to being the authorizing officer delegated by the ministers to manage the budget of the sectoral departments in his province.

10. Deconcentration, decentralization, relocation, privatization

Deconcentration:

Deconcentration describes a system of administration in which the central government *delegates* authority (powers) to lower authority level: procurement procedures may be deconcentrated in favor of directors, ministers may implement deconcentrated budget management of their departments established in the provinces, to the governors and/or to their provincial directors, for instance.

Decentralization:

Decentralization describes a system of administration in which a legal entity transfers some of its areas of jurisdiction to another legal entity (that it establishes if need be) to which it allocates own-source resources (taxes, fees or grants) so that it can care for the transferred areas of jurisdiction.

The decentralization process may be “territorial” when the transfer is made in favor of a public legal entity which is a human community, endowed with an elected deliberating body as well as an elected executive. Such is the case for rural and urban communes in Cambodia.

The decentralization process may be “technical” when implemented in favor of a department that is an independent legal entity (governed by public law) with financial autonomy; in Cambodia, only public institutions meet these criteria. A decentralization administration system providing the province with a standalone budget would therefore be a technical decentralization.

Relocation:

The relocation process only involves changing the site of a pre-existing activity, usually by crossing a border: relocation of textile companies from China to Cambodia. Relocation is often motivated by lower production factor costs (wages, water, electricity, telephone, transportation, taxation, etc.).

Privatization:

Privatization is the transfer from the public sector to the private sector of an activity that is more within the purview of the private sector rather than the public sector, and that the private sector will manage in such a way as to achieve a better economic and financial performance. Transferred activities may belong to the primary sector (agriculture: State-owned farms, State agribusiness activities), to the secondary sector (public works operations carried out by government workers, road maintenance, State-owned factories, etc.) or to the tertiary sector (services managed by the State, such as health, education, even customs, etc.).

Privatization may concern status: conversion of a State department into a private company, as has been done in certain countries for road maintenance, civil service personnel getting organized to acquire ownership of a company to which the State awards public contracts; conversion of a public institution into a company governed by private law, the capital of which may however be fully held by the State. Privatization of status comes before privatization of capital. It also applies to the status of the personnel (with the occasional exception of the status of director).

Privatization may also concern capital: disposal in whole or in part of the capital held by the State in favor of the private sector (see Cambodian regulations further on).

Immunity from seizure of (public) assets is no longer applicable with privatization of status.

Privatization in Cambodia is organized by Decree No. 38 of April 18, 1995 on procedures for privatization of State-owned companies, and by its implementation circular No. 280 of August 3, 1995.

11. National Bank of Cambodia

Law No. 27 of January 21, 1996 establishes the organization and operations of the National Bank of Cambodia, or “Central Bank.” The Central Bank is “an autonomous public entity of a commercial and industrial nature.” (Article 1 of the 1996 Law)

Status:

“The Central Bank is a legal entity...” (Article 2)

“The principal mission of the Central Bank is to determine and direct the monetary policy aimed at maintaining price stability in order to facilitate economic development within the framework of the economic and financial policy of the Kingdom of Cambodia.” (Article 3)

Fiscal regime:

The promulgation *Kram* refers to the 1993 law on budget and fiscal regime but the 1996 Law is silent on the fiscal regime of the National Bank of Cambodia. We can conclude that the National Bank of Cambodia is a legal entity governed by public law (public institution) that is not subject to public accounting regulations.

Regulatory power:

“In order to fulfill its mission and implement this law, the Central Bank has regulatory power that it exercises by issuing decisions, regulations, circulars and other instructions.” (Article 4)

Financial relationship with the public sector:

“The Central Bank may open accounts on its books on behalf of:

State agencies and instrumentalities of the central government, notably the National Treasury, etc. The Central Bank is not authorized to open accounts for industrial or commercial enterprises, including those belonging to the State.” (Article 8)

“The Central Bank is the sole depository, in the national currency, for the National Treasury. The Central Bank receives from the National Treasury and disburses on its behalf all duly receivable or chargeable moneys and keep account thereof. Any charges to be levied by the Central Bank for these services are worked out with the National Treasury. The foreign exchange receipts of the Treasury are to be transferred to the Central Bank and the counter value in national currency shall be credited to the sole account of the National Treasury at the prevailing exchange rate.” (Article 21)

“The Central Bank neither directly nor indirectly extends credit to the Royal Government, including by the purchase in primary issues of securities issued or guaranteed by the Royal Government or by public entities, except in accordance with the provisions of this chapter.” (Article 24)

“The Central Bank may extend credit to the National Treasury at the refinancing rate and a maturity not exceeding three months. Each extension of credit requires a credit agreement between the Central Bank and the borrower, which shall specify the amount of the credit, its maturity and the interest rate. The aggregate amount of the granted

extensions of credit and holdings of securities, pursuant to Article 24 of this law, for each financial year cannot exceed 10% (ten percent) of the ordinary budgetary revenues, excluding grants and proceeds from the sale of assets from the previous fiscal year.” (Article 25)

“The Royal Government shall consult the Central Bank every year before the budget is finalized with a view to establishing the total amount of credit which the Royal Government and public entities may seek to secure from the Central Bank within the limits prescribed by Article 25 of this law.” (Article 27)



CHAPTER II

Revenues:

The Cambodian tax system

Tax, direct tax, indirect tax, duty, fee, rate, price

Tax: Is a compulsory and definitive, unrequited contribution levied by the State or its departments (local or regional authorities, public institutions) in order to cover public expenses.

Direct tax: Is directly payable by the one who is liable for the levy: tax on wages or on industrial profits, for instance.

Indirect tax: Is passed by the one who is tax-liable on a third party who is the actual taxpayer: Value added tax, entry duties (customs).

Duty: Collection by the State or its departments with a counterpart service provided to individuals: household refuse removal tax, sewerage tax.

Rate, fee, price: Amount to pay to contribute to a public service or to purchase an asset from the State or its departments: provision of electricity, health care, vehicle registration.

We mentioned earlier that tax may only be levied when such is authorized by law (Articles 57 and 90 of the Constitution - new).

“Government services subject to charges correspond to the delivery of services provided by public government services to individuals and third-party bodies. Services subject to charges are provided at rates determined by the Council of Ministers upon proposal of the Minister of Economy and Finance and after receiving the opinion of the minister concerned.” (Article 10 of the 1993 Law on finance laws and budgetary system)

Cambodia's tax system is organized around two regimes: the self-assessment regime and the estimated regime.

Citizen, taxpayer, taxable person, person liable for payment, user

Citizen:

Any physical person enjoying civil and political rights inside the national territory.

Taxpayer:

Any person liable for the payment of a tax. The body of taxpayers is made up of a sub-body of citizens (persons of age and economically able to pay tax) added to the sub-body of non-nationals carrying on a taxable activity on national territory.

Taxable person:

Any physical or moral person subject to a type of tax: people subject to the real regime of tax on profit. They form a sub-body of taxpayers.

Liable person:

Any physical or moral person who is to pay a type of tax: the persons liable for the payment of tax on non-built land. They form a sub-body of taxable persons.

User:

Any physical or moral person user of a public service: rail or road transportation users. They can contribute to covering the expenses of the service by paying a rate, price or duty. They form a body composed of citizens or non-citizens, taxpayers or not.

1. Self-assessment regime

Based on the declaratory principle, the self-assessment regime implies that taxable persons determine themselves their basic taxable amount and pay their tax without the intervention of tax authorities.

To start with, the tax authorities receive the tax return from taxable persons. They then audit the tax return that has been submitted of the taxable person's own accord in order to check whether the income declared complies with the information included in the taxable person's file and whether the latter complies with the regulatory provisions in force in terms of taxation.

This system has the following benefits:

- Liable persons are responsible for the information contained in their tax return.
- They submit their tax return of their own accord and pay the tax calculated from the information declared.
- Administrative expenses are reduced.
- The tax authorities have more time to check taxable persons in breach of regulations (undeclared activities or using organized tax evasion networks).
- Enforcement of laws is strengthened.

Persons subject to the self-assessment regime are all kinds of import, export or investment companies with a minimum annual taxable turnover of:

- 500 million riels for companies providing goods.
- 250 million riels for service sector companies.
- 125 million riels for companies that are bound by contract with the government.

In late 2008, Cambodia had a total of 11,196 companies; 2,933 of which were small-, medium- or large-size activity companies (and that have submitted their tax return to the Tax Department). They are divided into 1,793 large-size companies, and 9,403 small/medium-size companies. Self-assessment regime now spreads over all provinces and 7 districts in Phnom Penh. Revenue originating from taxes of taxable persons subject to the self-assessment regime account for 90 percent of the total revenue of the tax department with regards to taxes on industrial profits.

2. Estimated regime

The estimated regime is for small economic activities. They account for 39,086 enterprises that have an annual turnover lower than that of taxable persons subject to the self-assessment regime. Receipts from taxable persons subject to the estimated regime account for 20 percent of the total revenue of the Tax General Department with regards to taxes on industrial profits.

The Tax General Department is responsible for collecting government taxes and provincial taxes. This taxation regime goes beyond the declaratory system: calculation of tax liability is made by the administration and based on various factors:

- Location of activity (capital city or province).
- Number of employees.

- Type of activity.

Then, the administration undertakes the collection of taxes in the field. It is a more involved procedure since, for a rather low return, it demands the mobilization of a large number of officers to collect liabilities from people who are often rather ill-informed of “tax compliance.”

3. Destination and type of tax

Taxes can generate revenue for the national budget, as follows:

- Income tax.
- Profit tax.
- Tax on rental of houses and land.
- VAT.
- Excise duties.
- Specific taxes on certain goods and services.
- Slaughter tax.
- Stamp duties.

Taxes can contribute to generate revenue for the provincial and municipal governor budget, as follows:

- Tax on unused land.
- Registration tax.
- Trade license tax.
- Slaughterhouse tax.
- Tax on motor vehicles.
- Tax on tobacco and alcohol.

The current tax system of Cambodia comprises direct tax, indirect tax and various

duties and fees. Customs duties (CD) on foreign trade (imports and exports) are indirect levies considered separately.

Direct taxes are taxes levied on wages of physical persons, on capital profits and gains.

In Cambodia, a distinction is currently made between:

- Tax on industrial and commercial profits (ICP)
- Income tax.
- Property tax, for the time being in the form of a single asset tax, rental income tax.

Indirect taxes are taxes on goods and services: they are payable on the production and consumption of goods and deliveries of services, from import to release for end-consumer use, and are passed on throughout the commercial cycle of the good or service delivered. In Cambodia, the system currently lists 5 categories of indirect taxes:

- **Turnover tax**—ToT in the flat-rate regime—and a value-added tax, VAT in the real regime.
- **Excise duties** or specific taxes on certain local or imported goods—carbonated drinks, spirits and alcoholic beverages, cigarettes, cigars and cigarillos, petroleum products, gasoline and lubricating oils.
- **Transport duties** or conveyance and vehicle taxes, in the form of registration stickers.
- **Fees for transactions** and legal acts and registration fees on transfers.
- **Customs duties.**

4. Description of each type of tax

4.1. Tax for the national budget

4.1.1. Income tax

Income tax consists of tax on the wage deducted at source by the employer who remits the sum to the Tax General Department each month. This tax applies to wages, bonuses, overtime, fringe benefits and additional benefits.

The following are not subject to tax:

- Occupational expenses incurred by the employee in the interest of the company or for people with limited resources.
- Severance pay as defined by the Labor Law.
- Additional fringe benefits specified in the Labor Law.
- Free or low-cost supply of uniforms or workplace equipment;

<i>Taxable monthly incomes</i>			<i>Tax rate</i>
<i>From 0.00 riels</i>	<i>up to</i>	<i>500,000 riels</i>	<i>0%</i>
<i>From 500,001 riels</i>	<i>up to</i>	<i>1,250,000 riels</i>	<i>5%</i>
<i>From 1,250,001 riels</i>	<i>up to</i>	<i>8,500,000 riels</i>	<i>10%</i>
<i>From 8,500,001 riels</i>	<i>up to</i>	<i>12,500,000 riels</i>	<i>15%</i>
<i>Over 12,500,000 riels</i>			<i>20%</i>

- Fixed allowances for mission expenses or travel costs.

Income tax rates are incremental:

- The employer deducts a 20-percent tax on additional monthly income.
- For non-residents, the tax is deducted when remittance is made with a 20-percent rate on taxable earnings.

4.1.2. Profit tax

The Tax on Profit is the debt of a resident taxpayer on income from Cambodian sources and from foreign sources. For a non-resident taxpayer, this tax is assessed on income from Cambodian sources only.

The underlying principle is the submission of the annual return including balance sheet, outturn account or income statement and appendixes which bring about tax application after deduction of any advances that may have been paid throughout the year.

In any event, this annual return is the legally binding document opposable against the liable person regarding the previous fiscal year.

4.1.2.1. Profit tax rates

Tax rates on taxable profits are the following:

- 20% for moral persons (enterprises), 30% for oil and natural gas operations or natural resource operations.

- 9% for Qualified Investment Projects (QIP) approved by the Council for the Development of Cambodia (CDC) for a 5 year transitional period.
- 0% for QIPs during the tax exemption period defined by the CDC.
- From 0% to 20% according to an incremental rate for individuals and members of development groups.
- 5% of gross premiums received over the year by insurers or reinsurers (Cambodia-RE).

For liable persons subject to the estimated regime, the annual return is to be submitted annually to the Tax General Department by October 31 at the latest and shall be paid monthly based on profits in the flat-rate regime.

Profits are calculated by the taxable person and checked by the Tax General Department; in case of discrepancy, the amount is discussed with the taxable person or his/her representative.

These profits are calculated according to the type of operation. In a declaratory regime, the underlying principle is taxation based firstly on the information declared. The tax rate on fixed-rate profits is defined for 3 or 6 months, or for 1 year.

4.1.2.2. Withholding taxes on dividend distribution

- 20% for dividend distribution in case an enterprise pays the profit tax at a rate of 0%.
- From 11% up to 19% for dividend distribution in case the enterprise has already paid the profit tax at a rate of 9%.
- 0% for the payout of retained profits in case the enterprise has already paid the profit tax at a rate of 20%.

Enterprises receiving dividends after tax shall record these dividends in their books.

During the next distribution, taxes on additional dividends are exempted. Since a tax deduction has already been made beforehand, there cannot be a second deduction on a second payout (equalization tax or tax credit system).

4.1.3. Minimum tax and advance payment of profit tax

Prepayment of Profit Tax—The self-assessment regime taxpayers including qualified investment project under the profit tax rate of 9% must file and pay, on a monthly basis, the prepayment of profit tax at the rate of 1% of the turnover (inclusive of all

taxes except for VAT) realized in the previous month by the 15th of the following month. The turnover of the qualified investment project within the tax exemption period shall be exempted from this prepayment. The prepayment is deductible against the tax on profit at the annual liquidation of the tax.

Minimum Tax—The Minimum Tax is a separate and distinct tax from the tax on profit. This tax is subject to the self-assessment regime taxpayers except for the qualified investment project (QIP) recognized by the Council for Development of Cambodia (CDC). The Minimum Tax is imposed at the rate of 1 percent of the annual turnover inclusive of all taxes except for VAT, and is payable at the time of the annual liquidation of the tax on profit. The minimum tax may be reduced by the annual tax on profit that is actually paid.

4.1.4. Withholding tax payable by residents

Withholding taxes payable at source amount to:

- 15% for: (1) revenue of people providing services, (2) royalties on intangible assets and mineral resources and (3) interest paid by taxable residents (who are not bankers) to other taxable residents.
- 10% for revenue coming from rentals of movable and immovable property.
- 6% for interest paid by a bank to the residents holding a time-deposit/term account.
- 4% for interest paid by a bank to the residents holding a bank account for an indefinite period.

Deduction of taxes pursuant to this Article only applies to interest paid to banks and to exempted incomes defined in this new Article 9.

Withholding taxes shall be applicable to payments (interest, royalties, rentals...) between enterprises taxable under the same estimated regime. These taxes are not applicable to the income of enterprises of the real regime operating services, managerial services, consulting and similar services.

4.1.5. Withholding taxes on payments made to taxable non-residents

Taxable residents who run a business and remit income to taxable non-residents shall pay the withholding tax, at a rate of 14%, on interest, royalties, rentals, managerial services and payment of dividends.

4.1.6. Value added tax (VAT)

The VAT has replaced turnover tax since January 1, 1999. VAT applies to taxable persons under the real regime: all types of enterprise, import, export and investment

companies. Regarding sole proprietorships, VAT is applicable with a turnover starting at 500 million riels for supply of goods, 250 million riels for delivery of services and 125 million riels for government contracts.

Exempted deliveries (or exempted enterprises) are:

- Public postal services.
- Hospital/clinic services, medical/dental care services.
- Entirely State-owned passenger transport services.
- Insurance services.
- Basic financial services.
- Importing of personal effects exempted of customs duties.
- Non-profit public interest activities.
- Deliveries for diplomatic missions and international organizations.

VAT rate:

- 10% on the taxable value of taxable deliveries.
- 0% on the taxable value of goods for export and services provided outside Cambodia.

The VAT is to be remitted to the National Treasury, calculated on the difference between total VAT-out and total VAT-in in the month. The tax return and VAT shall be submitted and paid to the Tax General Department by the 20th day of the following month at the latest.

4.1.7. Turnover tax

Turnover tax is payable each month at a rate of 2% and is applicable to taxpayers subject to the estimated regime (liable persons with low incomes who are not included in the self-assessment regime).

4.1.8. Tax on rentals of houses and land

Tax on rentals of houses and land amounts to 10% for high rents sourced by rentals of buildings, houses, factories, warehouses, land lots, metal ore or coal mines, lakes and rice fields and salt marshes. This tax is payable by owners or those enjoying right of usufruct. Rents included in profits subject to the self-assessment regime and security

deposits are exempted.

4.1.9. Miscellaneous duties

Miscellaneous duties are applicable to certain goods imported or manufactured in Cambodia, and on certain products such as: cars, motorbikes, cigarettes (10%), alcohol and beer (30%), entertainment services (10%)... international and domestic passenger air transport (10%).

Notional amount for calculation of miscellaneous fees:

- For goods manufactured in Cambodia, the tax is calculated based on the ex-factory price mentioned on the invoice.
- For services, the tax is calculated based on the price shown on the invoice.

4.2. Taxes for the budget of provinces/municipalities

4.2.1. Tax on unused land

This tax applies to land lots without buildings or with unused buildings located in municipalities and regions that shall be determined by the Appraisal Committee for Unused Land (Comité d'Évaluation des Terrains Non Utilisés – CETNU).

4.2.2. Registration fees

The rate is 4% for transferring ownership of movables, vehicles and land lots through sale, trade-off or transfer of shares for companies.

The fee amounts to 100,000 riels for registering the establishment or the merger of a company and for supply contracts with the government.

This tax is payable by the buyer and is calculated on the real value or the value determined by the Ministry of Economy and Finance.

4.2.3. License taxes

License taxes are annual taxes applicable to all types of enterprise (commercial, industrial or service). For existing enterprises, the basis for calculation of this tax is the turnover of the previous year. For new enterprises, the basis of calculation is the estimate. The amount of this tax is applicable from 15,000 up to 1.1 million riels.

4.2.4. Slaughter tax (1991)

This tax amounts to 3% and is applicable to the price of cattle, buffalo, hogs...

4.2.5. Motor vehicle tax

This tax is applicable annually to means of transportation and all types of vehicle. It varies between 3,000 riels (motorbikes with a cylinder capacity of 70 cm³ or lower) and 1,200,000 riels (cargo vessels of over 2,000 freight tons).

4.2.6. Tax on alcohol and tobacco

It amounts to 10%, 20% and 30% on alcohol, 10% on cigarettes and 25% on cigars (imported or manufactured in Cambodia).

4.2.7. Stamp duty (Article 46-1994)

This tax applies to administrative, judicial and extrajudicial documents and to declarations such as: school registration application, birth certificates, civil status certificate, submission of company by-laws... public announcements, trade mark registration.

The value of stamps varies between 100 riels (primary school registration application) to 10,000 riels (operating, import/export, hotel and foreign investment licenses). Public announcements and trade mark registrations are taxable according to size based on the calculation of the surface area.

4.3. Tax performance

4.3.1. Tax policy

Along with the announced tax reforms, the efforts of the Royal Government and the Ministry of Economy and Finance, the Tax General Department has increased resources deriving from taxes and duties from 151.8 billion riels in 1998 to 1,735 billion riels in 2008, i.e. an eleven-fold increase over these past 11 years.

From January 1, 1999, VAT has been applicable to enterprises subject to the self-assessment regime with the self-submitted return. VAT is currently applicable to large- and medium-size enterprises.

Table 1. Tax revenue of the Tax General Department (in billions riels)

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Tax revenue	151.8	185.1	270.9	292.9	318.8	384.3	481.1	634.3	885.6	1,259	1,735

Source: Ministry of Economy and Finance

In 2000, 2003 and 2005, the Tax General Department applied the real regime taxation system to medium-size enterprises in 16 provinces/municipalities. All enterprises

subject to the self-assessment regime are liable for VAT payment. Self-assessment Regime is now implemented in all provinces and 7 districts in Phnom Penh. In late 2008, Cambodia had a total of 11,196 companies. They are divided into 1,793 large-size companies, and 9,403 small/medium-size companies. The Tax General Department strengthened enforcement of the tax law amended in 1997 and continued to enforce it in 1998.

In 2003, certain provisions of the tax law relating to the investment law were amended to put special emphasis on:

- Modification of the exemption period for QIPs.
- Establishment of special depreciation rates of 40% for investment projects that do not opt for the tax exemption period on profits.
- Modification of the depreciation system by adopting the straight line method for buildings and the incremental balance method of depreciation for other non-current assets.
- Imposition of the tax on additional profits sourced from dividend payout.
- Reduction of rate of taxation at source for payments to non-residents.
- Reduction of rate of taxation at source for payments of interest to residents by banks, from 15% down to 6% and from 5% down to 4%.
- Increase of the tax rate on wages for non-residents from 15% to 20%.
- Discontinuance of the minimum tax rate and advance payment of profit tax of 1% for investment projects.
- Modification of rules in order to strengthen tax collection.

The Department established the management unit for large taxable entities in order to observe and manage 600 large companies and compel them to pay their taxes via the Central Bank. This Unit has generated around 80% of the total tax resources of the Department. At the same time, the management unit for taxable medium-size companies was established.

4.3.2. Tax administration

The Tax General Department has developed services for taxpayers by setting up units in the provinces/municipalities with the objective of improving relationships with taxpayers.

The Department conducted audits of large- and medium-size companies and has also increased, in parallel, information exchanges between the different departments of the Ministry of Economy and Finance and other ministries in order to support the conducting of audits of liable persons. The Tax General Department also increased the number of audits and of audited enterprises. It also prepared the amendment of the regulations and tax audit program for companies.

Table 2. Outcome of tax audit for large- and medium-size enterprises, 1998 to 2008 *(in billions of riel)*

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Tax outcome	3.6	13.1	26.4	122.5	73.4	104.5	148.3	351.8	487.5	467.5	751.7

Source: Ministry of Economy and Finance

The Department reinforced tax collection measures in implementation of the tax law on enterprises that owe money to the State. Measures include freezing of accounts at the Central Bank and National Treasury, stopping of import/export operations by the Customs Department, cancellation of licenses, termination of exemptions for projects submitted by the CDC, prohibition to participate in public procurement, etc.

Table 3. Outcome of tax collection between 1998 and 2006 *(in billions of riel)*

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Tax outcome	0.5	10.9	33.4	15.3	33.0	70.8	41.0	39.4	56.4	53.9	44.5

Source: Ministry of Economy and Finance

From 1998 to 2008, the Tax General Department trained over 1,800 civil servants in the fields of general accounting, English language, computer science and international conventions on taxes, etc. The Department also recruited civil servants: 29 in 2001, 60 in 2003, and 212 in 2007.

The information system of the Department was reinforced through the creation of a new data recording and observation system. Certain offices of the Department and provincial units are equipped with computers so as to collect data and tax returns from enterprises subject to the real regime taxation system.

4.4. Comparative analysis of tax administrations

The French Inspectorate-General of Finance conducted a comparative study on the functions of tax administrations in nine countries in order to make an inventory of

models of organization, practices and costs (www.finances.gouv.fr/actualites).

Several points emerge from this study:

- The notion of “spontaneous and voluntary compliance” with the tax law is used in virtually all tax administrations; it enables a distinction to be made between taxpayers who comply with the tax law and those who do not, and leads to the conclusion that voluntary acceptance of the tax law is more effective than repressive actions, such as tax audits. This brings about a new direction that involves replacing the culture of suspicion with an approach that encourages voluntary acceptance of the tax law (by developing the services provided to the taxpayer) and redirecting the audit conducting process towards risk tax payers only.
- Development of information technologies lies at the heart of strategic concerns; tax information services are evolving, for instance:
 - ⇒ From an organization focused on tax types to a target group organization.
 - ⇒ From focus on internal organization to focus on the needs and characteristics of taxpayers.
 - ⇒ From paper documents to electronic documents.
 - ⇒ From batch processing to real-time processing.
 - ⇒ From non-selective processing to risk-based processing.
- A transformation of tax organizations converging towards a shared model with an acceleration of the transformations of these administrations. The most frequent model combines territorial organization with a unit specialized in large-size firms. Some tax administrations implement tax collection for other regional or local authorities. Certain countries organize their tax administration on the model of agencies detached from the Ministry of Economy and Finance, endowed with a measure of autonomy of management and empowered to use management rules that are more stimulating than those of the central government. The counterpart is accountability on set purposes that are subject to strict controls down the line.

With regard to the countries visited, there is an average 10 generalist local units per million inhabitants or 150 for 100,000 km².

Management cost for tax administrations varies between 0.5 and 1.7% of the amounts collected (for an average of 1.1%).

CHAPTER III

Budget:

Core principles

Prior to 1970, the Cambodian financial system drew its inspiration from the French system and this was repeated with Law No. 1 of December 28, 1993 respecting the financial system and finance laws.

1. The core principles

Article 5 of the Law on Public Finance System promulgated on May 13, 2008, states that budget shall have eleven key principles that need to be absolutely implemented:

1. Authoritativeness

2. Annual budget or a twelve - month financial year

3. Comprehensiveness

4. Unity

5. Universality

6. Specialty

7. Balance

8. Accountability

9. Transparency

10. Stability

11. Achievability

However, the core principles are annual budget, unity, universality, specificity and balance.

1.1. Annual budget

The annual budget rule is enshrined in Article 1 of the basic law, Law No. 1 of 1993. This is not an organic law and has been amended by several annual finance laws:

“The finance law provides for and authorizes, for each year, the overall revenue and expenditure of the national budget...”

This annual finance law may be amended by “amended finance laws” (Article 2); these amended finance laws specify that “credit transfers from one ministry or government entity to another are carried out under amended finance laws.” (Article 8 of Law No. 10 of December 31, 1994 respecting the finance law for the 1995 fiscal year and amending Article 40 of Law No. 1 of 1993)

“The fiscal year runs from January 1 to December 31.” (Article 4 of the 1993 Law)

If the draft budget has not been adopted by January 1 of the fiscal year involved, the budget of the preceding financial is carried over automatically, subject to the following conditions:

- Collection of tax revenue, customs receipts and revenue of all kinds is and remains authorized under the conditions and according to the procedures set forth in the previous finance law and by laws and regulations in force.
- Current budget expenditures, other than the public debt service, continue to be executed as slated according to the estimates of the previous budget by provisional twelfth each month, until the new budget is enacted.
- Capital expenditures, other than the redemption of the public debt, continue to be executed as slated in the previous budget within the framework of available appropriations, and beyond if need be, but payments cannot then exceed the authorized amount of commitment appropriations opened in the budget.
- Expenditures related to the service and redemption of the public debt are implemented non-stop according to redemption and interest tables regularly agreed upon.” (Article 5 of the 1993 Law)

1.2. Unity

This principle has a dual implication: it demands that all revenue and expenditure be submitted to Parliament for the following year and that such revenue and expenditure shall be submitted at the same time to enable evaluation of the effort that they represent and the actual balance of the various budgets.

We have seen that the Constitution makes it mandatory that any tax or amendments thereto be dealt with under law.

The revenue of ministries or similar public entities shall be brought to the knowledge of

the Minister of Economy and Finance (list and estimate) “for the purpose of entry under the relevant budget revenue headings. These revenues form an integral part of the general national budget revenue.” (Article 27 of the 1993 Law)

“Tax and non-tax revenues sourced from State-owned enterprises (i.e. public institutions of an economic nature, State-owned companies and semi-public companies) are centralized by the same Minister of Economy and Finance.” (Article 27 of the 1993 Law)

1.3. Universality

Budget Universality refers to all types of revenues that can be used for expenditure items free of conditions. This principle also has a dual implication: revenue and expenditure shall not offset against each other (so that only their balance is shown) and revenue shall not be earmarked to expenditure; this principle is enshrined in the 1993 Law:

“Revenue is to be considered in the full amount without offsetting expenditure. In addition, it is strictly prohibited for any authorizing officer to increase by any specific revenue the amount of appropriations opened in the budget.” (Article 11 of the 1993

Types of Revenues until December 31, 2006, under the 1993 Law:

Duties and taxes:

Tax on income, profits and capital gains.

Wealth tax.

Internal taxes on goods and services.

Foreign trade duties.

Other tax revenue.

Non-tax revenue:

Property income.

Other non-tax revenue.

Capital revenue:

Internal capital receipts.

External donations.

Loans.

Articles 6 and 7 of the 1993 Law.

The detailed classification is set by order of the Minister of Economy and Finance (Article 6 of the 1993 Law).

Law: the non-earmarking rule)

“Total budget revenue is to be used to cover total budget expenditure...” (Article 12 of the 1993 Law: the no-offsetting principle)

1.4. Specificity

Expenditures and revenues shall be included separately in the budget and according to details required by Parliament: Article 7 of the 1993 Law provides the main budget categories for revenue and Articles 14 and 15 provide the main allocation sections for expenditures.

Current revenue by order may be, for instance, when the State accepts financial responsibility for exemption from customs duties: a budgetary account records by order the expense while simultaneously a budgetary account by order records the receipt for the same amount.

Depreciation amounts are also to be revenue by order: they do not have any counterpart treasury expenditure.

Capital revenue by order will be, for instance, the direct financing of projects by donor

Types of Revenues under the Law on Public Finance System

Permanent resources of the state include current and capital revenues, which are divided into 2 groups and 3 categories, namely:

Current revenue:

Group 1: Real revenue

Category 1: tax revenue

Category 2: non-tax revenue

Group 2: revenue by order

Category 3: revenue by order

Capital revenue:

Group 1: Real revenue

Category 1: revenue from own sources

Category 2: revenue from external sources

Group 2: Revenue by order

Category 3: revenue by order

“Each revenue category is divided into classes, accounts and sub-accounts that may be subdivided, by order of the Minister of Economy and Finance.” (Article 13 of the Law on Public Finance System)

agencies (without the funds being remitted to the Treasury); recording revenue by order will be counterbalanced by recording expenditure by order for the same revenue amount, and the donor's investment can thereby appear in the national accounts.

Use of expenditure by order is explained above with the functioning of revenue by order.

1.5. Balance

The principle of balance between budget expenditure and payment appropriations is not set out expressly in the 1993 Law. Article 34 specifies that the general report accompanying the draft finance law establishes “economic and financial balance”.

The provisions of Article 37 may be interpreted as aiming at safeguarding budgetary balance at the time the finance law is voted on:

“No supplementary article or amendment to a draft finance law may be submitted if it does not aim at cancelling or cutting down any expenditure, generating or increasing revenue.

Any proposal for a new expenditure must be accompanied by a proposal for saving on total expenditure in an equivalent amount.”

Balanced budget implementation is found in Article 45:

“When evolution of revenue and expenditure reveals a risk of breaking budget balance conditions, the Minister of Economy and Finance may decide, by means of an order, to freeze all or part of certain appropriations opened in the budget. Should this risk persist, the Council of Ministers may proceed, by decree and upon proposal of the Minister of Economy and Finance, with the cancellation of all or part of certain appropriations opened in the budget.”

The finance law for the 2007 fiscal year however affords an opportunity to balance the budget by resorting to the issuing of Treasury bonds, within the limit of 100 billion riels (Article 13).

1.6. Other budget principles

Other budget principles are:

- ***Budget Comprehensiveness*** refers to the comprehensiveness of budget that reflects all sources of revenue and all expenditure items.
- ***Transparency*** refers to all laws, regulations, principles, procedures, and their

Expense allocation until December 31, 2006, under the 1993 Law

Current expenditure:

- *Operations and maintenance.*
- *Interest on borrowings.*
- *Public interventions.*
- *Miscellaneous and unforeseen expenses.*

Capital expenditure (amended by Law No. 10 of December 31, 1994, Article 8):

- *Locally financed investments.*
- *Foreign directly funded investments.*
- *Repayment of borrowings.*

New Articles 14 and 15 of the 1993 Law.

Classification of budget expenditure is set by order of the Minister of Economy and Finance (new Article 17 of the 1993 Law amended by Law No. 15 of December 25, 1999 respecting the finance law for 2000, Article 8).

implementations broadly disseminated to ministries, institutions or public entities and the public.

- ***Accountability*** refers to the responsibilities of ministries, institutions or similar public entities, sub-national administration, and individuals over roles and responsibilities assigned to undertake these through a reporting system.
- ***Consistency*** refers to all ministries, institutions or similar public entities, and all sub-national administrations of the Kingdom of Cambodia that must use the same inter-linked principle.
- ***Budget Associability*** refers to all types of revenues and all expenditure items that need to be paid and settled through a Treasury Single Account.
- ***Integrity*** refers to the single system of public finance that is complete and comprehensive without controversial policy in both legal and institutional frameworks that cannot be abused.

1.7. Management system and fiscal year system

The system of management goes against the system of fiscal year, which is more modern; it was imposed by Article 54 of the 1993 Law. In the management system,

Expenses allocation for the 2007 fiscal year under the finance law:

Current expenditure:

Group 1: Real expenditure

Category 1: Operations and maintenance

Category 2: Financial expenses

Category 3: Public intervention

Category 4: Miscellaneous expenditure

Group 2: Expenditure for order and unforeseen expenditure

Category 5: Expenditure by order

Category 6: Unforeseen expenditure

Capital expenditure:

Group 1: Real expenditure

Category 1: Repayment of borrowings

Category 2: Fixed assets

Group 2: Expenditure by order

Category 3: expenditure by order

“Each revenue category is divided into classes, accounts and sub-accounts that may be subdivided, by order of the Minister of Economy and Finance.” (new Articles 14 and 15 of Law 93-1 amended by the 2007 finance law)

“only revenue collected and expenditure passed for payment within the twelve months of the fiscal year are considered as pertaining to management and budget”.

Under the fiscal year system, revenue and expenditure are assigned to the period during which they were generated, as in business accounting. The finance law for 2007 has amended Article 54 of the 1993 Law to switch, in 2007, from a management system to a fiscal year system: “Public accounting shall be established on an accrual basis without being bound to the payment receipt or disbursement date.”

The relation between the profit or loss of each of the systems (profit or loss for management, profit or loss for the financial year) is dealt with in the section on public accounting.

2. Exceptions to the core principles

2.1. To the principle of annual budget

Exceptions to the rule of annual budget are allowed by multiannual authorizations that enable the future to be secured: program appropriations (by their very definition, they represent the overall cost of an operation that the government may initiate over the course of a year, Article 20 of the 1993 Law) and commitment appropriations (that can be carried over open-endedly, Article 21 of the 1993 Law).

Layout of budgetary accounts

According to these Articles, budgetary accounts are composed of:

- 1. The general budget.*
- 2. Annex budgets.*
- 3. Special accounts of the Treasury.*
- 4. Budgets of public administrative institutions.*

The document governing the budget of provincial and municipal governors established in 1998 and has not yet been updated. (Law No. 3 of February 10, 1998 on the financial system and the management of provincial and municipal assets); the budget of provinces and municipalities is however covered by the finance law (for the 2007 fiscal year: Article 15).

2.2. To the principle of unity

There is an exception to the rule of budget unity (or single nature) only to the extent that the budgets of public administrative institutions do not form an integral part of the budget (except when considering that they are encompassed by the term “similar public entities”). Special accounts are included in the budgetary document but the annex budgets contained in the 1993 Law were not updated and also should be included in the budget.

2.3. To the principle of universality

Article 12 of the 1993 Law opens the way to exceptions to the principle of universality: “... However, certain revenue may be earmarked for certain expenditure in a form and under terms set by law.” Exceptions to the rule of budget universality and to the non-assignment of revenue to expenditure were specified in Article 3 of the 1993 Law amended by Law No. 15 of December 25, 1999 respecting the finance law for the year 2000, Article 8: “Budgetary accounts shall contain the general State budget, annex

Exemption or Expenditures through Accounting Records

Exemptions may be legal (investment law) or conventional (embassy equipment and furniture, personal effects, vehicles of staff with diplomatic status).

Any exemption may be borne by the State: the beneficiary of the exemption fills in his/her declaration like any other liable person: customs declaration and tax assessment at the border crossing, tax return and responsibility for profit tax taken by the State in case of profit tax exemption, for instance.

This government underwriting mechanism implies the existence of a budget allocation to which will be charged the amount of the expense borne; collection will contribute to an identified revenue account. Any revenue by order is simultaneous to any expenditure by order. There is neither cash movement nor charge.

The cost may be that of the remittance made by the agents concerned:

The assessment basis for calculation of the remittance is increased by addition of exemptions borne by the State but this additional remittance is an incentive for agents.

Budget allocations of the expenditure accounts concerned must be evaluative in order not to block the system by an underestimate of responsibility for expenses to be borne; these allocations must not be subject to transfers of appropriations to restrictive allocations.

It may be necessary for a project with its individualized headings for exemption assumption to appear in the budget so that the project benefits from exemptions: donors and development partners are thereby encouraged to include their projects in the national budget, which allows the government to ensure better coordination and monitoring.

Furthermore, such a system enables the compensatory cost for exemptions borne by the State to appear in the national accounts; this cost may be considered as a counterpart of the sums contributed by donors.

budgets, the budgets of public administrative institutions and special accounts of the Treasury...

Annex budgets shall apply to State institutions of an industrial and commercial nature that do not constitute a legal entity. Annex budgets shall be created and withdrawn by the finance law. Their transactions shall be implemented under the same terms and rules as for public transactions. State institutions shall be endowed with standalone budgets connected to the general budget. Their current resources include their own-source revenue and possibly balancing subsidies provided for in the government's general budget. Their current expenditures shall observe the same classification and management rules as for current public expenditure. Operating procedures for public services endowed with an adjunct budget and for public administrative institutions shall be set by *Anukret*."

The decree specifying the functioning of annex budgets still needs to be issued. In addition, many statutory texts on the creation of annex budgets have not yet been updated.

Official assignment of revenue to ministries also goes against the principle. All “ex-budget” expenditures go against the principle of universality. They may be provided for by specific laws which then become inconsistent with the principle of unity.

Public/private partnerships may lead to an encroachment on the principle of universality: the State allocates resources to a private partner that will incur expenses on its behalf: the building of a toll road, for instance. Tax relief and incentive to investment are another form of exception to the principle of universality; such exceptions may be offset if the government bears the cost of any type of exemption.

2.4. To the principle of specificity

There is no exception to the principle of specificity in the legislation.

2.5. To the principle of balance

Article 46 of 1993 Law opens a first possibility of lopsided budget implementation: “During a session of the Council of Ministers on the report of the Minister of Economy and Finance, additional appropriations may be made available by a decree authorizing advances exceeding the budget allocations included in the chapter of unforeseen expenditure, in the event of disaster or of imperative need affecting national interests.

These appropriations are to be ratified without delay by an additional finance law to be submitted for the approval of the National Assembly as soon as the exceptional situation comes to an end.”

The law of July 19, 1994 on the organization and functioning of the Council of Ministers opens, in Article 16, a second possibility of lopsided budget implementation:

“In exceptional cases or in the event of *force majeure*, the Prime Minister may, in order to settle necessary and urgent matters, order expenditures larger than those granted in the national budget; he shall immediately submit a report to the National Assembly.”

The possibility of issuing Treasury bonds “to meet the budget deficit” may enable balance to be recovered. (Article 13 of the finance law for the 2007 fiscal year)

2.6. To the management system

The complementary period enabling unfinished accounts to be cleared goes against the principle of management which authorizes adoption of the accounts the last hour of the last day of the budget period.

Types of Financial Laws

Article 8 of the Law on Public Finance System Law states that any law that has the characteristics of a financial law shall include:

- *Law on Annual Finance*
- *Amended Law*
- *The Law on Budget Execution*

Financial Law refers to the Law that plans annual state revenues and expenditures, regulations pertaining to financial system and payments used to perform roles, and to undertake programs and responsibilities of ministries/institutions at the national and sub-national levels in compliance with the provisions of the Constitution and the Law on Public Financial System, and regulations on financial system determined by it.

Annual Financial Law plans and allows for each year state's resources and expenditures.

Amended Law refers to the Amended the Annual Financial Law.

Law on Budget Execution refers to the Law that reviews and assesses the performance of the implementation of the Annual Financial Law.

Budget refers to the set of accounts described on annual basis all permanent assets of and liabilities to the state or to any institution or entity.



CHAPTER IV

Expenditure programming

1. National Strategic Development Plan

The National Strategic Development Plan (NSDP) is elsewhere often known as the Poverty Reduction Strategy Paper (PRSP). Traditionally, a PRSP starts with a description of current status, and is based upon a participatory process (involving civil society and surveys conducted with households), sets the objectives and strategy to reduce poverty, assesses financial and other necessary resources and specifies the monitoring and evaluation methods. The NSDP is founded on ministerial development plans and on the National Poverty Reduction Strategy.

The NSDP focuses on the 2006-2010 period; it is the communication tool between the government and partners for development, i.e. the financial backers (bilateral and multilateral donors and lenders) and non-governmental organizations.

The presentation of the NSDP made to donors in February 2006 reports progress on the *achievements made* since the previous meeting of the Consultative Group by providing details on macroeconomic, monetary and budget performance, and also on the national policy and achievements in the following sectors:

- Fight against corruption and increased accountability.
- Judicial and legal reform.
- Administrative reform.
- Decentralization and deconcentration.
- Management of public finance.
- Agriculture and natural resources.
- Development of the private sector.
- Gender issue, poverty and HIV/AIDS.
- Health and education.
- Harmonization (of donor practices) and alignment (of donor practices with national practices).

Presentation of the NSDP then goes on to develop the *priority implementation strategies* that it has set; objectives are thereby set in 9 sectors, 8 of which correspond to the sectors of the Cambodian Millennium Development Goals: CMDG or in French ODMC (8 of which are international and an eighth one specific to Cambodia: demining).

2. The Millennium Development Goals (MDGs)

Goal 1: Eradicate extreme poverty and hunger

Target 1: Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day.

Indicator 1: Proportion of people whose income is less than one dollar (purchasing power parity) a day

Indicator 2: Poverty gap index (incidence of poverty $\times$ degree of poverty)

Indicator 3: Share of the poorest quintile of the population in national consumption

Target 2: Halve, between 1990 and 2015, the proportion of people who suffer from hunger

Indicator 4: Percentage of underweight children under 5 years of age

Indicator 5: Proportion of population below minimum level of caloric intake

Goal 2: Achieve universal primary education:

Target 3: Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling

Indicator 6: Net primary school enrolment rate

Indicator 7: Proportion of school pupils starting primary school in grade 1 and completing grade 5

Indicator 8: Literacy rate of youth (15-24 years)

Goal 3: Promote gender equality and empower women

Target 4: Eliminate gender disparity in primary and secondary education by 2015, if possible at all levels of teaching

Indicator 9: Female/male ratio in primary, secondary and higher education

Indicator 10: Literacy rate ratio for females and males in the 15-24 age group

Indicator 11: Percentage of female wage earners in the non-agriculture sector

Indicator 12: Proportion of seats held by women in the National Parliament

Goal 4: Reduce under-five child mortality

Target 5: Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate

Indicator 13: Mortality rate for children under five years of age

Indicator 14: Infant mortality rate

Indicator 15: Proportion of one-year-old children vaccinated against measles

Goal 5: Improve maternal health

Target 6: Reduce by three quarters, between 1990 and 2015, the maternal mortality rate

Indicator 16: Maternal mortality rate

Indicator 17: Proportion of deliveries assisted by skilled health personnel

Goal 6: Combat HIV/AIDS, malaria and other diseases

Target 7: Have halted by 2015 and begun to reverse the spread of HIV/AIDS

Indicator 18: HIV/AIDS prevalence rate among pregnant women in the 15-24 years of age bracket

Indicator 19: Condom use rate among contraception users

Indicator 20: Number of HIV/AIDS orphaned children

Target 8: Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases

Indicator 21: Malaria prevalence rate and malaria fatality rate

Indicator 22: Proportion of people living in areas at risk using means of protection and efficient treatments against malaria

Indicator 23: Tuberculosis prevalence rate and tuberculosis fatality rate

Indicator 24: Proportion of tuberculosis cases detected and cured within the framework

of short-course, directly observed treatments

Goal 7: Ensure environmental sustainability

Target 9: Integrate the principles of sustainable development into national policies; reverse loss of environmental resources

Indicator 25: Proportion of forest areas

Indicator 26: Ratio of protected lands aiming at preserving biodiversity to total land area

Indicator 27: Energy consumption (kg of oil equivalent for \$ 1 GDP - PPP)

Indicator 28: Carbon dioxide emission (per capita) and consumption of ozone-depleting CFCs (tons of ozone-depletion potential)

Indicator 29: Proportion of population using solid fuels

Target 10: Halve, by 2015, the proportion of people without sustainable access to safe drinking water

Indicator 30: Proportion of the urban and rural population with sustainable access to better water source

Target 11: By 2020, to have achieved a significant improvement in the lives of at least 100 million of slum-dwellers

Indicator 31: Proportion of people with access to better sanitation system

Indicator 32: Proportion of households with access to housing security (as owners or tenants)

Goal 8: Develop a global partnership for development

Target 12: Develop further an open multilateral trading and financial system that is rule-based, predictable and non-discriminatory

Target 13: Address the special needs of least developed countries

Target 14: Address the special needs of landlocked countries and small island developing States

Target 15: Deal comprehensively with the issue of developing countries through national and international measures in order to made their debt sustainable in the long term

Official Development Assistance

Indicator 33: Net, total ODA and ODA to LDCs, as a percentage of gross national income of OECD/DAC donor countries

Indicator 34: Proportion of total bilateral ODA broken down by sectors of OECD/DAC donors and dedicated to basic social services (basic education, primary health care, nutrition, safe water and sanitation)

Indicator 35: Proportion of ODA from OECD/DAC donors that is untied

Indicator 36: ODA received by landlocked countries in proportion to their gross national income

Indicator 37: ODA received by small island developing States in proportion to their gross national income

Market access

Indicator 38: Proportion of total imports from developed countries (in value, weapons excluded) from developing countries and LDCs, admitted duty-free

Indicator 39: Average rate of customs duties applied by developed countries to agricultural, textile products and garments from developing countries

Indicator 40: Estimated support of OECD countries to their agriculture in percentage of their GDP

Indicator 41: Proportion of ODA allocated to trade capacity building

Debt sustainability

Indicator 42: Total number of countries having achieved their points of decision under the HIPC initiative and number of countries that have reached their completion point under the HIPC initiative (cumulative effect)

Indicator 43: Committed debt relief under the HIPC initiative (dollars)

Indicator 44: Debt service, in percentage of exports of goods and services

Target 16: In cooperation with developing countries, formulate and apply strategies that enable youth to find decent and meaningful jobs

Indicator 45: Unemployment rate for the 15-24 age group, for each gender and total

Target 17: In cooperation with pharmaceutical industry, make key medicines available and affordable in developing countries

Indicator 46: Proportion of people with sustainable access to basic, affordable medication

Target 18: In cooperation with the private sector, ensure that the advantages offered by new technologies, in particular information and communication technologies, be available to all

Indicator 47: Number of telephone lines and mobile phone subscribers per 100 inhabitants

Indicator 48: Number of microcomputers used per 100 inhabitants and number of Internet users per 100 inhabitants

Presentation of the NSDP addresses *partnership development* in order to increase the effectiveness of Official Development Assistance. Several points emerge:

- Coordination mechanisms between donors and the government have improved; the Committee for Coordination between the government and donors (Government-Donor Coordination Committee, GDCC) chaired by the Minister of Economy and Finance ensures coordination between the 18 Technical Working Groups (TWG) that include representatives of the government and donors. Each TWG prepares its terms of reference the consistency of which is checked with the terms of reference of the other TWGs; then each TWG operates at its own pace. Joint Monitoring Indicators (JMI) have been jointly designed.
- A government action plan on harmonization and alignment, based on the Paris Declaration of March 2, 2005 on development aid effectiveness: ownership, harmonization, alignment, results and mutual accountability.
- A strategic framework for management of development cooperation.
- An operational handbook for donations and standard operational procedures for loans.
- Support to executives of ministries and independent administrative bodies in order for them to truly take the lead in development cooperation activities.
- Creation of a website for CDC/CRDB to monitor ODA disbursements.
- Private sector/public sector partnership.
- Partnership with non-governmental organizations.

- Presentation of the NSDP concludes with its *financing* through the Mid-Term Expenditure Framework.

3. Mid-Term Expenditure Framework

The Mid-Term Expenditure Framework (MTEF) is a programming tool for public expenditure taking constraints and goals into account. It is to form part of the NSDP which it quantifies. It allocates resources between destinations organized into functions and programs over a 5- to 10-year period. It sets feasible expenditure from sustainable resources based on the goals and interactions between the goals. An example of interaction between goals can be found in the number of children to be enrolled in school, which depends on the birth planning and vaccination policy, for instance.

The comprehensive MTEF is built from sector MTEFs: health, education, infrastructure, water and sanitation, rural development, defense and security, regional integration and environment with which it interacts.

Calculation of sustainable resources may be done as a percentage of the GDP or according to more sophisticated models: percentage of the GDP + percentage of imports + percentage of household income, etc. It therefore rests on macroeconomic projections.

Expenditures take into consideration voted measures, which correspond to expenses that the government is to bear over the years; available resources that then remain available may allow assumption of “new measures”.

These sustainable resources may be assigned through allocations among the different functions of the State; program-planned budgeting (PPB) and planning, programming and budgeting system (PPBS) techniques may be used.

Programming units of ministries and independent administrative bodies are usually in charge of preparing sectorial MTEFs and the focal point of the unit responsible for the national MTEF is usually located within the ministry in charge of planning.

In Cambodia:

The Mid-Term Expenditure Framework was introduced in Cambodia in 2002 with the support of the Asian Development Bank (ADB); it is an important component of the public finance management reform program. The MTEF in Cambodia is a process aiming at fostering evolution of the budget system in three directions:

- Defining a multiannual, stable, consistent and realistic resources framework in order to avoid as much as possible the occurrence of short-term demands dominating

budgetary decisions, sudden appropriation cuts creating uncertainties and negative behaviors, and late or spasmodic arrival of funds for the implementing departments and local authorities.

- Promoting a program-based approach with clearly articulated performance strategies and objectives.
- Improving information by providing an estimate of costs and results so as provide insight for the decision-making and management system.

Indeed, one should not put too much emphasis on a theoretical MTEF, as if it were a panacea for budget management issues. An MTEF is to be used as a means to reform the public finance of the country and the dual challenge facing Cambodia is as follows:

- Secure sustainable budget appropriation in accordance with strategic priorities.
- Promote a more effective and efficient use of resources through implementation structures that enjoy a larger degree of autonomy and accountability in order to get the best performance for the lowest cost.

The MTEF for 2005-2007 was developed for some priority sectors: education, health, agriculture, rural development, water resources, justice and women's affairs. The key features of the MTEF are as follows:

- A three-year rolling MTEF limited to operating expenses based on budgetary classifications (economic and functional).
- Approximate macroeconomic frame-line based on mid-term projections and resulting in comprehensive sectorial resource envelopes for public expenditure.
- Sectorial frame-line taking each sector strategy and policy into account.

The MTEF for 2005-2007 contains the initial measure of giving Cambodia new impetus for sustainable development. It provides for new injections of funds into public health, education, agriculture, rural development, justice and gender parity. To reach this goal, reassignment of resources will have to continue and expenditure be managed so as to address Cambodia's priorities.

The 2005-2007 MTEF projects a rise in current expenditure from 10.6% of the GDP in 2004 to 12.3% of the GDP in 2007. In nominal terms, current expenditure is expected to go up from 1,891 billion riels in 2004 to 2,771 billion riels in 2007, i.e. an average increase of 36% which is essentially the same growth rate as that provided for the GDP at current price.

Table 4. Mid-Term Expenditure Framework for priority sectors <i>(as a percentage of current expenditure)</i>												
	2002*		2003*		2004		2005		2006		2007	
	%	%	%	%	%	%	%	%	%	%	%	%
	Str.	GDP	Str.	GDP	Str.	GDP	Str.	GDP	Str.	GDP	Str.	GDP
Current expenditure	100.0	10.1	100.0	10.4	100.0	10.6	100.0	11.5	100.0	11.9	100.0	12.3
Incl. wages and salaries	37.27	3.74	35.09	3.67	35.14	3.61	40.00		40.00		40.00	
Health	10.15	0.98	11.00	0.94	12.05	0.90	11.29	0.87	11.76	0.88	11.75	1.05
Education	17.89	1.73	17.38	1.62	18.77	1.53	17.58	1.37	17.71	1.48	17.62	1.76
Defense and security	25.14	2.43	22.30	2.22	22.87	1.98	20.41	1.76	19.33	1.64	18.66	2.12
Agriculture	4.35	0.42	4.24	0.38	4.61	0.33	4.87	0.32	5.32	0.37	5.51	0.42
a. Agriculture	2.41	0.24	2.33	0.21	2.52	0.18	2.65	0.18	2.76	0.19	2.79	0.23
b. Rural development	1.16	0.11	1.13	0.09	1.24	0.08	1.32	0.09	1.38	0.11	1.39	0.12
c. Water resources	0.77	0.07	0.77	0.08	0.85	0.07	0.88	0.05	1.18	0.07	1.32	0.07
Public Works and Transport	0.77	0.08	0.81	0.08	0.81	0.06	0.84	0.05	1.06	0.06	1.18	0.07
Women's Affairs	3.96	0.39	3.55	0.39	3.84	0.40	3.63	0.04	4.02	0.05	4.05	0.06
Justice	0.44	0.04	0.52	0.06	0.67	0.05	0.84	0.05	0.82	0.05	0.83	0.06
Overview:												
Current expenditure, in billion of riels	1,574.91		1,758.11		1,745.70		1967.5		2,366.5		2,839.8	
Estimate for debt service					73.4		92.8		105.2		220	
Estimate for discharge of arrears					45		120		120		120	
Discretionary expenditure	1,575		1,758		1,796		1,866		2,102		2,371	
Health as percentage of discretionary expenditure	10.45		11.42		12.67		13.24		13.65		13.75	
Education as percentage of discretionary expenditure	18.40		19.05		19.77		20.58		20.55		20.58	
GDP at current price, in billions of riels	16,756		18,508		21,343		25,693		29,809		33,392	
GDP at current price, in millions of US\$	4,273		4,656		5,315		6,278		7,265		8,115	
Exchange rate in riels/US\$	3,921		3,975		4,016		4,093		4,103		4,115	

** Actual expenditure*

Current discretionary expenditure equal to current expenditure minus debt service and discharge of domestic arrears.

Within the framework of a new approach to public management, the MTEF provides for a significant rise in social and economic sector expenses:

- Confirmation of increase in health expenditures from 1.24 % to 1.45% of GDP to ensure stable, long-term financing of health care; expenditures will reach 326 billion riels (according to low forecast) in 2007, which accounts for an average annual rise of 25 billion riels or 36% per year from 2004.
- With additional financing for education in order to broaden universal access and encourage knowledge and innovation, education expenditures of 355 billion riels in 2004 will hit 488 billion riels (according to low forecast) in 2007, which is an average annual increase of 33 billion riels or 34% per year from 2004. In proportion to the GDP, education expenditures are anticipated to increase from 1.93% in 2004 to 2.17% in 2007.
- The granting of more funding for the agricultural sector as a whole, from 0.47% of the GDP in 2004 to 0.68% of the GDP in 2007. The budget for agriculture is allocated as follows: expenditure of the Ministry of Agriculture, Forestry and Fisheries increases from 47 billion riels to 60 billion riels; expenditure of the Ministry of Rural Development from 23 billion riels to 30 billion riels and expenditure of the Ministry of Water Resources from 16 billion riels to 25 billion riels;
- Jump in expenditures of the Ministry of Public Works and Transport which increase from 15 billion riels in 2004 to 24 billion riels in 2006;
- Increased support to Women's Affairs and Justice with the budget of the Ministry of Women's Affairs and Veteran's Affairs growing from 72 billion riels in 2004 to 100 billion riels in 2007 and the budget of the Ministry of Justice from 13 billion riels in 2004 to 20 billion riels in 2007.

The MTEF is therefore based on economic estimates and results in a three-year public investment program, the PIP, then in the annual operating and investment budget, which is the operational implementation of multiannual instruments.

4. Macroeconomic Forecasting

Macroeconomic forecasting is part of a first stage of budget preparation and aims at

determining aggregate revenue and expenditure volume of the draft budget from analyses of economic and fiscal environments and short-term and long-term projected trends. It must aim at setting priorities and relevant options so that the budget enables regular operation of the State machinery and contributes to the achievement of investments necessary in basic public services while promoting support to growth and safeguarding of fundamental monetary and fiscal balances.

Forecasting of the macroeconomic framework include the following components:

4.1. Forecasting of the real sector

Forecasting of the real sector are based on national accounts and price estimates made by the national accounting services of States, in particular within the framework of multiannual development plans, reports on the economic situation that accompany the budget law and programs concluded with Bretton Woods institutions.

In any case, primary consideration is given to figures provided by the government. However, should any problem arise with respect to overall coherence of the fiscal year due to the official figures used, discussions must be slated with the competent national authorities of the States so that they can proceed with any necessary revamping, if they themselves deem it necessary.

At this stage, special emphasis must be put on data relevance and coherence in order to ensure reliability of the framework. Analysis guidelines concern intra- and intersectoral relationships, historic evolutions, matching of the framework with the internal and external economic environment and also with economic theory, etc.

It is important to stress that the macroeconomic framework is a critical stage of budget preparation. Consequently, special care must be given to drawing it up in order to avoid weakening the fiscal year as a whole.

The quality of the economic framework depends on: (a) the economic and financial assumptions as a whole, (b) structural data on the national economy, (c) internal and external environments of the economy and (d) basic statistical techniques (ratios, averages, indexes, etc.).

4.2. Budget Forecasting

The idea is to draw up, in close cooperation with all the relevant budget and financial departments of the government, the provisional Table of Government Financial Operations (*Tableau des Opérations Financières de l'État* - TOFE) by integrating budget revenue and expenditure as well as external financing so as to arrive at the cash deficit

(or surplus) which will be funded by donors.

For purposes of coherence, revenue estimates to be retained must be consistent with the forecast level of imports (for customs duties) and the GDP outside the subsistence sector (for consumption taxes and dues). This table of estimates must also include debt service resulting from the National Treasury refinancing consolidation.

4.2.1. Preparation of budget revenue

4.2.1.1. Estimates of current revenue

Estimates depend on the origin of proceeds or revenue.

i/ Budget revenue sourced from taxes, customs duties, other miscellaneous duties and non-tax revenues will be subject to direct estimation by the competent services of the MEF for all revenues to be collected, in compliance with the Table in Appendix 2 of the budget. The Budget Department will centralize tax and non-tax estimates from public enterprises. According to the same model, financial departments in the provinces (finance, tax and customs) will provide the MEF central administration—Tax Department and Customs Department—with their revenue estimates.

ii/ In parallel, the ministries that have revenue-generating sectors will submit to the MEF's Budget Department the list of the revenues and relevant estimates for 1994, for entry under the appropriate headings of the table in Appendix 2 or under new headings to be created in the same Table. Such proceeds form an integral part of proceeds of the general national budget.

iii/ Tax and customs revenue estimates are carried out based on:

- Revenue collection during the current year.
- Consideration of the effects of inflation on the tax base.
- Forecasts of the anticipated economic developments.
- Introduced or contemplated amendments of tax rates and tax base.
- Anticipated revenues from newly created taxes.

In this respect, close cooperation between the MEF's various departments concerned should allow gradual development of relational models between major taxes and economic aggregates. It is noteworthy that the table in Appendix 2 has headings for tax and non-tax revenue which may not exist; they are currently given for reference only in order to illustrate possibilities of new revenue that could contribute to the budget

within the framework of tax reform and further expansion of national resources development.

4.2.1.2. Estimates of capital revenue

Regarding national capital revenue referred to in the same Table 1 of the budget, estimates are to be drawn up according to origin of the resource.

i/ Revenues from implementation of movable and immovable national property shall be subject to estimate by each ministry and provincial department having to carry out such operations, to be addressed to the MEF (Budget Department or provincial financial departments); of course, the amount of revenues is to be entered under capital revenue of the budget.

ii/ Estimate of repayment of loans and advances that may have been granted in the budget to public enterprises shall be calculated according to available depreciation tables.

iii/ External borrowings—when use of this type of financing has been decided by the government—are directly estimated by the MEF in conjunction with the National Bank of Cambodia, in the light of economic conditions and in consideration of the features of any contemplated loan.

iv/ ODA in the form of loans or grants will be underwritten by the budget in the light of the implementation conditions contained in the agreements. Resources from project loans will be estimated according to the foreseeable releases of funds, in connection with project progress. Accurate indications on this issue are to be given in the project profile described hereinafter for justification of expenditure estimates.

v/ In this context, counterpart funds are to be covered by a special mention: they will be entered in the draft budget up to the amount of anticipated receipts and considering foreseeable delivery of scheduled imports. In this regard, ministries are strongly advised to prepare with the best possible care the list of products and equipment that comprise the inputs of their projects or relating to their sector activity and that will be submitted for external financing. The Ministry of Commerce will prepare the list of the general needs of the national economy that are not covered by a specific sector. Imports to be undertaken in this context will be funded through program aid and counterpart riel shall be channeled into the general budget. A separate circular will subsequently specify the practical arrangements on how counterpart funds shall be administered, considering the specific provisions of the agreements concluded thereon.

4.2.2. Preparation of budgetary expenditure

The ministries will prepare a budget proposal for their expenditures of any kind for all their departments—central administration and external departments—and for their activities. Expenditure estimates will be put forward by the ministries and their provincial departments within the framework of the Table attached as Appendix 3 “Budget—Expenditure of the General National Budget”. The usual method of needs assessment is used to determine the individual expenditure concretely and directly, considering the components pertaining thereto: personnel inventory records, purchase quotations, invitations to tender... Certain activities lend themselves to establishing standards: operating cost of a hospital bed, the cost of providing primary, secondary or higher education ... As for consumer goods, averages provided in budgetary accounting statistics from preceding fiscal years will be used... For the departments, expenses such as travel and mission expenses ... standard tariffs shall be applied.

As a general rule, all expenditure estimates must be analyzed and justified thoroughly as to their validity and evaluation. Estimates must be accompanied by supporting documents by chapter and by article as will be shown hereinafter. All information presented will be subject to discussion. In support of this circular, a series of sample supporting documents for appropriations being applied for is provided, in keeping with the various expenditure headings, is provided. These documents are to be very carefully prepared, but this in no way exempts the ministry and province departments from providing, in support of these documents, any further information or document that may buttress their appropriation requests.

Supporting documents in terms of current expenditure are mainly established as follows:

4.2.2.1. Salaries and allowances

As an important part of the budget, expenditure on staff must be treated with the greatest accuracy in liaison with the Secretariat of State for Civil Service before entering them in the budget. No measure of this kind can be voted on, adopted or decided if the expenses that it is liable to incur have not been provided for, evaluated and received prior approval in the budget. Such things as department restructuring operations, job creation and conversion of posts and personnel recruitments... are dependent upon being written in the budget for necessary appropriations before starting implementation thereof.

4.2.2.2. Existing staff members

In order to justify the existing staff, personal information statements are to be made out according to the tables currently in use, complemented by information to be provided

Current Expenditure

Capital expenditures incur current expenditures that arise upon completion of work, but that may arise long before.

For instance, the building of a school involves a contract which ends with the approval of the building and the start of civil liability for the contract owner.

For good management of public resources, it is first necessary to try to plan out the work and thereby the procurement, to ensure that the school is going to operational at the beginning of the school year.

For the school to begin operating, it needs to be equipped: tables, benches, blackboards, etc.

In addition, schoolbooks need to be delivered, so they must be entered in a budget and ordered in time.

Above all, teachers have to be present, which implies that they have been recruited perhaps several years beforehand, trained for instance during three years and assigned to this school on schedule.

The current expenditures regarding this school arise therefore before the building itself is erected and approved.

as per the sample attached as Appendix 4, Sheet 1 of the budget. The personal information statement is to be drawn up by each ministry for each of its central departments and for each branch in provincial towns and for districts under its authority. This statement shall show in a series of columns the following information:

- A total of (3) civil service classes including their subdivisions as provided for under current rules.
- Number of civil servants currently included in each category and each rank.
- Indication of officers on active duty by their full names.
- Wage schedule and corresponding base salary.
- Family and equivalent allowances.
- Allowances forming various benefits, one column per allowance; some columns have remained blank so that they can be filled in with allowance amounts that may have been omitted.
- Total salary including the total amount for all persons in one department or branch, which must match the figure entered in the budget table in the column “appropriations granted”.

This personnel record is supported by a summary statement (*Sheet 2 of Appendix 4*) which mentions, by ministry department or external branch in the provinces and per

job category, the corresponding number of persons and the total amount of real wages and allowances due them.

It is also necessary to make a distinction—in order to verify the estimation—between adjustment credits so as to take into account normal promotion and, where applicable, filling of vacant positions and foreseeable employment transfers for 1994.

4.2.2.3. New recruitments

Expenses of public finance, on the one hand, the plethora of administrative staff, on the other, compel to abandon all new recruitments. Should new positions be needed in order to recruit personnel undergoing training or to meet the needs of certain sensitive sectors, or to fulfill new tasks, it would be up to the ministries concerned to propose a number of job cuts—corresponding to a similar budget amount—within departments under their authority. Failing this, the anticipated job cuts would affect the departments under the authority of other ministries. Regarding casual personnel, it is important to continue cutting down on their numbers.

4.2.2.4. Estimates of the balance of payments

External sector estimates primarily concern major product exports, imports as well as services and unrequited transfers, all these components contributing to determination of the outstanding amount of the balance of payments. They also concern capital movements, such as anticipated external loan resources and anticipated debt redemption as well as direct drawdowns, loans and investments from the private sector.

The aggregate balance drawn from all these components, compared to external arrears fluctuation and possible debt relief, shows the probable evolution of official exchange reserves that need to be made compatible with monetary estimates through iteration.

4.2.2.5. Monetary estimates

Monetary estimates make it possible to determine the level of foreign assets, domestic credit and money supply and also to deduce the refinancing that stems from them. These estimates are the outcome of the budgetary planning exercise.

The main steps of this exercise are the following:

(i) Projection of the money supply based on the estimated nominal GDP and on assumption of stability of the speed of currency circulation. This aggregate is then broken down into currency circulation (for the balance sheet of the Central Bank) and current and time deposits (for the summarized situation of banks) by using the previous structure of this aggregate.

(ii) Determination of net domestic assets by calculating the difference between the money supply and net foreign assets, the latter being known as they have been set in a discretionary way (when the foreign cover ratio is below 20%) or from the residual deficit (or surplus) of the balance of payments.

(iii) Projection for “Other net items” that may be kept unchanged due to the lack of relevant information or modulated where reliable information is available, for instance on the evolution of the banks’ own funds.

(iv) Calculation of domestic credit through the difference between net domestic assets and “Other net items”.

(v) Determination of appropriations allocated residually to the economy through deduction of net liabilities on the domestic credit statement (from the TOFE).

5. Public Investment Program (PIP)

The ongoing Public Investment Program covers the 2006-2010 period. It conveys over the next 5 years the directions and goals of the NSDP and the MTEF that it contains.

In 1995, the first Public Investment Program (PIP) for 1996-1998 was entrusted to a team of consultants from the Asian Development Bank (ADB). The National Assembly approved the first PIP and the data included therein thus became the data for drawing up the capital budget. However, the PIP remained a wish list of projects (a shopping list) as the Ministry of Economy and Finance was unable to grant the corresponding appropriations.

In particular, if foreign financing of a project is entered in the budget while the donor has only issued a pledge, this financing will probably not take effect within the fiscal year.

That is why the issue regarding figures to be calculated and entered in the Investment Program is a major issue that the MEF must carefully consider in order to avoid pushing up the budget unnecessarily by increasing its possible need for financing. If this issue is properly resolved, the legal nature of the PIP will not present any more new constraints to the budget as a whole. Law No. 93 -1 N.S of December 28, 1993 respecting finance laws and the budget system makes a distinction between three categories of appropriations related to capital expenditure:

(i) Program appropriations concerning the total cost of a program or project that the government may launch in the course of a year and which should make it possible to cover expenditures for full implementation of the project or, at the very least, for a coherent and functional part of it which can be begin operating without any

additional investment.

(ii) Commitment appropriations made available to an authorizing officer so that he can cover (in terms of law and accounting every year) the expenditures required by the implementation of investments provided for in the finance law.

(iii) Payment appropriations intended for annual authorization of amounts underwritten by the government within the framework of the corresponding commitment appropriations.

(iv) During the entire implementation period of the project or program, there is the relation ***{Program Appropriations > Commitment Appropriations > Payment Appropriations}*** but when the project implementation is completed, this relation becomes the following: ***{Program Appropriations = Σ Commitment Appropriations = Σ Payment Appropriations}***.

In other words, (i) program appropriations correspond to the total amount of the project that the government is authorized to launch; they do not concern any legal commitment to any provider; they may be increased, for instance to enable a price revision or an unpredicted increase of the project volume. (ii) Commitment appropriations correspond to the amount that the authorizing officer in charge of the project is authorized to incur within a fiscal year; they are deducted from the amount of program appropriations; they may be consumed over a period going beyond the horizon of the budget they belong to, mainly in cases of procurements the implementation of which will be spread over several years. (iii) Payment appropriations correspond to the treasury expense that the budget shall underwrite over the year (therefore, in principle, they may not be carried over).

The MEF usually enters in the PIP only projects for which funding has accrued and is covered, i.e.:

- Ongoing projects, the implementation of which will continue throughout and beyond the fiscal year.
- Ongoing locally-funded projects and new locally-funded projects that do not require a very large financing package from the government and that are not therefore put forward for external funding.
- Externally funded projects with a binding obligation and the implementation agreements of which have been signed by both parties concerned, i.e. Cambodia and the donor. Funding from the donor may be take place through release of funds (which are remitted by the Treasury into an account at the National Bank of

Cambodia) or through payments made directly by the donor who duly informs the Treasury, either as they are made or upon completion of the project.

Such external funding may impose a counterpart on the national budget; this counterpart may take the form of duty exemption for imported equipment or materials, and the amount of such exemption should be entered in the accounts.

2007 Budget (million riels)	
<i>Amount of program appropriations:</i>	7,455,269
<i>Commitment appropriations:</i>	2,607,033
<i>Payment appropriations:</i>	1,785,133
<i>Commitment appropriations are broken down as follows:</i>	
<i>-Locally-financed commitment appropriations:</i>	575,133
<i>-Direct external financing commitment appropriations:</i>	1,931,900
<i>-Commitment appropriations for the national debt:</i>	100,000
	2,607,033
<i>Payment appropriations are broken down as follows:</i>	
<i>-Locally-financed payment appropriations:</i>	573,133
<i>-Direct external financing payment appropriations:</i>	1,110,000
<i>-Payment appropriations for the national debt:</i>	100,000
	1,785,133

CHAPTER V

Budget Preparation

1. Budget calendar

The Finance Law for the 2007 fiscal year amends the 1993 Law on finance laws and the financial system with regard to the budget preparation timeline (Article 26).

New Article 26 of Law 93-1 as amended by the Finance law for the 2007 fiscal year

“The Minister of Economy and Finance draws up an annual draft finance law for management according to the following calendar:

1.1. Preparation of the budget strategic plan (March to May)

During the first week of March, the Minister of Economy and Finance draws up the framework for the mid-term macroeconomic and public finance policy consistent with the national development policy framework in order to submit it to the Council of Ministers.

During the first week of April, the Minister of Economy and Finance issues a circular on the preparation of the strategic plan based on the mid-term macroeconomic and fiscal policy adopted by the Council of Ministers.

Ministers, heads of government agencies, provincial and municipal governors, draw up the budget strategic plan for their central administrations, their provincial and municipal departments and entities under their authority, using as a benchmark the circular for the preparation of the budget strategic plan, prospects, priority goals, programs and action plans of ministries and agencies serving the sector priority policy and of the national development policy. These budget strategic plans are forwarded to the Minister of Economy and Finance by May 15.

1.2. Preparation of budget allocations (June to September)

During the first week of June, the Minister of Economy and Finance draws up a draft circular on the budget preparation technique by specifying the conditions and procedures, as well as notification and supporting documents, then sends the draft budget to the Council of Ministers for approval, after which he forwards it to ministries, agencies, provinces and municipalities so that they can draw up their detailed revenue and expenditure estimates.

Ministers, heads of government agencies, municipal or provincial governors draw up their detailed revenue and expenditure estimates for their central administration, the municipal and provincial departments under their authority, using as a benchmark the technical circular for preparation of the draft budget and their policy priorities. Draft budgets are to be transmitted to the Minister of Economy and finance by July 25.

The Ministry of Economy and Finance consolidates revenue and expenditure estimates from the ministries, agencies and provinces and municipalities.

During the month of August, the Ministry of Economy and Finance invites the ministers as well as the municipal and provincial governors to discuss their draft revenue and expenditure estimates in order to perform necessary adjustments, in accordance with the guidelines of the budget directive, by cutting down expenditures deemed to be inequitable and by increasing revenue estimates.

During the month of September, the Ministry of Economy and Finance consolidates data in order to establish a balance of revenue and expenditure and then draws up a draft finance law together with a statement on this draft law.

1.3. Adoption of Budget (October to December)

During the first week of October, the Ministry of Economy and Finance submits the draft budget law to the Council of Ministers; then to the National Assembly during the first week of November, for discussion and approval. Finally, the draft budget law is submitted to the Senate during the first week of December for adoption prior to December 25.

This calendar could include an additional step between late May and early June, which would be a debate on the direction the budget should take. Such a debate would enable an agreement between the executive and legislative powers on allocations by “functional classification” of the government and would thus speed up the budget adoption stage.

2. Classification of the functions of the government

The government’s structure varies over time and in space (from one country to another), which makes it difficult to draw comparisons in time for one country, and in space between countries.

To cope with this difficulty, the IMF has developed a Classification of the Functions of Government, known as COFOG, reviewed and elaborated by the United Nations.

This classification of the functions of government involves organizing in a universal and permanent manner the functions of public administrations.

Classification of the Functions of the Government

(excerpt from UN Statistics Division – Classification Registry – <http://unstats.un.org/unsd/cr/registry/regcst.asp>)

01 General public services

- 011 *Executive and legislative organs, financial and fiscal affairs, external affairs*
 - 0111 Executive and legislative organs
 - 0112 Financial and fiscal affairs
 - 0113 Foreign affairs
- 012 *Foreign economic assistance*
 - 0121 Economic aid to developing countries or countries in transition
 - 0122 Economic aid routed through international organizations
- 013 *General administration*
 - 0131 General personnel services
 - 0132 Overall planning and statistical services
 - 0133 Other general services
- 014 *Basic research*
- 015 *R&D general public services*
- 016 *General public services n.e.c.*
- 017 *Public debt transactions*
- 018 *Transfers of a general character between different levels of government*

02 Defence

- 021 *Military defence*
- 022 *Civil defence*
- 023 *Foreign military aid*
- 024 *R&D Defence*

025 *Defence n.e.c.*

03 Public order and safety

031 *Police*

032 *Civil protection*

033 *Law courts*

034 *Prisons*

035 *R&D Public order and safety*

036 *Public order and safety n.e.c.*

04 Economic affairs

041 *General economic, commercial and labor affairs*

0411 General economic and commercial affairs

0412 General labor affairs

042 *Agriculture, forestry, fishing and hunting*

0421 Agriculture

0422 Forestry

0423 Fishing and hunting

043 *Fuel and energy*

0431 Coal and other solid mineral fuels

0432 Petroleum and natural gas

0433 Nuclear fuel

0434 Other fuels

0435 Electricity

0436 Non-electric energy

044 *Mining, manufacturing and construction*

0441	Mining of mineral resources other than mineral fuels
0442	Manufacturing
0443	Construction
045	<i>Transport</i>
0451	Road transport
0452	Water transport
0453	Railway transport
0454	Air transport
0455	Pipeline and other transport
046	<i>Communication</i>
047	<i>Other industries</i>
0471	Distributive trades, storage and warehousing
0472	Hotels and restaurants
0473	Tourism
0474	Multipurpose development projects
048	<i>R&D Economic affairs</i>
0481	R&D General, economic and labor affairs
0482	R&D Agriculture, forestry, fishing and hunting
0483	R&D Fuel and energy
0484	R&D Mining, manufacturing and construction
0485	R&D Transport
0486	R&D Communication
0487	R&D Other industries
049	<i>Economic affairs n.e.c.</i>

05 Environment protection

- 051 *Waste management*
- 052 *Waste water management*
- 053 *Pollution abatement*
- 054 *Protection of biodiversity and landscape*
- 055 *R&D Environment protection*
- 056 *Environment protection n.e.c.*

06 Housing and community amenities

- 061 *Housing development*
- 062 *Community development*
- 063 *Water supply*
- 064 *Street lighting*
- 065 *R&D Housing and community amenities*
- 066 *Housing and community amenities n.e.c.*

07 Health

- 071 *Medical products, appliances and equipment*
- 0711 *Pharmaceutical products*
- 0712 *Other medical products*
- 0713 *Therapeutic appliances and equipment*
- 072 *Out-patient services*
- 0721 *General medical services*
- 0722 *Specialized medical services*
- 0723 *Dental services*
- 0724 *Paramedical services*

073	<i>Hospital services</i>
0731	General hospital services
0732	Specialized hospital services
0733	Medical and maternity centre services
0734	Nursing and convalescence home services
074	<i>Public health services</i>
075	<i>R&D Health</i>
076	<i>Health n.e.c.</i>

08 Recreation, culture and religion

081	<i>Recreational and sporting activities</i>
082	<i>Cultural services</i>
083	<i>Broadcasting and publishing services</i>
084	<i>Religious and other community services</i>
085	<i>R&D Recreation, culture and religion</i>
086	<i>Recreation, culture and religion n.e.c.</i>

09 Education

091	<i>Pre-primary and primary education</i>
0911	Pre-primary education
0912	Primary education
092	<i>Secondary education</i>
0921	Lower-secondary education
0922	Upper-secondary education
093	<i>Post-secondary non-tertiary education</i>
094	<i>Tertiary education</i>

0941	Non-doctoral tertiary education
0942	Doctoral tertiary education
095	<i>Education not definable by level</i>
096	<i>Subsidiary services to education</i>
097	<i>R&D Education</i>
098	<i>Education n.e.c.</i>

10 Social protection

101	<i>Sickness and disability</i>
1011	Sickness
1012	Disability
102	<i>Old age</i>
103	<i>Survivors</i>
104	<i>Family and children</i>
105	<i>Unemployment</i>
106	<i>Housing</i>
107	<i>Social exclusion n.e.c.</i>
108	<i>R&D Social protection</i>
109	<i>Social protection n.e.c.</i>

n.e.c. = not elsewhere classified

R&D = Research & Development

3. Budget organization into programs and actions

Article 17 of the 1993 Law No. 1 respecting finance laws and the budget system was amended by the 2007 finance law for management in order to introduce the notion of programs and sections:

“Budget appropriations made available by the finance law are allocated in detail within

each category according to their nature and purpose. These appropriations are subject to consolidations through program budgets and sections. Allocation in program budgets is made effective by order of the Minister of Economy and Finance...”

Previously, the budget used to be presented only by economic nature (of means); until 2006, this economic nature (chapters, articles and paragraphs) was not developed in depth. One of the reforms implemented with the 2007 budget involved replacing this coding system by simple nature with a coding system which is similar to the private sector chart of accounts, while taking into account the specificities of the government.

Program refers to group of independent sub-programs and/or group of independent sets of activities with close linkages and developed to contribute to achieve a common policy objective, and that states activities to be implemented, annual performance, final results, and indicators, which are bases for review and assessment of the achieved results from programs implementation. Program can be divided into sub-programs. A program usually consists of coherent activities that correspond to identified operational targets and under the authority of only one officer. The cost of activities and means of a program must also be clearly identified.

Objectives corresponding to a program must be formulated and anticipated results and their assessment shall be spelled out.

3.1. Budget structuring into programs and activities and into sections, and identification of their costs

Activities are an itemization of programs. They identify community services rendered to users, the action policy goals or duties performed.

The cost of each activity is to be identified, including its personnel expenditure and identification of the material and asset means made available.

Expenditures are to be justified in detail: presentation by voted services / new measures will be gradually dropped in favor of a “zero-sum” budgeting corresponding to the program approach.

Analysis of the nature of expenditure is conducted according to the new economic nomenclature and budget rules (salary expenses, other expenses, multiannual commitments and annual appropriation requirements, annex budgets and special accounts of the Treasury, public institutions).

Selection of objectives must reflect policy priorities and ministerial strategies.

3.1.1. Consolidation by section

Sections contain activities of sectoral policies and services, as well as activities related to inputs which cannot be defined in the form of programs; these sections are in support of program implementation and are expected to gradually become programs of their own right or be in whole or part allocated in programs.

3.1.2. Objectives

Objectives, more specific than headline goals of policies and more open-ended time

Overall objectives, overall goals, specific objectives, operational objectives, targets...

Logical framework:

(For further details, see the “Project Cycle Management Handbook” of the European Commission, for instance)

In the “logical framework” method used by many development partners, “overall objectives”, “specific objectives”, “expected results”, “activities” and “means” are defined.

Opposite each of them, “objectively verifiable indicators”, “performance targets (with figures)”, “performance achievements (with figures)” and then “sources of verification” and “assumptions” are shown.

When the logical framework of an organization is broken down into its components, what is an “output” at a higher level becomes an objective for a subordinate level: for instance, the overall objective of road maintenance may be to improve roadway traffic and one specific objective among others may be to repair paved roads; anticipated output may be the maintenance of 1,000 km of paved roads for the budget concerned.

This output consisting in maintaining 1,000 km of paved roads will become the objective of the competent branch, which will break down activities and anticipated results by geographical location and by timeframe, as well the material and financial means to be mobilized.

In a more elaborate approach, the competent branch will be empowered to assign on its own objectives to provincial departments in charge of maintenance. For example, the Kampot provincial directorate will have as an objective the repair of 100 km of road that goes through this constituency.

Millennium Development Goals (MDG)

The MDG define 8 “goals” (Cambodia has a ninth goal, demining), 18 “targets” and 48 “indicators”.

Other terms:

“Overarching goal” is also used to refer to “overall objective”, and “target” for “specific objective”.

wise must be spelled out in concrete terms enabling assessment of the anticipated results: they are tied in with outcome indicators.

Objectives, their indicators and targets, shall be broken down into several performance pillars: socio-economic effectiveness, quality for the user, management efficiency.

3.1.3. Indicators

Program implementation and performance is monitored by means of indicators.

Indicators may refer to a monetary approach (revenue and expenditures, for instance), or qualitative (food deficiency, satisfaction rating, for instance).

Indicators are obtained through administrative data or statistical systems or surveys (household surveys, taking inventories and conducting satisfaction surveys).

Indicators

Input indicators:

Also known as “input variables”, they refer to what gets into the “black box” that will generate the anticipated results; in the example given of road maintenance, they will be manpower hours, tons of tar and gravel, hours or units of public works machinery, for instance. Input indicators measure “units of work consumed” in industrial management.

Output indicators:

Output indicators continue to be referred to as indicators of direct achievement or output variables; this is what comes out of the “black box”: kilometers of roads maintained.

Outcome indicators:

A distinction is made between indicators for mid-term results which measure the direct impact of activities of public authorities on the people, indicators of final outcomes which assess end results with regards to the objectives and evaluation indicators which measure the level of satisfaction of the people.

Impact indicators:

Impact indicators monitor impacts of activities on targeted populations. Impact indicators for road maintenance may be the travel time between two towns, the number of mechanical breakdowns due to road conditions or accidents due to road conditions, etc.

Indicators must be relevant, straightforward, objective, sensitive to variations in the specific item they are intended to measure, sufficiently accurate, reliable, verifiable and available at a reasonable price.

3.1.4. Quality of service

Quality has a dual nature, which refers to both mid-term outcomes and end results. Quality of the service is inseparable from analysis of the efficiency: volume of services delivered and quality must be monitored together. Quality is usually the most sensitive factor for the user: as such, it contributes to the activity's final effectiveness. These two aspects are found in quality measuring tools: the key points measured internally focus on outcomes, while evaluation of the service through a satisfaction survey focus on end results.

3.1.5. Management effectiveness

Economy, effectiveness and efficiency (principle of the three E's)

Economy:

Economy is a measure of the activity achievement cost: an invitation to tender has been launched in order to buy hammers and the hammers are truly the best buy on the market.

Effectiveness:

What needed to be done has been done within the time limit: the purchase of hammers at the lowest cost.

Efficiency:

But what was the job that needed to be done: Buy hammers to kill mosquitoes? Would swatters or an insecticide not have been more appropriate to the problem that required a solution?

Other term: efficiency (see boxed text).

Efficiency establishes the relationship between the outcomes obtained—which form the mid-term results of the administrative activity—and the resources consumed.

3.1.6. Fungibility

Implementation of *actual accountability for objectives and outcomes* of activities implies responsibility, implementation and information feedback.

Fungibility of budgetary resources means granting the person in charge of the program a measure of leeway in the use of resources, including sufficient flexibility to make changes to his budget; such fungibility is known as *asymmetric* insofar as (in France) staff expenditure cannot be funded by other expenses, whereas the contrary is possible.

3.1.7. Public institutions and other implementers of governmental policies

The legal autonomy of some stakeholders of governmental policies (public institutions, regulatory organs, private agencies...) and the fact that part of the resources mobilized by such stakeholders are not sourced from the government budget must not be an obstacle to making the most comprehensive identification of policies possible.

It is therefore advisable to bring together under the umbrella of one program public services and implementers who contribute to the same public service in order to obtain a consolidated vision of the payload activity to monitor the performance of government activities.

3.2. Programs and projects

The budget has always included a list of self-financed or co-financed capital cost projects or projects financed by development partners.

The notion of capital cost project is therefore familiar; there is abundant literature on project management by all donors. We have already quoted the “Project Cycle Management Handbook” of the European Commission.

As a rule, any project is unique: the building of a school; a program is a set of activities which unfolds in time: a program for the building of schools (a series of projects).

A project that involves capital cost only: project for public finance computerization; within the new budgetary approach, a program relates to routine activities delivered by the government: provision of medical care, education, repairing roads, for instance, but also encompasses the notion of projects.

3.3. Programs and projects in the 2007 budget

Programs have been introduced in the 2007 budget for seven line ministries: Ministry of Education, Youth and Sports; Ministry of Health; Ministry of Women’s Affairs; Ministry of Justice; Ministry of Rural Development; Ministry of Agriculture, Forestry and Fisheries; and Ministry of Land Management, Urban Planning and Construction.

1. Ministry of Education, Youth and Sports (MoEYS)

The Budget of MoEYS includes 5 programs which are divided into 16 subprograms and 67 activities:

I. General and informal education

I.1. Promoting pre-school education

I.1.1 Preschool education program for 5-year old children.

I.1.2 Home schooling pilot program for children

I.1.3 Monitoring and evaluation

I.2. Quality and effectiveness of primary education

I.2.1 Operational budget for schools

I.2.2 Budget for the promotion of additional classes (classes for students repeating a year)

I.2.3 Incentives to reinforce monitoring and evaluation

I.3. Quality and effectiveness of secondary education

I.3.1. Lower secondary education

I.3.1.1 Operational budget for schools

I.3.1.2 Improving teaching and management

I.3.1.3 Capacity building, monitoring and evaluation

I.3.2. Upper secondary education

I.3.2.1 Operational budget for schools

I.3.2.2 Fees for students

I.3.2.3 Capacity building, monitoring and evaluation

I.4. Fair enrollment and scholarships for poor students

I.4.1 High school scholarship program

I.4.2 Budget for the local management committee

I.4.3 Monitoring, evaluation and management

I.5. Strengthening of informal education

I.5.1 Teacher capacity building for informal education

I.5.2 Development of literature teaching and skills

I.5.3 Development and extension of the re-enrollment program

I.5.4 Monitoring and evaluation

II. Vocational training, higher education and scientific research

II.1 Quality and effectiveness of higher education

II.1.1 Budget to support and fund programs in higher education establishments

II.1.2 Improving the higher education monitoring and evaluation system

III. Youth and Development

III.1. HIV/AIDS awareness in and out of school

III.1.1 HIV/AIDS awareness out of school

III.1.2 Reinforcement of youth and student councils

III.1.3 Monitoring and evaluation

III.2. Development of sports

III.2.1.1 Renovation of municipal/provincial stadiums

III.2.1.2 Establishment of sports associations

III.2.1.3 Monitoring and evaluation

III.2.2.1 Creation of school sports grounds in cities and provinces

III.2.2.2 Establishment of sports associations for students

III.2.2.3 Training courses for sports instructors and physical education teachers

III.2.2.4 Monitoring and evaluation

I.2.3.1 Training courses for referees

II.2.3.2 Budget for physical education centers

II.2.3.3 Budget for scientific research centers, sports and physical education centers

II.2.3.4 Monitoring and evaluation

II.2.4.1 Training courses for sports instructors at national level

II.2.4.2 Material and equipment for sports centers

II.2.4.3 Library and training materials for sports instructors and teachers of physical education teachers

IV. Quality and effectiveness of the teaching and audit scheme

IV. 1. Monitoring and evaluation of the performance system

IV.1.1 Reinforcement of the monitoring and evaluation system

IV.1.2 Monitoring and evaluation

IV.2. Administrative and financial audit

IV.2.1 Capacity building

IV.2.2 Monitoring and evaluation

IV.3. Internal audit

IV.3.1 Materials to support the technical quality of the audit

IV.3.2 Process of internal audit activities

IV.3.3 Process of internal audit activities based on the recommendations for reinforcement

IV.3.4 Monitoring, evaluation and institutional capacity building

V. Supporting and managing education departments

V.1. Development of information policy and reinforcement of educational system planning

V.1.1 Development of education policy and plan

V.1.2 Monitoring and evaluation of implementation and impact

V.2. Continuing education of teachers

V.2.1 Routine budget for teacher training and retraining colleges

V.2.2 Training courses for primary and secondary school principals and vice principals

V.2.3 Training courses for primary and secondary school teachers

V.2.4 Statistics and probability training courses for high school teachers

V.2.5 Information and communication technology training courses for trainers

V.2.6 Monitoring and evaluation

V.3. Development of textbooks and teaching materials

V.3.1.1 Purchase of books

V.3.1.2 Training course for librarians

V.3.1.3 Monitoring and evaluation

V.3.2.1 Purchase of books

V.3.2.2 Capacity building in book delivery

V.3.2.3 Monitoring and evaluation

V.4. Education department effectiveness

V.4.1 Management and technical support program

V.4.2 Support program for teacher deployment

V.4.3 Remote area allowance payment program

V.4.4 Budget for training courses on monitoring

V.5. Capacity building, management, financial planning and materials

V.5.1 Monitoring at district and provincial levels

V.5.2 Improving staff management skills

V.5.3 Support to operating budget management centers

V.5.4 Assets, printing, building, maintenance and purchase of safes

2. Ministry of Health

The Ministry of Health has 5 programs and subprograms which are divided into 93

activities.

I. Management and administration

- I.1 Policy, strategy, health and sectoral management legislation
- I.2. Research on the health system, monitoring and evaluation
- I.3 Development of human resources and staff management
- I.4 Administrative services
- I.5 Medicine supply and management

II. Maternal and child health

- II.1 Reproductive health
- II.2 Immunization
- II.3 Newborn and child health
- II.4 Nutrition

III. Control of communicable diseases

- III.1 HIV/AIDS
- III.2 Tuberculosis
- III.3 Malaria
- III.4 Dengue fever
- III.5 Parasitology
- III.6 Emerging diseases

IV. Control of non-communicable diseases and other health-related issues

- IV.1 Non-communicable diseases
- IV.2 Ophthalmology
- IV.3 ENT
- IV.4 Mental illness
- IV.5 Health problems

V. Provision of services and support services

- V.1 Health promotion
- V.2 Laboratory and blood safety
- V.3 Health care financing
- V.4 Full package
- V.5 Minimum package

3. Ministry of Women's Affairs

The Ministry of Women's Affairs has a program which is divided into 3 subprograms and 19 activities.

PI. Promoting the dignity of Cambodian women

PI.S1 Education on social morality and family values

PI.S2 Planning, compiling statistics, monitoring and assessing gender issues
 PI.S3 Vocational training for women within the community: creation of jobs through the training courses

4. Ministry of Justice

The Ministry of Justice has a program which is divided into 5 subprograms and 13 activities.

PI. Improving general judicial services

PI.S1 Legal awareness among the people

PI.S2 Development of rights in the judicial sector

PI.S3 Researching and establishing a mechanism for out-of-court dispute settlement. Development of a law respecting the setting up of a district court in 2008-2009.

PI.S4 Inspection of judicial services in order to strengthen law enforcement

PI.S5 Capacity building to improve judicial services.

5. Ministry of Agriculture, Forestry and Fisheries

The MAFF has 5 programs which are divided into 22 subprograms and 87 activities:

PI. Enhancing agricultural production

- PI.S1 Improving the fertility of farm lands
- PI.S2 Research and transfer of agricultural technologies to farmers
- PI.S3 Improving agricultural statistics
- PI.S4 Increased use and management of agricultural machinery
- PI.S5 Improving and promoting animal husbandry
- PI.S6 Improving agricultural extension services
- PI.S7 Creation of associations for agricultural development in 11 provinces
- PI.S8 Reinforcing and promoting private investments

PII. Improving access to markets for agricultural products

- PII.S1 Promoting processing technologies for agricultural products and post-harvest technologies
- PII.S2 Safety of agricultural products and development of standard

PIII. Reinforcement of the legal and institutional framework and development of human resources

- PIII.S1 Capacity building for civil servants at all levels
- PIII.S2 Reinforcement of institutional development

PIV. Forest management

- PIV.S1 Marking out the boundary lines of permanent forest reserves
- PIV.S2 Prevention and elimination of any form of forest land encroachment and appropriation
- PIV.S3 Supply of food for wild animals at the zoo and at the Wild Animal Protection Center
- PIV.S4 Reforestation program

PV. Sustainable management of fishery resources

- PV.S1 Research and development of freshwater fisheries
- PV.S2 Establishment and reinforcement of fishermen associations

PV.S3 Publication and education on fishery product hygiene

PV.S4 Promoting family-scale aquaculture and raising awareness of technologies

PV.S5 Research and production of fry

PV.S6 Marking out the boundary lines of fishing zones

6. Ministry of Rural Development

The MRD has 4 programs which are divided into 10 subprograms and 28 activities.

PI. Capacity building

PI.S1 Data for the drawing up of the rural development plan

PI.S2 Institutional capacity building at central level

PI.S3 Capacity building for commune councils

PII. Rehabilitation and development of rural infrastructure

PII.S1 Regular maintenance of 20 roads (352,410 m) in 10 cities - provinces.

PII.S2 Scheduled maintenance of 45 roads (356,535 m) in 22 cities - provinces.

PII.S3 Counterpart funds for the TRIP IV project—regular maintenance

PII.S4 Quality insurance fund for newly built roads

PIII. Improving health and rural hygiene

PIII.S1 Drinking water supply in rural areas

PIII.S2 Health services in rural areas

PIV. Development of rural economics

PIS1 Rural credit

7. Ministry of Land Management, Urban Planning and Construction

The MLMUPC has 4 programs which are divided into 10 subprograms:

PI. Land use plan

PI.S1 Draft plan for used lands

PII. Planning and land distribution

PII.S1 Social land concessions

PII.S2 Master plan at district level

PII.S3 Land use plan for urban areas

PII.S4 Guidelines and regulations for implementation of the plan

PIII. Reinforcement of the building unit

PIII.S1 Accreditation of professional engineers and architects

PIII.S2 Publication of rules and regulations to reinforce the building industry in cities and provinces

PIII.S3 Measures to improve management and raise awareness of land registration

PIV. Human resources development and strengthening of law enforcement

PIV.S1 Training

PIV.S2 Law awareness

CHAPTER VI

Budget Implementation

1. Making appropriations available

1.1. Allocation of appropriations

Appropriation allocation in main budget areas is voted by Parliament as specified in the finance law. Once the finance law has been voted by the National Assembly and Senate, it is to be promulgated by a Royal *Kram* signed by His Majesty the King of Cambodia.

The detailed breakdown is the responsibility of the government within the framework of budget allocation sub-decrees. Following promulgation of the finance law, the Ministry of Economy and Finance is to submit to the Prime Minister a decree which finalizes the detailed allocation of budgetary appropriations by ministry, chapter and program. The public accounting and budgetary nomenclature reforms established in 2007 introduced new codes:

- Classify expenditure according to their economic nature (Chapter 60 - Purchase; Chapter 61 - External charges for services; Chapter 62 - Other external charges for services; Chapter 64 - Personnel expenses; Chapter 65 - Capital subsidy and social welfare; Chapter 63 - Taxes and duties) following an outline that corresponds to that followed by national accounting and the new chart of accounts.
- Classify expenditure according to the activity sectors to which they correspond. The sectoral or functional coding shows appropriations as allocated to general, social and economic administrations, and also to security and defense. In each administration category, appropriations are allotted by ministry.
- Classify expenditure according to programs.

Appropriation allocation in each chapter by account and subaccount is under the responsibility of the Ministry of Economy and Finance within the framework of circulars on appropriation allocation. Following the adoption of the decree approving allocation of appropriations, the Ministry of Economy and Finance establishes budget nomenclature for ministries by allocating appropriations by account and subaccount and by central administration and external departments in the provinces.

Ministers and heads of similar public agencies are the main authorizing officers for the budget, for revenues sourced from their sectors; they are the main authorizing officers for their respective budgets for expenses of the central administration and external

departments under their responsibility in the provinces. Ministries and heads of similar public agencies entrust, via a circular, provincial and municipal governors with the capacity of delegated authorizing officer for financial transactions of the provincial department budget within their territorial constituency.

1.2. Modifications of appropriation allocation

The possibility for the government to modify appropriation allocation in the course of implementation is necessary, based on inevitable uncertainties at the preparation stage.

Transfers of appropriations from one ministry or similar public agency to another *are carried out by the amended finance law. However, appropriation transfers from one ministry or similar public agency to another, necessitated by a governmental or an administrative restructuring, are performed by sub-decree, on condition that they do not modify the nature of the expenditure and allocation of appropriation by chapter.*

Appropriation transfers bring about a correction of a totally different consequence, as they modify the nature of expenditure for which appropriations had been forecast. For this reason, transfers can only be carried out by decree of the Prime Minister upon recommendation of the Minister of Economy and Finance. Transfers of appropriations from one chapter to another, *within the budget of a ministry or a similar public agency, are carried out by sub-decree, provided that capital (investment) appropriations will not be converted into current operating expenses.*

Decrees voted at the level of the Council of Ministers upon proposal of the Minister of Economy and Finance may allocate the amount entered under the chapter of unforeseen expenses, in the form of additional appropriations in favor of other chapters of the ministries or similar public entities in order to meet unforeseen expenses.

Additional appropriations may be made available by a Decree on advance payments approved at the level of the Council of Ministers, upon report of the Minister of Economy and Finance, beyond budgetary allotments entered under the chapter of unforeseen expenses, in case of disasters or imperative needs of national interest. Transfers of appropriations which involve moving appropriations from one department to another without modifying the purpose of the expense for which they had been envisaged, are decided by order of the Minister of Economy and Finance. Transfers from one account to another account or from one subaccount to another subaccount within the same chapter are authorized by order of the Minister of Economy and Finance.

2. Categories of Budget Appropriations

According to their use, current budget appropriations can be divided into:

- ***Provisional appropriations*** (crédits provisionnels): Article 17 of the Law 93-01 dated 28 December 1993 governing the Financial Laws and the Budget System stipulates that the reserve funds are not allocated to any ministry. They are earmarked for various spending administered by the Minister of Economy and Finance. Provisional appropriations are provided for those expenditures that cannot be accurately identified during the time of the adoption of the budget. Allocations of provisional credits are made by a government sub-decree at the proposal of the Minister of Economy and Finance. This means that the amount of such appropriations are tentative. If needed, for example in the case of natural disasters, the Minister of Economy and Finance can supplement these appropriations from the Reserve Funds by adopting a Sub-decree on supplementary credit (décret d'avance).
- ***Capped appropriations*** (crédits limitatifs): Article 18 of the Law on Budget System states that for capped appropriations, spending commitments and orders to pay are capped by the Financial Law. This type of spending can only be increased by the Amended Budget Law. For example, appropriations for Operations and Maintenance (O&M) are considered as capped appropriations.
- ***Estimated appropriations*** (crédits évaluatifs): Article 18 of the Law on Budget System stipulates that estimated appropriations refer to the types of spending, which are compulsory, which cannot be projected adequately during budget preparation. It means that the amounts of estimated appropriations are tentative and the budget figures are only estimated. Spending of the estimated appropriations can be increased beyond the voted budget. Estimated appropriations refer to spending on public debt, salary or any expenditure determined by the Financial Law.

Article 20 of the Law on Budget System stipulates that capital budget appropriations can be divided into three categories of appropriations:

- ***Program appropriations*** (crédits de programme): determine the programs or projects, with global costs fixed, to be undertaken by the State during the year. Program appropriations allow the government to commit spending for the overall implementation of the project or a coherent part of the project that can be operationalized without any additional investment. However, program appropriations will commit spending by the government within the cap of the committed appropriations adopted by the Financial Law.

- ***Committed appropriations*** (crédits d'engagement): Committed appropriations are provided to the budget authorizing officer so that he or she can commit necessary spending in order to carry out investments as envisaged by the Financial Law. Committed appropriations can be used without a time limit. They are transferred from one year to another until they will be eventually nullified.
- ***Payment appropriations*** (crédits de paiement): Payment appropriations are designed to prepare the orders to pay the amounts to be paid by the State within the framework of the relevant committed appropriations. Unused payment appropriations will be nullified at the end of the year. New payment appropriations will be made available next year.

3. Priority Action Programs

It is obvious that the increase in budget allocations for the social sector will not bring the anticipated results as long as budget disbursements continue to be slow, unpredictable and suffer delays. It is therefore necessary to speed up and cut down on budgetary disbursement procedures in spending ministries. This imperative requirement prompted the Royal Government of Cambodia to introduce the Advanced District Development (ADD) scheme for the health sector in 1998 and the Priority Action Program (PAP) for priority ministries in 2000. The objective of the PAP mechanism is to disburse budgetary resources as provided for in the voted budget and avoid the reduction of resources intended for the key spending ministries in accordance with the policy aiming at reducing military expenditure and increasing social expenditure in order to maintain macroeconomic stability and reduce poverty.

At the same time, the PAP was one element of public finance reform involving disbursement via advance payments and a post audit of budget expenditure. This system aims at giving more opportunity and responsibility to spending ministries in drafting, implementing and managing their budget, in phase with the financial decentralization policy. Moreover, the PAP mechanism laid the basis for budget reform with the abolition of budget lines, by classifying the PAP budget in program Chapter 13. The PAP has provided spending ministries with incentives to implement reforms in the mid-term. This mechanism aims at increasing budgetary resources for priority ministries, provided that good performance of budgetary implementation outcomes is achieved.

At the same time, in order to facilitate implementation of the PAP, it is necessary to set up an efficient and high performing budget management system to ensure the accounting, transparency and efficient use of funds for public expenditure. For this reason, success of public finance reform depends on the capacity and accountability of

spending ministries, of the quality put into program preparation, forecasts and budget programming.

The PAP was carried out in the framework of a special program (Chapter 13), voted on as a whole for the concerned ministries. While the ADD program aims at bypassing the regular budget implementation system by introducing direct disbursements from the National Treasury budget to health operational districts, the PAP is a results-driven, program-focused decentralized budget system. Budget managers hold the power to decide on the use of funds in order to produce the anticipated results. Expenses are post-audited so as to speed up budget implementation. Moreover, budget decision-making power has been decentralized from the Minister to the chief of the Budget Management Center (BMC).

The PAP system allows the Minister of Education, Youth and Sports and the Minister of Health to introduce elements of the mid-term budget planning, the program concepts and the results-driven budget. This system has enabled an improvement in budget transparency and facilitated introduction of budget support by donors, i.e. to finance government expenditure in exchange for a guarantee from the government to maintain mid-term finance envelopes at an acceptable level and make progress in the implementation of reforms. Furthermore, establishment of BMCs at all levels has enabled the ministries concerned to decentralize budget planning and implementation.

The PAP also has its weaknesses for this budget reform was implemented as a separate measure for want of a systemic change. The PAP mechanism was perceived as a deviation from the regular system. There is also resistance within the Ministry of Economy and Finance (MEF) as well as within the spending ministry that did not want to grant power to BMC chiefs.

Regarding the health sector, emphasis was put on running hospitals, health centers, operational districts and provincial administrations. Managers should have been more flexible in the use of budgets. But, in reality, public health officials are continuing to use the PAP budget in the spirit of a budget with line-item budget.

Moreover, seven years after implementation of the PAP, the post-audit system has not yet been set up and the PAP system is perceived by managers as an expense without a paper trail and audit. This makes the PAP system one that departs from the principles of public accounting and has exacerbated the trust risk of public expenditure.

Lack of a clear operational framework has caused uncertainty and misunderstanding at all levels and has undermined the trust of budget managers. Lack of clear procedures has routinely created difficulties in the area of institutional capacity building.

The PAP has nonetheless shown that management of change is vital for public finance reform. The PAP is a steering instrument for the drawing up and implementing the program budget within the Public Finance Management (PFM) reform now underway. Along with the PAP budget decentralization, the MEF has decided to assign financial controllers to spending ministries in order to cut down on budget procedures and speed up budget disbursements.

4. Budget Review

Implementation of the budget, regardless of the quality of the draft budget, requires modifications in order to stick very closely to reality. These modifications follow the principle according to which whoever has authorized is the one who modifies. Parliament votes on the budget according to an allocation by ministry and by similar public entity as described in Tables “B” and “C1, C2 and C3” annexed to the finance law; any modification of these allocations must fall within the scope of the (amended finance) law, except that it must be seen if some of the allocations are due to the executive arm, which shall inform the legislative arm and therefore remains competent to modify some of the allocations. Within one class, allocation of appropriations is made by order of the Minister of Finance (new Article 39 of the 1993 Law as amended by the 2007 finance law). This allocation may therefore similarly be subject to modification by order of the Minister of Economy and Finance: this is what is actually provided for in new Article 42 of the 1993 Law, as amended by the 2007 finance law.

CHAPTER VII

Staff and wage bill

Management of staff and the provisional calculation of the wage bill for purposes of preparing the draft finance law are two different ends in themselves and are based on different techniques.

1. Staff

The 1993 law respecting finance laws and the financial system is silent in the area of manpower management (*gestion des effectifs*). The notion of budgetary post (France, *emploi budgétaire*, office or position for which remuneration is to be covered in the budget) is used in other countries. In Anglo-Saxon countries, budgetary post is referred to as **establishment control**, i.e. an institutional arrangement to ensure that the right number of public sector staff is hired, at the correct grades and with the right mix of skills for the tasks at hand. The public service pay scales have been developed to provide a consistent set of rules for matching personal emoluments to staff grades.

In the traditional establishment control model, the distinction between **established and non-established positions** is fundamental. Departments and agencies may fill established positions that are empty, but may not add positions to the establishment. Departments that wish to increase their establishments apply to the central personnel office, and the latter then assesses the increased workload or the implications of a new policy mandate, and adjusts the department's establishment accordingly. This is done in conjunction with the finance ministry so that additional budget resources to pay the higher costs of personal emoluments accompany any increase in positions.

The payroll must be closely linked to the establishment lists, the latter typically being the responsibility of the head of the civil service. Integrated personnel and payroll systems are crucial for good civil service management. Staff added to the payroll must have been hired or appointed to a vacancy in a department's approved establishment.

Budgetary posts are like seats which require being available in order to recruit civil servants. These "seats," referred to as budgetary posts, are created by a law that may be the current finance law, or the law establishing the department, and which sets by way of an appendix the organic table of jobs, which may be according to a multiannual table that provides the timeline according to which posts will be filled.

The French concept of budgetary post differs from establishment control. Budgetary posts are classified according to rank assignment in the civil service, in general A for upper ranks, B for intermediate ranks and C and D for categories performing

implementation tasks. They can be more fine-tuned. It is possible to recruit a civil servant for a budgetary post higher than his/her rank, but not the other way round: the “seat” has to be larger than the person that will sit in it! It may sometimes be possible to group two budgetary posts of lower categories in order to recruit one senior executive provided that the total amount of indexes is observed; the reverse operation may also be authorized: take one high-index budgetary post and split it into several low-index positions; this is converting of budgetary posts.

The law generally sets the table of budgetary posts allocated by category and by ministry, independent government body, additional budgets, public administrative institutions and, as appropriate, by regional and local authority. It is noteworthy that paying salaries from Treasury special accounts is prohibited. Budgetary posts can be managed as a function of their stock or their flow.

1.1. Budgetary post management by stock

The method is easy when the establishment of an administration comes with an organic table of budgetary posts (time broken-down). Budgetary posts may be numbered by year, administration, category and number: budgetary post No. 2007 MEF A 12 means budgetary post 2007 of the MEF, category A, number 12. The financial auditor of an administration keeps sheets by year, category and budgetary post number. When he is given a recruitment proposal for No. 2007 MEF A 12, he checks that the budgetary post is vacant and that the proposed officer belongs to a category lower or equal to that of the post concerned. He can then proceed with the recruitment. When an officer withdraws from the administration concerned (retirement, death, reassignment), the budgetary post becomes available. A new officer may be recruited for this budgetary post.

The table of occupied and vacant budgetary posts is regularly provided. The tables of budgetary posts are entered in the current finance law, including modifications (job creations and cuts).

1.2. Management of budgetary post by flow

This method can be used when management by stock is not possible since knowledge of occupied posts is too imprecise. It can also be used as a complement to the stock method in order to better control staff. The flow method involves setting within the annual finance law the list of budgetary posts which are created and allocated by administration concerned. When there is a proposal for recruitment, the administration only needs to indicate the budgetary post for which recruitment is proposed; the financial audit checks to see that the budgetary post has not yet been filled. Posts may

also be vacated and a “digital replacement” proposed. This method is based on management of administration needs; further development can be contemplated by managing training streams.

1.3. Management of training streams

1.3.1. Management of staff out of training

Every year, schools graduate students who have been slated for civil service jobs if they are not already civil servants. For instance, students admitted to the Royal School of Administration (*École royale d'administration* - ERA) may be trainee civil servants or students who become civil servants by enrolling in the school (civil servant trainees). Budgetary posts must be provided (job conversion in order to enable the category change for trainee civil servants upon graduating from the ERA, budgetary posts for civil servant trainees during attendance at the school (assigned to the ERA) and upon graduating from it (assigned to administrations). For training streams that do not train civil servants trainees or trainee civil servants, such as universities, a quota of budgetary posts may be provided for specific assignments: for example, 10 category A budgetary posts will be created at the Ministry of Health and 3 assigned to Calmette Hospital. Such a method implies knowledge of all streams leading to civil service recruitments, including training abroad, for which budgetary posts must be provided for “homecoming trainees”.

1.3.2. Management of staff entering training

Obviously, managing newly graduated students destined to enter the civil service means management of students entering training according to the same principles: identification of training streams leading to civil service recruitments, flow management according to the needs of the civil service.

Budgetary posts should therefore be provided for in a multiannual framework corresponding to the end of the training period: any student sent on a training course abroad or admitted to the ERA should have his/her budgetary post provided for, approved and assigned for the year he/she is recruited in the civil service.

2. Calculation of the budget wage bill

The wage bill may be broken down into wages, on the one hand, and perquisites, on the other. The bill for wages only may be calculated by multiplying the total of indexes for all civil servants concerned (index total) by the index point value. If a change in the index point value is foreseen, the financial consequence may be easily calculated, but it must be determined if the index point variation concerns a full year or a fraction of the year.

Perquisites depend on their amount and on the number of civil servants who receive them.

Perquisites depend on the remuneration structure: base salary, various allowances and social allowances, for instance. When an allowance is increased, the financial consequence is calculated using the number of allowance recipients.

With *constant staff and a constant index point value*, the wage bill increases from year to year because of the “category shift”; this category shift results from promotion to a higher level or rank which takes place periodically (every 2 years). It can be calculated statistically in relation to the index total. This category shift may also be called “Seniority-Technical skills Shift” (*glissement-vieillesse-technicité – GVT*) and be divided into 4 factors:

- G1: non-automatic promotions and advancements.
- T: technical level: acquisition of new skills.
- V: automatic promotions by seniority.
- G2: entries and withdrawals with:

Assignment, made available, secondment

Law No. 6 of October 21, 1994 respecting the common status of civil servants does not provide for the different usual positions of a civil servant: on active duty, secondment, leave without pay, military service, removal from bodies...; only the removal from bodies is provided for (Article 5).

Assignment:

Assignment involves appointment of a civil servant by the Civil Service to serve in a ministry or an independent administration.

Secondment:

Secondment means the Civil Service appoints a civil servant to serve in an entity that enjoys financial autonomy and legal recognition: wages and perquisites are borne by the budget of the entity “receiving” the civil servant; this entity shall have applied for the secondment or, at least, approved it.

Made available:

Made available means the Civil Service appoints a civil servant to serve in an entity with financial autonomy but the central government continues to cover the expenses and perquisites of the civil servant.

- ⇒ A “bucket chain” effect: officers retire and are replaced by younger officers whose index is lower because they are younger (which results in a saving).
- ⇒ A structure effect: retirees are replaced by younger but more qualified civil servants (which results in a greater cost).

Staff turnover decreases result from deaths, layoffs, resignations but above all from retirements (which can be simulated by the civil service file or the payment record file for civil servants); it may also result from dismissals, secondments on non-public budgets or deaths.

CHAPTER VIII

Oversight of budget implementation

1. Table of government financial operations (TOEF)

Regardless of statistics from the GFS Yearbook, the publication of which is somewhat delayed, the IMF geographical departments monitor the financial situation in each member country by means of annual consultations under Article 14 of the Articles of Agreement of the International Monetary Fund. Furthermore, the financial situation of the countries connected to assistance offered by this Fund is subject to more frequent monitoring, usually on a quarterly basis. The main table on which IMF officers focus their attention is the Table of Government Financial Operations (*Tableau des Opérations Financières de l'État* - TOFE).

The definitions and principles of the Manual on Government Finance Statistics are used as a reference framework for the TOFE. However, the TOFE methodology differs from the one of the Manual on several important points. Actually, the purpose of the TOFE is neither to make international comparisons, nor to be published. The TOFE is drawn up by IMF officers in order to follow the evolution of public finance in the countries concerned by adjustment programs and to assess what has been done. Presentation of the TOFE may vary from one country to another and IMF missions are entirely free to adapt it to special situations and to their own analysis needs. Nevertheless, presentation of the TOFE remains very similar in different countries all over the world.

The TOFE is frequently said to be a document specific to the IMF and that it is up to the officers of this institution to draw it up while on their missions. Also, in some countries, the TOFE system has not been adopted and the Fund is called upon to draw up the document.

One reason for this lack of interest is that the methodology of the TOFE as well as its presentation seem very distant from those of public accounting. In particular, the sequential presentation of figures with “+” and “-” signs differs from the traditional presentation in two columns, “credits” and “debits”. Furthermore, in the eyes of a public accounting officer, accuracy of figures is essential, and legitimately so; it therefore seems contrary to his/her code of conduct to communicate provisional data or estimates.

It is nonetheless of great value for financial administrations of developing countries to appropriate the TOFE methodology and use it for their management. Even outside of

<i>Presentation of the TOFE in Cambodia for the 2007 budget</i>	
<i>I. Domestic revenue</i>	<i>3.282</i>
<i>1. Current revenue</i>	<i>3.252</i>
<i>2. Domestic capital revenue</i>	<i>0.030</i>
<i>II. Budgetary expenditure</i>	<i>4.522</i>
<i>1. Current expenditure</i>	<i>2.837</i>
<i>2. Capital expenditure (debt free)</i>	<i>1.685</i>
<i>- Public investments locally financed</i>	<i>0.575</i>
<i>+ On budgetary resources</i>	<i>0.345</i>
<i>. Investment projects</i>	<i>0.220</i>
<i>. Investment projects with direct external financing</i>	<i>0.125</i>
<i>+ On external funds earmarked by the donor</i>	<i>0.230</i>
<i>- Public investments with direct external financing</i>	<i>1.110</i>
<i>Current budget surplus (I.2 – II.1)</i>	<i>+ 0.415</i>
<i>General budget deficit</i>	<i>- 1.240</i>
<i>III. Deficit financing</i>	<i>- 1.240</i>
	<i>- 1.240</i>
<i>1. External financing</i>	<i>+ 0.230</i>
<i>- Budgetary support earmarked by donors</i>	<i>+ 1.110</i>
<i>- Project aid</i>	<i>- 0.100</i>
<i>- Repayment of debt</i>	
<i>2. Bank financing</i>	

any intervention by the Fund, there are a number of good arguments for doing so:

- The TOFE is an excellent analysis framework of the government's flow of funds; although not a common framework in public accounting, it is familiar in national accounting;
- During technical discussions with the IMF, civil servants of the Ministry of Finance are in a better position when they themselves have prepared the various financial tables, the central component of which is the TOFE.

Presentation of the TOFE does not need to be rigorously identical to the one adopted by IMF missions but it is necessary that it be compatible; it should be easy to switch from one to the other.

1.1. TOFE components

Let us take the 2007 budget as an example:

Total revenue: 4.622 (billion riels)

Of which:

Current revenue: 3.252

Capital revenue: 1.370

O.w.:

Domestic capital revenue: 0.030

Earmarked capital revenue: 0.230

Earmarked foreign revenue: 1.110

Total expenditure: 4.622

Of which:

Current expenditure: 2.837

Capital expenditure: 1.785

Of which:

Budget expenditure: 0.345

Earmarked foreign expenditure: 0.230

Earmarked foreign expenditure: 1.110

Debt: 0.100

In private accounting, a simplified operating account would be presented as follows:

Current revenue: + 3.252

Current expenditure: **- 2.837**

Operating surplus: + 0.415

Domestic capital revenue: + 0.030

Self-financing capacity: + 0.435

Earmarked foreign revenue: + 0.230

Financing capacity/net lending: + 0.675

Direct external financing: + 1.110

Capital expenditure capacity: + 1.785 used for 1.685 for investments and 0.100 for the debt.

One can observe that the same figures are found in the 2007 finance law, although presented in a different way.

1.2. Explanation of the table

The TOFE presents government operations in two sections:

- The first section deals with budget implementation.
- The second section deals with treasury operations, save for exceptions which will be examined further on.

These two sections are separated by a line on which the subtotal of the first section is entered: it is the budget outturn, surplus or deficit. The first section of the table, *above the line*, includes final operations, i.e. the budgetary operations.

1.2.1. Two exceptions

- Donations from foreign governments and international organizations. Although these revenue items are definitive in nature and are entered in the budget, they are entered in the second section of the table under external financing; this presentation departs from the standards of financial statics (GFS Yearbook) but it is suitable for analysis needs. It is helpful to know budget balances of operations of domestic origin in order to determine the financing requirement. Donations are exceptional resources which partly make up for this financing need.
- Lending transactions, disbursements and repayments are treasury operations but Cambodian regulations include them in the budget for reasons of convenience and simplification (as revenue in loan resources, as expenditure in repayment of borrowings). In the TOFE, lending operations are returned to their place in the second section of the table.

The second section of the table, *below the line*, is entitled “financing”. In fact, it describes the way in which the budget deficit is financed or, in case of a surplus, how the amount of this surplus is used.

This second section shows donations and temporary operations or “treasury operations”: borrowings and the depreciation thereof, treasury advance and deposit accounts at the National Bank of Cambodia, deposits of individuals or enterprises, treasury liquid assets etc. Some basic principles which enable public administration

operations to be quantified and which are adopted in the GSF Yearbook or in the TOFE will now be examined.

1.2.2. Cash base

IMF standards for drawing up public finance statistics make provision for public administration operations to be entered on cash base; revenue and expenditure are therefore recorded on the date the transactions are performed, i.e. recorded as revenue when payment is actually made to the treasury and recorded as expenditure, when cash disbursement is made from the Treasury. This basis for entry makes it possible to measure flows between public administrations and the remaining economic stakeholders. It corresponds to other financial statistics, in particular monetary conditions.

On the other hand, the United Nations National Accounting System has data recording based on operative events regardless of when cash transactions occur (“accrual basis” in contrast to “cash basis”). Operations are recorded on the date when both revenue and expenditure become binding or when they become due for payment without penalty. For example, the accrual accounting method recognizes revenue at the point at which the transactions is made. Even though cash isn't yet in the treasury, revenue is booked to an account known in accounting lingo as "accounts receivable," increasing the revenue.

The TOFE system is in between: revenue is recorded on the cash basis, while expenditure is recorded on the commitment basis. This is referred to as a modified cash accounting standard.

(It is noteworthy that this dissymmetry has an undesirable effect in case of cross debts: taxes payable to the government by an enterprise are not entered whereas arrears due to the same enterprise by the government are taken into account in expenditures and increase the budget deficit.)

In Cambodia, it is sufficient to consider the budgetary data that obey the same rule as the TOFE:

In accordance with the law respecting finance laws and the decree on public accounting, revenues are entered in the budget as they are collected and expenditures as the Treasury endorses orders with “passed for payment”.

To switch from cash base to the commitment base, provision is made for an adjustment item indicating the amount of outstanding expenditures.

1.2.3. Commitment base within the TOFE

It should be noted that the term “commitment base” may be misleading; in the context of the TOFE, commitment bears a different meaning from the term used in public accounting; it is not a matter of commitment of appropriations here but of the financial commitment of the government towards a creditor: supplier, lender, etc. arising from occurrence of the event giving rise to the debt or claim.

Examples:

Delivery of goods or services: The event which makes the government a debtor is the delivery of the goods or the service.

Public debt interest service: The maturity date is the date on which the government becomes liable for the interest involved.

Salary of civil servants: If a monthly salary is involved, in case of non-payment by the last day of the month, the government becomes a debtor on the first day of the following month.

The operative event giving rise to the debt cannot be entered the very same day in public accounting systems. Consequently, the closest accounting entry is taken as the base. As for Cambodia and countries using the same public accounting system, the base is entry in the budget expenditure book of the Treasury general accounts. This record is made at the time the Treasury accounting officer authorizes payment of the order after verifying it; authorization is materialized by the stamp “Verified and passed for payment” on the order. In public accounting, the expenditure has been passed for payment and underwritten.

1.3. TOFE accounting framework

The TOFE accounting framework is similar to that of other economic or financial data systems: public accounting, balance of payments, monetary conditions, national accounting. However, its presentation and/or contents may be different.

The TOFE only records flows whereas monetary conditions are drawn up only in “stocks” and treasury balances both in flows and balances (or stocks).

Presentation of the TOFE is not made in two debit/credit columns; it is a sequential presentation (one column); arithmetically positive records correspond to credits (resources); arithmetically negative records correspond to debits (uses). The terms “resources/uses” are borrowed from national accounting.

The total of the entries must be equal to 0. It is not always easy to determine the

arithmetical sign to be assigned to financial transactions entered in the TOFE; the following diagram should help those who are not familiar with accounting methods to understand the TOFE.

It must be kept in mind that a financial operation can be characterized by:

- Its nature
- Its amount
- A direction (origin and destination of funds)

1.3.1. Gross flows and net flows

Budget revenues and expenditures are recorded on a gross basis. Transactions regarding financial accounts (treasury operations) are netted out and entered in the TOFE. The figure shown represents the net change in the account balance between the beginning and the end of the period.

1.3.2. Possibilities for analytical presentation

The partially double-entry system helps increase the possibilities for analytical presentation of the TOFE. Once entries are divided into two groups, regardless of the criterion, the sum of entries in one of the groups still has the same digital value as the sum of entries in the other group and both sums have opposite signs. The behavior of one group sometimes explains that of the other group. Analyses on the TOFE are being carried out, notably on the choice of characteristics to be isolated and the relations between subtotal balances calculated with this approach.

Example: Use “budgetary operations/non-budgetary operations” as the criterion.

If the sum of the first group “budgetary operations” is -15,000, which represents a deficit, the sum of the second group will be +15,000 and indicate the amount of financing for this deficit.

Other criteria can be used, for instance:

- Final transactions and temporary transactions;
- Internally financed transactions and externally financed transactions, etc.

Presentation of the TOFE in Cambodia combines these different criteria. It is important to point out that this presentation is not hard and fast and that putting an account above or below the line only depends on the analysis that one wants to carry out.

Examples:

- **“Donations”** heading: Amounts in the GFS Yearbook are entered above the line as they are final resources; in the Cambodian budget, they also appear under budget resources. However, most IMF missions enter donations below the line, under financing, in order to emphasize the government’s financing requirement.
- **“Net lending”** heading: The Manual and the IMF TOFE put net lending (lending less recoveries) taken out by the government for purposes of general policy (loans to State-owned companies, for instance) above the line. However, they are temporary operations that are not included in the budget and that the Treasury would put under treasury operations, below the line.
- **“Debt payment”** heading: Debt payment (repayment of a loan to the government) is sometimes put under budgetary operations above the line for reasons of convenience (repayments of loans are subject to orders as are recurrent expenditures) and in order to emphasize the financing requirement. However, the Manual and the TOFE consider this to be a negative financing and therefore place it below the line.

2. Budget deficit and its financing

The aggregate budget deficit went down from -987 billion riels in 2001 to 1.164 billions riels in 2003. As for financing the deficit, it has been financed by such things as external aid and domestic financing, as the case may be, as it will be shown in the following paragraph.

In 2007, the budget made provision for a deficit estimated at 3.64% of GDP or 1,240,133 million riels financed by external aid as follows:

- The earmarked budgetary support would finance 230,133 million riels of the budget deficit;
- As for project aid, it would help finance up to 1,110,000 million riels the aggregate deficit that donors would disburse directly—without entering it in the budget—to finance and carry out certain public investments for which they have made commitments towards the Royal Government.

2.1. External aid contribution to budget implementation and balance

Before delving more deeply into the touchy issue of budgetary support that donors schedule to provide to recipient countries, further clarification on each component of

external aid is needed in order to highlight the differences although both, by nature, contribute to the rehabilitation and development of Cambodia. They are project aid and budgetary support or budgetary assistance.

Project aid encompasses all forms of funding that outside bilateral and multilateral donors implement directly for public investment implementation which they have pledged to provide. Whether donations or borrowings, these funding packages depend upon donors only who mobilize and disburse them—in cooperation, of course, with the sectoral ministries concerned—but without the latter being granted any leeway whatsoever in fund management even if for some loan financed projects, they have to remit the government's contribution to the investment project account.

Procurements, equipment or service supply, calculation of payment statements and implementation of payments chargeable to these funds—in short, carrying out the work and financial management entailed by these investments—are performed directly by the donor concerned or his/her representatives. The funds do not pass through the Treasury nor through the budget control mechanisms, although the performance level for such direct external investment and project aid has been entered in the budget under estimates and payments for transactions and will be found in the balance sheet based on information provided by the donors themselves. The figures entered in the budget under project aid are therefore given for information purposes only; they aim at including in the budget document all information and data on public investments. These entries are therefore not strictly speaking budget appropriations or authorizations for expenditure that the government can manipulate according to its needs.

Project aid is assessed to reach a performance level of 1,110,000 million riels, which accounts for 89.5% of the aggregate deficit: i.e. if the government were to carry out these investments using its own resources, the financing would amount 415,000 million riels.

As far as budgetary support is concerned, it is carried out in the form of cash payments or counterpart funds from the sale of goods. In the past, donors hardly ever make cash remittances. The usual path followed for budgetary support is to import goods which are later sold on the local market, thus generating counterpart funds for the national budget.

The difference is this: Budgetary support provides financial resources which are allocated to directly finance the budget deficit, whereas project aid through direct external financing of investments directly underwrites the financing of investment expenditures which would normally have directly come under the national budget.

Implementation of external aid under these two components, i.e. project aid and

budgetary support, is crucial for the development of the country and safeguarding budget balance.

Deficiencies in the implementation of foreign direct investments actually endanger the achievement of national objectives in the form of reconstruction projects and, at the same time, have a negative impact on the economic growth rate.

Shortfalls in budgetary support disrupt budget balance which can only be maintained by the release of new national resources or drastic cuts in essential expenditures in areas such as health care and education.

2.2. General budgetary support from donors—to whom is it given?

General budgetary support which is not allocated to projects or activities is granted by donors provided that the national public finance system complies with a number of criteria.

This general budgetary support encourages such things as ensuring better coordination and harmonization among donors, alignment with national policies and systems, lower transaction costs, greater efficiency in public resource allocation, greater predictability in terms of financing, improved effectiveness of the administration and greater accountability on the part of the recipient government and country.

The quality of public finance management is paramount in order for general budget support to be granted; systems are assessed according to the specific or common methodologies of donors; (general or sectoral) budgetary support is granted when these standards are met.

CHAPTER IX

Macroeconomic and monetary aspects

Budget deficit, trade balance, current transaction balance, balance of payments, exchange rate, inflation and employment are interdependent and are included in budgetary, economic and monetary policies.

Guidebooks and handbooks on these concepts have been published by the IMF, OECD, etc: *Balance of Payments Manual*, IMF, 1993 (fifth edition), now being revised and scheduled for completion in 2008; *System of National Accounts* (SNA 93), IMF, 1993; *Government Finance Statistics Manual* (GFSM 2001), IMF, 2001, etc.

1. Trade balance

The trade balance gives an account of trade in goods between one country and its partners (foreign trade). It is noteworthy that it does not include transfers of services and capital which are a component of international exchanges other than foreign trade. The trade balance is calculated using statistics from the Custom and Excise Department. Trade assessment is carried out at the border of the exporting country, free on board (FOB). Temporarily imported goods (for repair or processing) without ownership transfer are not included. The value is determined based on the cost of insurance and freight (CIF) after re-booking forwarding fees (insurance, transport) under the services heading so as to find the FOB value:

$$\text{CIF value} = \text{FOB value} + \text{insurance} + \text{transport}$$

- The starting point is customs data (FOB exports, FOB imports).
- CIF import freight costs and insurance are deducted in order to obtain FOB imports.
- Imports for repair or processing are subtracted.
- Operations without payment but resulting in ownership transfers are added.
- The adjusted custom figures appearing in the balance of payments are obtained.

The trade balance may be favorable, sustainable or adverse.

Trade balances of all countries must be added up by means of a zero-sum operation

(everything going out equals everything coming in). However, it is observed that this sum is positive by a few percentage points! Which implies that goods have vanished during the transportation phase: fraud, money laundering?

2. Current account balance

The balance (or account) of current transactions contains the balance of trade to which is added the balance of non-merchandise transactions, current revenues and transfers:

2.1. Services

- Exports of services, including insurance and transport, and tourism.
- Imports of unilateral services and transfers (donations).

More precisely, the following services can be identified

- Services travel excluded
 - Transport
 - +Maritime transport
 - +Air freight
 - +Other (road, railway, river, etc.)
 - Electronic communications services
 - +Payment through postal, telegraph and telephone services
 - +Use of electronic communications networks
 - +Data transmission
 - Construction services
 - +Operating costs and worksite advantages
 - +Drilling and mineral exploration expenditures of non-residents
 - +Purchases of goods carried out in third countries for such operations
 - Insurance
 - +Provided by resident companies to non-residents and vice-

versa

- +Direct insurance (freight, life, damage, accident, civil liability, etc., reinsurance)

- +International insurance

- Financial services

- +Banking sector commissions and fees for exchange transactions, securities transactions, etc.

- Computer and information services, including

- +Software license fees

- Duties and license fees for

- +Use of trademarks, patents, designs

- +Copyrights and property rights granted by a non-resident to a resident and vice-versa

- Other services for companies

- +International trade

- +Transaction commissions

- +Miscellaneous services (tuition fees, research costs, technical assistance, etc.)

- Personal, cultural and recreational services

- +Film license fees

- +Purchase, sale, rental of radio and television programs

- Services provided by the government

- +Functioning of embassies abroad and vice-versa

- +Travel services

- +Expenditures of non-residents

2.2. Revenues

Revenues are sourced from:

- Salaries of non-resident employees paid by residents and vice-versa.
- Investments (payment or collection concerning external financial assets).

2.3. Current transfers

Current transfers refer to goods, services and capital exported without any financial compensation:

- Current transfers from public administrations (contribution to international agencies).
- Workers' fund transfers (from overseas to Cambodia and vice-versa).
- Donations and humanitarian remittances.
- Grants...

The balance of current transactions makes it possible to assess the ability of the country to fund (or its need for funding). A prolonged deficit in current transactions may result in external indebtedness and deterioration of the exchange rate.

3. Capital account

This account records transactions which give rise to the ownership transfer of a fixed asset or to the remission of a commitment by the payee with nothing being remitted in exchange (capital transfer), as well as acquisitions and disposals of non-financial non-product assets.

3.1. Capital transfers

They are broken down into:

- Cancellation of debt.
- Other transfers.

3.2. Acquisitions and disposals of non-financial non-product assets

Such transactions concern intangible assets (patents, copyrights, licenses, trademarks,

etc.) purchased or sold by residents to non-residents.

4. Financial account

The financial account is structured according to the nature of capital (direct investments, portfolio investments, financial products, reserve asset).

4.1. Direct investments

Direct investments concern (foreign) direct investments in Cambodia and Cambodian investments abroad. They may relate to businesses or immovable property. A direct investment is when the capital share or acquired voting right reaches 10% at least.

4.2. Portfolio investments

Portfolio investments concern operations on negotiable securities between residents and non-residents.

4.3. Derivative instruments

This heading comprises option premiums, margin calls and interest rate swaps, previously classified as portfolio investments.

4.4. Other investments

These include:

- Trade credits granted by non-residents to resident customers (and vice-versa).
- Loans and deposits.
- Reserve assets which are external assets for immediate release and under the control of the National Bank of Cambodia in order to finance payment imbalances or intervene to reduce their scope.

Gross reserve assets are made up of:

- Gold.
- Special drawing right assets (SDR).
- Reserve position in the IMF.
- Currency outside the country.

Official reserve assets are gross reserve assets to which are added:

- Foreign currencies inside the country.

Net currency reserves are official reserves to which are added:

- Commitments.

By construction, the balance of payments must have a zero balance.

5. Economic policy

A “magic square” summarizes the objectives of economic growth:

- Price stability.
- Fiscal balance.
- External balances.
- Equitable growth (reduction of poverty and inequalities) and full employment.

Principles of economic surveillance will be dealt with further on.

6. Monetary policy

Monetary policy involves the interventions (of the National Bank of Cambodia) on monetary variables of consumption, investments and production with stability objectives for prices, exchange rate, employment, growth, economic development and poverty and inequality reduction. Means of control are the following:

- Determination of key interest rates.
- Compulsory minimum reserves imposed upon banks (reserve requirement).
- Action on money supply.

7. Budgetary policy

Budgetary policy is established through revenues, expenditures and their balance.

7.1. Revenues

Any mandatory tax payment reduces the purchasing power of the economic agents

concerned. But it increases the leverages provided by expenditures.

7.2. Expenditures

Government expenditures concern firstly its sovereign duties (justice, security, diplomacy, national debt), as well as its economic and social duties. The government assumes financial responsibility for the “public goods” that it provides to citizens: health, education, environment, infrastructure, etc. (assignment). It corrects the negative effects of growth (such as pollution, nuisances, etc.) and redistributes resources to mitigate inequalities. It implements the policies.

7.3 Fiscal balance

The budgetary deficit in the management system is the difference between revenues taken in and payments made out.

In the presentation of the annual draft budget and provisional TOFE, what is referred to as budgetary deficit balanced out by external funding is actually the “budgetary deadlock” (*impasse budgétaire*) according to older French terminology and practice. In the fiscal year system, the previous outcome is to be increased by the Committed Expenses Unauthorized for Payment and Remainder to be Paid, from which the Remainder to be Recovered is subtracted (see Public Accounting section).

What can Cambodia do to finance the budgetary deficit, given that the economy is heavily dollarized?

In a country of independent currency, it is possible to print money. Within the confines of an envelope deemed reasonable, 3%, by Keynes and his disciples, it is considered that there is a leverage effect and stimulation of the economy. It is the ceiling for euro zone countries.

Cambodia can only print money within the limit of the riel share of its economy. Given its heavy dollarization at 90%, money printing cannot exceed 0.3% (of the GDP). The remaining budgetary deficit may be financed, as in other countries, by domestic loans or external borrowing, which would take the country’s resources away from consumption or more productive uses. The worst case scenario is not financing the budgetary deficit, in other words acknowledging a debt owed to international donors (non-payment of the debt), the para-public sector (non-payment of fees to any existing social funds, non-payment of expenses for electricity, telephone, water, postal services), civil servants (some have not received any wages for 4 years in some countries), and on the private sector (non-payment of bills). As the IMF sees it, an order that remains unpaid after three months is an overdue obligation.

8. Economic surveillance

Surveillance of the macroeconomic policy is carried out by setting objectives and monitoring their achievement. Such surveillance can take place within a community framework, such as the ASEAN community framework.

8.1. Monitoring indicators

- Ratio of budgetary deficit (donations excluded) to nominal GDP.
- Ratio of basic primary balance to tax receipts.
- GDP growth rate in real terms.
- Population growth rate.
- Investment rate (ratio of gross investment to GDP).
- Public investment rate.
- Domestic savings rate.
- Ratio of debt service to budget revenue.
- Ratio of external debt service to exports.
- Ratio of aggregate budgetary balance excluding grants to tax receipts.
- Ratio of aggregate budgetary balance including grants to tax receipts.
- Ratio of aggregate budgetary balance including grants to nominal GDP.
- Ratio of current budgetary balance to nominal GDP.
- Net external assets.
- Access rate to banking services (number of wickets per capita).
- Rate of doubtful banking debts/claims.
- Degree of openness: imports and exports of goods and services to nominal GDP.
- Import-export cover ratio.
- Degree of integration: imports of one ASEAN country originating from other member States and exports of a State member destined for other ASEAN member

States.

- Mobility of production factors.
- School enrollment rate.
- Number of doctors per capita.
- Density of infrastructures.
- Free movement of persons.
- Immigration rate.

The importance of the budgetary unit of account and non-adjustment of revenue against expenditure is to be noted in order to estimate certain ratios.

8.2. First-rank criteria

- Ratio of base budget balance to nominal GDP which should exceed 0.3% as mentioned elsewhere.
- Average annual inflation rate which should be under 3%.
- Ratio of outstanding national debt and external debt to nominal GDP; it should be lower than 70%.
- (Non-accumulated) domestic and (non-accumulated) external payment arrears.

8.3. Second-rank criteria

- Ratio of wage bill to tax receipts: it is often set at 35%.
- Ratio of public investments financed from internal resources to tax receipts: reaching at least 20% is a frequent objective.
- Ratio of current external balance excluding public transfers to nominal GDP: one objective may be -5%.
- Tax to GDP ratio: the objective often is 17% of GDP.

For the tax to GDP ratio, recording all revenues without offsetting against expenditures enables a good estimation of the revenue collected. Revenues that are not recorded or offset against expenditures lead to an underestimate of the tax collection rate and are therefore an incentive for partners to increase taxes at the expense of the tax payer who

is effectively subject to a tax burden higher than that highlighted by the budget and its implementation.

CHAPTER X

Ex post budget audit

Concurrent control of budget implementation is carried out by the financial audit and by the public accounting officer over the authorizing officer. Budget implementation post-audit is carried out by the Inspectorate General of Finance, line inspection departments of ministries, and internal auditing services and ultimately by the National Audit Authority (NAA) and the Parliament. The various structures in charge of post-audit checks are to coordinate their duties, interventions and forward their reports to each other, and also to the NAA, in order to avoid duplication.

1. Inspectorate General of Finance

The Ministry of Economy and Finance has an inspection apparatus at its disposal: the Inspectorate-General of Finance (IGF), defined and structured under Decree (*Annukret*) No. 04 ANK/BK of January 20, 2000, drawn up by the Council of Ministers respecting the organization and functioning of the Ministry of Economy and Finance. The public sector as a whole is subject to control; the IGF is first of all the competent authority with regard to all accounting officers, MEF's officers and then authorizing officers in all ministries, agencies, provinces and municipalities (Article 7 of the above-mentioned decree).

“Management carried out by the senior authorizing officer... and the accounting officer ... is subject to control by the Inspectorate-General of Finance...” (Article 37 of the December 31, 1997 Decree on the legal status of public administration entities).

“Management accounts of government accounting officers are sent to the Minister of Finance who submits them to the examination of the Inspectorate-General of Finance by June 30 of the year following the one for which they were drawn up.” (Article 115 of Decree 82)

“The National Assembly, the competent inspection department and audit boards and the Minister of Finance ensure control of the management carried out by authorizing officers”. (Article 117 of Decree 82)

“The Minister of Finance exercises the control provided for under the previous article via the Inspectorate-General of Finance and the financial controller department”. (Article 118 of Decree 82)

“Control of the management of government accounting officers is ensured by their line supervisors and by the Inspectorate-General of Finance, under the authority of the

Minister of Finance”. (Article 121 of Decree 82)

Upon arrival in an accounting section, the IGF puts an immediate stop to all activities of the departments, proceeds with the closure of accounts (inventory of funds and assets), closes accounting records and collates funds with entries.

2. Technical inspection departments of ministries

Each ministry has a technical inspection department which controls the functioning of its services.

3. Internal auditing departments of ministries

Law No. 10 of March 3, 2000 on the audit of the Kingdom of Cambodia established an internal audit function (Chapter IX) in each “institution, ministry and State-owned enterprise in order to ensure the drawing up of reports for the heads of these entities. The conclusions of this report are to be passed on to the ANA”. (Article 41)

“The internal auditing department within each institution, ministry and State-owned enterprise independently evaluates the effectiveness of the internal control system established”. (Article 42)

Decree (*Anukret*) No. 40 of the Council of Ministers dated February 15, 2005 establishes the organization and functioning of the internal auditing department of each institution, ministry and State-owned enterprise.

Many internal auditing departments have been established:

- Council of Ministers (June 2005)
- National Education, Youth and Sports (Decree 94 of July 27, 2005)
- Labor and Vocational Training (Order 989 of July 26, 2005)
- Agriculture and Fisheries (Decree 105 of August 22, 2005)
- Posts and Telecommunications (Decree 13 of February 17, 2006)
- Environment (Decree 16 of February 17, 2006)
- Health (Decree 18 of February 21, 2006)
- Interior (Decree 22 of March 2, 2006)
- Information (Decree 46 of May 11, 2006)

Can a decree modify a law?

A law may contain regulatory provisions and thus fall within the competence of the executive power.

In such a case, the regulatory provisions of the law may be amended by decree.

The royal decree that amended the audit law was validated by the Constitutional Council.

However, it can be asked if the conditions set by the Audit Law, under which a two-thirds majority vote is required, were regulatory provisions or not.

- Tourism (Decree 67 of July 19, 2006)

Order No. 405 of the Ministry of Economy and Finance applies the documents and Code of Ethics to internal auditors, as well as professional auditing standards.

4. National Audit Authority

The National Audit Authority (NAA) was established by Law No. 10 of March 3, 2000 respecting auditing of the Kingdom of Cambodia. This Authority is an independent entity (Articles 1 and 14 of the 2000 Law); it has its own separate budget funded by the national budget (Article 17). It is subject to the public finance regulations (same article). The NAA is to report directly to the National Assembly and to the government for information purposes (Article 14); at least the report on budget settlement is to be deemed a public document (Article 29).

The NAA's jurisdiction covers:

- The different ministries and their officers.
- Senior officials of the National Bank.
- Public financial institutions and public financial joint-ventures (*sic*).
- State-owned enterprises and establishments.
- Provincial and municipal government offices.
- Local and regional administrative authorities.
- Contractors supplying goods and services to the government under contract.
- Various organizations that have received government financial assistance...
- Tax-exempt organizations or organizations that have received other concessions or

benefits.

- Non-profit organizations.
- Private investment enterprises (*sic*) (Article 2 of the 2000 Law)

The audit includes:

- Financial statements.
- Management of programs and projects financed by external sources (management audit).
- Management system and operations of various institutions.
- Evaluation of outcomes and initiatives... (Article 3 of the 2000 Law).

“External auditing is an examination and verification of accounting records, management systems and control operations ... in accordance with generally accepted auditing standards and the government’s specific auditing standards in order to ensure that:

- The financial and economic activities are legitimate and consistent with what is presented in statements and reports.
- Such activities comply with generally accepted accounting principles and are valid.
- Control of the admissibility of procedures and compliance with the implementation measures of various laws, regulations, agreements, systems, contracts, programs and the rules these establish relating to revenue and expenditure for use of government resources.” (Article 4 of the 2000 Law)

The NAA audits:

- 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 fiscal year, which is prepared by the Ministry of Economy and Finance prior to its presentation to the National Assembly.
- The legitimacy, reality, authorization, validation and consistency of the financial data appearing in the statements of ministries and institutions and the government’s consolidated financial statements.
- The financial statement of State-owned enterprises including the balance sheet,

profit-and-loss statement and statements of accounts forming part of the financial statements... (Article 5 of the 2000 Law)

- The financial statements and other reports submitted by various international aid agencies and beneficiaries of projects receiving external funding ... (Article 6)
- Existing controlling systems... (Article 7)
- ... the effectiveness of the expenditures incurred and of government program outcomes... (Article 9)
- Operations carried out by non-profit organizations and associations receiving financial assistance from the Royal Government and exemptions from customs duties, income tax... and enjoying other unregulated privileges and advantages as to their compliance with the laws... (Article 10)
- Private foreign investment enterprises that have legally received a tax exemptions and/or a concession ... to develop natural resources in the Kingdom of Cambodia as to their compliance with the laws and terms and conditions governing their operations. (Article 11)
- At the request of the Finance and Banking Committee of the National Assembly, the National Assembly itself, ministries or authorities invested with control power ... (Article 12)”

The Auditor-General is to enjoy a rank and privileges equivalent to that of a Senior Minister and Deputy Auditor-Generals a rank equivalent to that of ministers (Article 18 of the 2000 Law amended by Royal Decree No. 24 of August 30, 2006).

The Auditor-General is to be of Cambodian nationality at birth, at least 40 years of age, hold higher education degrees and have at least 10 years of professional experience. He cannot hold any executive position in any political party. (Article 19) The Auditor-General is entitled to full and free access to any information that he deems necessary and may direct heads, representatives or officials of relevant institutions to exercise powers or perform functions (Chapter VI of the 2000 Law); the Auditor-General may decide to omit certain information in a public report (in case of a threat against national security or commercial interests). (Chapter VII)

5. Parliament

Parliamentary oversight of budget implementation is made through the settlement law. This settlement law is provided for under Article 56 of the 1993 Law on finance laws and the financial system. “The Minister of Economy and Finance shall draw up the

draft settlement law based on the special accounts that authorizing officers are to produce for their expenditure operations and the management accounts of public accounting officers that have been submitted beforehand to the Audit Court (now the National Audit Authority)". (Article 58 of the 1993 Law)

"The draft settlement law shall note the final amount of revenue collection and the authorizations of expenditure carried out throughout the fiscal year; it shall cancel unexpended appropriations and produce the net financial statement for the fiscal year, which shall be set-off against the Treasury's profit-and-loss statement after deduction of the amounts that may be available under earmarked resources". (Article 57)

However, the "management" system mentioned in Article 57 hereof has been replaced by the "fiscal year" system since the Finance Law for 2007 which has amended Article 54 of the 1993 Law as follows:

"The government shall keep accounts of revenue and expenditure, as well as general accounts of all operations carried out. The government shall keep a regular book of accounts while complying faithfully with the heritage and financial situation. National accounting shall be based on the accrual basis principle without being bound by the date of receipt or disbursement."

Provisions of Decree 82 of November 16, 1995 on the settlement of public accounting are to be amended as follows: in the (now obsolete) system of "management", "revenues are entered in the accounts under the budget of the year during which they are received by a public accounting officer" (Article 106 of Decree 82) and "expenditures are entered in the accounts under the budget of the year during which payment orders are endorsed by allocating accounting officers." (Article 107). Therefore, the management system is based on cash accounting. In the "fiscal year" system, national accounting is not bound any longer to the receipt or disbursement date. The fiscal year system is based on accrual accounting. However, in order to bind the budget outturn (in-payments and out-payments during the budget year) to the profit or loss for the fiscal year (on the accrual basis), accounting is to bring to light at the end of the budgetary period the non-authorized expenditures incurred (*dépenses engagées non ordonnancées* - DENO), outstanding operations (outstanding debts and payments) (see hereinafter the part on public accounting).

The provisions of Article 109 of Decree 82 which stipulates that "commitments for which advice of payment has not been carried out by December 31 are charged once more to the budget appropriations of the following fiscal year" should also be updated if it has been decided that a reserve will be built up above the original budget to wipe off the DENO within the framework of a specific follow-up; the follow-up technique for outstanding debts and payments must also be specified in the revision of Decree 82.

Earmarked budgets are additional budgets and the special accounts of the Treasury; additional budgets are not used within the framework of the national budget. The Treasury's special accounts have a balance which is carried forward from year to year, unless specific provision is made in the finance law, hence the provision of Article 57 of the 1993 Law which provides for the “deduction of amounts that may remain available above earmarked resources”.

A settlement law (Law on budget implementation) is structured the same way as the finance law that it “settles” by adding columns so as to obtain a table showing for each budget allocation the original voted amount, modifications (in “+” and “-”, and the algebraic sum by column is to be zero), budget provision after modification, the amount committed, the amount passed for payment and the amount paid.

If appropriations have been presented in program form, implementation is also presented in program form so that parliamentarians can follow and understand the use of voted appropriations. During a subsequent phase, program performances will be monitored by means of indicators.

The relevant minister is to certify that the entries of his public administrative accounting agree with those of the public allocating accounting officer (Article 114 of Decree 82); in France, it is the Audit Court which certifies such reconciliation.

“The net budget turnout for the year ... is to be charged to the turnout account of the Treasury, after deduction of sums that remained available above resources that may have been earmarked.” (Article 57 of the 1993 Law).

This net budget turnout is to be shown in the budget accounts: the use of the surplus or funding of the deficit, as the case may be.

“The draft settlement law is put before the National Assembly prior to the end of the year following the one to which it is related. It is supported by an aggregate statement from the Finance Department and management reports made out by the ministries.” (Article 116 of Decree 82)



CHAPTER XI

Debt Management

1. Definitions

1.1. Central government debt

The central government debt includes:

- In the strict sense:

- Domestic and foreign loans taken out by the government.
- Domestic and foreign loans guaranteed by the government.
- Treasury bonds (and other public securities).
- Treasury debt towards the Central Bank.

- In the broad sense, the following items are also included:

- Deposits of Treasury correspondents (private persons, companies and agencies authorized to deposit funds on Treasury accounts).
- Any budget arrears.

Given the current organization of the Ministry of Economy and Finance in Cambodia, government debt management is shared among three agencies:

- Treasury Directorate: for the domestic debt, except for domestic loans in foreign currency that are managed by the Directorate for Investments and Cooperation (DIC).
- Debt Management Unit of the DIC: for the foreign debt, as well as for domestic loans in foreign currency.
- National Bank of Cambodia: for the balance of payment support loans granted by the International Monetary Fund.

1.2. Foreign debt

The foreign debt of a country is the total of long-term debts owed by residents of this country to non-residents. This definition and the following ones are provided by the

World Bank. They are of high importance for at least two reasons:

- Debt data make it possible to measure the country's debt-servicing capacity and are necessary to draw up the balance of payments.
- *Long-term debt means* a loan or an obligation with a maturity of more than one year from the date it was issued.

The length to be considered is that which separates the date of loan agreement signature (loan commitment date) from the last payment due date.

(It is noteworthy that debts with an initial maturity of less than 2 years rather than 1 year are considered as short-term debts by certain countries. However, the World Bank definition is the one we will use, as it serves as the basis for the compilation of international statistics.)

Non-resident means any person or organization which has no physical presence in the country concerned: non-resident natural persons, foreign companies (except for their branches in the country concerned) and international organizations. This definition tallies with that of the Balance of Payments Manual.

Foreign long-term debt comprises two categories: Public debt and private debt.

1.2.1. Foreign public debt

Foreign public debt includes:

- Foreign debt of the public sector
- Private foreign debt guaranteed by the public sector.

The Ministry of Economy and Finance's Debt Management Office monitors carefully each of these debts, from incurrence to extinguishment. A file is opened for each debt.

On the other hand, the private foreign debt is not monitored in detail.

It is therefore necessary to define precisely the meaning of public sector.

The public sector comprises the following institutions:

- The State, i.e. the government with its ministries and administration.
- The government's foreign debts are easy to inventory and monitor since they are entered in the budget under resources at the time of their incurrence and under expenditures for interest payment and repayment of the principal.

- Regional and local authorities: provinces and municipalities; (in Cambodia, it was not until 1997 that regional and local authorities were granted financial autonomy and, until then, they could not take out loans).
- Central Bank (National Bank of Cambodia).
- Standalone public institutions, such as public institutions.
- National companies (state-owned companies);
- Companies in which the government holds more than half the shares along with the right to vote or where more than half of the members of the board of directors are government officials (semi-public companies).

The debt secured (or guaranteed) by the public sector refers to debts of private agencies for which the government or a public body has made a commitment to ensure payment of interest and repayment of the principal, should the debtor default.

Loan guarantee from the government, i.e. contingent liability, is to be granted very cautiously or even refused altogether as regards private companies.

However, the government often grants guarantee on loans taken out by public entities or semi-public companies when the lender hinges granting of the loan upon such guarantee.

Until now, Cambodia's foreign public debt is composed only of loans directly granted to the government. However, it also includes loans guaranteed by the government for a number of power plant construction projects by Chinese companies.

2. Foreign public debt management

2.1. Features of the Debt Management Unit

The unit in charge of foreign public debt management is a specialized unit within the Directorate for Investments and Cooperation at the Ministry of Economy and Finance. Its tasks are specific and therefore require special training for the officers who have been entrusted with these tasks.

This unit is to be located within the Ministry of Economy and Finance. Interest payment and capital repayment (debt service) amounts are payable from the national budget.

Even though specialized, this unit keeps maintains a close relationship with all the

administrations involved in debt processes, more particularly the directorates responsible for the budget, Treasury and Central Bank.

A debt management unit may be entrusted with tasks that may be classified into three categories: administrative, accounting and statistical.

2.1.1. Administrative

The main responsibility of the unit is to see that payment of interest and principal repayment are carried out by the maturity date in a timely manner. This requires that:

- The debt unit is informed of all loan agreements signed by the government.
- The officers in charge of the budget have entered debt servicing charges in the budget estimates.
- The Treasury and Central Bank proceed with due diligence in order to ensure payments and transfers.

2.1.2. Accounting

The debt management unit is to open an account for each loan for which all relevant transactions are to be recorded.

The first step is to record the initial commitment amount, disbursement estimates and tentative schedule of interest payments and repayments. Actual disbursements are then recorded. Afterwards, when the first interest or principal payments are being processed, the payment procedure shall be recorded in the loan account. Finally, if any delay in payment occurs, arrears shall be recorded and treatment of arrears shall be monitored separately in the borrowing account.

2.1.3. Statistical

Compilation of debt statistics is based on accounting records.

Statistics are compiled at least once a year; simplified statistics may be published on a quarterly basis.

Thanks to computerization, what used to be in the past long, tedious task can now be performed almost instantaneously.

2.2. Administrative debt management

2.2.1. Monitoring of commitments

The first step is to inventory all existing loans which come under the definition of foreign public.

Next, the debt management unit is to maintain close contact with all administrations in charge of negotiating new loans and constantly update its inventory.

A. Numbering

Each loan shall receive a number for identification purpose.

The numbering system required for notification at the World Bank (which makes it possible to have only one numbering system) can be adopted, or another numbering system can be developed.

B. Loan files

For each loan, a file must be opened and divided into two sub-files:

- The first sub-file is to contain the original loan agreement, or at least a copy, as well as all subsequent documents which could modify, complement or throw light on the terms of the loan; these documents are to be kept indefinitely or at least until the loan is fully repaid (40 years for loans from the World Bank, ADB, etc.).
- The second sub-file is to include correspondence, statements, maturity notices, etc. These documents are to be bundled by year and archived after 3 or 4 years.

C. Guaranteed loans

Loans guaranteed by the government are to be monitored in the same way by the unit: numbering in the same series and opening of a file.

However, information regarding these loans (disbursements, interest or principal payments, etc.) will not directly reach the unit; they have to be collected from the entity that has received the loan.

D. Monitoring of disbursements

Disbursement of loans shall be monitored from day to day, or at least on a monthly basis, for several reasons. First, the debt unit has to be able to determine the available amount for each loan (commitments less disbursements).

The amount and date of disbursements are also needed in order to calculate the interest due to lenders.

Monitoring the disbursements is one of the most demanding tasks of the unit as the issue varies according to the nature of the loan taken out:

- Cash loans (for which disbursement is made in cash).

- Export credits (loans for importing goods).
- Commodity loans (loans for importing donations).
- Project loans

1. Cash loans

Cash loans are easy to administer as their disbursement is recorded by the bank designated by the government (e.g.: IMF loans).

2. Export credits

A foreign bank lends funds to a Cambodian buyer so that he can pay cash to his supplier (as a rule from the same country as the bank): this is *buyer credit*. Data collection is more complex. Disbursement is made on the delivery date of the goods or services. The unit often has not been informed of this transaction; it has to work in close liaison with the administration receiving the goods or services. The foreign supplier may himself ask his bank for a loan (supplier credit) and the terms of payment are passed on to the Cambodian buyer who will thereby make deferred payment; he can make a deferred payment without taking out a loan himself. Such deferred payment practices are prohibited.

3. Commodity loans

In most cases, resale of goods generates counterpart funds which constitute a budgetary aid for the government; the debt unit has to establish links with the department with the special charge of implementing these forms of financing.

4. Project loans

In general, a Project Management Unit (PMU) is set up within the recipient administration from which the debt management unit will get information on disbursements.

For this type of loan, there are three disbursement procedures. For each type of procedure, it is necessary to specify the date on which the disbursement is to be recorded:

- In a direct payment procedure, the lender directly pays the supplier, which payment corresponds to the disbursement.
- In an advance payment procedure, the lender puts an advance payment for the borrower into a special account administered by the Project Implementer Unit (PIU). The PIU makes the purchases, pays the suppliers and then claims for

replenishment of the advance. The disbursement is made up of the first advance payment and the successive replenishments of this advance.

As a general rule, disbursement occurs when the loan is drawn down on behalf of the borrower. The lender is to draw up monthly statements to be forwarded on to the debt management unit.

2.2.2. Debt service payment monitoring

The paramount responsibility of the debt management unit is to make sure that debt service payments (interest payment and principal repayment) are made on time.

- It is to be the main consignee of the maturity notices sent by the creditor.
- Sending of these notices by the creditor does not exempt the unit from monitoring maturity payments; it will get in touch with the creditor if the maturity notice has not reached the consignee one month or so from the scheduled maturity date.
- It is responsible for the preparation of payment orders, submission of such orders for approval at various levels and for following up the procedure up to the transfer of funds by the Central Bank.
- It is to record the various operations in its accounting system: issuance of the payment orders, then the payment.
- Finally, the unit is to constantly reconcile each loan account with the statements received from the lender.

The debt service payment procedure is a simplified procedure. In the normal expenditure control procedure, the file is submitted twice to financial control: the first time before the commitment in order to verify the existence of appropriations, the second time following issuance of the payment order.

Regarding the debt service payment, only after issuance of the payment order, financial control grants its approval. Budget appropriations allocated to debt payment are indicative, rather than being limitative. Even if there is a lack of appropriations, debt installments must be paid as they are compulsory expenditures; debt service can therefore be paid in excess of the budgetary appropriations under the relevant heading. However, balanced implementation of the budget requires that the appropriations under the heading “Debt” be complemented by a transfer of appropriations so as to fill the overrun.

Another reason is that debt payment and capital repayment are not new commitments; from a legal standpoint, commitment is incurred when the loan agreement is signed;

obligations arising from this do not constitute new commitments.

The payment of interests and debt amortization may be an over-expenditure but this does not mean that utilization of the earmarked appropriations can be anything but carefully monitored.

First, such appropriations must be estimated accurately during the budget preparation process. The debt management unit is primarily responsible for this estimation; the unit holds all the accounting data needed for an accurate estimate of these expenses.

If despite everything appropriations prove to be insufficient, the payment must be carried out although overshooting original estimates raises the issue of budget balance. Proposal must be made to the Minister of Finance to increase these appropriations, either via a transfer from another chapter, or on the occasion of supplementary estimates (revision of the budget by a remedial finance law).

The debt management unit must not consider its task completed once the payment order has been drawn up and signed by the Minister. It must follow the file procedure until actual payment is made by the National Bank by order of the Treasury (or of the Directorate for Investments and Cooperation). The Treasury or the DIC will grant priority to debt service payments over other expenses.

Timely debt service payment reinforces the credibility of the debtor country among donors. On the contrary, payment delays undermine their trust and impair further financing assistance. Delays in meeting payment deadlines may result in the suspension of loan disbursements, which interrupts the implementation of the projects financed under these loans.

2.3. Accounting function of the debt management unit

The accounting function is linked to the administrative function just dealt with. It involves recording chronologically on an individual loan sheet a number of data in a way that shows at all times the status of the mutual obligations of both lender and borrower, as well as the progress of the interest and/or principal payment procedures.

It is not partial double-entry bookkeeping but partial single-entry accounting, easy to keep.

The record sheets can be manually entered or computerized.

Firstly, if there are not many loans, manual keeping of individual loan sheets may be used. This procedure is also recommended during the setting up and testing phases of the computerized system. Lastly, it is of didactic interest.

Whether manual or computerized, the keeping of individual loan sheets facilitates drafting the debt report.

2.4. Statistical function of the debt management unit

Detailed debt monitoring enables the production of figures, statistics, ratios and diagrams on the status of the debt in Cambodia.

3. Debt restructuring—the Paris Club

During the last four decades, the debt crisis in low-income countries has been the major focus as far as worldwide economic development issues are concerned.

To cope with the debt crisis in debtor countries, creditor countries have organized themselves. Two multilateral forums have been created:

- The Paris Club as an umbrella for public creditors (States and other public legal persons) who have loaned funds to governments or other public legal bodies or to State-owned companies with government approval.
- The London Club for private creditors (banks) that have loaned funds to governments, other public legal bodies or to private companies with government approval.

Whether public or private, all creditors require prior agreement between the debtor country and the International Monetary Fund.

The Paris Club is not an official organization. It is an informal group of creditor countries that meet in Paris on an average of once a month in order to work out the restructuring of the foreign debt of debtor countries that have asked for such.

The Paris Club has neither a legal foundation or set membership rules, no institutional structure and no staff.

It is chaired by the chairman of the French Treasury. Its general secretariat is maintained by an office in the French Treasury.

Many debtor countries have made several appeals to the Paris Club. Debt rescheduling proved to be necessary for debts that had already been rescheduled.

Australia, Austria, Belgium, Canada, Denmark, Germany, Finland, France, Ireland, Italy, Japan, the Netherlands, Norway, Spain, Sweden, Switzerland, the United Kingdom and the United States, are permanent member nations of the Paris Club.

The Paris Club is not exclusive; members are not necessarily industrialized countries; some developing creditor countries have already attended its meetings.

In 1997, Russia joined the Paris Club as a creditor nation; it had been previously involved as a debtor nation in negotiation sessions within the Club.

Furthermore, the Paris Club is open to all multilateral organization concerned: the IMF presents its analyses on adjustment program quality and the macroeconomic prospects of debtor nations; the World Bank reports on the quality of investment policies, sectoral measures and mid- and long-term prospects; regional development banks, the OECD, the Commission of the European Communities and UNCTAD may attend the meetings and share their viewpoint.

A debtor country is usually represented by its Minister of Finance assisted by senior officials at the meeting during which its case is examined.

The meetings are held in Paris as convened by the Paris Club secretariat. The proceedings take place in French and English, with simultaneous interpretation in both languages.

4. Cambodia's foreign debt

It was examined by the Paris Club on January 26, 1995.

(a) Basic principles

- The principle of consensus: any decision is made by unanimous vote, which implies much effort and good will on the part of the participants. Most of the time, agreements on the terms of debt restructuring are reached within a day.
- The principle of comparability of treatment: the effort put forth by creditor countries to reorganize the debt is not to be indirectly used to advantage other creditors; the effort of all creditors must be comparable.

(b) Operational rules

Operational rules are practical, adapted, where appropriate, to exceptional cases; while being rigid, the rules are open-ended; over the years, positive progress has been noted in favor of indebted countries.

(i) Extent of consolidation:

Consolidation (or restructuring) does not focus on the total amount of the debt of the debtor country; the Paris Club only deals with the debt service portion that the country

Table 5. Cambodia's foreign debt (in US\$)					
		As of Dec. 31, 2006	% of GDP	After resched- uling	% of GDP
I	Multilateral credi- tors	1,083,512,063	14.91%	1,083,512,063	14.91%
	ADB	579,956,046	7.98%	579,956,046	7.98%
	World Bank	461,704,631	6.36%	461,704,631	6.36%
	IFAD	26,532,450	0.37%	26,532,450	0.37%
	OPEC	15,318,936	0.21%	15,318,936	0.21%
II	Bilateral credi- tors	253,140,147	3.48%	253,140,147	3.48%
	France	21,156,485	0.29%	21,156,485	0.29%
	Germany	2,074,306	0.03%	2,074,306	0.03%
	Japan	43,237,398	0.60%	43,237,398	0.60%
	Slovakia	268,259	0.00%	268,259	0.00%
	Czech Republic	766,518	0.01%	766,518	0.01%
	Malaysia	7,000,000	0.10%	7,000,000	0.10%
	China	102,576,554	1.41%	102,576,554	1.41%
	Republic of Korea	57,674,436	0.79%	57,674,436	0.79%
	India	4,771,185	0.07%	4,771,185	0.07%
	Thailand	13,062,181	0.18%	13,062,181	0.18%
	NDF	-	-	-	-
	Vietnam	552,825	0.01%	552,825	0.01%
	Russian/US debts	1,812,865,620	24.95%	749,585,751	10.32%
	Russia	0	20.99%	457,585,751	6.30%
	Pre-cutoff Russia	1,525,000,000	0.00%	210,788,538	2.90%
	Post-cutoff Russia		0.00%	246,797,213	3.40%
	United States		3.96%	292,000,000	4.02%
		287,865,620			
	Debts in rubles	2,044,005	0.03%	2,044,005	0.03%
	Poland	1,564,655	0.02%	1,564,655	0.02%
	Italy	479,350	0.01%	479,350	0.01%
III	Total debt amount in Cambodia	3,151,561,835	43.38%	2,088,281,966	28.74%
Source: Ministry of Economy and Finance. May 2007					

is not in a position to pay during a given period, known as the consolidated period;

consolidation applies to maturity for the principal and, if needed, to interest payable during this period. The consolidated period is the period covered by the agreement with the IMF—and this period only—which is variable: one year, two years or sometimes longer. As for Cambodia, the consolidated period was two and a half years, from January 1, 1995 to June 30, 1997.

Debt arrears existing at the beginning of the consolidated period can also be restructured; in the case of Cambodia, all maturities that were not paid as of December 31, 1994 were renegotiated.

The consolidation percentage varies depending on the funding need and capacity to pay of the debtor country concerned.

Short-term debt payments cannot be rescheduled so as to safeguard access of the country to new short-term financing packages. This principle also applies to the long-term debt (over one year) which was incurred after a cutoff date; loans and appropriations granted after this date are never rescheduled.

Finally, it must be kept in mind that only bilateral debt can be rescheduled; multilateral debt, which comprises appropriations granted by the IMF, loans of the World Bank and regional development banks (ABD, for instance) cannot under any circumstances be subject to renegotiation.

(ii) Treatment of restructured maturities

The main lines for reorganizations are determined by the heads of State of the main developed countries on the occasion of summits which are organized periodically.

During the 1988 Toronto Summit, a list of options was developed for least advanced countries (countries benefiting from IDA soft loans). Creditor countries could choose among three treatments contained in the bilateral agreements:

- Cancellation of one third of the structured maturities;
- Reduction of the interest rate;
- Extension of the redemption period up to 25 years, including a 14-year period of grace.

These options have been improved several times (formula referred to as the London or Trinidad Formula in 1991, then the 1994 Naples Summit).

Cambodia was the first country to benefit from the Naples formula which extends debt

cancellation up to 70% of the rescheduled maturities, restructuring official development assistance maturities over 40 years.

5. Cambodia's foreign public debt: description

Cambodia's development prospects depend to a considerable extent on its capacity to mobilize both domestic and foreign resources; the mobilization of foreign aid will increasingly take the form of loans, which emphasizes the importance to be given to the assessment of the country's capacity to service existing debt, which is measured on the basis of the status of the debt on the one hand and on its servicing on the other.

Cambodia's debt-servicing capacity will depend on the outcome of the negotiations undertaken with Russia and the United States on the exchange rate and terms of the rescheduling.

5.1. Debt structural analysis

As of December 31, 2006, Cambodia's debt, including outstanding interest arrears, totaled 3.15 billion dollars or 43.3 % of GDP. Cambodia's two main creditors are Russia and the United States. After rescheduling with both creditors, the total debt for Cambodia amounted to 2.1 billion dollars representing 29% of GDP.

5.2. Multilateral debt

The debt load with multilateral creditors (WB, ADB, IFAD and OPEC) amounted to 1.1 billion US dollars outstanding at the end of 2006, or 52% of the total debt. The debt incurred since 1993 is concessional and growing quickly.

Cambodia's debt to the International Monetary Fund is not included in the table below. The debt owed to the IMF serves to support Cambodia's balance of payments. It is composed of 3 successive programs supported by the IMF with a total amount of 103 million dollars in 2003, upon completion of the third program with the IMF:

- STE (Systemic Transformation Facility), in October 1993, amounting to SDR 6.25 million with an interest rate of 5.72%.
- ESAF (Enhanced Structural Adjustment Facility), in May 1994, providing for SDR 84 million (about USD 120 million) with a view to supporting the 3-year adjustment and reform program. This loan divided into three annual installments of SDR 28 million, was mobilized on December 31, 1996 reaching half of its amount,

i.e. SDR 42 million (about USD 60 million). The second drawing of the second annual installment (1995) was cancelled. The interest rate is concessional: 0.5%. Repayments are carried out over 10 years, including a 5½ -year grace period.

- The Poverty Reduction and Growth Facility (PRGF) was granted by the IMF in 1999 in order to support the 1999-2003 reform program at concessional rates (0.5% only) and repayable over a 10-year period (including a 5½-year grace period). Cambodia has conducted 6 PRGF program reviews following which disbursements amount to SDR 58.5 million (80 million dollars).

The National Bank of Cambodia manages these facilities to strengthen its reserves of foreign means of payment. It assumes responsibility for the redemption and interest payment; therefore, this debt servicing is not included in the government's budget estimates, although it does appear in the debt statistics.

In June 2005, the Group of Eight leading industrialized nations (G8) proposed that three multilateral organizations, namely the IMF, the International Development Association (IDA) and the African Development Fund (AfDF) cancel 100 percent of the debt owed them by countries who have reached or who are about to reach completion under the enhanced initiative in favor of heavily indebted poor countries (Enhanced HIPC Debt Initiative) conducted jointly by the IMF and the World Bank. The HIPC initiative rests on a concerted action by multilateral organizations and governments in order to reduce foreign debt burden in the most heavily indebted poor countries to a sustainable level. The Multilateral Debt Relief Initiative (MDRI) goes further by providing full debt relief for these countries so as to free up additional resources to help them reach the MDGs.

To confirm their eligibility for debt relief, these countries must, pursuant to the decision of the IMF Executive Board, be up to date in their obligations to the IMF on foreign indebtedness and make a satisfactory showing of themselves in the following three fields: (1) performance of macroeconomic policies; (2) progress in implementing a poverty reduction strategy; (3) public expenditure management. The Executive Board decided that 19 countries actually qualified for immediate debt relief under the MDRI.

In December 2005, IMF departments decided that Cambodia had met the above-mentioned criteria and could indeed benefit from debt relief under the MDRI. Since 1999, Cambodia has shown robust, double-digit economic growth, moderate inflation, progress on poverty reduction and improved public expenditure management and has furthermore demonstrated its commitment to develop its poverty reduction strategy.

In January 2006, in compliance with the Multilateral Debt Relief Initiative (MDRI), the IMF granted a 100% cancellation of the debt owed to the IMF before January 1, 2005,

i.e. a debt cancellation amount of 82 million dollars. These resources will be made available to the Royal Government of Cambodia in order to help it reach the Millennium Development Goals.

5.3. Bilateral debt

The bilateral debt is mainly an old debt and has been renegotiated and concentrated between two major creditors: Russia and the United States.

The bilateral debt comprises:

- Old debts, the major part of which is subject to ongoing renegotiations: debts incurred before 1975 in convertible currencies and debts incurred during the 1980's in convertible rubles.
- New bilateral debts which arose after the Paris Agreements in 1991.

A. Paris Club creditors

Debts in convertible currencies incurred prior to 1975 required an exhaustively job of cataloging as the debt-related archives were destroyed during the war. The Ministry of Economy and Finance turned to Cambodia's potential creditors through diplomatic channels. Five creditor countries have manifested themselves: the United States, France, Germany, Japan and Italy.

In a letter of October 14, 1994 addressed to the Paris Club chairman, the Minister of Economy and Finance submitted a request with a view for Cambodia to benefiting from debt relief.

Following this request, representatives of the five above-mentioned countries met in Paris on January 26, 1995 (Cambodia was not in attendance at the meeting) and agreed to recommend Cambodia for debt relief to their respective governments by means of a rescheduling or refinancing arrangement under the following terms:

- Scope of the consolidation:

All principal repayments or interest payments for all trade credits or governmental loans falling due after more than one year granted before December 31, 1985 (the cutoff date) to the government or public sector of Cambodia, or benefiting from their guarantee:

- 100% of principal arrears or interest existing as of December 31, 1994.
- 100% of principal maturities or interest due from January 1, 1995 to June 30, 1997.

In fact, this consolidation covered the total bilateral debt in convertible currency, with

the noteworthy except exception of maturities for 3 loans from the United States.

- Terms of the consolidation:

Trade loans (creditors concerned: France and Germany): 67% written off and 33% refundable in 46 semi-annual installments (23 years) with a 6-year grace period and according to an incremental rate from 0.12% of the principal for the first installment to 7.96% for the last installment.

Interest rates on the consolidated amount to be negotiated bilaterally on the basis of the market rate.

Loans considered “Official Development Assistance” (ODA) (creditors concerned: United States, France, Germany, Japan):

Total debt repayment in 80 semi-annual installments (40 years) including a 16-year grace period and according to an incremental rate from 0.53% of the principal for the first installment to 5.26% for the last installment:

The interest rate on the consolidated amount to be negotiated bilaterally but shall be at least as favorable as the rate applying to consolidated concessional loans.

These consolidation terms represented the first implementation of the decisions made in Naples in 1994 by the heads of State of the developed countries towards developing country debt, and have been thereby regarded as the most favorable terms ever proposed until then. Debt write-off represented only some 9% (26 million US dollars) of the total amount of consolidated debt within the framework of the Paris Club; most of the accountable debts of the Paris Club were considered Official Development Assistance.

The Paris Club set a cutoff date to guarantee future repayments. This cutoff date was December 1985 for Cambodia. Officially, the Paris Club activities only concern credits granted prior to the cutoff date.

Once the Cambodian government accepted the proposals made by the Paris Club creditors, the bilateral negotiation process started with the creditor countries.

(a) FRANCE

Cambodia’s official debt to France dates back to basic infrastructure projects launched in 1964: Sihanoukville port extension, rehabilitation of the Phnom Penh/Sihanoukville railway track, equipment of the Royal Cambodian Railways, the Sihanoukville refinery, construction of the Prek Thnot dam, etc.

From 1975 to December 31, 1994, the date of the last installment agreed upon, no payment was made for either original supplier financing and original government loans or for the three consolidation agreements. The total debt amount to be consolidated was therefore composed of arrears.

After examination of the original documents by a mission sent to France, negotiations resulted in the signature of a rescheduling agreement on October 26, 1995.

Write-off of commercial debts amounting to 67%, or FF 107 million, or 21 million US dollars. The total amount of Cambodia's debt to France came to 21 million dollars as of late 2006.

(b) GERMANY

Cambodia's debts to ex-West Germany were fully written-off under the terms of an agreement signed on May 6, 1994, prior to the Paris Club meeting. They comprised two loans granted by the KfW to the Central Bank on the one hand, and to the Royal Cambodian Railways on the other, with government guarantee; both conventions were not to be cancelled but amended: the debt commitment was to be transferred from the KfW to the Kingdom of Cambodia which would thereby become the creditor of the Bank and Royal Railways.

Furthermore, ex-East Germany's trade debts have been dealt with under a reduction and consolidation agreement signed on March 7, 1996 on the following terms:

- Conversion of the debt of 15.9 million convertible rubles into a debt amounting to DM 10.8 million; exchange rate used: 1 DM = 0.68 ruble.
- 67% write-off.
- Restructuring of the 33% outstanding pursuant to the Paris Club terms of reference.
- 4% interest rate.

At the end of 2006, Cambodia's total debt to the Federal Republic of Germany amounted to 2 million dollars.

(c) JAPAN

Cambodia's debt to Japan originated from two loan agreements, Nos. CP-1 of October 6, 1969 and CP-2 of February 1, 1971 by the Overseas Economic Cooperation Fund (OECF) for the financing of the Prek Thnot hydroelectricity and irrigation dam project.

Figure 1. The Naples Terms

In December 1994, confronted with a worsening debt crisis, the creditor countries dealt with the most urgent matters by adopting the Naples terms. Beneficiary countries would be eligible only for IDA financing (World Bank soft-loan window) and have a low GDP-per-capita (\$755 or less). If these criteria are met, non-ODA credits are written off to a level of 50% or 67% (systematically 67% since September 1999). For ODA credits, claims are rescheduled over 40 years, including a 16-year grace period.

The amount due to the OECF was entirely composed of arrears:

- Principal and interest maturities from February 20, 1975 to August 20, 1990, date of the last installment, representing a total amount of arrears 1,612.6 million yen
- Post-maturity interest 803.3 million yens, i.e. a total of 2,415.9 million yen equivalent to about USD 24 million.

All the past-due maturities were paid in two installments in April and May 1996 for to a total amount of USD 15.2 million, i.e. 1,612.6 million yen. This payment was made by means of budget funds allocated for this purpose from the second commodities aid package from Japan.

Post-maturity interest (803.3 million yen) were consolidated and rescheduled under an agreement signed in October 1996 with the following terms:

- Principal repayment over 15 years, including a 7-year grace period.
- 3.5% interest rate.

New bilateral debts owed to Japan, which arose after the 1991 Paris Agreements, amount to 43 million dollars.

(d) ITALY

Debts owed to Italy were dealt with under a reduction and consolidation agreement with the following terms:

- 70% write-off, i.e. 1.5 million dollars;
- Rescheduling of the 30% outstanding with a 0% interest rate.

Following this rescheduling, the debt owed to Italy amounts to 0.5 million dollars.

B. Debt in convertible rubles

The debt in convertible rubles was incurred during the first half of the 1980's, mostly from the ex-USSR and Eastern Block countries. Debts owed to the ex-Eastern Block countries have been renegotiated.

(a) Slovak Republic

Foreign debts owed to the former Socialist Republic of Czechoslovakia have been allocated to the Slovak Republic (1/3rd) and to the Czech Republic (2/3rds). The total debt amount is 268,259 dollars.

(b) Czech Republic

Debts owed to the Czech Republic have been renegotiated and amount to 766,518 dollars.

(c) Poland

A debt conversion agreement consisting of a commitment to have Polish enterprises carry out rehabilitation work on the Royal Palace has been signed by both countries.

This project specifies an existing debt of 1,955,819 rubles which, based on 1 clearing ruble = USD 0.8, corresponds to USD 1.6 million as set out in the draft agreement.

C. Ongoing debt renegotiations

(a) RUSSIA

Debts resulting from the 15 credit agreements granted by the USSR to Cambodia between 1980 and 1990 were handled by consolidation under the terms of an arrangement signed on May 18, 1991 between the Foreign Trade Bank of the USSR and the Foreign Trade Bank of Cambodia.

The consolidation terms were as follows:

- Debt amortization by deliveries of goods, to be agreed upon by both parties; however, Cambodia may process the payments in another way to be agreed upon between the parties.
- A 20-year payback period

1991	62 million rubles
1992	66 million rubles
1993 to 2000	65 million rubles

2001 to 2011

from 16 down to 4 million rubles

(digressive)

The agreement provides for rescheduling of the 1991 debt maturity as agreed upon between the parties.

- Interest-free loan.

Besides the consolidated debt in 1991, Cambodia has two other debts to Russia:

- Debt burden resulting from credits granted within the framework of the cooperation and development agreement on natural rubber production, dated September 8, 1983.
- Interest due within the framework of the Agreement of August 26, 1985; these debts, the amount of which have been consolidated until 1991, were to be paid in the form of natural rubber deliveries.

Cambodia and Russia have agreed that the consolidated debts amount to 914.7 million rubles. These debts have been subject to a reduction and consolidation agreement pursuant to the Paris Club Naples terms, with the following conditions:

Conversion of the debt of 914.7 million dollars into a debt of 1,525 million rubles (exchange rate used: 1 dollar = 0.8129 ruble). After this conversion, 70% of these debts were written off and the outstanding amount was 457 million dollars.

Pursuant to the Paris Club terms of reference, the outstanding amount of 457 million is divided into two parts: debts prior to the cutoff date and debts after the cutoff date (1985).

Debts prior to the cutoff date will be rescheduled at an interest rate of 0.8129% over 33 years, with no grace period.

Debts incurred after the cutoff date are not, in theory, subject to restructuring within the Paris Club. This enables Cambodia to negotiate with Russia in order to obtain acceptable rescheduling terms.

However, Cambodia and Russia have not yet agreed on two important points:

- The rescheduling terms of credits subsequent to the cutoff date, including the payment period, grace period and interest rates. The RGC has argued for a lower interest rate and rescheduling over 30 years, with a grace period to enable a lower “net present value” (NPV) of the debt.

- The classification of 40 million dollars as credits prior to the cutoff date or as credits subsequent to the cutoff date.

At the end of 2006, Cambodia's debt to Russia amounted to 457 millions de dollars.

b) United States

The Kingdom of Cambodia's official debt to the United States originates from 3 loans granted for the purchase of agricultural product purchases (cotton, tobacco, rice, vegetable oil and wheat) in 1972, 1973 and 1974. According to the American Department of Agriculture, a total amount of USD 277 million was disbursed corresponding to a contractual value of 322 million dollars.

Pursuant to loan agreements, revenues sourced by the sale of these commodities were to be used by the Government in order to improve production, storage and marketing of agriculture products.

The loan terms were concessional:

- Interest rate at 2% during the grace period and 3% afterwards.
- Repayment of 31 annuities beginning after a 10-year grace period.

Principal and interest maturity payments ceased in 1975.

Through lack of relevant documentation, both governments agreed to fix the amount of credits at 162 million dollars for the principal. Including interest, Cambodia's debts to the United States amount to 292 million dollars.

D. Bilateral debt incurred since 1993

Bilateral loan agreements have been signed since 1993 with China, Malaysia, the Republic of Korea, India, Thailand, the Nordic Development Fund and Vietnam.

(a) China

China has cancelled a debt incurred prior to 1991 amounting to 58 million dollars. The total amount owing to China was 102 million dollars at the end of 2006.

(b) Malaysia

A loan of 35-million ringgits (about USD 14 million) granted by Export-Import Bank of Malaysia Berhad on August 21, 1995 is funding services provided by a Malaysian company for the rehabilitation and construction of naval units.

- The loan is repayable over 10 years, including a 5-year grace period.

- The interest rate is 3%.

6. Cambodia's debt-servicing capacity

In developing countries, a balance between savings and investment is seldom achieved. There is a savings shortfall. At the same time, there is a strong need for capital development.

The government deficit, the gap between the government's revenues and expenditures weighs down on the administration's capital development capacity.

This deficit can be covered through four means:

- Money creation, which induces inflation.
- A call for domestic saving (household and corporate) but the savings capacity is low in developing countries.
- Foreign aid in the form of grants, limited.
- External borrowing.

Resorting to external borrowing is an important component of development policies. It enables the acquisition of goods and services abroad despite insufficient foreign currency reserves.

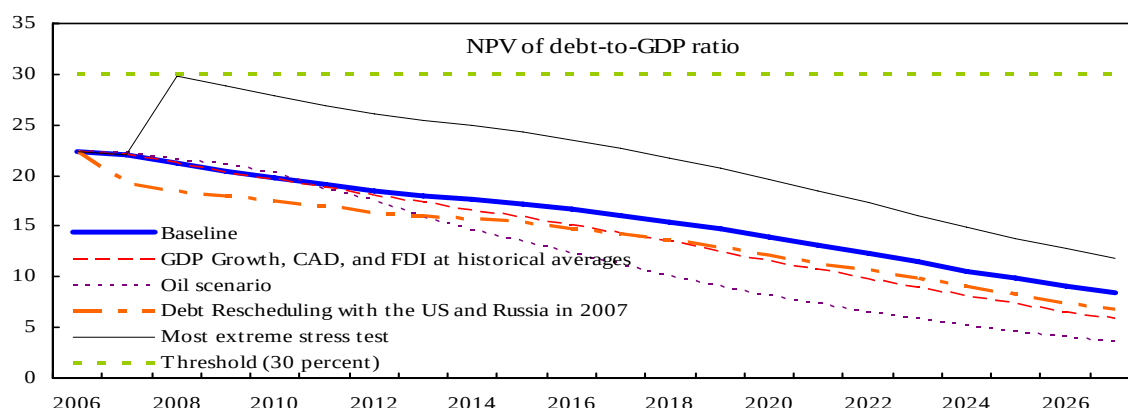
Lenders, however, tend to limit risks and try to assess them. Their assessment of the borrower's capacity to refund is paramount in their decision making.

There are several ratios or indicators to measure the debt-servicing capacity of a country. These internationally used ratios enable a comparison of the situation of various countries.

6.1. Debt to GNP ratio

This ratio aims at producing an image of debt-servicing capacity, although there is no direct link between the two ratio quantities. As for Cambodia, the public sector debt stock would go down from 33% of GDP at the end of 2006 to 30% of GDP at the end of 2007. The net present value (NPV) of the public sector debt would go down from 23% of GDP to 8% of GDP in 2007, reflecting the degree of concessionality of existing debts.

Figure 1. Net present value of debt to GDP ratio (as a percentage)

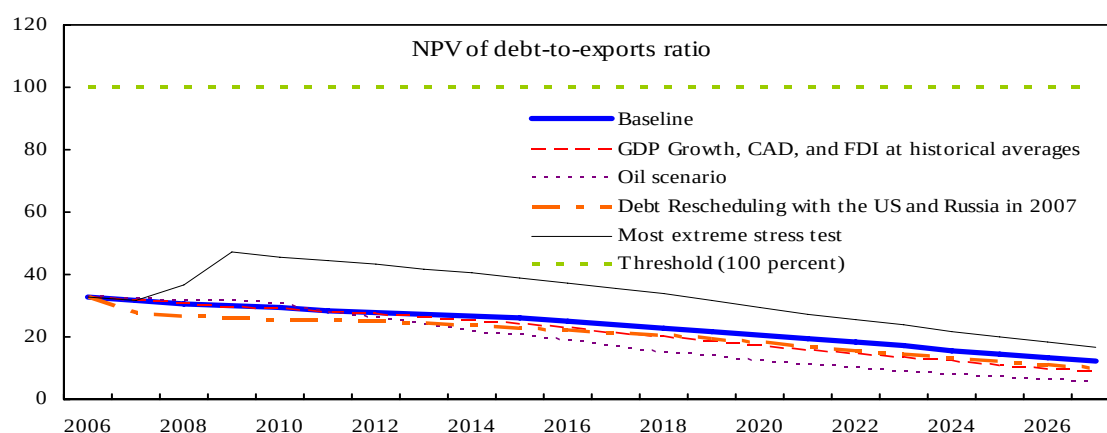


Source: International Monetary Fund

6.2 Debt to goods and services export ratio

This ratio provides an indication of the country's debt-servicing capacity by setting a stock (total outstanding debt) against a flow (exports of goods and services for the year concerned). The present net value of the debt/exports of goods and services, which was 32 percent in 2007, is below the reference value of 100%. Nonetheless, Cambodia's sustainable debt-servicing capacity remains vulnerable to exogenous shocks. Poor growth of exports could result in a spiking of the present net value of the debt to GDP ratio.

Figure 2. NPV of debt-to-export ratio

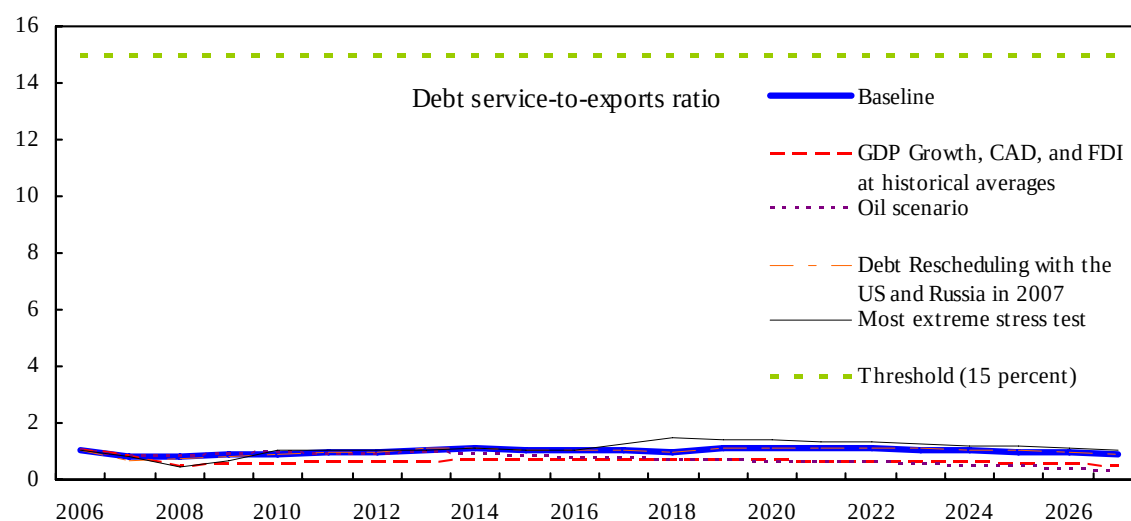


Source: International Monetary Fund

6.2.1 Debt service to exports ratio

It measures the country's capacity to release foreign currencies for debt payment. Debt service remains at a level of 1% of exports of goods and services.

Figure 3. Debt service to export ratio



Source: IMF Staff projections and simulations.

1) Most extreme stress test is the test that yields the highest ratio in 2017 for each of the comparisons.

6.2.2. Interest to debt ratio

It enables assessment of the degree of concessionality of the debt.

CHAPTER XII

Public investments

The budget allocated to public investments, from 1994 until the present, increased from 5.5% of the GDP in 1994 to 6.1% in 2005 and to 1,785.13 billion riels, i.e. 5.73% of GDP amounting to 31,137 billion riels in 2007 and expanding by 6.5% in real terms. The volume of capital expenditure thereby went up from 33.6% of the total budget expenditure in 1994 to 37% of the budget expenditure in 2005, and to 38.62% of that of 2007. Public investments therefore gradually became one of the major components of public expenditure, although at the current stage and for some years to come, the proportion of own-source national resources allocated to investments remains low compared to the funding received from the international community as project aid: 77% of capital expenditure in the 1994 budget was financed in the form of project aid; in 2005, this share reached 73% and will reach 80% in 2007.

1. Direct external financing

Incorporating the direct external financing of public investments into the budget of the Kingdom of Cambodia involves entering in the budget, under external investments directly financed by outside sources, the forecast outturns of such investments: these forecasts are not budget appropriations subject to prior authorization for expenditure and therefore are not expense authorizations intended for the Cambodian government. These estimates only show the level that will be reached by expenses to be covered by external financing sources during a given fiscal year, in the financing of the investments that these external sources will cover directly themselves on behalf of the Kingdom of Cambodia and in line with the competent authorities of the Royal Government.

For the 2007 fiscal year, the total amount of expenditures carried out by external sources within the framework of project aid (direct externally financed investments) would thereby be estimated at 1,110 billion riels in the budget law.

Based on these budget forecasts, follow-up work is required to identify projects that actually started and the actual levels of disbursements made via the financing sources for implementation of such and such investment project that these bilateral or multilateral sources are financing.

In the final analysis, the follow-up work involves implementing the budget from the angle of forecasting the input from external financing for public investment, the expenditure mechanisms of which do not provide for financial control by the Finance

Ministry and do not yet imply entry of the operations into the accounts by the National Treasury which, in any event, does not implement the payments.

2. Locally financed investments

Locally financed investment expenditures (direct investment expenditure and local counterpart expenditures for externally financed projects) are investments financed out of the national budget, from its own-source available funds—thanks to the current budget surplus of current revenue over current expenditure—and sourced through the budget support supplied by donor commodity aids. The volume of investments is certainly restricted by tight financial envelopes. This type of investment, however, plays a significant part in the reconstruction policy. Firstly, it helps cover *the counterpart funds of direct externally financed investments*. Secondly, it makes it possible to finance emergency projects of small or medium dimension involving the construction and repair of buildings, roads, irrigation systems, utility equipment, administrative logistics equipment and the like. Thirdly, these investments are often needed as preparatory projects or a means of coaching more substantial projects. Above all, locally financed investments are bound to become the backbone of national capital cost expenditures with the creation and development of national savings, as well as the capacity building of Cambodia's managerial level officials to meet the needs of the country.

Expenditures at this level follow the usual budgetary procedure for expenditure within the framework of public finance control; monitoring is therefore directly implemented through the follow-up and registration process of authorizations for expenditure, once approved by financial control. This follow-up, as well as the apportionment of expenditure authorized by the Ministry, are directly carried out through financial control and use of the database.

As far as financial control and database use are concerned, local expenditures, as a local counterpart of externally financed projects, also follow the same expenditure procedure and registration process.

As for local expenditures, they normally transit through the budget and control services and are therefore recorded at the point where authorization for expenditure is processed. These expenditures are monitored on the basis of each external project being carried out for which the expenses are authorized, while at the same time being monitored by the spending ministry.

3. Budget support

Budget support is one component of the assistance that bilaterals and international

organizations grant a country in the form of loans or in the form of monetary or in-kind donations, which aim at contributing to the settlement of certain national or sectoral budget expenditures that the country has already committed or that it has programmed to carry out. The relationship of budget support with the National Budget and budget balance is very appreciable and essential.

This is why the issue of implementation of such aid based on donor pledges and commitments is so crucial for any country undergoing economic recovery and adjustment.

Indeed, if commitments are not honored or only partially honored because of a delay and, as a consequence, budget support is not implemented or is implemented with a delay, the relevant issue of budget balance will make itself sharply felt: balance cannot be maintained. To achieve that, new resources have to be released or severe budget cuts made in certain essential expenditures, which inevitably results in a budget review.

Supremacy of treaties over national law

Article 27 of the Vienna Convention of May 23, 1969 on the Law of Treaties defines the supremacy of treaties over national law: "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty..."

"The king shall sign and ratify international treaties and conventions after a vote of approval from the National Assembly and Senate." (Article 26 of the Constitution - new).

The WTO Agreement and its annex on public procurements therefore prevail over national law, as does any international convention signed with a donor and that has followed the procedures for approval by Parliament and ratification by the King.

For example, budget support provided under the Poverty Reduction and Growth Operations (PRGO).

4. Budgetary aid

There are two categories of budgetary aid: direct budgetary aid and indirect budgetary aid.

4.1. Direct budget aid

Direct budget aid is from aid (loans or grants) which are directly allocated to the Budget in order to increase expenditure. For instance, follow-up of the budgetary support granted by Japan in 1993, which began implementation in 1994, continued in 1995 and was extended in 1996 as well. This aid amounts to 2 billion yen; its national currency counterpart supports the National Budget for the financing of economic and social

Hierarchy of legislations in Cambodia

By descending order:

- *The Constitution.*
- *Constitutional laws.*
- *International treaties, agreements or conventions duly approved by the Parliament and promulgated by the king; should the need arise, the Constitution is amended beforehand to allow ratification in conformity to the Constitution.*
- *Organic laws.*
- *Ordinary laws (promulgated by Royal “Kram”).*
- *Royal Decrees (Kret) signed upon proposal of the Council of Ministers or the Prime Minister pursuant to the law establishing the Council of Ministers.*
- *Sub-decrees of the Council of Ministers (Anukret).*
- *Regulatory orders of authorized ministers.*
- *Instructions and circulars have no regulatory effect and can only provide explanations for implementation.*

development programs/projects decided during a consultation process between the Cambodian and Japanese parties.

4.2. Commodity aid

Commodity aid (or aid in kind) started particularly from 1992 within the framework of the emergency rehabilitation program for Cambodia. Various sources of funding made available to the government agricultural inputs and machinery to be sold to farmers in the provinces. This counterpart good is normally anticipated to contribute to increasing agricultural production and other agriculture sector and development projects.

CHAPTER XIII

Government procurements

1. Legal framework

Since its accession to the World Trade Organization, Cambodia is to abide by the Marrakesh Agreement of April 15, 1994 establishing the WTO, one annex of which concerns the provisions that the member States must comply with in terms of public procurements (Annex 4 of the Agreement).

Government procurements are governed by order of rank of enforceable texts by:

- The annex “Government Procurements” of the Marrakesh Agreement.
- Decree 105 of October 18, 2006.
- Order No. 587 of the Ministry of Economy and Finance dated September 19, 2005 “implementing” the World Bank and Asian Development Bank procurement manual (490 pages).
- Order No. 401 of May 30, 2006 amending Article 2 of Order No. 045 of January 31, 2005, in particular for market thresholds.
- The Implementing Rules for Government Procurements adopted by Order No. 319 of the Minister of Economy and Finance, amended on February 9, 1998 by the above-mentioned texts.

Chronologically, we have seen the following texts:

- A Sub-decree (No. 60 of 1995) on government procurements.
- The Sub-decree establishing the procurement implementing rules, updated in 1998.
- Accession to the WTO in 2005 (Marrakesh Agreement).
- Order No. 045 of January 31, 2005.
- Order No. 587 of September 19, 2005 enforcing the World Bank and Asian Development Bank procedures on the procurements that they finance.
- Order No. 401 of May 30, 2006 amending Article 2 of Order No. 045 of January 31,

2005, in particular for market thresholds.

- Sub-decree 105 of October 18, 2006 repealing the 1995 Sub-decree on government procurements.

Among recent texts, there is also implementing circular No. 007 of December 3, 2003 on the implementation of government procurements.

1.1. Government purchasing, public procurement

Acquisition of a good may be effected in various “forms”: purchase, lease, rental or hire purchase as for government procurements but also through a grant, donation or gift, for instance for works of art and heritage in general.

Any acquisition is effected pursuant to an oral or written contract; contracts concluded by the government and its organs are referred to as “administrative”.

Major categories of “administrative contracts” are procurement, concession and civil servant employment contracts.

Not all contracts entered into by the government are administrative contracts; the contract judge first endeavors to qualify the contract; for example, contractual government agents may be of private right.

Government procurements are administrative contracts (but certain purchases by the government may be made under private contract!) They may be entered into between a person governed by public law and a person governed by private law, or between two public legal bodies (and sometimes between two private bodies, one of which is subject to government procurement regulations).

An administrative contract is characterized by an dissymmetry between both parties to the contract; the private contractor is sometimes said to be in a semi-contractual, semi-regulatory situation. Special provisions (overriding ordinary law) apply, such as “the act of State” which enables the public purchaser to abandon the deal... The private contractor has special obligations, such as the affirmative duty, since he is working with a public service.

2. The Marrakesh Framework Agreement

Parties to the Marrakesh Agreement are required to establish a list of “entities” or “procuring authorities” covered by the agreement, as specified in its Appendix I.

Provisions of Article II are used to determine the valuation method for contracts for

purposes of implementing ceilings set by the agreement. Relevant thresholds are to be set by each party and specified in each party's Appendixes.

A major principle set out under Article III is the one on non-discrimination among products, services and suppliers, Cambodian and foreign. However, for developing countries special and differentiated treatment is provided for (Article V).

The procedures governing the awarding of public contracts as provided for under Article VII are:

- The open tender procedure, under which all interested suppliers are invited to submit offers.
- The selective tender procedure, under which invitation to bid is addressed only to pre-qualified suppliers by the procuring entity.
- The restricted tender procedure under which, in a limited number of cases, the procuring entity approaches suppliers individually (listed under Article XV).

The procedure for qualifying suppliers is specified under Article VIII; it shall not discriminate among suppliers of other parties or between domestic suppliers and suppliers of other parties.

Invitations to tender or invitations for pre-qualification are to be published and each party provides a set list of journals in which notices are published in Appendix II. Lists of qualified suppliers may be drawn up and published annually (Article IX); suppliers who are not yet qualified will have the opportunity to submit an application for qualification and if qualified be allowed to bid (Article X).

Article XI sets minimum deadlines to be allowed suppliers to prepare and submit tenders or bids: the period for submitting an application for qualification is 25 days, the period for submission of tenders 40 days. These periods may be reduced (where the tender notice was published well in advance, if a second call for tenders is needed or where a state of urgency exists). There is an absolute minimum 10-day deadline.

Content of the documentation relating to the invitation to tender (bidding documents, tender documents) is specified under Article XII:

- Address of the entity to which tenders (bids) are to be sent.
- Address where requests for supplementary information may be sent.
- Language or languages to be used in tenders and tendering documents.

- Closing date for receipt of tenders and length of time during which tenders are valid.
- Persons authorized to be present at the opening of tenders, the date, time and place of this opening.
- Economic, technical and financial requirements, and information or documents required.
- Complete specifications of the products or services required.
- Criteria for allocating (awarding) the contract and the cost elements to be included (transportation, inspection, customs duties, currency, etc.).
- Terms of payment.
- Any other terms or conditions.

Awarding of contracts shall be made in accordance with the criteria set forth in the tender documentation (Article XIII); negotiations may be conducted when it appears from evaluation that no one tender is obviously the most advantageous in terms of the specific criteria set forth in the notices and tender documentation (Article XIV).

Contracts awarded shall be subject to publication 72 days at the most following award (Article XVIII), indicating the nature and quantity of goods or services in the contract award, the name and address of the entity awarded the contract (contracting authority), date of award, name and address of successful bidder, value of highest and lowest offers taken into account in awarding the contract, the procedure used.

Furthermore, each party (to the agreement) is to publish the law and regulations, judicial decisions, administrative implementation rulings and sample contract clauses regarding government procurement (Article XIX). Annual statistics are to be published.

Claim (challenge) procedures are to be detailed and published (Article XX).

2.1. Award, allocation, submission, tender

2.1.1. The Marrakesh Agreement

The terminology used in the Marrakesh Agreement refers to awards using old French terminology.

Formerly, an *award* (adjudication) meant *awarding* a contract on the basis of the lowest priced of the proposals, known as *tenders*.

Invitation to tender appeared later and meant inviting applicants to submit technical and financial *bids*; the contract was *awarded* to the lowest evaluated substantially responsive bid, but which was not necessarily the lowest price bid.

2.1.2. European terminology

The European Directive 2004/18/EC of March 31, 2004 on coordination of procedures for the awarding of public works contracts, public supply contracts and public service contracts provides the European vocabulary.

Government procurements are written contracts concluded against payment between one or more economic operators and one or more contract awarding authorities for the purpose of implementing work, supplying goods or delivering services...

Public works contracts have as their object either the execution, or both the design and execution of works, or the implementation of a work.

A *work* is the outcome of building or civil engineering operation taken as a whole, which is sufficient of itself to fulfill an economic or technical function.

A *public supply contract* has as its object the purchase, lease, rental or lease with or without an option to buy, of goods.

A *public service contract* has as its object the provision of services.

A *public works concession* is a contract like the public works contract except for the fact that consideration for the works to be carried out consists either solely in the right to operate the built structure or in this right together with payment.

A *framework agreement* is an agreement made between one or more contract awarding authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to prices and, where appropriate, the quantities envisaged.

Economic operator includes the notion of contractor (works and/or structures), of supplier (goods) and provider of services.

A *bidder* is an operator who has submitted an offer; an *applicant* is an operator who shares in a restricted or negotiated procedure or in a competitive dialogue.

Contract awarding authorities mean the government, regional or local authorities, bodies governed by public law and associations formed by one or more of such authorities or bodies governed by public law.

A *body governed by public law* means any body established for the specific purpose of

meeting needs in the general interest, not having an industrial or commercial character, having legal personality and financed for the most part by the government, regional or local authorities, or other bodies governed by public law, either the management is subject to control by those bodies, or having an administrative, managerial or supervisory board of which more than half the members are appointed by the government, regional or local authorities or other bodies governed by public law.

Open procedures mean procedures whereby any interested economic operator may submit a tender.

Restricted procedures mean procedures in which any economic operator may request to participate and whereby only those economic operators invited by the contracting authority may submit a tender.

Competitive dialogue is a procedure in which any economic operator may request to participate and in which the contracting authority conducts a dialogue with the applicants admitted to that procedure, with the aim of developing one or more alternatives suited to its requirements and on the basis of which the selected applicants are invited to tender.

Negotiated procedures are procedures whereby the contract awarding authorities consult economic operators of their choice and negotiate the terms of the contract with one or more of them.

Design contests mean procedures which enable the contract awarding authority to acquire a plan or design selected by a jury after being put out to competition with or without the award of premiums.

3. Cambodian regulations

The Decree of October 18, 2006 often refers to the 1998 order setting forth the implementation rules for government procurements.

3.1. Terminology

The implementation rules define the following terms:

Procurement: Acquisition of goods and services or securing of contractors for construction and civil works.

Public procurement: Contract entered into by a national or local public agency, or by any state-owned or state-governed institution.

Goods: Any item in a solid, liquid or gaseous state with an economic function or value, such as machinery, equipment, materials, supplies, items, products, including electricity.

Civil works: Any activity involving construction, repair, renovation, installation, erecting, excavation, dredging or any other similar activity which combines work, machinery, materials and technology.

Services: Any activity involving the use of work, equipment and technology on behalf of a public agency, excluding public works and consultancy services.

Consultancy services: Expert services delivered by a consulting firm or an individual consultant in relation with a project or for institutional capacity building.

Buyer/purchaser (or contracting entity/authority, or awarding entity): Public agency acquiring the goods for which the contract is entered into.

Employer (contract owner): Public agency which enters into a contract with a contractor for public works or provision of services.

Supplier: Any natural or legal person which enters into a contract for the provision of goods.

Contractor: Any natural or legal person which enters into a contract for execution of public works or provision of services.

Consultant: A firm or an individual recruited to provide expert advice.

Agency: Any government body providing public services, including ministries, rural and urban provinces and State-owned or State-governed entities.

Bidding: Procedure involving a competitive bid call for the provision of goods, services or public works.

Bid: An offer for the supply of goods, services or public works submitted in accordance with the terms and conditions of the awarding entity (or contracting authority) or employer.

Pre-qualification: Screening of potential contractors on the basis of factors such as financial capacity, technical capability and experience in order to develop a shortlist of qualified applicants who will be invited to submit a tender (make a bid).

Post-qualification: Review of the technical capability and financial capacity of the lowest evaluated bidder to determine whether such a bidder satisfies the qualifying requirements specified to perform the contract.

Contract: Agreement entered into between the contracting authority and the supplier, where goods are involved, or between the employer and the contractor, where the execution of public works or delivery of services is involved, based on terms and conditions mutually acceptable to the parties.

Unit pricing: Estimating practice for determining a price on the basis of a fixed quantity used as the standard of measurement.

Lump-sum pricing: Estimating practice for determining a price on the basis of a total quantity regardless of unit prices.

Force account: Use by the agency of its own resources (labor, machinery, materials and supplies) to perform a public work.

3.2. Open tender procedures

The open tender procedure is used when a sufficient number of economic operators are deemed capable of satisfying the specified requirements and when it is in the government's interest to call for a competitive bid among such economic operators to obtain the most efficient and lowest-cost bid (Item 6.1 of the Implementing Rules on Public Procurement - IRPP). The threshold for implementation is 150 million riels (about USD 35,000) brought down to 50 million riels by Order No. 401 of May 30, 2006.

A *call for bids* may be *international* (ICB) or *national* (NCB); the threshold above which the call for bids is to be international is 300 million riels (USD 75,000) (Article 6.1.4 of the IRPP), brought down to 50 million riels by Order No. 401 of May 30, 2006. For the World Bank and the Asian Development Bank, goods of a value exceeding USD 100,000 and civil works of a value exceeding USD 300,000 shall be procured through international competitive bidding procedures (Appendix 5). National competitive bidding applies for procurement of goods at estimated individual contract values of between USD 20,000 and USD 100,000, and between USD 40,000 and USD 300,000 for procurement of works.

These thresholds are floating thresholds (Article 6.2 of the IRPP).

3.3. Other procedures

A *restricted call for bids* (shopping) involves obtaining a minimum of 3 offers; in case of an *international* restricted call for bids, the 3 offers are to be sourced from at least two countries. The shopping procedure may be used where the threshold for procurements is 300 million riels, brought down to 50 million riels by Order No. 401 of May 30, 2006.

The World Bank and the Asian Development Bank conduct the shopping procedure by announcing for procurements valued between USD 5,000 and USD 20,000 for goods, and between USD 5,000 and USD 40,000 for works. For procurements valued below USD 5,000, shopping may be carried out without announcement.

Domestic canvassing is the obtaining of a minimum of 3 quotations from local suppliers for goods available in stores. Goods valued below 150 million riels, brought down to 20 million riels by Order No. 401 of May 30, 2006, may be procured through the domestic canvassing procedure.

For both banks, the equivalent is a purchase with an order form or a petty cash for a purchase valued below USD 5,000 (Appendix 5).

The World Bank and Asian Development Bank procurement manual considers “shopping” and “canvassing” as equivalent terms (Article 10.2.4 of the manual).

The *negotiated contract* (old French terminology) or *single tender* (new French and European terminology), or *direct contracting* (terminology of the Marrakesh Agreement) is an agreement or negotiation involving a single supplier. This process may be used for instance when one supplier is the sole source of the goods or service required, in cases of emergency or failure of an open consultation, or for force account work, or when the contract value is below 15 million riels (Article 6.3 of the IRPP). Such contract must be authorized beforehand by the Ministry of Economy and Finance (Order No. 401 of May 30, 2006).

For both banks, this process is only to be used in exceptional circumstances and must be authorized beforehand for goods. This process does not exist for works.

3.4. Organization of procedure (for supplies and public works)

3.4.1. Pre-qualification of suppliers, contractors, service providers

Pre-qualification of suppliers, contractors and service providers is based on identified general needs but has no necessary link to a specific need (Article VIII of the Marrakesh Agreement, Article 9 of the 2006 Decree and Article 8.3 of the IRPP). This pre-qualification process may therefore be dissociated from needs or may correspond to a special bidding.

A joint application may be filed as the qualification is valid for a fixed duration and renewable (Marrakesh Agreement).

The pre-qualification process enables identification of potential candidates for government procurements who meet the technical and financial selection criteria.

Specifications

In France, the invitation to bid package consists of the following in descending order of priority:

- *Pledge of commitment (of the bidder to comply with the specifications).*
- *Supplementary special conditions which are dispensations from the general conditions of the contemplated contract.*
- *Special technical conditions including description of works (for procurement of works) and/or technical specifications.*
- *When specified as contract documents, documents such as plans, design notes, survey book and geotechnical file (for procurement of works).*
- *Unless the contract provides for payment of the full delivery of services in a single lump sum, the statement of lump sum prices, the schedule of unit prices or equivalent price series.*
- *Subject to the same exception, the itemized estimate.*
- *When specified as contract documents, the lump sum price breakdowns, further broken down into unit prices.*
- *General technical terms and conditions applicable to service provisions object of the contract.*

General conditions of the contract setting the general administrative provisions applying to the procurement category concerned; these procurement books are permanent and available.

In the event of inconsistency or discrepancy within the contract documents, these documents are take precedence in the order listed above.

General conditions for State contracts and dispensations allowed by the contemplated contract enable a saving of time in drafting the specifications and avoidance of mistakes or omissions.

Therefore, in a qualified tendering process, only a limited number of applicants are invited to prepare a technical tender, which is a costly process for them. During bid evaluation, contenders whose bids are rejected for technical reasons (inadequate equipment, lack of experience in the work or service required, inadequate or under-qualified staff base, etc.) or for financial reasons (not financially sound, for instance) are not called upon to go through the costly tendering process, which is statistically reflected in the selected tender prices (if an applicant is successful one time out of ten, the tendering cost of the nine rejected tenders has to be picked up in the amount of the selected tender).

Pre-qualification may be used for government procurements of equipment especially designed for the contracting authority (customized), industrial facilities, specialized services, complex information systems and turn-key contracts (Article 9 of the 2006 decree on government procurements). Pre-qualification is not crucial for public works of less than 300 million riels.

As for works, contractors are to be sorted into categories and registered at the Department of Public Procurements (Article 8.2.d of the 2006 Decree). The IRPP distinguish 3 categories (Article 25 of the IRPP): small, medium and large companies according to their financial resources, technical capacity and staff base. Classification is made according to the type of project (such as road, irrigation, water supply or building). A contractor may belong to several classes and switch to a different category when he provides evidence justifying the change (Article 26 of the IRPP). Classification and categorization are carried out by a committee chaired by the director of the Department of Public Procurements, representatives of the Ministry of Public Works and representatives of local contractors.

Lists of qualified suppliers are published annually in the press specifying the nature of products or services, criteria for eligibility to be on the lists, validity period and conditions for renewal (Marrakesh Agreement, Article 9).

The pre-qualification procedure starts with an announcement published in the Khmer and English print media with a copy provided to the embassies, consulates and commercial agencies of countries potentially interested (for international contracts, Article 8.3.2. of the IRPP); the procuring entity is to allow applicants at least 30 days to prepare and submit the pre-qualification application file (Article 8.3.5 of the IRPP), which shall specify the capacity assessment criteria.

Furthermore, pre-qualification shall be the responsibility of the pre-qualification, evaluation and award committee (Article 20 of the 2006 Decree).

a. Definition of needs

The first stage of a government procurement procedure involves defining quantitatively and qualitatively the actual need of the recipient of the service. This very crucial stage results in the drawing up of procurement specifications which are not to be technically so specific that certain suppliers are ruled out of the bidding process.

b. Quantification of needs

Quantification of needs requires calculating the amount of the financial need to be met: the total of desired quantities is multiplied by estimated values. Estimation of the time required for delivery may be carried out at this stage.

Tender document price

The issue of what price level should be set for the bidding package sometimes arises; there is a tendency to calculate the price in reference to the estimated contract amount. In the IRPP, it is specified (Article 8.1.3.) that the selling price is not to cover the cost of tender document preparation but only its photocopy cost.

c. Verification of the existence of funds

Where appropriate, needs shall be modified so as to be consistent with the available budget. Certain regulations provide that appropriation shall be “reserved” from this stage on, a process which involves making a provisional commitment that “freezes” appropriations so that they continue to be available throughout the procedure, which may be long.

The contracting authority is identified at this stage: it has at its disposal the budget to finance the procurement.

d. Choice of procedure

The choice of procedure may be guided by the amount involved: setting a ceiling amount, donor’s procedure, Marrakesh Agreement. The need is sometimes reduced so as to remain below a ceiling amount, which may mean a more flexible and faster procedure can be followed; splitting the need to avoid reaching a ceiling amount is prohibited.

Parameters include the pricing system: unit prices or fixed prices.

Choice of procedure is to be approved by the Ministry of Economy and Finance that shall certify the existence of funds (Article 7.4. of the IRPP).

e. Finalization of tender documents

Tender documents or “specifications” are finalized. They comprise (Article 8.1.1 of the IRPP) the following documents:

- Invitation to tender.
- Instructions to bidders.
- Tender forms and applicable price schedules.
- List of goods and itemized quantity estimate.

How should a bid be submitted?

Many regulations specify that tenders (in an open invitation to tender procedure) must be submitted in accordance with the double-envelope system:

The outer sealed envelope is anonymous (but it bears the invitation to tender reference number and specifies that the envelope shall be opened only at the tender opening session) and shall contain a sealed envelope which itself contains the financial bid and the technical bid, along with other documentation that may be required.

Why an outer anonymous envelope?

The contracting authority is to receive and record tenders submitted (prior to expiration time) and issue an acknowledgement of receipt. A clever bidder (or a bidder with an inside accomplice with the contracting authority) may come at expiration time with several prepared tenders. He may refer to the tender register (or may have been informed) and according to the applicants listed (or that he may have found out about), he may submit such and such a bid from among those he has prepared. For this reason, the register onto which the bids have been entered is also not to bear the name and address of the bidders: the bids are listed in chronological order at the time of being recorded and receipt of the bid is acknowledged using the chronological number.

Why a second sealed envelope put in the first one?

Certain regulations specify that outer envelopes shall be opened and qualifications and enclosed documents verified. The bidder may be rejected at this stage because of a missing document (the deposit, for instance), a technical deficiency etc. The financial bid is therefore returned unopened, sealed as originally sent, back to the bidder: the inner envelope containing the financial bid therefore cannot be anonymous so that it can be easily sent back to the bidder.

Bidders are so afraid of unfair competition and fraud that they often provide a tender guarantee not based on the percentage required in the specifications but on a higher amount. Any competitor who got inside information through the bank regarding the amount of their offer by reckoning it in relation to the bond amount is therefore foiled or misled!

- Technical specifications and time frame (for public works).
- Sample contract for provision of goods or works.
- Contract conditions.
- Tender deposit (not to exceed 2% of the offer, article 1.f of Annex 1 to the IRPP).
- Deposit guaranteeing satisfactory performance of the contract (“performance bond”), which is not to exceed 10% of the contract amount (same Article).

Preparation of the bidding package is done under the responsibility of the public procurement unit created by and within the contracting authority (Article 21 of the Decree and Article 19 of the IRPP).

f. Instructions to bidders and applicants

In the case of an open invitation for tender, which should be the rule for simple public procurements, notice of invitation to bid is to be published in the press.

In the case of a shopping procedure, only accepted applicants (3 at least, but any applicant aware of the bidding may make an acceptable tender (Article 9.2.1. of the IRPP) receive (directly) a simpler invitation to bid that shall however clearly specify the conditions on which the quotation is made (Article 9.2.1. of the IRPP).

In the case of canvassing, applicants (3 at least, but any applicant aware of the bidding may make an acceptable offer) receive specifications via fax or telephone and respond the same way (Article 8 of the 2006 Decree).

Preparation of the bidding documents and instructions to bidders and applicants comes under the responsibility of the public procurement unit created by and within the contracting authority (Article 21 of the Decree and Article 19 of the IRPP).

g. Preparation of bids and submission

Bidders (for an open invitation for tender) and applicants (for a “shopping” invitation to tender) are to be allowed sufficient time to prepare their bids; Article 8.1.4. of the IRPP sets a mandatory 60-day minimum timeframe for international invitations to bid and a 30-day minimum for national invitations to tender. These timeframes begin from the date the consultation package is made available. Too short a response timeframe undermines good technical and financial preparation for invitation to bid; leeway is taken, corners are cut, that ends up being detrimental to the public buyer.

Bids are received sealed; only bids received prior to expiration date are accepted. (Article 8.1.4. of the IRPP).

In the canvassing process, bids are received by fax or by phone (Article 8 of the 2006 Decree).

h. Opening of bids

Bids (tenders) are opened in a public session (Article 8.1.5. of the IRPP) at the time and place specified in the bidding documents, immediately after expiration of the date and time deadline for bid submission (Article 11 of the 2006 Decree). All information relating to the bids is available to all, including the general public upon request (Article

11 of the 2006 Decree). All bid details are recorded: name, bid nationality, amount, deposit validity period (Article 11 of the Decree, article 8.1.5 of the IRPP). Bidders or applicants who are present sign the register (same Article of the IRPP).

The Pre-qualification, Bidding and Award Committee (PBAC) is responsible for the bid opening (Article 20 of the IRPP).

i. Examination and evaluation of tenders

Tenders are to be examined and evaluated by the Pre-qualification, Bidding and Award Committee, which may delegate these tasks to a technical assessment panel (Article 20.4 of the IRPP).

Tender calculations are verified and arithmetical errors corrected. Tenders are compared to the specifications and large gaps or reserves are not be accepted: only tenders complying with specification requirements are taken into consideration (Article 8.1.6 of the IRPP).

Tenders are evaluated in accordance with the terms and conditions specified in the bidding documents. For comparison of financial bids, each bid price shall be valued in terms of a single currency. Conversion of tender currency to the currency used for bid comparison is done by using the exchange rate for those currencies quoted by the National Bank of Cambodia (originally of the Foreign Trade Bank) as of the date specified for the bid opening. The Public Procurement Unit carries out tender evaluation privately (Article 8.1.7 of the IRPP).

Evaluation criteria other than price are quantified.

If less than three acceptable tenders are received, the invitation for tender shall be declared unsuccessful and tenders shall be returned unopened to the tenderers or applicants (Article 10 of the Decree).

Acceptable tenders shall then be compared in order to determine the lowest price tender (Article 8.1.8 of the IRPP).

For canvassing, tenders received are open by definition (fax or telephone); they are compared and the lowest acceptable bid is to be selected (Article 9.2.2.b of the IRPP).

For a limited tendering procedure (one applicant), the tender must comply with the specification requirements; negotiations (bid shopping...) may occur and, where appropriate, no follow-up may be made and another applicant may be invited to tender (Article 9.2.3 of the IRPP).

j. Award of contract

Should the need arise, the contracting authority may gather the necessary approvals, then inform the applicant whose tender has been deemed to be the best. The applicant is informed of the fact that he was selected during the tender bond validity period of his bid. Where necessary, the contracting authority may ask the selected candidate to extend his tender bond validity period; if he refuses, the bond shall be returned to him and the assessment procedure shall be applied to the next best bid (Article 8.1.11 of the IRPP).

Proposal for award of contract is to be made by the Pre-qualification, Bidding and Award Committee (PEAC) (Article 20 of the IRPP), which may be based on the work of a Technical Assessment Panel (Article 20.4 of the IRPP).

Decision to award a contract is made by the PEAC Chairman upon unanimous decision of the PBAC (Article 26 of the 2006 Decree). According to the IRPP, the decision is to be made by the head of the contracting authority who can delegate to the contracting authority's second-in-command (Article 20.5 of the IRPP). The PEAC Chairman is not the head of the contracting authority but is designated by it; he may be the second-in-command of the contracting authority (Article 20.1 of the IRPP).

Above 20 million riels (US\$ 5,000), the matter will be referred to the Department of Public Procurements for examination prior to the award (Article 26 of the Decree, Article 21.1 of the IRPP).

Above 1.3 million riels (US\$ 325,000), or in the event of a politically sensitive procurement, or one that has a strong social or moral impact or which poses a threat to the environment, the final contract award decision is to be made by the Council of Ministers (Article 26 of the 2006 Decree, Article 22 of the IRPP).

k. Informing unsuccessful candidates

When final awarding of a contract has been decided for a tenderer or applicant, unsuccessful tenderers or applicants are to be informed and their tender deposit returned to them.

An contract award notice is published within 72 days of award mentioning the nature and quantity of the products or services awarded, the name and address of the entity awarding the contract, the date of award, the name and address of the successful tenderer, the value of winning tender and of the highest and lowest tenders taken into consideration in awarding of the contract (previously quoted Article XVIII.1 of the Marrakesh Agreement).

Can the drawing up of contracts be simplified and speeded up?

The contract arises from the willingness of parties to be bound to each other on terms agreed between them. The contracting authority has expressed its need in the tender specifications which may include general (administrative and technical) documents and specific (administrative and technical) bidding documents. In his proposal, the applicant has expressed his willingness to comply with the requirements set out in the tender specifications through his pledge of commitment (commitment to comply, Article 2.c of Appendix 1 of the IRPP).

The contract instrument may be a brief document containing the detailed identity of the parties and specifying amount, lead time, allocating accounting officer and list of contract documents filed by descending order of priority so that, in the event that there is any inconsistency between the documents which form part of the contract, the matter can be resolved. The contract instrument thus devised can fit on two pages while contract documents may make a one-meter-high pile!

Unsuccessful candidates may ask to be informed of the reasons for rejection of their applications, the characteristics and advantages of the successful tender, as well as the name of the successful tenderer (Marrakesh Agreement, Article XVIII 2.c).

l. Contract

Formalization of contractual relationship between parties is made through a supply contract or a public work contract, as appropriate (Article 10 of the IRPP).

The contract may contain detailed provisions (in the event of invitations to tender) or may be, for instance, a simple order (in the case of a restricted invitation, canvassing or limited invitation) (Article 11 of the IRPP).

m. Complaint

Suppliers (contractors, consultants and general public), who consider that rules applying to public procurements (the Marrakesh Agreement, the 2006 Decree and the IRPP) have not been observed, may submit a complaint (Article XX of the Marrakesh Agreement and Article 36 of the 2006 Decree).

Such complaint will firstly be addressed to the contracting authority and a copy sent to the Department of Public Procurement (DPP). A copy of the contracting authority's response will be transmitted to the DPP.

“If the complaining party is not satisfied with the response received from the contracting authority, or if no response is received within 15 working days after complaint submission, the party may call within 10 working days for revision of the

contracting authority's decision by the MEF (DPP). The MEF shall issue a response within 15 working days.” (Article 37 of the 2006 Decree)

“Conclusions of the MEF relating to the claim shall be final, without prejudice to any other recourse pursuant to the laws of Cambodia.” (Article 38 of the 2006 Decree)

n. Performance of contract

The Marrakesh Agreement, the 2006 Decree and the IRPP only deal with the contract phase from definition of needs to awarding of the contract; they do not deal with contract performance.

3.5. Amendment, update, performance deposit, revision, advances, down payments, acceptance, penalties

3.5.1. Amendment

An amendment to a contract is a contract which modifies the original contract; certain clauses cannot be modified by amendment (for instance, the party to a contract), or can be modified only within the scope of regulations, such as volume of the public works or delivery of services.

3.5.2. Update

Formation of the contract price is deemed to occur on the date of submission of the tender unless specified to the contrary. If the beginning of the works (construction contracts) or the date of the beginning of manufacture is delayed, the contract amount may be updated according to a contractual formula that may be the price revision formula.

3.5.3. Performance deposit

The contractor may have to provide deposit guarantee for work performance which shall be returned to him (deposit) upon completion and acceptance of the work.

3.5.4. Revision

Tenders that are implemented over a time period exceeding a certain number of months, for instance one year, may be subject to price revision according to a contractual formula:

$$R_p = O_p \{A + B (I_m/I_o) + C (J_m/J_o)\}$$

for instance, where:

- R_p stands for revised price

- Op for original price
- A is the part of the price in % which is not revisable, from 0.125 up to 0.15
- B is the weighting coefficient of an index, for instance the one for labor
- C is the weighting coefficient of a second index, for instance the one for cement price

Still with $A + B + C = 1$

- Im is the value of the first index during month m
- Io is the value of the first index during month zero
- Jm is the value of a second index during month m
- Jo is the value of this second index during month zero

It is necessary to refer to regularly published price indexes.

3.5.5. Advances

Tenders may be subject to advances by way of derogation from the principle of service performed to facilitate the financing of companies that have been awarded public procurements (Article 57 of Decree 82 on public accounting).

3.5.6. Down payments

Down payments are installments, monthly in general, paid for performance of services provided to a company involved in a long manufacturing process, such as public work.

Payment of advances shall be deducted from each installment according to the rules in force or contract provisions in the absence of these rules.

For instance, if the start-up advance amount was 10% of the updated tender sum, deduction from each installment shall amount to 10% of the updated (and unrevised) contract sum until the final statement that settles the tender.

3.5.7. Acceptance of works or goods

When the work is completed, it is to be turned over to the contracting authority, just as goods are turned over.

The contracting authority accepts them, becoming thus holder of the work or goods and is liable for them: it may insure them, it must ensure their safekeeping and it incurs liability for damage caused to third parties.

Best endeavors obligation, performance obligation?

Performance obligation:

Design contracts usually demand a result; the consultant will be paid if the result is achieved; a lump sum contract is entered into.

Best endeavors obligation:

Tenders for technical assistance often only demand due care: advisory duty, project oversight. These efforts are paid contingent upon provisions effectively carried out.

Mixed contracts:

A contract may combine, according to an allocation key, a best endeavors obligation and a performance obligation.

Procurement regulations of the 9th European Development Fund emphasize these differences (Decision 02/2002 of October 7, 2002 of the Council of Ministers ACP/EC, Article 9).

3.5.8. Security deposit

During a compulsory (Civil Code), regulatory or contract period, the enterprise must guarantee the work or goods that it has delivered; this guarantee often takes the form of a retention money deposit which is paid at the end of the security period, or a security payment released at the end of the said period. The deposit system is easier to manage in terms of budget administration and accounting: in order to pay the deposit money for instance 10 years after acceptance of the work, the amount should have been entered in the budget or payment provisions should have been made for it if provided for in the regulations!

In Cambodia, the performance deposit is used (Article 2.f of Appendix 1 of the IRPP).

3.5.9. Penalties (for delay)

The contract or general regulation may provide for penalties for delay; these penalties are calculated either during construction based on easily identifiable reference points (boxing up, for instance), or on the date the work is to be turned over. Some donors are very demanding as regards construction deadlines and charge heavy penalties. One economic principle that must prevail in public procurements is to never put the private contractor in an unfavorable position, for he must be able to work in good conditions and contribute to development of the national economy.

Dematerialization of contract award procedures

Technologically developed countries increasingly use dematerialized contract awarding procedures, i.e. use electronic communications tools.

3.5.10. Sanctions

Non-observance of rules relating to procurements (for example, corruption) by a winning bidder may lead to sanctions, the main one being exclusion from public procurements: he would not be authorized to submit tenders or be awarded a public procurement contract during a fixed period or permanently. (Article 45 of the 2006 Decree and Article 30 of the IRPP)

4. Specific procedure for consultant recruitment

4.1. Selection of consulting firm

“Consultants may be recruited to perform services related to project implementation or to provide a technical opinion or assistance in individual or institutional capacity building. Consultants may be individuals or consulting firms.” (Article 13 of the 2006 Decree)

“The stages of the consultant selection procedure, as well as evaluation and selection methods, are outlined in full in the IRPP and the procedure must always be followed. Moreover, expression of interest documents and sample contract forms are appended in the IRPP. Use of these standard documents is mandatory.” (Article 14 of the 2006 Decree)

“A request for expression of interest in the form of an advertising notice shall be published inviting all consultancy firms to express their interest in carrying out the mission. In the event the service cost has been estimated above the threshold, notice must also be published in the international media.” (Article 15 of the 2006 Decree).

A long list and a short list (with a maximum of 7 consulting firms) is drawn up (Article 16.2 of the IRPP); firms on the “short list” are invited to submit a proposal prior to the deadline for proposal submission.

“Selection of individual consultants shall be based on their personal qualifications and experience in relation to the mission. A request for expression of interest is to be published in national and international media where justified. The international consultant will be selected in accordance with the criteria set out in the request for expression of interest and invited to negotiate a contract.” (Article 16 of the 2006

Decree)

4.2. Type of contract

4.2.1. Means contract

Remuneration is based on the time spent at an agreed rate (hourly or monthly). Reimbursable expenses provided for in the contract are also paid (Article 17.1 of the IRPP). This type of contract is to specify the total capped amount since the consultant is under obligation to complete the work within the contract budget envelope.

4.2.2. Lump sum contract

A lump sum price is negotiated and payments are made by installments according to progress of the work. The contract amount is estimated on the basis of the number of man/months plus reimbursable expenses. (Article 17.1.b of the IRPP)

4.2.3. Percentage contract

This type of contract is commonly used for building and public works; remuneration of the designer and/or engineering office is calculated on the basis of a percentage of the project cost (initial or revised cost, including amendments). (Article 17.1.c. of the IRPP)

For the World Bank and the Asian Development Bank, contract typology and procedure thresholds are very different:

- Direct selection: exceptional and upon prior authorization of the financing bank and the MEF.
- International quality- and cost-based selection: for any contract above USD 100,000.
- National quality- and cost-based selection: between USD 50,000 and USD 100,000.
- Quality-based consultant selection: below USD 50,000.
- Individual consultants: upon agreement of the financing bank (manual, Appendix V)

5. Stakeholders

5.1. Ministry of Economy and Finance

The Ministry of Economy and Finance, regulated by Decree No. 4 of January 20, 2000 on the organization and functioning of the Ministry of Economy and Finance, is

specifically in charge of “managing and monitoring the public procurements of the various ministries, provinces, cities and centralized or standalone institutions”.

Besides, “the Ministry of Economy and Finance is responsible for setting public procurement thresholds, formulating public procurement policies and procedures pursuant to the regulations in force, and to take all necessary measures to ensure smooth functioning of public procurements”. (Article 17 of the 2006 Decree)

The MEF may amend or add clauses to the IRPP by order (Article 18 of the 2006 Decree).

5.2. Department of Public Procurement

“The Department of Public Procurement of the Ministry of Economy and Finance has the mandate, obligation and duty to oversee any contract undertaken in Cambodia involving the expenditure of public funds, whatever its origin”. (Article 19 of the 2006 Decree)

5.3. Head of the Contracting Authority

“Responsibility for implementation of this Decree and the IRPP remains that of the contracting authority in charge of public procurement.

Heads of contracting authorities control all public procurements committed by their entities and supervise implementation of all recommendations made by the Department of Public Procurement in terms of administrative sanctions that may be imposed on officers under their authority.” (Article 20 of the 2006 decree)

5.4. Public Procurement Unit

“To facilitate effective implementation of public procurements, each contracting authority shall create a Public Procurement Unit (PU). The PU is to be under the authority of the department head and in charge of executing any public contract of the Contracting Authority. Detailed roles and duties of the PU are spelled out in the IRPP. The head of the PU and his officers cannot be given other duties within the contracting authority and must devote all their time to the PU.” (Article 21 of the 2006 Decree)

The PU prepares tender documents, arranges for publications relating to consultations, provides tender documents to the parties interested, receives tenders and verifies that they comply with the tender document requirements, defers to the DPP matters falling within its jurisdiction, issues correspondence destined for selected bidders and applicants and prepares the signing of approved tenders, and receives goods and

endorse payments submitted to the PEAC. (Article 19 of the IRPP)

The PU is under the supervision of the chairman of the PEAC (Article 19.2 of the IRPP).

5.5. Pre-qualification, Evaluation and Award Committee (PEAC)

“Each ministry, each municipal or rural provincial administration, each government-owned company or State institution forms a PEAC which is in charge of reviewing public procurement programs, consultation documents and recommendations for selection and claims. Public procurements of rural and municipal communes are defined in the IRPP”. (Article 23 of the 2006 Decree)

5.5.1. Members of the PEAC

“Besides the PEAC chairman appointed pursuant to Article 25, members of the committee appointed for a two-year period are to be appointed by the head of the contracting authority. Members may be reappointed to serve one more year, but their total term is not to exceed three consecutive years. Former members appointed for a three-year period may also be reappointed following a minimum period of one year after completion of their previous three-year period. The head of the contracting authority may also appoint from 4 to 6 permanent members. The head of the contracting authority may also appoint casual members for public procurements that require specialized skills and knowledge. At least one member must have a financial background and training record and at least one member must have a technical background in mechanical or civil engineering. The DPP will be invited and will be entitled to attend meetings and observe all deliberations of the PEAC.” (Article 24 of the 2006 Decree)

5.5.2. Help desk of the committee

“The PEAC is endowed with a permanent structure. The secretary of the committee shall be the director of the PU. However, the chairman may change according to the value of the public procurement at issue, as mentioned in the IRPP.

The Chairman may be selected as follows:

- For major public procurements as defined in the IRPP, the chairman of the PEAC shall be the head of the contracting authority.
- For general public procurements as defined in the IRPP, the chairman shall be the immediate deputy chairman of the PEAC as appointed by the head of the contracting authority.

- For minor public procurements as defined in the IRPP, the chairman shall be the second deputy chairman of the PEAC as appointed by the head of the contracting authority.

The first and second deputy chairmen of the PEAC shall be given full powers by the head of the contracting authority in order to approve assessment reports and contracts in the name of the PEAC.” (Article 25 of the 2006 Decree)

5.5.3. Powers of the PEAC

“The PEAC has the power to review public procurement activities and approve assessment reports and recommendations for the selection of applicants.

For evaluation of assessment reports and selection of applicants, decisions of the PEAC require unanimity. When a duly formed PEAC approves a public contract, no further approval by the contracting authority is required. The chairman of the PEAC is empowered to sign the contract on behalf of the contracting authority without need of any further approval. The only exceptions are:

- For procurements above a threshold, for which recourse to the MEF via the DPP is required.

Table 6. Types of public procurement

Type	Nu	Committed amount	Contracted amount	Difference
A. Goods				
- Office 2	37	194,481,706,171	192,188,031,269	2,293,674,902
- Office 3	22	45,501,209,950	45,178,582,639	1,322,627,311
- Prov.-municipal of-	7	5,340,488,400	5,202,792,250	137,696,150
Total A	66	246,323,404,521	242,569,406,158	3,753,998,363
B. Construction				
- Office 1	52	97,726,789,600	97,141,500,000	585,289,600
- Office 3	44	37,395,217,200	37,118.986,572	276,230,628
- Prov.-municipal of-	31	52,208,823,000	51,455,324,400	753,498,600
Total B	127	187,330,829,800	185,715,810,972	1,615,018,828
Total (A+B)	193	433,654,234,321	428,285,217,130	5,369,017,191

- For politically sensitive procurements or procurements with a strong social or moral impact, or embodying a threat to the environment, for which recourse to the Council of Ministers through the MEF is required.” (Article 26 of the 2006 Decree)

CHAPTER XIV

State Assets Management

Management of State public and private assets is one of the government's duties.

The Constitution protects the cultural heritage and artistic heritage in particular. (Article 70)

In its Article 9, the Law No. 1 of 1993 provides that:

“Management of State-owned property, sale or rental of movable and immovable property belonging to the State, as well as any deed relating to such properties, shall be necessarily liable to terms and arrangements set by applicable laws and rules... The total amount of revenues arising from these transactions on movable and immovable properties shall be remitted to the general national budget, without possibility for expenses deriving from the transaction to be charged to the budget.”

Sub-decree (*Anukret*) No. 82 of the Council of Ministers on Public Accounting provides for, under Article 13, that public accountants shall be responsible for:

- “... in terms of heritage,
- Preservation of rights, privileges and mortgages.
- Preservation of assets for which they shall keep stock records.”

In certain countries, authorizing officers are responsible for these stock records; in other countries (Cameroon, for instance), they fall under the responsibility of private accountants and stock record accounting officers. These accountants receive the goods, works and services and certify the service performed.

When a project is directly financed by a development partner without funds transiting through the budget or the Treasury, it must be kept in mind that an acceptance procedure for the work (or goods) is to be carried out upon completion of the project. Through this process, ownership of the work is transferred to the State or to one of its organs that shall then assume civil liability for it and carry out a book-entry transfer, which process causes the work (or goods) to appear in its heritage, stock records and general accounts.

When the work or goods are financed by the State, transfer of the company's or

supplier's liability to the State or its organ shall be undertaken upon acceptance of the work (or delivery of goods) that shall be formalized. Relevant accounting entries are carried out.

CHAPTER XV

State decentralization and privatization

1. What is meant by “State”?

From a legal point of view, State means the corporate body holder of sovereignty. Distinction is made between the central government and its organs (public administrative institutions, local and regional authorities, the latter still being referred to as local governments). The central government and its organs are legal entities governed by public law, still known as “public bodies”. Powers of the central government *stricto sensu* are said to be “regalian” (or sovereign): foreign policy, police, national defense, justice, taxes.

In Cambodia, the *central government* is firstly composed of the institutions identified by the Constitution: the King (Chapter II of the Constitution) and the Royal Palace, the National Assembly (Chapter VII) and the Senate (Chapter VIII), the government (Chapter X, which is the Council of Ministers [new Article 118 of the amended Constitution]), the judiciary (represented by the supreme court and the lower courts of all sectors and levels, Chapter XI), the Supreme Council of the Magistracy (Article 132 - new) and the Constitutional Council (Chapter XII).

Note: The law of July 19, 1994 on the organization and functioning of the Council of Ministers uses the word “institutions” to refer to what are usually called as “ministries” or “State secretariats”; a translation problem?

The *central government* also includes general government bodies which may be under the authority of a minister (ministries), standalone general government bodies such as the National Audit Authority (NAA) or the Council for the Development of Cambodia (CDC, under the administrative supervision of the Council of Ministers). These general government bodies may be established at the national level or deconcentrated within the country.

Public administrative institutions are public legal entities with financial autonomy.

Public economic institutions are public legal entities. The decree under which they were established specifies their financial system, i.e. they are not *a priori* subject to the public accounting system. (Law No. 3 of June 17, 1996)

Sub-decree No. 41 of August 6, 1997 uses the expression “public establishments with

economic characteristics, PEE”. (Article 1.1)

State-owned companies (or *public companies*) and *semi-public companies* are private legal entities (“companies”). “Public companies” is the term to be used (according to the 1993 OECD System of National Accounts), which refers to “resident companies or quasi-companies that are subject to the control of general government institutions, control over a company being defined as the power to determine its general policy by, where necessary, choosing its officers.”

In principle, the concept of “public enterprise” does not refer to a status but to a type of (industrial or commercial) activity carried out by the government under various statuses (central government for work known as force account work, budget annex, special account, public administrative institution or public establishment with economic characteristics, or local and regional authorities and State-owned or semi-public companies); the system of national accounts does not always correctly classify these public enterprises.

In Cambodia, the concept of public enterprise according to the Law of June 17, 1996 encompasses public establishments with economic characteristics, State-owned companies and semi-public companies.

Sub-decree No. 41 of August 6, 1997 implementing the law defining the general status of public enterprises provided that non-incorporated industrial and commercial government services were given one year from its date of signature to be classified under one of the following legal categories: public establishment with economic characteristics, public company (or State-owned company) or semi-public company, or be liquidated.

2. “Technical” decentralization to public institutions

They are two categories of public institutions in Cambodia:

Public institutions of administrative nature (PAI) and public institutions of economic nature (or, with economic characteristics) (EPCE or PEE) often known elsewhere as public institutions of industrial or commercial nature (EPIC). They are public legal entities.

Specific types of public institutions may be established by law; such as was the case with the National Bank of Cambodia (see the first section).

2.1. Public administrative institutions

The law of December 31, 1997 defines the “legal status of public administrative

institutions”. It provides that a Public Administrative Institution (PAI) is to be established by a decree adopted by the Council of Ministers (*Anukret*) (Article 3) “upon joint proposal of the minister or the technical administrative authority and the minister of Economy and Finance.

The *Anukret* establishing the institution sets forth such things as its mission, prerogatives and obligations, the composition of its board of directors, as well as the specific rules applicable to its management and control. This *Anukret* is to specify the supervisory ministry or authority.

The functioning of the institution is governed by internal bylaws prepared and put forward by the minister or the technical administrative authority and the Minister of Economy and Finance...” (same Article)

2.1.1. Board of Directors

Public administrative institutions are governed by a board of directors composed of 5 to 11 members. This board of directors “shall delegate to the Director General the powers necessary for the day-to-day functioning of the said institution, although this delegation will not constitute a transfer of responsibilities.” (Article 9 of the decree)

The director general and the financial controller shall attend meetings of the board of directors but they do not vote. (Article 20)

“The chairman or the director shall submit the development program or draft budget to the minister or administrative authority and to the Minister of Economy and Finance for approval...” “within fifteen days after the meeting of the board of directors at which they were adopted”. (Article 29) “The Minister of Economy and Finance shall submit his opinion thereon within a one-month period after receipt of the documents, to the minister or technical administrative authority. The minister or technical administrative authority shall approve them within a two-month period from the date of receipt of the documents forwarded by the chairman or director.” (Article 29)

In the absence of a response, approval shall be deemed given (Article 29). In case of reservation, the provisional twelfth principle shall apply. (same Article)

Similar approval provisions apply to the annual report and financial accounts. (Article 34)

2.1.2. Authorizing officer

The chief executive officer or director-general, as the case may be (Article 11) shall be the chief authorizing officer of the institution (Article 17) and is subject to public accounting rules. (Article 16)

2.1.3. Financial control

Public Administrative Institutions (PAI) are be subject to pre-audit and post-audit carried out by a financial controller appointed by the Minister of Economy and Finance. (Article 36)

2.1.4. Accountant

Public Administrative Institutions are to have an accountant appointed by order of the Minister of Economy and Finance (Article 18). “Financial operations and keeping of accounts shall be carried out in compliance with the internal bylaws ...” (same article).

2.1.5. Earmarked tax resources

A PAI may levy direct taxes that are to be provided for in the *Anukret* establishing the public administrative institution. (Article 19)

2.1.6. Budget

“Current and capital revenue and expenditure of a PAI are to be provided for in its annual budget. The institution’s board of directors defines the procedures for budget preparation, presentation and implementation. Decisions of the board of directors relating to budget preparation, presentation and implementation procedures require approval of the Minister of Economy and Finance.” (Article 19)

2.1.7. Accounting

“The system of accounts of a PAI includes:

- Double-entry general accounting which shall record budget operations, financing transactions and operations performed with third parties.
- Fixed asset, materials and assets accounting.
- Where necessary, cost accounting.” (Article 20)
- “The institution’s system of accounts must:
- Comply with the general rules for presentation defined by order of the Minister of Economy and Finance.
- Abide with the institution’s chart of accounts decided by the board of directors (this chart of account is to be approved by the Minister of Economy and Finance).” (Article 20)

2.1.8. Funds

“Funds of a PAI are public moneys and it is mandatory that they be deposited in an

account in the Treasury, unless an exception is granted by the Ministry of Economy and Finance.” (Article 21)

2.1.9. Prerogatives

“The *Anukret* establishing a PAI may grant it the benefit of public power prerogatives in terms of collection of revenue, validity of debt claims and protection of assets.” (Article 23)

2.1.10. Tax and customs arrangements

“Unless otherwise specified under the provisions of the *Anukret* establishing the public administrative institution, it is to be subject to tax and customs arrangements applicable to governmental administrative institutions.” (Article 24)

2.1.11. Contracts

“Awarding, execution and control of contracts of a PAI are governed...” by public procurement rules (Article 25).

“Management by the main authorizing officer is subject to the control of the Inspectorate-General of Finance.” (Article 37)

2.1.12. A posteriori (ex post) or concomitant controls

“Management by the accountant is to be subject to the control of the National Treasury’s general accountant and to the control of the Inspectorate-General of Finance.” (Article 37)

2.1.13. Staff

“Permanent staff of a PAI includes civil service officials who shall be assigned or seconded to the institution in accordance with the laws and regulations governing the civil service and also with the provisions of the *anukret* establishing the institution.” (Article 13)

“The *anukret* establishing the institution may empower it to recruit contractual, auxiliary or casual staffs who are private law wage earners. They are governed by provisions of the internal bylaws and decisions of the board of directors, in keeping with the labor laws.” (Article 13)

2.1.14. Assets

A PAI may be entrusted with the management of assets owned by the State and have full ownership of assets. (Article 15)

Assets of a public administrative institution cannot be seized if specified in the decree establishing such institution (Article 23), as is the case for the central government’s

assets.

2.1.15. Audit

“The financial statement... including balance sheets, profit and loss statements and analysis of accounts...” shall be audited by the National Audit Authority (Article 5 of Law No. 10 of March 3, 2000 on audit of the Kingdom of Cambodia)

2.2. Public institutions of an economic nature (or with economic characteristics)

The Law of June 17, 1996 defines the “general status of public enterprises”. It distinguishes “institutions of an economic nature”, State-owned companies and semi-public companies.

Public institutions of an economic nature “are legal entities whose financial management is autonomous” (Article 3 of the Law of June 17, 1996), “governed by public law” (Article 26).

2.2.1. Board of Directors

Public institutions of an economic nature are governed by a board of directors. The number of the board’s members does not exceed seven. Their management “is in keeping with principles and procedures of the law on commercial companies” unless otherwise stipulated under the provisions of this law. (Article 4) One member of the board of directors is to be selected from and by the employees of the public enterprise as their representative (Article 9).

“Members of the board of directors, other than the elected representative of staff, do not have the capacity of employee of the enterprise and cannot therefore receive a salary.

Upon proposal of the board of directors, a joint decision of the minister in charge of the technical administrative ministry and of the Minister of Economy and Finance may decide on the principle of compensation for members of the board of directors fulfilling administrative duties and determine the amount of allowances allocated to them.” (Article 11.2 of Decree No. 41 of 1997 implementing the law defining the Status of public enterprises).

The Board of Directors approves the balance sheet and accounts in particular.

2.2.2. Executive: Chairman and Managing Director or CEO

“The board of directors shall delegate necessary powers to the Chairman and Managing Director or to the CEO for the routine running of the enterprise, but this delegation of

powers shall not constitute a transfer of the board's responsibilities.” (Article 10)

2.2.3. Financial functioning

Such an institution may be subject to the rules of separation of duties between authorizing officer and accountant and also to other public accounting regulations: Article 5.2. of Decree No. 41 of August 6, 1997 implementing the law defining the status of public enterprises.

2.2.4. Supervisory ministries

There are two types of supervisory ministries: the Ministry of Economy and Finance shall be the supervisory ministry on financial matters and a line ministry in charge of the sector shall be the supervisory ministry on technical matters. The public institutions of an economic nature are to forward to the Office of the Council of Ministers and to the Minister of Economy and Finance, and also to the minister or supervisory ministry, minutes of the meetings of the board of directors, operating and capital budgets, detailed statements relating to activities, balance sheet and accounts, as well as statements relating to audits of accounts, within a period that shall not exceed 15 days. (Article 16)

2.2.5. Control and audits

Public Institutions of an Economic Nature (PIEN) are under the State control (Article 7 and Articles 21 to 25). The State controller makes sure that the PIEN fulfills its obligations pursuant to laws and regulations in force, implements the decisions of the board of directors, that functioning and development of activities are in accordance with relevant regulations and that the financial situation of the institution is sound. (Article 21)

The State controller attends meetings of the board of directors. (Article 23) He may challenge decisions that he deems constitute a breach of law and threaten to compromise the institution's rights and interests, or that are not consistent with the objectives of the institution. (Article 24)

“Annual accounts of public enterprises are subject to verification and certification by a statutory auditor.” (Article 18 of Decree No. 41 of 1997)

Organization of the audit office is defined under Decree No. 42 of August 6, 1997.

“The financial statement... comprising of balance sheet, profit and loss statements and analysis of accounts...” are to be audited by the National Audit Authority. (Article 5 of Law No. 10 of March 3, 2000 respecting audit in the Kingdom of Cambodia)

2.2.6. Staff

“Staff members ... are employees under private-law contracts except for civil servants on secondment employed in a supervisory capacity.” (Article 6 of Decree No. 41 of 1997)

2.2.7. Assets

They are subject to commercial laws.

3. “Territorial” decentralization to regional and local authorities

3.1. Standalone budget of the province

Law No. 298-03 of February 10, 1998 on the financial system and provincial and municipal assets management stipulates in Article 2 that “the *province* and the *municipality* constitute public legal entities. They ... have assets and a budget.”

3.1.1. Deliberative body

There is no deliberative body

3.1.2. The Executive

The executive body is the governor (*Aphibalkhet*) for a province (*Khet*) and the mayor for a municipality (*Krung*). (Article 6 of the above quoted 1998 law)

3.1.3. Accountant

“Accountant duties in *the province* and *municipality* shall be performed by a Treasury accountant assigned by the Minister of Economy and Finance.” (Article 23)

3.1.4. Budget

The standalone budget is supplied by tax and non-tax revenue. (Article 7)

“The draft budget of *Khets* and *Krungs*... is to be submitted to the Ministry of Economy and Finance... by September 1 at the latest... (They) make up an aggregate budget package that is examined and approved by the National Assembly within the framework of the government’s general budget; the budget package is determined in the light of fundamental balances. The budget package is to be allocated between *provinces* and *municipalities* by *Prakas* of the Minister of Economy and Finance, after receiving the opinion of the Minister of Interior.” (Article 18)

“Appropriations earmarked by the government for development programs ... and projects of a provincial scope ... are transferred to the budgets of these constituencies and considered as own-source revenues and expenditures, as stipulated in the finance

law. (Article 19)

3.1.5. Revenues

“The following tax and non-tax revenues are transferred from the government budget to the budget of the *provinces* and *municipalities*:

(Own-source) tax revenues:

- Tax on unused land.
- Registration taxes.
- Patent tax.
- Slaughterhouse tax.
- Transportation tax.

Non-tax revenues:

- Supply of electricity and drinking water in the provinces.
- Revenues of the Water Authority in the *provinces* and the *municipalities*.
- Fees for occupying public domain or land (markets, parking lots, ferries, premises for auction or quayside sales).
- Other non-tax revenues of the provinces...
- Payable non-tax revenues...
- Fees for administrative formalities...
- Fees for public services...” (Article 17)

3.1.6. Assets

“The Government shall allocate each *province* or *municipality* government-owned immovable property, situated on the territory of the administrative constituency... (Article 9)

3.1.7. Financial system

Implementation of the budget of *provinces* and *municipalities* is subject to the general regulations of public accounting, to financial control and to public procurement rules. (Article 23)

3.1.8. Local public institutions and public enterprises

“Provinces and *municipalities* may establish public enterprises in order to manage public services of an industrial and commercial nature dependent on *the provinces* and *municipalities*. The organization and functioning of such enterprises is subject to the legal and regulatory provisions in force.” (Article 26)

3.1.9. Staff

Staff of provinces and municipalities “is governed by the common status of civil servants...” (Article 27)

3.2. Communes

Administrative management of urban and rural communes (*Khum* and *Sangkat*) is defined under the law of January 12, 2001.

3.2.1. Personality

This law of 2001 confers legal personality to the communes (Article 2) without specifying if they are legal public entities, which is inferred by other elements.

3.2.2. Deliberative body

Urban or rural communes have a deliberative body which is the council (Article 9) elected by the people of the constituency.

This Council is chaired by a chairman (Article 25) who is the elected representative that obtained the largest number of votes during the elections (Article 32). He adopts the development plan and budget of the commune, as well as the fee schedule for various services. (Article 22)

Tax policy, among others, does not come under the jurisdiction of communes. (Article 45)

The regulatory power of communes is exercised by means of orders of the commune council (*dekeka*) that are to be published. (Article 48)

3.2.3. Executive

The chairman of the council is mayor. He may be delegated powers by the council except in the area of budget approval and development plan, in the area of determination of basic tax (*si*) and non-tax values and service fee pricing (Article 51). This power cannot be subdelegated (same article).

3.2.4. Supervisory ministry

Control of the legality of administrative instruments and monitoring the evolution of

each commune is exercised by the Ministry of Interior.

3.2.5. Staff

Each commune has a secretary—a civil servant—appointed by the Ministry of Interior. (Article 28) The commune may recruit staff members “which are not civil servants.” (Article 29)

3.2.6. Budget

“The commune has its own-source financial, budgetary and heritage resources.” (Article 73)

“The *Khum/Sangkat* is entitled to receive direct tax or non-tax revenues and various remunerations for services rendered.

These revenues are received when property, real estate and rental income taxes are collected.

When the Minister of Economy and Finance collects the direct revenues of the *Khum/Sangkat*, this collection is carried out on behalf of the *Khum/Sangkat*.

Tax and non-tax revenue categories, their amount and method of levying, as well as different remunerations for the above-mentioned services rendered, shall be specified by law.” (Article 74)

“The *Khum/Sangkat* may receive additional allowances from the government. These allowances derive from:

A partial transfer of government specific tax and non-tax revenues.

A government subsidy, grant or donation.

The above-mentioned resources (allocations) are remitted to the *Khum/Sangkat* by the Province Treasury.

Transfer organization and procedure of these allowance resources are to be specified by decree.” (Article 75)

“Each commune is entitled to receive remunerations for implementing, as a government agency, the missions entrusted to it by the government or an institution of the Royal Government of Cambodia.

These remunerations constitute additional revenues which are added to other allowances that the commune receives from the government.

The Royal Government and the various ministries or institutions of the Royal Government of Cambodia that have recourse to the services of communes are to provide them with reasonable remuneration for carrying out the aforementioned missions.

Should a delegation of government duties be permanent in nature, the Royal Government must provide financial resources so as to ensure remittance to the communes in the long term. Organization of this payment method must be specified by decree.” (Article 76)

“The communes must prepare and adopt annually their budget.

The budget of the communes must be prepared and adopted pursuant to the national budget system. The budget of the communes must attain an overall balance.

The communes may increase their expenditures but this increase shall be balanced by an equal increase in revenues.

The budget of the commune must reflect the priorities and needs of the commune’s development plan and investment program.

Preparation procedure and adoption of the commune’s budget must specified by decree.” (Article 79)

3.2.7. Commune Fund

... “This fund aims at allowing the transfer of national revenues or revenues deriving from other sources into commune budgets ...” (Article 77)

“The Commune Fund is supplied by:

- Allocation of a specific part of the government annual budget revenues specified by decree.
- Local or foreign donations and loans.

Annual allocation of resources to the commune through the Commune Fund shall be made according to arrangements specified by decree.

The management system, code of practice and payment procedure for expenditures from the Commune Fund are to be specified by decree.” (Article 78)

3.2.8. Assets

“Communes may benefit from a transfer of a portion of government-owned assets.

...Communes may use as revenues proceeds from assets that have been assigned to them by the government.

... Communes have no right to sell or dispose of the ownership of these assets, or to transfer their use without prior authorization from the Minister of Economy and Finance, after receiving the consent of the Minister of Interior...” (Article 81)

3.2.9. Financial system

“ ... The management system, its monitoring and the financial control of the communes must be specified by decree.” (Article 82)

“The financial and asset management system of the communes is under the supervision of the Ministry of Economy and Finance. Specification of its principles are to be subject to an agreement with the Ministry of Interior.” (Article 83)

“Communes are not entitled to borrow.”

“Communes cannot guarantee a loan or a financial commitment of such type.” (Article 80)

3.2.10. Contracts

Contracts of the commune are subject to public procurement rules (Article 3 of Decree No. 105 of October 18, 2006 on public procurements).

4. The Government’s “private” sector: State-owned and semi-public companies

4.1. State-owned or public companies

State-owned or public companies are companies whose capital is owned in whole by the government (Article 30 of the law of June 17, 1996 defining the status of public enterprises).

The same general provisions as those on public institutions of an economic nature (or with economic characteristics) apply: the board of directors, chairman and managing director or CEO; moreover,

The ministry or the administrative authority adopts the statutes with the consent of the Ministry of Economy and Finance; it has the trade name entered in the Registry of Companies and completes the formalities provided for under commercial company law. (Article 32)

Notwithstanding the commercial company law, general meeting powers are granted to

the board of directors. (Article 34)

Public or State-owned companies are subject to verifications by a statutory auditor, as is the case for public economic institutions and semi-public companies.

“The financial statement... comprising balance sheets, profit and loss statements and analysis of accounts...” are audited by the National Audit Authority. (Article 5 of Law No. 10 of March 3, 2000 on audit in the Kingdom of Cambodia)

Table 7. State-owned Rubber Plantations

No.	Name of enterprise	Assets	Own capital	Total staff	Financial year 2006		
					Total revenue	Total expenditure	Profit
1.	Chubb Rubber Plantation	169,969	163,058	4,414	84,622	63,639	20,983
2.	Krek Rubber Plantation	69,674	65,330	1,170	27,232	16,575	10,657
3.	Memot Rubber Plantation	81,553	74,518	1,549	25,595	24,436	1,159
4.	Peam Chheng Rubber Plantation	45,072	42,698	1,168	25,154	19,111	6,043
5.	Chamkar Andong Rubber Plantation	74,231	73,307	1,779	14,323	13,252	1,071
6.	Snuol Rubber Plantation	27,621	21,939	785	11,622	8,970	2,652
7.	Beng Ket Rubber Plantation	41,521	39,348	1,144	4,847	5,706	(859)
	All rubber plantations	509,641	480,198	12,809	199,900	157,925	41,974

4.2. Semi-public companies

They are companies, whose capital is partly owned by the central government, a public institution or a State-owned company. This portion of the capital is known as the “public share” (Article 37); it may be a majority or minority share.

The company is considered as a public enterprise when the public share exceeds 51% of the capital or voting rights. (Article 38)

The Ministry of Economy and Finance is in charge of administering the public share. (Article 39)

General provisions relating to State-owned companies apply; furthermore, representatives of the government, public institutions and State-owned companies on the board of directors are exempted from the common law security deposit.

No.	Name of enterprise	Assets	Own capital	Total staff	Financial year 2006		
					Total revenue	Total expenditure	Profit
8.	Agricultural Input Company	21,948	21,278	49	2,827	2,773	54
9.	Sihanoukville Autonomous Port	473,187	467,094	1,032	97,015	87,181	9,834
10.	Phnom Penh Autonomous Port	108,473	105,017	465	18,469	12,772	5,697
11.	Kampuchea Shipping Agency & Brokers	24,387	22,574	148	9,090	4,630	4,460
12.	Green Trade Company	45,272	41,850	194	7,152	7,184	(32)
13.	Cambodian National Insurance Company	31,933	29,470	60	4,547	4,045	502
14.	Printery	29,367	29,154	145	11,046	10,130	916
15.	Telecom Cambodia	228,633	185,937	617	81,982	55,947	26,035
16.	Royal Cambodian Railways Company	3,951,329	3,948,159	1,609	7,830	9,294	(1,464)
17.	Engineering and Public Works Lab	1,717	1,283	24	422	502	(80)
18.	Phnom Penh Water Supply Authority	555,218	434,609	568	78,512	58,650	19,862
19.	Electricity of Cambodia	589,404	348,297	2,180	613,600	601,259	12,341
20.	Rural Development Bank	65,057	30,416	49	4,043	2,708	1,335
	Grand Total	6,635,566	6,145,020	19,149	1,129,930	1,008,764	121,166

The civil liability of representatives of the government, public institutions and State-owned companies is covered by the State, but these representatives remain personally liable for any criminal offense. (Article 44)

The State is represented by a special rapporteur at the general meeting of semi-public companies. (Article 47)

Semi-public companies are subject to verifications by a statutory auditor, as is the case for public economic institutions and State-owned companies.

“The financial statement... including balance sheets, profit and loss statements and analysis of accounts...” shall be audited by the National Audit Authority. (Article 5 of Law No. 10 of March 3, 2000 respecting audit in the Kingdom of Cambodia)

(Decree 97-41 and 42, circular No. 5 of November 27, 1997)

5. Privatization

Privatizations are governed by Article 81 of Law No. 10 of 1994 providing the financial management law for 1995, under Council of Ministers' Sub-decree (*Anukret*) No. 38 of April 19, 1995 on the procedures for privatization of State-owned enterprises and under Circular No. 280 of August 3, 1995 respecting the implementation of legislation on the privatization of State-owned enterprises.

Privatization involves a transfer of public assets to the private sector (Article 81 of Law No. 10 of 1994).

5.1. Scope

The scope concerned encompasses:

- State-owned enterprises in the form of public institutions of an economic or industrial nature and State-owned companies.
- Public shares held by the State, regional or local authorities and State-owned enterprises as stated within the meaning of the law in semi-public companies (mixed-economy companies in France).
- Industrial or commercial activities performed by the general government (which has therefore a central government status).
- Other public tangible assets (buildings, land lots, facilities and equipment) owned by the State, regional or local authorities or State-owned enterprises. State-owned property is to be downgraded (from the public domain to the private domain of the State).
- Intangible assets (concession for the development of natural resources).
- Activities that do not have a public service character.
- Financial assets (equities, shares, rights in the capital of semi-public companies).

5.2. Privatization Commission

The Privatization Commission (established by Article 82 of Law No. 10 of 1995) is chaired by the Minister of Economy and Finance and is composed of permanent members (a representative of the Prime Minister, the ministers of Planning, Industry,

Public domain and private domain of the State

The State public domain comprises the natural public domain and the artificial domain ("including land, soil and subsoil, seabed, seacoasts, airspace, islands, rivers, channels, waterways, lakes, forests, natural resources, economic and cultural centers, the country's defense bases, other constructions belonging to the State. Administration, use and allocation of State property is to be determined by law". Article 58 of the Constitution)

It is exempt from prescription, seizure or attachment and is inalienable.

The private domain of the State is that part of assets which is subject to the legal status of private law.

Any public legal person may be allocated State property and may own a private domain.

Only the private domain of the State and other public legal entities may be transferred to the private sector or "privatized".

The State public domain must be downgraded before being transferred. This downgrading is carried out following the same procedure as that which classified the property in the public domain: a law or a statutory text. For instance, since the Constitution provides (Article 44) that expropriations fall within the area of law, a piece of land or a building that has become State property through expropriation is part of the public domain and is inalienable only after its being downgraded by law.

Transport and Public Works, Agriculture, Commerce, Social Affairs, Justice, the Governor of the National Bank of Cambodia) and of guest members (the relevant minister with administrative authority if he is not a permanent member, the head of the enterprise concerned and any other person whose input is deemed useful).

The Privatization Commission prepares the privatization program based on proposals made by the Minister of Economy and Finance and other relevant ministers with administrative authority (for industrial and commercial activities of the State). The Minister of Economy and Finance submits the privatization program to the Council of Ministers.

The Privatization Commission oversees privatization preparatory operations, notably valuation of assets, clarification of the legal status of the enterprises, debt and claim write-off and, where applicable, reduction of the workforce; the ministry with administrative authority is responsible for operations.

5.3. Privatization documents

Privatization documents are prepared under the responsibility of the entity exercising administrative authority over the enterprise and then submitted to the Privatization Commission. The documents include:

- Presentation of the enterprise highlighting its assets, general conditions of its activity, financial statements for the last three fiscal years and development prospects.
- Privatization scheme proposed.
- Possible draft specifications.

5.4. Privatization schemes

Several formulas are possible:

- Full privatization: transfer of all assets to the selected acquirer.
- Partial privatization: opening of capital to private investors.
- Rental/leasing of certain assets.
- Concession: transfer to private operators of the right to develop a public service activity, natural resources for instance.
- Sale of separate assets.

5.5. Specifications and competitive invitation

Draft specifications, which set the conditions for privatization, are subject to the approval of the Privatization Commission prior to issuing an invitation to tender or initiating the consultation procedure by potential acquirers. They include:

- Selected privatization scheme.
- Exhaustive list of assets (tangible and intangible) forming the business property.
- Terms of payment.
- Required technical and financial references.
- Deposit amount and length.
- Number of jobs to safeguard.
- Where appropriate, conditions for maintaining the activity and investments to be initiated.

In case of a public monopoly or service, the specifications shall state the operating

conditions and setting the fee schedule of the activity.

A preliminary valuation is to be carried out by one or more independent qualified experts and different methods are usually used (market value, property value and capitalization of the profit of the next 10 years, for instance), with a minimum value and a maximum value (value range).

Competitive invitation is to be the rule, except in the case of a transfer to the enterprise staff. Rules on public procurements apply to the competitive invitation.

5.6. Choice of acquirer

Tenders are opened and examined by a commission whose members are appointed by decree of the Minister of Economy and Finance, chaired by a Secretary of State and composed of a representative of the Council of Ministers, a representative of the Ministry of Economy and Finance, a representative of the ministry with administrative authority and the head of the enterprise concerned.

The acquirer is selected by the Minister of Economy and Finance and, where applicable, above a certain amount or according to other criteria, following approval by the Prime Minister.

Employees have a right of preemption to buy their enterprise or some of its assets. These benefits are set by the Council of Ministers upon proposal of the Privatization Commission.

External investors may go into partnership as a minority with a Cambodian natural or legal person to participate in acquisitions.

Privatization operations qualify for benefits provided for investments.

5.7. Revenues from privatization

Privatization operations are recorded in a Treasury special account established by the Financial Management Law for 1995. They cover:

- Expenditure consolidation of enterprises intended to be privatized.
- Financing of the programs aiming at eliminating redundant staff of public enterprises.
- Allocation of capital grants to public enterprises maintained in the public sector.



SECTION TWO

Public Accounting

(Decree 82-95, Order 96-4)

Public law deals with the organization of the State and its institutions, as well as their relationships with the people governed (term which includes citizens). It also mainly comprises constitutional law, administrative law and public finance, also known as budgetary law or financial legislation.

Constitutional law sets the rules of organization of the public authorities or government.

Administrative law sets the rules applying to the relationship between administration and the persons administered.

Public finance sets the fundamental rules which apply to organs and procedures enabling regional and local authorities to carry out their tasks by means of financial resources. Public finance includes budgetary law (which deals with budget-related rules), tax law (which governs tax resources) and public accounting.

In Cambodia, public accounting rules are set, first of all, by Sub-decree No. 82 of the Council of Ministers of November 16, 1995, “respecting general rules on public accounting”.

This Sub-decree 82 “sets the rules applicable to financial and accounting operations resulting from implementation of the government budget.” (Article 1)

The Sub-decree on public accounting sets the obligations and duties of authorizing officers in terms of public revenues and expenditures, as well as those of public accountants.

According to a generally accepted principle in systems inspired by the French system, “the duties of an authorizing officer and the duties of an accountant are incompatible” (Article 17 of Sub-decree 82). “Spouses of authorizing officers cannot be accountants for government entities for which such authorizing officers carry out their duties.

This organic and functional separation, however, encounters normal exceptions (revenue collection) and abnormal exceptions (de facto management).

Treasury operations will be addressed next, then transaction bookkeeping and, last, the controls exercised on authorizing officers and accountants.

CHAPTER I

Authorizing officers and accountants, revenues and expenditures

1. Strict Segregation of Duties between Authorizing Officers (Budget Managers) and Accountants

1.1. Segregation of Functions

The two types of functions which are involved in budget implementation are **authorizing officers** and **accountants**. The two functions are incompatible. This principle of strict segregation of duties encounters statutory derogations, such as the petty cash system, and illegal departures (de facto managements).

1.1.1. Authorizing Officers

“Authorizing officers can be Chief Authorizing Officer (for example, Minister) or Delegated Authorizing Officers (for example, the Provincial Governor is delegated to manage the provincial department budgets) and they may be deputized if they are absent or prevented from attending to their duties.” (Article 4 of Decree 82)

An authorizing officer by delegation or a deputy authorizing officer acts per delegation of signature and not per delegation of jurisdiction (or power). An authorizing officer who acts per delegation of jurisdiction from a chief authorizing officer is known as

Delegation of power (or jurisdiction) and delegation of signature

An officer who has delegated his power does not exercise it any longer, whereas one who has delegated his signature may continue to exercise his power in parallel to the delegatee (the one to whom signature has been delegated).

If the delegator or the delegatee changes, the delegation of power proceeds until it is brought back (it indeed transfers the delegator’s jurisdiction in a way that is not in favor of a named person but to the holder of a specified duty).

If the delegator or delegatee changes, the delegation of signature ends. (The French regulation has however amended these provisions recently: Decree 2005-850 of July 27, 2005 on the delegation of signature by ministers and its implementing circular in particular, so as to avoid an influx of signature delegation orders to be signed at the time of a cabinet reshuffle, and a freeze of department activity).

“secondary”; this possibility has not been envisioned within the framework of Sub-decree 82 on public accounting. However, new Article 48 of Law 93-1 of 28 December 1993 governing finance laws and the budget system, amended by law 99-15 of December 25, 1999 on the finance law for the year 2000, provides for it in its Article 8 (of Law 99-15) that “Ministers and heads of government agencies, i.e. the chief authorizing officers for their respective budgets, may also, after receiving the opinion of the Minister of Economy and Finance, confer to the provincial governors or to the municipal governors the power of delegated authorizing officers in order to implement the budget falling within their remit in the province or municipality.”

Chief authorizing officers may be in charge of central government budgets (ministers and heads of government agencies) or of decentralized budgets: budgets of administrative public institutions, provincial governor budget, municipal budget, communal budget and budget of any existing or future local or regional government.

Therefore, the provincial governor is the chief authorizing officer of his own provincial governor budget and, at the same time, acts as delegated authorizing officer of the budget of provincial departments in the province.

The Governor, authorizing officer by delegation of the provincial department budget and senior authorizing officer for the provincial governor budget:

The Governor wears two hats:

First, he is the representative of the central government in his constituency and has financial authority (under the responsibility of the minister concerned) over “deconcentrated” provincial departments of ministries (only civil administrations are concerned: Article 6 of Decree 82 respecting general rules on public accounting). As such, he is the authorizing officer by delegation of the budgets of the central government’s provincial departments (Director of sector provincial departments may also be delegates of these budgets).

He is also the Chief authorizing officer for the provincial governor budget of his constituency (Khet) (Law 298-03 of February 10, 1998 on the financial system of provincial and municipal property, Article 6): the province is a public legal person according to Article 2 of the same enactment.

What about the Mayor?

The same provisions apply to the Mayor in his constituency (Krung) (same text as the above-mentioned enactment):

He is the representative of the State in his constituency.

He is the chief authorizing officer for the municipal budget, which is a public legal person.

1.1.2. Public accountants

“Public accountants shall be responsible for accounting items.

Any accounting heading shall be entrusted to one single accountant.

Accountants may delegate their power to one or several proxy holders authorized to act on their behalf and under their responsibility.” (Article 14 of Decree 82)

“Public accountants shall be appointed by the Minister of Economy and Finance or with his approval. The instrument of appointment shall be published. Before assuming office, they are obliged to swear in. They are accredited by authorizing officers and, where appropriate, to other public accountants with whom they deal. They must submit their accounting report at least once a year.” (Article 15 of Decree 82)

Two categories of public accountant (Article 18 of Decree 82 respecting general rules on public accounting) can be distinguished: direct Treasury accountants and financial administration accountants.

1.1.2.1. Direct Treasury accountants

“Under the authority of the Minister of Economy and Finance, direct Treasury accountants, either senior or reporting, implement all revenue or expenditure operations of the general budget and special Treasury accounts (and of annex budgets), as well as all cash flow operations and, in general, all financial transactions under the purview of the State, except for those whose implementation has been expressly entrusted to other public accountants.” (Article 19 of Decree 82)

1.1.2.2. Accountants of financial administrations

“Accountants of financial administrations are in charge of the collection of taxes, fees, royalties, domain and miscellaneous revenues, as well as tax penalties, and relevant legal and lawsuit fees... They then contribute the proceeds of their revenue to the National Treasury... (Article 22 of Decree 82)

1.2. Segregation of Duties

1.2.1. At level of authorizing officers: administrative phase

“Authorizing officers prescribe implementation of revenue and expenditure.” (Article 3 of Decree 82; see the definition of the operations below.)

In the area of revenue, authorizing officers (administrative phase) draw up the statement of revenues and then proceed with their collection.

In the area of expenditure, authorizing officers incur, clear and certify expenditures.

Senior accountant, reporting accountant

Senior accountant refers to an accountant who implements orders for payment (revenues and expenditures) from a senior authorizing officer. “The Treasury accountant, who is the central accountant in Phnom Penh, has the capacity of senior accountant; he implements operations from senior authorizing officers... and centralizes operations carried out by the Treasury accountants of Provinces or Cities, as well as those from financial administrations. He implements or centralizes the State’s treasury operations in conjunction with the Central Bank, national Treasury counterparts and international financial institutions. He draws up the State’s annual accounts once special accounts and general budget operations have been centralized.” (Article 20 of Decree 82)

A reporting accountant refers to an accountant who implements orders from an authorizing officer by delegation (since these two categories are the only existing ones in Cambodia) (Article 21 of Decree 82); they are the accountants of the Provinces or the Cities.

1.2.1.1. Revenue

“State revenue includes taxes, duties, fees and other equivalent revenue, non-tax revenue, fines and other pecuniary penalties, as well as other authorized incomes...” (Article 26 of Decree 82)

“The full amount of revenue is brought in without any offsetting between revenue and expenditure” (Article 26 of Decree 82): this reminds us of the principle of universality.

Under any circumstance, revenues shall be validated before being collected. ... The purpose of validation is to determine the debt amount to be paid by the persons liable for the payment.” (Article 27 of Decree 82)

“Any revenue debt validated shall be subject to a revenue order (Article 27 continued)

The passing on of revenue orders to the “assigned” accountant constitutes the collection enforcement; this process usually takes the form of a periodic summary statement that is used for entry in management accounting (i.e. in the authorizing officer’s accounting) and forwarded to the accountant for take over. Supporting documents are to be attached.

1.2.1.2. Expenditure

“Public expenditure is to be estimated in the budget and in accordance with the laws and regulations” (Article 45 of Decree 82)

Budget Nomenclature: Revenue

The revenue chart shall be established by order of the Minister of Finance (Law 93-1 on finance laws and the financial system).

However, it shall comply with international standards formalized in the Government Finance Manual of Statistics (known as GFMS 2001) of the International Monetary Fund, which distinguishes:

Taxes

Income tax, profit and capital gain taxes

Salary taxes

Property taxes

Real property recurrent taxes

Net worth recurrent taxes

Taxes on transfers at death, on transfers through inheritance or legacy and on lifetime transfers

Taxes on financial and capital transactions

Other non-recurrent asset taxes

Other recurrent asset taxes

Taxes on goods and services

Value added tax

Sales taxes

Turnover taxes and other taxes on goods and services

Profits of fiscal monopolies

Taxes on specific services

Motor vehicle taxes

Other duties on the realization or authorization to realize goods or perform services

Other taxes on goods and services

Taxes on external trade and international transactions

Customs duties and other import duties

Export duties

Profits of import and export monopolies

Foreign exchange gains

Exchange taxes

Other taxes on external trade and international transactions

Other tax revenues

Social security contribution

Donations

Income from property

Sales of goods and services

Fines, penalties and forfeitures

Voluntary conveyances other than donations

Miscellaneous and unidentified revenue

The aforementioned GFMS 2001 provides consistency with the “National Accounting System 97”.

Expenditure, charges, transactions, revenue, proceeds, items and resources—what is the difference?

Drawing up a budget starts with the statement of revenues and disbursements (cash base), in other words of revenue and expenditure, terms which are used in the translations of the Cambodian public finance legal framework. However, these terms do not have exactly the same meaning.

Whenever I pay my bill at the restaurant, the money that I had in my pocket is reduced by the same amount.

Whenever I buy a car, USD 30,000, for instance, my wealth still remains the same: the USD 30,000 have gone from my bank into a capital asset, the car, the value of which will depreciate in time. Therefore, while recognizing these losses in value, which are depreciation expenses in this case, my wealth will diminish throughout the time I own the car until its I dispose of it, at which time I will get a residual value for it which will enable me to calculate the amount of the shrinkage of my wealth, of my assets. I will also have to bear recurring charges: driver's wage, annual insurance, fuel, repairs and maintenance.

Strictly speaking, the GFMS refers therefore to these investment expenditures as “transactions in assets”.

Debt repayment stretches over (a great) many years; therefore, reference is made to “debt burden”, a portion of which will be partly expressed in expenditures in the budget concerned. In terms of receipts, “revenue” is the term regarded with the same consideration as “receipts” (or proceeds).

“Before payment, expenditures shall be committed, validated and ordered for payment” (Article 46 of Decree 82). Expenditure therefore consists of four phases: (i) commitment or origination of spending (engagement); (ii) validation of expenditure (liquidation); (iii) order to pay (ordonnancement); and (iv) payment (paiement).

1.2.1.2.1. Commitment

“A commitment (engagement) is the act by which the State creates or recognizes an obligation binding upon it, from which expenditure will arise.” (Article 47 of Decree 82)

Budget Nomenclature: Expenditure
(economic classification)

As for revenue, the expenditure nomenclature is set by order of the Minister of Finance (Law 93-1 on finance laws and the financial system).

It must likewise comply with international standards formalized in the Government Finance Manual of Statistics (known as GFMS 2001) of the International Monetary Fund, which distinguishes:

Expenditure

*Employee compensation
Use of goods and services
Consumption of fixed capital
Interest expenses
Subsidies
Grants
Financing of social benefits
Other charges*

Transactions in non-financial assets

*Net purchase of fixed assets
Consumption of fixed capital
Inventory changes
Net purchase of valuables
Net purchase of non-produced assets*

Transactions in financial assets and liabilities

*Monetary gold and SDR
Currency and deposits
Securities other than shares
Credits
Shares and other investments
Insurance technical reserves
Financial derivatives
Other accounts receivable or payable*

“No public expenditure of the Budget or of a special Treasury account (or annex budget) may either be committed or implemented by senior authorizing officers or authorizing officers by delegation, unless the authorizing officers have made a commitment proposal in writing and provided that such proposal, to which the stamp of approval of Financial Control shall be duly affixed, has been sent back to the authorizing officer.” (Article 3 of Sub-decree No. 81 of November 16, 1995 on the establishment of financial control on budget expenditures within the ministries, external departments in the provinces and public administrative institutions).

A. Legal commitment, accounting commitment

Distinction is usually made between legal commitment and accounting commitment.

A *legal commitment* is the act by which the State creates or recognizes an obligation

binding upon it, from which an expenditure will arise: recruitment contract for a civil servant, public procurements, contract for the purchase or maintenance of a computer, etc.

To carry out such legal commitment, the authorizing officer must vouch that he has available appropriations entered in a budget that shall be duly drawn up. He deducts from his appropriations the amount of the envisaged expenditure under the budget item proposed and submits his request to Financial Control; this process is the *financial or accounting commitment*. Financial Control verifies that the commitment proposal submitted by the authorizing officer is consistent with an existing budget item and that appropriations are available.

If the budget item and appropriations do exist (and provided that the lawfulness and regularity of the proposal have been verified), Financial Control then certifies the commitment request.

The financial controller deducts the amount proposed from the amount of available appropriations under the budget item so that his financial commitment accounting is consistent with that of the authorizing officers.

If the financial (or accounting) commitment has been rejected by Financial Control, the authorizing officer has to “release” the amount in his accrual accounting by making an entry of the opposite commitment entry amount (in red if accounts are kept manually) so as to restore appropriations.

Cash Management

Some government revenues are collected according to an irregular cycle: single maturity date, advance payment on tax due without grace, for instance.

Expenditures must thereby be controlled to take into account, on the one hand, the uneven rhythm of fund receipts and, where applicable, of the overestimating of certain revenue volumes.

Estimates of incomes (receipts) must therefore have been carried out according to the detailed nature and frequency of the receipt (weekly, monthly or quarterly) to enable performance monitoring.

As for expenditures, some are definite and recurrent (wages, rent payments, maintenance contracts, for instance), others are definite and non-recurrent (debt, for instance).

From the start of the year, the commitment of definite recurrent and non-recurrent expenditures makes it possible to highlight, through commitment accounting, the appropriations which actually remain available.

Control of commitments and excesses of budget appropriations (in case of emergency or need) can only be carried out on these available appropriations.

A question often arises: What amount must be committed so that commitment accounting accurately reflects legal commitments?

B. What amount to commit for accounting purposes?

Commitment accounting must reflect the reality of legal commitments so that available appropriations that the books show are actually available and enable sound budgetary control and sound management planning, either for future commitments or for appropriation freeze.

Indeed, if commitment accounting underestimates legal commitments, expenditure may be committed in excess of the authorized budgetary appropriations.

For instance, a one-year lease contract cannot be initiated per quarter; it has to be taken out for the annual lease amount and, if allowed by the regulatory framework (multiannual commitment authorizations), it even has to be subscribed for the full duration of its commitment authorization and for its annual amount in payment appropriations; such a multiannual system has not yet been set up in Cambodia.

A maintenance contract, which is payable quarterly, but taken out for one year, must be committed for its annual amount; in order to have a quarterly commitment, it needs to be renegotiated and an extendible quarterly amount must be budgeted unless the contract is terminated.

Staff expenditures must also be committed for a one-year period or for the duration of the contract if less than a year.

All definite or compulsory expenditures must be committed at the beginning of the year. (See Article 12 of Decree 81 on Financial Control and also the section on financial control.)

A question arises from these commitment and entering principles: Can cash and cash equivalents be regulated by commitments?

The provision of Article 49 of Decree 82, which stipulates that “rhythms of monthly commitments is to be set by the Minister of Finance according to the collection of revenues”, should therefore be understood in light of the above-mentioned development.

1.2.1.2.2. Validation of Expenditure

“Before being paid, expenditures shall be... validated...” (Article 46 of Decree 82)

“The purpose of validation of expenditure (liquidation) is to check the status of the debt and determine the expenditure amount. Validation is carried out upon

Expenditure order, payment order—what is the difference?

In Cambodia, all authorizing officers issue payment orders (although Article 66 of Decree 92 mentions “expenditure orders”. Is this a slip in translation? In France, the central government’s senior authorizing officers located in the capital city issue orders for payment (ordonnances de paiement) and delegation orders (ordonnances de délégation); secondary authorizing officers and authorizing officers by delegation issue payment orders. Senior authorizing officers of public institutions issue expenditure orders.

consideration of the documents that establish the rights of the creditors.” (Article 51 of Decree 82)

Certification of “service performed” is a crucial element of the validation process: the general principle is that the payment can be made only when the service has been performed (wages, provision of goods and services, etc.).

During the validation process, the authorizing officer or his delegate verifies that the supplier has met his/her obligations, as stipulated in the order: quantity delivered, quality and compliance with deadlines; he or she then determines the exact expenditure amount.

1.2.1.2.3. Order to Pay

“Before being paid, an order shall be made to pay the expenditures.” (Article 46 of Decree 82)

“An order to pay (ordonnancement) is the administrative act issuing, in compliance with the validation statement, the order to pay the central government debt.” (Article 53 of Decree 82).

“The authorizing officers shall make an order to pay the expenditures. For that purpose, authorizing officers shall issue orders to pay. Orders to pay issued by chief authorizing officers are debited from the appropriations allotted by the budget. Orders to pay issued by authorizing officers by delegation are debited from the appropriations allocated by chief authorizing officers by delegation order.” (Article 54 of Decree 82)

“Orders to pay and appropriation delegation orders shall be submitted to the financial controller’s prior approval...” (Article 55 of Decree 82)

“Orders to pay issued by ministers acting as chief authorizing officers and by heads of central government administrations acting as authorizing officers by delegation shall be assigned to the Treasury’s senior accountant. Orders to pay issued by governors of provinces or cities acting as authorizing officers by delegation shall be assigned to the Treasury’s reporting accountant of the province or city of residence of the

governor.” (Article 56 of Decree 82)

To facilitate the monitoring of orders to pay, they are usually put together on one expenditure slip and forwarded, with the supporting documents, to the accountant assigned. These slips are then numbered in one continuous series (per fiscal year).

Orders to pay are received by accountants.

1.2.1.2.4. Payment

After having checked the validity of the order to pay, the public accountant, as cashier, is to make payment, “an act by which the State acquits its debt.” (Article 57 of Decree 82)

“Subject to the exceptions provided for in laws and regulations, payments shall not be made before the maturity date of the debt or performance of service.

However, deposit and advance payments may be granted to contractors or suppliers under the conditions provided for in the regulations in force.” (Article 57 of Decree 82)

“Designated accountants make payment of payment orders.

Settlements are made in cash, by check or transfer.” (Article 58 of Decree 82)

“... when an amount exceeds 2.5 million riels, settlement shall be made by check or bank transfer.” (Article 8 of Order 4/MEF implementing Decree 82)

“If, when the check is made ..., discrepancies are found, public accountants shall put payments on hold and notify the authorizing officer.

Payments are also put on hold when public accountants have successfully established that certification (of services performed) are misstated.” (Article 59 of Decree 82)

A. Stop payments:

“Any stop payment or other notification the purpose of which is to stop a payment shall be dealt with by the public accountant assigned to the expenditure.” (Article 62 of Decree 82)

B. Are the State’s debts and claims eternal?

Statutory limitation rules apply:

“The terms under which outstanding debts are definitely extinguished in favor of the State shall be set by law.” (Article 63 of Decree 82)

“If under a statute of limitations ... the State’s debtor shall be discharged...” (Article 32

Creditor and Debtor

A creditor is an entity to whom something or an account receivable is owed by the State; he is a supplier.

A debtor is an entity that owes something to the State: the taxpayer, if the debt is in the form of tax.

public institutions issue expenditure orders.

of Decree 82)

The statute of limitations for the validity of claims is 3 years.

“Notification of a collection notice shall suspend the statute of limitation against the administration and open a new statute of limitation of three years.” (Article 74 of the law of December 31, 1994 respecting the 1995 Finance Law)

1.2.2. The accountant's work: accounting stage

“Public accountants only are entrusted with the following tasks:

- Assumption and collection of revenue orders that authorizing officers have submitted to them, accounts receivables recorded by a contract, a title to property or any other document for which they are to ensure safekeeping, as well as cash collection of fees and receipts of any kind that the State is empowered to receive.
- Payment of expenditures by order from accredited authorizing officers.
- Safekeeping and safeguarding of funds and assets belonging to the State and other government entities.
- Handling of funds available and cash assets.
- Safeguarding of transaction supporting documents and accounting documents.
- Bookkeeping of the accounting post that they manage.” (Article 12 of Decree 82)

In terms of revenues and expenditures, the designated accountant is to fulfill operations and then make collection or payment after carrying out the controls within his field of jurisdiction.

Validity check, legality check, worthiness check?

What is the nature of the check performed by the accountant? French case law has decided this issue: it is a validity check. The accountant cannot be held responsible should the authorizing officer fail to comply with laws and regulations. (Marillier et Balme, Cour des Comptes [Audit Office], May 28, 1952).

The legality check is usually performed by the financial controller (but Cambodian legislation does not entrust financial controllers with this task) and by the Prefect on territorial collectivities (or local and regional authorities and local governments). The organic law on territorial planning should determine the role of governors in that matter.

The worthiness check is usually the responsibility of the authorizing officer.

Formal validity and substance validity, as well as external legality check, are terms still occasionally used.

1.2.2.1. Revenues

1.2.2.1.1. Recording Revenues

After checking and signing a revenue order transmittal form, the accountant is to check the identification of the debtor, examine the supporting documents and “check to see that the revenue order is in due form”. (Article 13 of Decree 82)

The accountant is to then record the revenue, i.e. he enters the registration in the accounting records (or sends the revenue order back to the authorizing officer with the grounds for not recording it).

1.2.2.1.2. Collection

The public accountant then notifies the debtor of the amounts to be paid and receives the remittance.

“In the absence of amicable collection, enforced collection action is to be taken by means of legal procedures under a legally binding document.” (Article 30 of Decree 82)

Payments may have been carried out automatically; the public accountant then receives them, notifies the authorizing officer and requests an adjustment receipt order from him.

1.2.2.2. Expenditure

1.2.2.2.1. Recording of expenditure

Public accountants are successively entrusted with two duties: the duty of paymaster, which results in a control exercise, then the duty of cashier, which involves settling the central government’s debt by paying the recipient, the creditor, so that the payment is in

full discharge.

Contrary to what is provided for in terms of revenues, the Sub-decree 82 does not formalize the assumption of expenditure; however, it seems that it imposes itself: the accountant receives orders from the authorizing officer, is to duly check them and decide whether they shall be rejected (sent back to the authorizing officer) or assumed.

“In terms of expenditure, public accountants shall carry out... checks of:

- Capacity of the authorizing officer or his delegate.
- Availability of appropriations.
- Exact assignment of expenditures under the relevant chapters according to their nature or purpose.
- Supporting documents for the service performed and confirming the accuracy of the validation of debt.
- Existence of approval stamps of financial controllers on commitments and orders.
- Production of claim statements of grounds.
- Application of claim prescription and forfeiture rules.” (Article 13 of Decree 82).

2. Infringements of the Principle of Segregation of Duties Between the Authorizing Officers and Accountants

Requisition is the first infringement of the principle of segregating duties between authorizing officers and accountants; the use of a petty cash system and the petty cash management officers (régisseur) is the second; both infringements are admitted. De facto management, which is illegal, the third.

2.1. Requisition

What happens if the accountant refuses to pay?

“When accountants have ... put the expenditure payment on hold, authorizing officers may ... request, in writing and under their authority, the accountants to effect payment.” (Article 8 of Decree 82)

“... the latter shall defer to the requisition and report to the Minister of Finance.

Requisition orders issued by authorizing officers are forwarded to the Audit Office

Simple opinion, assent

The opinion is the outcome of an optional or compulsory consultation.

When the opinion is compulsory with regard to its contents, implying an obligation to comply with the opinion, one speaks of assent. Otherwise, the terms opinion, simple opinion or advisory opinion are used.

(National Audit Authority) by the Minister of Finance.” (Article 60 of Decree 82)

“... accountants shall refuse to defer to requisition orders when the grounds for suspension of payment are the following:

- Unavailability of appropriations.
- Absence of financial controller’s approval on the order.
- Absence of supporting documents of the service performed;
- Settlement not in full discharge.

In the event that the requisition is rejected, accountants shall immediately report to the Minister of Finance who shall consult with the relevant minister.” (Article 61 of Decree 82)

2.2. Petty Cash and Petty Cash Management Officers

Sometimes, one person handles the duties of both an authorizing officer and the duties of accountant: the petty cash management officers (régisseur), who is an officer acting under the authority of the authorizing officer (contrary to the public accountant who is acting under the authority of the Minister of Finance) and who has the capacity to perform transactions of disbursement and payment.

For disbursement, the term revenue petty cash account (régie de recettes) is used; for payments, advance payment account (régie d’avances).

“Revenue accounts and advance payment accounts are created by joint order of the Minister of Finance and the relevant ministry.

The State’s public accountants, on behalf of whom such account officers carry out their transactions, are accountants designated by the authorizing officer responsible for the account.” (Article 23 of Decree 82)

It can be deduced therefrom that in Cambodia, petty cash management officers are appointed by joint order of the Minister of Finance and the relevant minister. In

France, the officer is appointed by order of the authorizing officer upon assent of the designated accountant.

“Revenue account officers (régisseur de recettes) and advance payment officers (régisseur d’avances) subject to audit by the authorizing officer they are placed under, and by the designated accountant.” (Article 24 of Decree 82)

2.3. The Revenue and Advance Payment Accounts

2.3.1. Revenue Account

The revenue account officer has the capacity to cash receipts; for instance.

“Fines and summary offences regarding traffic violations are collected by police stations which are set up as revenue accounts by joint order of the Minister of Interior and the Minister of Economy and Finance. Policemen who take down particulars shall hand an offense investigation report to the offender while inviting him/her to go to the police station to pay the fines imposed.” (Article 3 of Order No. 4/MEF of January 15, 1996, implementing Decree No. 82 of November 16, 1995 respecting general rules on public accounting)

“... Revenue account officers must remit at least once every 25th day of the month, and on December 31, as well as each time that their cash on hand exceeds a ceiling amount set by the Minister of Finance.” (Article 4 of Order 4)

2.3.2. Advance Payment Accounts (and Salary Payment Officers)

“... for some categories of expenditure and for spending on goods purchase and maintenance under 500,000 riels, advance payment accounts are created. Moreover, salary payment and spending on social security and invalidity benefits are to be settled through salary payment officers...” (Article 9 of Order 4)

“Unless exemption is granted by the Minister of Finance, only the following expenditures can be paid through advance payment accounts:

- Petty equipment expenditure, the cost of which does not exceed the amount set by order of the Minister of Finance.
- Staff salaries.
- Exceptional and emergency spending.
- Travel expenses and mission allowances.” (Article 64 of Decree 82)

The funds of the advance payment account officer are made available by the accountant

to whom he reports:

“Advance funds are made available to each account officer; the amount of which is set by the law establishing the accounts and, if applicable, revised in the same forms.

Except for exemption granted by the Minister of Finance, the amount of each advance installment shall be at the most equal to one eighth of the annual estimated expenditure amount to be paid by the advance payment account officer.

The advance is remitted by the designated accountant at the request of the advance payment officer endorsed by the authorizing officer.” (Article 65 of Decree 82)

The officer carries out expenditures, the nature of which is determined under the order establishing the account:

“Under the same terms as for public accountants, the advance payment officers shall make payment for expenditure by transfer or check on their account at the Treasury, or in cash.” (Article 66 of Decree 82)

From time to time, he submits to the accountant supporting documents for expenditures that have been carried out in order to replenish the petty cash account, up to the amount shown in the supporting documents and of the amount of the account:

“The advance payment officer submits the supporting documents for the expenditures paid that he himself pays to the authorizing officer within one month at the latest from the date of the payment of expenditure.

The authorizing officer issues an ***expenditure clearance order*** (*mandat de régularisation*) for the amount of the validated expenditures for the benefit of the advance payment officer.

The petty cash advance is replenished through the entry of the amount of the expenditure clearance order credited to the account of the account officer in the books of the designated accountant.” (Article 67 of Decree 82)

When closing the account, the advance payment officer justifies his transactions and receives a clearance certificate if the account does not have a debit balance (he then must refund the debit balance amount) or a credit balance (he is then refunded the amount of expenses borne by him).

2.3.3. Revenue Account and Advance Payment Account

It is to be managed for both revenues and expenditures without offsetting against each other.

2.4. Other Infringements of the Principles of Prior Commitment, Validation and the Order to Pay

2.4.1. Commitment: Infringements of the principle

The principle is that “no public expenditure charged to the State’s budget or to a special account of the Treasury (or to an annex budget) shall either be committed or approved by chief authorizing officers or authorizing officers by delegation, unless such authorizing officers have made a commitment proposal in writing and provided that such proposal, to which the approval stamp of the financial controller shall be duly affixed, has been sent back to the authorizing officer.” (Article 3 of Sub-decree No. 81 of November 16, 1995 on the establishment of financial control of budget expenditures within the ministries, external departments in provinces and cities, and public administrative institutions).

Expenditures paid for from an advance payment account may be considered as departing from the principle of prior commitment; similarly, any order that would be committed and authorized for payment at the same time (meaning that the order was made without prior commitment and the invoice was received). Sub-decree 81 also provides for prior approval exemption (thus an obligation of prior commitment if the authorizing officer so wishes) for “casual expenses, the amount of which is set by order of the Minister of Economy and Finance.” (Article 11). This article also excludes certain expenses “concerning the military field and security in the Kingdom, which are confidential.”

“From December 1 of each year and within the limits of the twelfth of the current year’s appropriations, commitments of recurrent expenditures may be taken in case of emergency from the appropriations of the following year. These commitments specify that performance of the service shall not occur before January 1.” (Article 110 of Decree 82): this is an *infringement of the principle of yearly cycle of the budget*.

2.4.2. Validation of Expenditures: Infringement of the Principle

The departure only occurs in the case of payments of advances or payments of deposits for public procurement (see section on public procurements).

2.4.3. The Order to Pay: Infringements of the Principle

Certain countries exempt the debt service and payment of wages and pension benefits from prior payment order.

Bank charges are levied without any prior commitment or payment order; they are to be brought to the knowledge of the authorizing officer for validation.

2.4.4. Revenues Collected in Cash: Infringement of the Principle of Validation and Collection

In the event that a person liable for payment makes such payment on his own accord, the public accountant collects it and informs the authorizing officer who validates it (validation, issue of a revenue order).

2.5. De Facto Management

They represent improper infringements of the principle of separating the institutions and the functions of authorizing officer and accountant.

De facto management outside Cambodia

In countries under the influence of the French public finance school, de facto management refers to the situation where a person who has neither the capacity of a public accountant or who is not acting under the authority or on behalf of a public accountant, is involved in the collection process of earmarked revenues or revenues intended for a public legal person with its own accounting post or under such post. This person is to render an account to the superior Audit Authority (in Cambodia, the National Audit Authority, NAA) for the use of funds and securities that he has improperly held or handled.

The same applies to any person who receives or handles directly or indirectly funds or securities taken improperly from the funds of a public legal person, and to any person who, not having the capacity of a public accountant, performs transactions on funds or securities not belonging to the public legal persons, but that public accountants alone are empowered to perform pursuant to the regulation in force.

De facto managements incurs for their perpetrators, de facto accountants, the same obligations and responsibilities that public funds management incurs for public accountants.

With regards criminal law, it is a usurpation of civil servant titles and, possibly, a misappropriation of public funds, punishable under Article L4423-1 of the Draft Criminal Code.



CHAPTER II

Financial Control

The third public finance management agency or actor that has already been mentioned is Financial Control. Sub-decree No. 81 of November 16, 1995 on the establishment of financial control of budget expenditure within ministries, external departments in Provinces and Cities and administrative institutions, establishes "... a Financial Control placed under the authority of the Minister of Economy and Finance".

"The overall mission of Financial Control is the *a priori* audit (***pre-audit***) of records of expenditures charged to the State's budget and to the Treasury special accounts (and also to annex budgets). Financial Control may also undertake *a posteriori* checks (***post-audit***) and on-the-spot inspections of the implementation conditions of public expenditure...." (Article 1 of Decree 81)

"Financial Control shall be exercised by a body of financial controllers placed, by decision of the Minister of Economy and Finance, in central government agencies and their external departments in the Provinces and Cities, and also in the administrative institutions under their supervision." (Article 2 of Decree 81)

1. Role of the Financial Controller

The role of the financial controller involves auditing and accounting commitments and payment orders, informing the Minister of Economy and Finance on the administrative management under his supervision and advising the authorizing officer on his financial management and the financial implications of his decisions.

1.1. A Priori Control

1.1.1. Approval of Commitments

In the section dealing with commitments, we said that "no public expenditure charged to the State's budget or to a Treasury special account (or to an adjunct budget) shall either be committed or implemented by senior authorizing officers or authorizing officers by delegation, unless such authorizing officers have made a commitment proposal in writing and provided that such proposal, to which the approval stamp of the Financial Control shall be duly affixed, has been sent back to the authorizing officer." (Article 3 of Decree 81)

"The financial controller shall examine the propriety of the expenditure proposed and

this check shall concern the following elements:

- Purpose of the expenditure.
- Budget item to which the expenditure is to be charged, pursuant to the regulation enacted by the Minister of Economy and Finance in terms of expenditure classification, and according to ... the allocation of budget appropriations.
- Accuracy of the expenditure estimate.
- Availability of appropriations.
- Implementation of financial provisions, laws, as well as decrees and regulations in force.
- Compliance of the expenditure with budget preparatory work.” (Article 4 of Decree 81)

“Financial Control shall deliver its opinion within 4 working days; on expiration of the time limit set, the opinion shall be considered as granted without consultation and the expenditure shall be declared enforceable.” (Article 7 of Decree 81)

“However, Financial Control may ask for any further explanation, information or justification that it deems necessary; in this case, the deadline shall be suspended until the elements required are provided.” (Article 7 of Decree 81)

“There can be no side-stepping of the withholding of approval by Financial Control within the statutory time limit, except upon decision from the Ministry of Economy and Finance.” (Article 8 of Decree 81)

“This approval shall be directly granted by the Minister of Economy and Finance for

Computation (calculation) of deadlines

When a deadline is set in clear days, the day considered as the day initiating the period shall not be included in the calculation; if Financial Control has received a commitment proposal on a Monday, the period shall be calculated from Tuesday and shall end on Friday. The required procedure (commitment by tacit agreement) can be performed from the following day; holidays (Saturdays, Sundays and public holidays) are not counted; in this example, the tacit agreement comes into force on Monday.

When the deadline is not in clear days, the required procedure (tacit agreement) is dated from the expiration day of the deadline, i.e. Friday in this case.

A deadline can also be set in calendar days (all days are counted) or in working days (Saturdays, Sundays and public holidays are not counted).

expenditures exceeding a threshold that has been set by Order.” (Article 10 of Decree 81)

1.1.2. Approval of payment orders and the Sub-decree on allocation of budget appropriations

“Payment orders and the sub-decree on the allocation of budget appropriations are to be submitted to prior approval of the financial controller.” (Article 55 of Sub-decree 82 on public accounting)

This approval makes it possible to certify that Financial Control has duly received all necessary information for the bookkeeping of payment authorizations with regard to that of the commitments, and that the payment authorizations duly comply with the commitments that they are intended to cover in whole or in part.

Sub-decree 81 on Financial Control has not elaborated on this point.

1.2. Infringements of the principle

1.2.1. Advance payment accounts

It was mentioned above that advance payment accounts constitute an infringement of the principle of prior commitment.

Other infringements of the principle are block commitments and provisional commitments:

1.2.2. Block commitments

“Chief authorizing officers or officers by delegation may request block commitments for recurrent expenditures, either at the beginning or during the management process. The block commitment approval granted by Financial Control shall cover, without exceeding the amount concerned, all expenditures charged to the same budget item, and the authorizing officer is not required to submit partial commitments for each expenditure to Financial Control. (Article 12 of Sub-decree 18)

“The block commitment procedure shall apply notably to the following expenditures:

- Expenditures for wages and allowances.
- Expenditures to be committed under previous decisions and of a recurrent nature, unless modified by a new amending provision.
- Rents.
- Operating funds granted to public administrative institutions.

- Spending on public debt amortization.
- Contributions to international organizations.
- Expenditures to be implemented, either within the framework of a public procurement, or within the framework of an estimated force account work quantity survey, which have received assent of the competent public procurement commissions, as well as the approval of the relevant government agencies.” (Article 14 of Sub-decree 81)

1.2.3. Provisional commitments

“Authorizing officers ... may require provisional commitments for ...:

- Expenditures for material and administrative management.
- Expense reimbursement.
- Public intervention expenditures in the economic, social and cultural fields.” (Article 15 of Sub-decree 81)

“... One quarter of the annual budget authorization concerned ...” may be committed once (Article 16 of Decree 81) “without the authorizing officer having to attach the supporting documents.”

“The following proposals must be accompanied by the supporting documents relating to the previous provisional commitments; such documents shall be approved within the limit of the amount specified therein.” (Article 17 of Decree 81)

1.3. Budget transfer

“Requests for transfer within budget subheadings or payments charged to contingent expenditure chapters shall be approved by Financial Control, prior to their examination by the departments of the Ministry of Economy and Finance...” (Article 24 of Decree 81)

1.4. A *Posteriori* control assigned to Financial Control

Such control is provided for in Article 1 and Article 22 of Decree 81:

“Financial Control is empowered to verify, *a posteriori* and by all legal means that it deems necessary, the actual implementation of the object of the budget expenditure: provision of services, physical setting up of a project, acquisition of equipment...”

For that purpose, Financial Control officers have access, without any prior notice, upon assignment order issued by the Minister of Economy and Finance, to the departments that implement the expenditures of all central government agencies and their external departments in the Provinces and Cities, as well as the public administrative agencies under their supervision. They may request an accounting for all expenditure implementation details.

Financial Control shall draw up an audit report for the Minister of Economy and Finance on the actual condition of expenditure implementation. Irregularities that appear in this implementation and discrepancies noted between the bookkeeping entries and this implementation will result in action being taken by the Minister of Economy and Finance, after receiving the opinion of the Prime Minister, with a view to applying administrative penalties or, if appropriate, opening criminal prosecution.”

1.5. Bookkeeping of committed expenditures

“After auditing the spending departments of senior authorizing officers and authorizing officers by delegation, Financial Control shall keep accounts of expenditure commitments and ensure the follow up of credit consumption. Financial positions shall be drawn up each month and compared with the positions regarding commitments or payments drawn up by authorizing officers, and to those drawn up by Treasury departments for implemented payment orders.” (Article 21 of Decree 81)

Additional commitments and releases or cancellations are to be submitted to Financial Control and justified.” (Article 19 of Decree 81)

1.6. Advisory role to the Minister of Finance and Council of Ministers

“Financial Control is required to give, as far as finance is concerned, an opinion with grounds stated on draft laws, royal decrees and sub-decrees of the Council of Ministers, orders, contracts or regulatory decisions with financial implications.” (Article 28 of Decree 81)

“Financial Control shall take part in budget preparation work and in drawing up of the State’s budget settlement law.” (Article 23 of Decree 81)

“Financial Control shall draw up an annual overall report on the budget of the last completed financial year, showing the outcomes of audit operations and the proposals that it may formulate as regards improvement of budget implementation. This report shall be submitted to the Minister of Economy and Finance by March 31 of the year following that for which it is drawn up.” (Article 29 of Decree 81)

1.7. Advisory role to audited authorizing officer

Since he/she is not involved in the daily concerns of the authorizing officer whom he is auditing, the Financial Controller should be able to set him straight about the financial implications of his choices and decisions in the light of financial and general laws and regulations, of which he must have a thorough knowledge, in particular in matters where their accountability is called into question.

CHAPTER III

Treasury operations

1. The Treasury

The Treasury in other times and places

One can easily picture what the “Treasury” was like at the time of former monarchs: a vault or hall where coins and precious metal objects were accumulated (23,000 pack animals were needed by Alexander to transport a portion of the treasure taken from Darius III).

During the Middle Ages, the kings of France entrusted guard of the Treasury to the “Templiers”—a religious and military order—which used to play the role of a national bank.

The Treasury then returned to the kings’ cellars before eventually being put under the Bank of France.

In Cambodia, the Treasury is composed of “all available credits held by public accountants in the form of cash on hand and deposits in one current account open at the National Bank of Cambodia.” (Article 74 of Sub-decree 82)

“Public institutions are to deposit their funds at the Treasury, unless waivers have been granted by the Minister of Finance.” (Article 71 of Sub-decree 82)

“The National Bank of Cambodia shall be the sole depositary of the funds held by the Treasury’s direct accountants” (article 78 of Sub-decree 82)

“State public accountants only are authorized to handle Treasury funds.” (Article 72 of Sub-decree 82)

“Authorizing officers and other State officers who do not have the capacity of public accountant cannot open an account in the banks or in public or private credit institutions.

However, the heads of the units in charge of the management of projects financed by foreign aid may open an account to meet the needs of the projects under the terms set by the agreements signed with the donors. The opening of these accounts shall be subject to prior authorization of the Minister of Finance.” (Article 73 of Decree 82)

The opening of private accounts and the handling of funds through these accounts (or handling cash) are the “de facto management” situation previously referred to.

The principle of non-offsetting

An individual goes to see a public accountant for payment of an invoice for services performed, for instance for an amount of USD 10,000; besides, this individual is liable for a USD 2,000 tax: accounting entries must show the payment of the USD 10,000 and the collection of the USD 2,000; it would be incorrect to only show the result of the offsetting, i.e. $10,000 - 2,000 = 8,000$.

“State public accountants cannot have an account open in banks or credit institutions of private nature, unless a waiver has been granted by the Minister of Finance.” (Article 77 of Decree 82)

2. Treasury operations

“Treasury operations refer to all flows of cash, cashable shares, deposit accounts, current accounts and transactions concerning short-term receipt and debt payable accounts.” (Article 68 of Sub-decree 82)

“Treasury operations are described by nature for their entire amount and without any offsetting between them.” (Article 69 of Sub-decree 82)

“Expenses and revenues resulting from treasury operations are to be charged to budget accounts”. (Article 69 of Sub-decree 82)

“Except for cash flows required by cash payments made to or releases made by accounting officers, all settlements between public accountants shall be carried out through account transfers.” (Article 80 of Sub-decree 82)

3. Counterparts of the Treasury

“Treasury counterparts are bodies and individuals who, either pursuant to laws and regulations, or in accordance with agreements, deposit Treasury funds, on a mandatory or optional basis, or are authorized to carry out revenue or expenditure operations through Treasury accountants.

Unless an authorization has been granted by the Minister of Finance, only one account per counterpart can be open at the Treasury...” (Article 81 of Sub-decree 82)

“Treasury accountants may be authorized by the Minister of Finance to set up a special fund deposit service.” (Article 83 of Sub-decree 82)

In France, special fund deposits ceased operating in late 2001.

Treasury revenue and expenditure

The Treasury may have expenses such as interest on loans and their issuance fees, or bank fees for checks from taxpayers which have been sent back NSF, or the remuneration counterpart deposits. Remuneration for its investments may constitute an item of proceeds. Such expenditures and revenues are to be subject to budget reconciliation of the relevant accounts.

“Accounts opened at the Treasury on behalf of counterparts shall not show any overdraft...” (Article 84 of Decree 82)

4. Cash Management

Cash management is aimed at ensuring that cash flows to where it is needed without wastage or idling. Cash management can be defined as “the strategy and associated processes for managing cost-effectively the government’s short-term cash flows and cash balances, both within government, and between government and other sectors”. The definition encompasses cash management within the government sector and government’s interaction with other sectors, particularly the financial sector.

The main objective of efficient cash management is to be able to fund government expenditures in a timely manner and meet its obligations as they fall due. This can be achieved by:

- Keeping to a minimum the volume of idle balances held in the banking system;
- Reducing risk - operational, credit and market risk
- Adding flexibility to the ways in which the timing of government cash inflows and outflows can be matched;
- Supporting other financial policies.

4.1. Measures to Improve Cash Management

The best practices in cash management can be achieved in the following areas:

- Management of the flow of receipts and payments within government, i.e. by government departments, agencies and other bodies to ensure timely processing and to reduce unnecessary idle balances.
- Management, including by investing outside government, of those balances that are held by government bodies.

- Proactive policies to manage short-term borrowing and lending outside government to offset volatility in government receipts and payments;
- Investment in the associated systems

The development of efficient cash management policies also needs to be set in the context of four wider policy areas:

- Monetary policy and the related objectives for the control of financial sector liquidity, interest rates and inflation.
- The government's objectives for its own balance-sheet and management of balance sheet risk.
- Debt management policies.
- Financial market development policies.

Efficient cash management does not mean trying to control the timing of government expenditures to match the timing of cash receipts. Efficient government payment systems instead ensure that invoices are processed promptly and obligations met. Efficient management of cash flows requires:

- Identifying efficient cash management as an objective of government;
- Separating the functions of authorisation and control of government's cash flows from those for the settlement and payment of the transactions;
- Incentives for efficient cash management through all levels of government to minimize the level of cash balances and create greater certainty around the timing of payments and receipts. Such incentives can range from systems that penalize the holding of excess cash, through strict rules of government accounting.
- Increasing reliance on electronic funds transfer;
- A centralized or linked account structure that allows for the netting and aggregation of balances through overnight sweeping.
- Information flows between departments, the ministry of finance or cash managers, and the banking system that allow close monitoring of cash, and facilitate the preparation of consolidated cash flow forecasts.

4.2. Management of idle balances

Payment and processing lags, forecasting uncertainties and cash flow volatility mean that some access to liquidity is unavoidable. Cash is the simplest form of liquidity, and in less developed financial markets, it will be the dominant one. Even with efficient payment systems, governments will hold cash balances.

It is likely that the surpluses of this kind will be managed differently from the management of day-to-day cash flows. It may for example be appropriate to manage them against a target or performance benchmark, on the analogy of institutional funds. The management team may be separate from the operational cash managers; although they may be arrangements whereby the cash managers can have access to liquidity within the fund.

A number of countries take further the logic of the ministry of finance investing surpluses balances. In some countries, the ministry of finance takes responsibility for investing all government balances, keeping only a specified minimum balance at the central bank. The minimum is set a target and has to be backed by short-term borrowing and lending options that ensure that the ministry of finance is able to meet this target. This requires both capacity to handle a range of financial market instruments, and systems that allow the effective monitoring and forecasting of government cash flows.

Effective cash management needs a strong commercial sector infrastructure with efficient banking, settlement and clearing systems and adequate data transfer capacity. Within government, as well as skilled staff, it requires efficient information management systems and the associated analytical capabilities. Operational risk can be better managed if these systems are also integrated.

The systems required for cash management are:

- The databases needed for government expenditure monitoring and control
- Financial accounts and published financial information;
- Debt management also requires accurate recording and reporting systems for outstanding debt stock and ensuring timely payment of debt servicing obligations.
- Securities issuance and settlement brings with it both a demand for databases, integrated with the debt management system, and the ability to send financial

information securely to the relevant settlement systems and to validate and reconcile transactions.

Government cash flow forecasting needs additional capability over and above expenditure monitoring and control. The government cash manager will need to integrate forecasts of receipts and payments with other information on cash flows. The IT and related systems will need to be enhanced

A well run cash management function can provide the following benefits:

1. Cash flow management systems that reduce time lags and the number of intermediaries within government increase the certainty that payments are made properly by the required date; and that receipts are passed without delay to the responsible bodies. Efficient cash handling and control systems also reduce operational risk and the scope for mismanagement or fraud.
2. By minimizing the volumes of idle cash held by government bodies, most of which is unlikely to be fully remunerated, and reducing payment authorities (and cheques) in transit or awaiting clearance, there is a direct saving to government in the form of the borrowing that is no longer needed to finance that cash.
3. The linkage of government accounts, so that balances are netted through a single account at the central bank not only reduces gross balances, it improves visibility of flows – opening up the opportunities for active management – and reduces risk, whether in terms of exposure to the banking system or to financial market movements.
4. The introduction of a wider range of financing instruments – Treasury bills and potentially other short-term borrowing and lending – gives a government much greater flexibility in how best to manage its financing needs; and it is able to avoid the risk of high borrowing costs associated with less flexible arrangements, including or especially in responding economic shocks. Efficient government debt markets are also a major contributor to financial market development.
5. Active cash management policies, by offsetting flows in and out of the ministry of finance's account at the central bank, remove one of the major influences on short-term changes in money market liquidity. This in turn reduces one of the elements of uncertainty in the central bank's liquidity forecast and to that extent makes monetary policy interventions less problematic. More generally it can reduce the volatility of short-term interest rates and uncertainty in money markets.

4.3. Single Treasury Account

The Treasury Single Account (TSA) can be defined as “a system of National Treasury accounts that are linked together.” Single treasury account is the integration of government accounts, and the sweeping of overnight balances into a single account held by the ministry of finance at the central bank.

The objective of the TSA is to improve cash management by pooling all available cash resources to ensure its optimal utilization and minimizing idle cash balances. Gardner and Desai (2007) pointed out to the two principal characteristics of a contemporary TSA:

- ***Fungibility***—all bank accounts in the TSA should be fungible and the Treasury should be able to freely and expeditiously move resources between them;
- ***Operational control***—The TSA operational control should rest exclusively in one institution—the National Treasury and Provincial Treasuries. Any bank accounts required to operate outside the Treasury’s control for administrative reasons, must operate (i) under Treasury’s guidelines and oversight; and (ii) operate as zero-balance accounts, with provision for sweeping end-of-the-day balances into the TSA.

The creation of a single treasury account is a major undertaking for those countries that have traditionally dispersed cash to departments, and left them responsible for its management, with the centre maintaining control of spending against an approved budget but not of cash. There are different approaches to the process of integration. It can operate variously through:

- Requiring all departments to hold balances at the central bank, which then integrates them into a single account.
- Requiring the commercial banks to sweep any departmental balances to the central bank overnight. This might be accompanied by restrictions on the number of commercial banks used or require links between the relevant banks for overnight netting.
- Ensuring that the number of separate government accounts is kept to a minimum to maximize netting of transactions balances.

- Developing payment systems that avoid any pre-funding of departments (e.g. by giving them expenditure approvals that are in effect a means of payment – that are then cleared between the commercial bank and the central bank).

The challenge of account integration is primarily one of project management: identifying the preferred option, re-engineering systems, integrating IT and other investment, training users and so on. But there two particular issues that have to be addressed:

- ***Identifying all the relevant accounts.*** In a dispersed and fragmented environment with weak governance structures, there may have developed extra-budgetary funds outside the ministry of finance's control and other informal arrangements that, for example, allow short term cash movements between departments and public corporations. Officials who are used both to authorizing and making payments may be reluctant to lose some of their influence. Although the monetary impact of such arrangements may be benign, they can expose the government to interest and credit risk, as well as fraud, leaving aside the debilitating effect of the leverage that they give to competing power structures.
- ***Balances at the central bank held by non-central government bodies.*** These can include parts of general government, such as provinces or municipalities, and non-governmental organizations, such as public corporations. There may be good reasons of control or risk management for requiring such balances to be held at the central bank. But it complicates active cash management, where the objective to keep the aggregate public sector balance at the central bank to a target level. To be successful the monitoring and forecasting mechanisms need to extend to all these balances.

The other design issue of importance is to create an incentive structure for government departments that encourages them to economize on the use of cash. For countries with well developed administrative and governance structures, rules and guidance may be sufficient, but there will always be questions about the priority that departments are prepared to attach to functions that are peripheral to their main objectives. But incentive schemes have to be constructed carefully. In Australia, the reforms of 1999 gave departments and agencies an incentive to make better decisions about the timing of expenditure and improve collection of departmental receipts by paying interest on departmental and agency balances. But concerns grew at the centre of government that the arrangements were too generous and operated to the disadvantage of the government as a whole. In particular agencies had an incentive to draw down in advance of need; and the scheme meant a diversion of effort within agencies and departments, encouraging a focus on treasury functions at the expense, it was feared, of

their core responsibilities. As a result the scheme has been modified and since mid 2003 interest has no longer been paid on short-term balances.

In the case of Cambodia, before the PFM reform, the Tax Department (TD) and the Customs and Excise Department (CED) maintain separate revenue accounts at the NBC. Tax revenues are paid to the TD and the CED, which then credit them into their respective revenue accounts at the NBC. The NBC transferred subsequently the revenues into the National Treasury (NT) accounts in Riel or US dollars. The line ministries also operate various revenue accounts at the NBC or commercial banks for the non-tax revenue collection. Non-tax revenues are collected by the line ministries and are debited into these accounts. Then the line ministries transfer them into the NT.

The current Treasury Single Account (TSA) consists of two principal accounts—0100-39.1211-T001 in Cambodian Riel and 0102-35.1211-T023 in US dollar. Tax and non-tax revenues collected in Riel and US dollars are credited into the Riel account, after conversion if required. The dollar account is used for debt servicing and specific disbursements.

There are many other government bank accounts in Riel and US dollar operated by all government ministries and agencies, making cash management a real challenge as funds harbored in them are not fungible. These accounts are divided into the following classification: revenue accounts and expenditure accounts.

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- **Payroll Accounts**—All payroll accounts (592 Riel denominated accounts) are held by the National Treasury (NT) at the National Bank of Cambodia (NBC) and its provincial branches. These accounts are used for salary disbursement. As part of the PFM reform program, the MEF and a number of line ministries have opened salary bank accounts at a commercial bank, ANZ Royal Bank. The salary payment for senior government officials are made from this bank.
- Donor Funded Project Accounts
- Other Accounts

4.4. The Use of Banking System

Most of the NT disbursements take place in Riel, and tax and non-tax revenues are received in Riels. Treasury operations in US dollars are mainly for debt servicing and funding of project accounts from donor fund accounts at the NBC.

The NT does not use intermediation of commercial banks for its retail operations, except the use of ANZ Royal Bank for salary disbursements under the pilot scheme. The line ministries also do not have Treasury authorized bank accounts at commercial bank for retail disbursements.

Petty cash advances are received from the Treasury in cash and harbored in the office safe. A high proportion of Treasury disbursements are in cash disbursed at the NBC, the NT or its provincial branches. As part of the PFM reform program, tax revenues collected by the TD and the CED are now deposited at the NBC by the taxpayers. These revenues pass through zero balance accounts at the NBC into the TSA.

The National Treasury holds bank accounts at the NBC. The PFSL does not specify explicitly that a single treasury account is established at the central bank. However, a single treasury bank account has been established at the NBC. All government transactions pass through this account, including those relating to budget annexes, special treasury accounts, and transactions with public entities obliged to deposit funds at the Treasury. The PFSL is also silent on whether spending ministries can open bank accounts. In practice, banking and accounting services for spending ministries are provided exclusively by the Treasury: it would be inconceivable for ministries to retain funds in their own accounts.

CHAPTER IV

Accountability of stakeholders (authorizing officers, controllers, accountants and others)

We will deal successively with the accountability of authorizing officers, then with that of financial controllers and, last, with the accountability of accountants. We will make mention of the accountability of other officers such as internal and external auditors, government finance inspectors and other officials of the government and its organs.

1. Accountability of Authorizing Officers

The situation of Royal Government members is to be distinguished from that of other authorizing officers.

1.1. Accountability of Ministers

The Cambodian Constitution provides that “... any Royal Government member shall be individually accountable before the Prime Minister and the National Assembly for crimes or offenses that he/she may commit.” (Article 121 - New)

Article 126 – New, stipulates that:

“Any Royal Government member shall be penalized for the crimes or offenses that he/she may commit while carrying out his/her functions. In this event and in the event of serious misconduct committed by a Royal Government member acting in an official capacity, the National Assembly may decide to press charges before the competent Courts. The Assembly shall adjudicate the case through a majority vote of its members by secret ballot (*Kram* 0306/006 has removed “absolute”).”

1.2. Accountability of Other Authorizing Officers

“Commensurate with the nature of their duties, authorizing officers assume accountability laid down by the legislation in force. Such accountability may entail disciplinary, criminal or civil measures.” (Article 11 of Sub-decree 82)

2. Accountability of Financial Controllers

No special provision is made in the legislation; common law is therefore applied.

3. Accountability of Accountants (and of revenue and advance payment officers)

“Under the terms set out in the laws in force, public accountants shall be individually and financially accountable for the transactions that they have been entrusted with....” (Article 16 of Decree 82)

“Revenue and advance payment officers shall be individually and financially accountable for the care and safekeeping of the funds that they receive or that have been advanced to them by supervisory accountants, for the safekeeping of supporting documents, as well as the bookkeeping of the transactions.” (Article 25 of Decree 82)

4. Accountability of Other Stakeholders

The accountability of other stakeholders, i.e. national auditors, auditors of the ministries, inspectors of finance, officers in charge of public procurements, etc., is no lesser than the (disciplinary, civil and criminal) accountability incumbent upon other government officers.

CHAPTER V

Bookkeeping Operations

The stakeholders of the public expenditure chain, i.e. authorizing officers, financial controllers and accountants (and petty cash management officers), must care for the bookkeeping operations related to their transactions:

- Management bookkeeping operations of authorizing officers.
- Commitment and payment bookkeeping operations of financial controllers.
- Government bookkeeping operations for accountants, as well as revenue and advance payment officers.

1. Administrative Bookkeeping by Authorizing Officers

The authorizing officer firstly needs to know the status of the appropriations that he manages in order to use them properly: That is the purpose of commitment bookkeeping operations, handled openly before Financial Control.

He must also be familiar with the payment orders that he has forwarded to the accounting officer for assumption and payment; besides, the Table of Government Financial Operations (TOFE) is drawn up based on the orders (issued and certified by the authorizing officer or assumed and certified by the accountant: the amount is to be the same in both sets of books.)

The difference between the commitments corresponds to the Unauthorized Committed Expenditures (*dépenses engagées non ordonnancées* - DENO).

The difference between payment authorizations and payments corresponds to the accounts payable (*restes à payer* - RAP); according to the IMF terminology, accounts payable exceeding three months are referred to as payment arrears.

The difference between issued (and assumed) receipt orders and the corresponding collections are the accounts receivable (*restes à recevoir* - RAR).

Accounts payable and accounts receivable are collectively referred to as outstanding balances.

With integrated management (or automated) systems for public finance, each stakeholder (authorizing officer, financial controller, accountant) is able to know at any moment the status of a specific expenditure and the overall or detailed status of the

appropriations.

2. Bookkeeping operations of financial controllers

This point was dealt with in the section on financial control.

3. Bookkeeping operations of revenue and advance payment officers

“This bookkeeping operation shows at any given time:

- For revenue accounts: the status of their cash on hand.
- For advance payment accounts: the status of the advance received.” (Article 101 of Sub-decree 82)

4. Bookkeeping Operations of the Government

“The general bookkeeping operations of the government shall have a paper trail of:

- Budget operations.
- Treasury operations.
- Operations conducted with third parties.” (Article 98 of Sub-decree 82)

“The general bookkeeping operations of the government shall be handled pursuant to an accounting plan drawn up by the Minister of Finance. ... Its nomenclature is to be in harmony with the general accounting plan.” (Article 99 of Sub-decree 82)

5. The Government’s New Budget Nomenclature

(Also known as the economic nomenclature)

Until 2006, presentation of the State budget and general bookkeeping operations followed a budget nomenclature (and accounting plan) that has undergone considerable change for preparation and implementation of the 2007 budget.

5.1. Budget nomenclature until 2006

The budget was broken down into chapters (with two digits), articles (with three digits) and paragraphs (with five digits).

For instance, Chapter 13 would refer to Priority Action Programs, a specific

expenditure procedure: orders were made without supporting documents in order to advance cash and cash equivalents to ministries.

5.2. The new budget and accounting procedure

The same formula of cost assignment is used for both budgeting and bookkeeping purposes.

This nomenclature follows as closely as possible the accounting plan of the private sector while taking into account the State's specificities, and it is therefore much more detailed than the former budget nomenclature (and this furthermore results in the multiplication of budget line items, as well as budget and accounting entries).

It starts from "classes" similar to those in corporate accounting:

Class 1: Capital

Class 2: Immobile assets

...

Class 6: Expenditures

Class 7: Revenues

...

(Only the above-listed classes are those common to budget and bookkeeping operations.)

The classes are broken down into accounts (with three digits) and sub-accounts (with four digits); the sub-accounts may be subdivided as much as necessary, for instance:

Chapter 61: External Services

601 Maintenance supplies

6011 Cleaning and hygiene products

6012 Building maintenance supplies

6013 Road maintenance supplies

6014 Equipment maintenance supplies

6015 Lubricants and fuels

(See detailed nomenclature in the appendix)

Budgetary accounts and their corresponding bookkeeping accounts are identical:

Revenues and expenditures are respectively credited or charged to economic items or items corresponding to their nature starting from budget preparation according to a nomenclature that is common to both authorizing officers and accountants.

5.3. Other budget and accounting nomenclatures

5.3.1. Nomenclature of ministries: administrative classification of public expenditures

The governmental organization is divided into institutions, ministries, standalone government agencies, public institutions, State-owned companies, semi-public companies and territorial authorities that form the management and/or destination structure of budget appropriations. These structures are identified in a “list of public services”. Each government department may have representatives in the provinces or actual offices there.

5.3.2. Functional classification of governments

Administrative classification varies from one government to another, and from one country to another; in order to make comparisons independent in time and in space (international comparisons), the International Monetary Fund has created a “functional classification of government agencies” developed by the United Nations Organization, called COFOG (Classification of the Functions of Government). (See Appendix)

5.3.3. Nomenclature of programs and projects

This nomenclature establishes the list of projects and programs; it may use the administrative nomenclature, the functional nomenclature, or may be established independently.

5.3.4. Budget items in the Table of Government Financial Operations (TOFE)

Government financial operations (see the section on the Table of Government Financial Operations, TOFE) create budget items which enables the TOFE to be created automatically; this cost assignment is final, once the TOFE model has been chosen (which varies from a country to another).

Fiscal year accounting will replace management accounting.

5.4. Transition from a management accounting system to a fiscal year accounting system

(also covered in the section concerning the budget)

At the same time, government accounting is to switch from a cash basis accounting system to a fiscal year (accrual) system.

In the management (cash) accounting system, operations are posted in the books within the period during which they take place (collections and payments); this is cash accounting which does not require an additional work day, although such is the case in Cambodia:

“Until February 28, adjustment operations (operation de régularisation) are to be posted and shown as additional entries as at December 31 ... (they) concern:

- Receipt and expenditure assignments that have already been posted in entries made as at December 31, including in clearing accounts.
- Adjustment orders concerning expenditures that have been settled by advance payment officers prior to December 31.
- Centralization of the bookkeeping operations carried out by the financial administrations and secondary accountants of the Treasury in the provinces.
- Modification of erroneous accounting entries.” (Article 111 of Decree 82)

In the fiscal year (accrual) accounting system, entitlements and obligations are assigned to the fiscal year (period) during which they were initiated; this is also known as accrual basis accounting; an additional day enables a reduction in the number of outstanding entries.

The purpose of fiscal year accounting is to provide a clear, accurate picture of the financial status and assets of the government; it is quite similar to private corporate accounting. It can only be distinguished from it because of the specificity of government activities, notably for “regalian” proceeds that are drawdowns carried out without counterpart.

Expenses to be paid and proceeds to be received are inventoried as regards the fiscal year, based on the service performed and settlements.

A difference can be seen in fiscal year accounting and assets accounting since the latter requires knowledge of the capital assets and their depreciation, as is the case in the private sector; inventorying and increasing asset value may take place over a short or long period according to the cost that the government can reasonably bear for this purpose. One solution is to move records to inventory and to capitalize as opportunity arises, in order to move slowly and asymptotically towards an exhaustive knowledge of capital assets (and inventories) and their value.

“The government’s general bookkeeping operations are handled by direct Treasury accountants and by accountants of the financial institutions... They are to be

centralized by the central Treasury accountant.” (Article 100 of Sub-decree 82)

6. Special bookkeeping operations

“Special bookkeeping operations for materials, stocks and securities are aimed at describing physical inventories and movements concerning:

- Equipment and goods.
- Registered securities, bearer securities or instruments to order, foreign currencies and various stocks owned by the State or remitted to it in the form of deposits.
- Foreign currencies...
- Forms, securities, claim checks, stamps and labels for issue and sale.” (Article 102 of Decree 82)

One bookkeeping operation per program may be arranged by order of the Minister of Finance, pursuant to Article 96 of Decree 82.

7. Annual financial statement and end-of-year accounts

Law 93-1 respecting finance laws and the budget system specifies how to calculate the yearly bottom line (Article 57). This point was developed in the section dealing with the budget.

“Income statements shall describe all surpluses and deficits incurred by the State during each management period...” (Article 112 of Law 82)

“Government accounts shall be drawn up annually by the Minister of Finance.

The summary account of the Administration of Finance shall comprise:

- Trial balance of accounts as per results of the account aggregation by public accountants.
- Development of budget revenue.
- Development of budgetary expenditures showing, for each ministerial department, the amount of expenditure per chapter certified by the relevant ministry.
- Development of the operations recorded in special Treasury accounts (and in annex budgets).
- Development of income statements.” (Article 113 of Sub-decree 82)

“Each minister shall write up an annual financial management report and certify the compliance of its own entries with the development of its department expenditures that the Minister of Finance has forwarded to him.” (Article 114 of Sub-decree 82)

In France, this certification of compliance between entries of authorizing officers and entries of accountants is granted by the Audit Court.

“The management accounts of public accountants shall be forwarded to the Minister of Finance who shall submit them to the Inspectorate General of Finance for examination by June 30 of the year following the one for which they are drawn up.” (Article 115 of Sub-decree 82)

“The National Assembly shall pass the accounts and approve final settlement of the State budget.

The draft settlement law is to be submitted to the Assembly before the end of the year following the one to which it refers. The draft settlement law shall be supported by the general statement of finance administration and the financial management reports drawn up by the ministries.” (Article 116 of Sub-decree 82)

8. Complementary period

Additional time is allowed to the National Treasury to close budget execution in order to regularize budget operations, which were pending at the end of each fiscal year. Although at the end of December of each fiscal year, the Ministry of Economy and Finance sets the deadline for the National Treasury to accept payment orders sent by all ministries, it takes more time to process the payment orders and to close budget accounts.

To this end, a complementary period is given to the National Treasury to clear all payment orders. This means that even though budgetary operations stop at the end of the fiscal year, accounting operations still continue in order to complete the record of all government financial transactions during the fiscal year. This means that at the end of fiscal year, data on the revenue side can be made available to decision makers. However, data on expenditure execution is not yet available, as accounting transactions will continue until the end of the complementary period.

In the past a three month period, i.e. a complementary period until end-March is given to the National Treasury. This resulted in the delays in the release of financial statements of the government. Moreover, some line ministries also abused the complementary period by sending the payment orders executed during the new financial year in order to use up all budget appropriations that were left not used by

changing the date of budget backtracking budget execution recorded on the payment orders. Such practices resulted in lax budget control and loose budgetary discipline.

At present, the Ministry of Economy and Finance only gives the National Treasury a one-month complementary period to complete accounting transactions for the last year.

SECTION THREE

Financial Management Information System

In order to be successful, the Financial Management Information System (FMIS) must take into account the scope that will gradually be covered, the functionalities, and must be conducted following a rather strict methodology.

It must operate within a legal framework.

1. Scope covered

So as to provide a full and integrated vision of public finance, the FMIS may gradually cover the following fields:

1.1. At central government level

Ministry of Economy and Finance at central level:

- Treasury
- Budget
- Financial Control
- Debt
- Assets (tangible and intangible fixed assets)
- Staff (salary)
- Staff (number of civil servants or budgetary posts)
- Taxes
- Customs

Other ministries and authorizing officers at central level

- Administrative accounting (of commitments and payment orders)

MEF in the provinces

Other ministries in provinces and districts

1.2. At the decentralized government level

- Public administrative institutions
- Provincial governor budget
- Communes
- Other decentralized local or regional authorities to be established

2. Functionalities

They vary according to the field concerned.

3. National Treasury

The FMIS may be introduced at the National Treasury in an independent manner but in a way that is compatible with other computerization operations into which it will one day be integrated (compatibility of nomenclatures and their formats). The Cambodian FMIS include the National Treasury as one of its modules.

4. Expenditure management

Assumption of payment orders: it is carried out on the base of paper documents when the authorizing officer's computer system cannot forward payment orders electronically (with a USB key [flash drive], floppy disk, disc or network, in real time or non-real time); this formal assumption involves the acceptance or rejection of payment orders by the Treasury. This phase must not be overlooked in the applications, in particular for real time networks.

In addition to information on the expenditure and creditor, payment orders must contain all cost account assignment information that will enable their processing through the bookkeeping system:

- Administrative classification (ministry managing the budget and receiving the appropriations).
- Economic nomenclature (or by nature): a payment authorization may contain several pieces of economic nomenclature.
- Functional nomenclature (a general classification which enables comparisons between fiscal years and between countries).

- Classification by program or project.
- Financing classification.
- Geographic classification (to monitor the government's effort by constituency).
- TOFE classification (Table of Government Financial Operations) if this classification has not been pre-entered classification by nature.
- Statistical classification for the balance of payments (if this has not been pre-entered opposite the accounts by nature).

Settlement of payment orders:

- Partial payment of the existing payment orders (should the installment settling of a payment order be envisaged?).
- Payment of the final balance of a payment order that is closed; if the amount of the final payment and prior payments is lower than the amount of the payment orders, a budget leftover may be released and re-assigned to the appropriations of the accountant and authorizing officer.
- Clearance of expenditure (régularisation) that has been requested of the authorizing officer for payments carried out without a payment order (bank charges, public debt, etc.).
- Prescriptions.

Posting in the books: book entry by nature within the framework of the government's general bookkeeping operations, various analytical entering procedures by program or project, by funding package, etc.

Parallel monitoring over several fiscal years (two?).

End-of-year processing operations.

Carry forward from one fiscal year to the next.

5. Revenue management

- Assumption of the revenue orders issued by the authorizing officer; for receipts that have been collected through spontaneous payments, adjustment revenue orders are to be requested from the authorizing officer.

- Collection of revenue orders; collection litigations, prescriptions and recording of revenue by order.
- Entry into the books and monitoring.

6. Other modules

Supplier ledgers (which may be kept by the tax and customs authorities and authorizing officers: suppliers in good standing, suppliers prohibited from public procurement, suppliers liable for tax, customs duty, stop payments, etc.).

7. Authorizing officers

Authorizing officers must keep administrative books on their transactions: commitments and payment orders.

- Budget: it may be initially entered manually or be sourced from a computerized budget preparation module.
 - i. Classification by program and commitment authorizations (if both notions are kept) and by payment appropriations;
 - ii. Budget amendment: they are to be made pursuant to the prevailing statutory procedure: amended finance laws, Sub-decree of the Council of Ministers, order of the Minister of Economy and Finance, decision of the authorizing officer, as the case may be. Reference to the legislation must be given, document image may be in the system (by digitalization).
 - iii. Certain budget appropriations are evaluative under the law: they may therefore be subject to commitments in excess of appropriations and the excess is to be indicated and be subject to an adjustment from available appropriations; most appropriations are restrictive and cannot be subject to any overspending: commitments are locked in, a budget amendment may exceed the line items starting from the available appropriations.
 - iv. Reallocation of expenditure: when a commitment is partially or wholly cancelled by the authorizing officer or the accountant.
- Commitments: follow-up of program authorizations and commitment and payment appropriations.
- Invoicing: the invoices received may be recorded at the time of receipt at the authorizing officer's focal point (compulsory recording in private bookkeeping

operations), which enables an assessment to be made of the internal debt volume at any moment and identify discrepancies (for instance, an invoice made out prior to payment order or an invoice without payment order after a certain period).

- Validation: the accepted (certified) amount is the amount of the payment order; in general, if the certified amount is different from the one on the invoice (errors in calculation, quantity or quality errors or errors in the unit price), acceptance from the supplier is required. Validation may be multiple (split deliveries and invoices for a single commitment).
- Order to pay: this is formal transmittal to the accountant; an order to pay involves electronically linking validation to a payment order and issuing the corresponding document numbered serially. In general, payment orders are forwarded at the end of the day to the accountant in summary vouchers numbered serially, although a payment voucher for a commitment can also be made several times a day. Payment orders that clear a commitment are identified (compared with partial payment orders); if the payment order amount does not clear the commitment amount, unused appropriations are to be restored. A payment order cannot exceed the amount of the commitment to which it refers. If the commitment amount is insufficient, an additional commitment must be made; the payment order must therefore be made in such a way as to link to several commitments. A payment order may correspond to several accounting recording.
 - i. A payment order may be rejected; the original transmittal form must then be amended; it may be subject to a new transmittal once the discrepancies have been rectified.
 - ii. A payment order may be subject to a requisition if provided for by the regulations; computerization must make provision for identification of such.

Integration of the modules of the authorizing officer, financial control and accountant makes it possible to ascertain at any time, for the benefit of all stakeholders, the status of a commitment: invoiced, validated, payment order, payment available and cleared payment. Without having to follow the whole administrative process, suppliers are in a position to know where their invoice is at, starting with the authorizing officer, without having to go through the entire paper trail.

Arrangements must be made for the installation of search terminals at points where they are needed; in particular, a search terminal may be set up at the donor's representative office, which ensures full transparency of public finance management.

8. Financial control

According to regulations (which vary from one country to another), financial control is to be involved in all commitments or in some of them (threshold or exemption from prior commitment) and in all payment authorizations or in some of them (threshold or exemption from prior payment order).

Implementing integrated computer technology should enable financial control to monitor commitments and payment authorizations that have not been submitted for prior approval.

Financial control shall also be able to monitor (and in some cases authorize) budget modifications.

Approvals by financial control are granted electronically and, in parallel, manually for paper documents; electronic approvals are to be processed through computer application and forwarded from financial control's module to the authorizing officer's module, then from the authorizing officer's module to the accountant's module.

9. Cash and cash equivalents regulation

Budget managers always try to regulate cash and cash equivalents through commitment regulation, but this never results in satisfactory outcomes.

Activities can be scaled down but the budget cannot be cut! It is the scaling down of activities that will lead to expenditure cut!

The regulation method used involves “freezing” appropriations by prohibiting commitments over x percent of the appropriations. Often, this freeze does not take into account the reality of legal commitments that are badly reflected by commitments in the books: a lease that has been signed for at least 12 months is receivable over 12 months charged to payment appropriations (and for its duration for multiannual authorizations). It must be cancelled in order to make savings on the budget bearing its cost. E.g. an annual computer service contract may be signed for one year; to save money on this item, the contract should also be terminated or arrangements made for extendible quarterly contracts unless a notice of termination of contract is given by either party.

How can cash and cash equivalents be regulated other than through commitments?

One solution involves carrying out estimates of monthly-paid income, for instance. Commitments must include the probable payment date that will be confirmed by the invoicing. At the time of the commitment, the system simulates the cash expense generated by the new commitment, observed if “it works”, accepts or rejects it, or

proposes to move back the date (scaling down of activities...).

Mandatory commitments must be entered beforehand (wages, debts, leases, contracts and procurements); a percentage for contingencies and emergencies must be provided for.

10. Budget preparation

This module may be independent and pour the approved budget into the modules of the authorizing officers, financial control and Treasury.

It may incorporate price standards that are to be regularly updated and used for budget preparation. Budgets may be prepared in conventional form (administrative) or by means of a program, with a matrix enabling the transition from one form to another. Functional, geographic and other cost assignments are to be included in this module and poured into the other ones with the endowments.

11. Investment management

Investments are identified in the form of projects which may be financed by the central government budget, in whole or in part, and/or by a donor, in whole or in part (self-financing, co-financing or external financing).

FMIS is expected to enable monitoring of these three cases and, in the most complex case where a donor provides the funds, monitoring of the financing package should be possible, often in the donor's currency and according to the financing chart of accounts, pending harmonization and alignment processes to solve any resultant difficulties.

Some countries have developed applications stretching to the automatic issue of Applications for Withdrawal (AFWs) sent by the country to the donor in order to replenish the account receiving the donor's funds.

12. Fixed asset management

All States are evolving towards accrual accounting that is similar to private accounting, holds the fixed asset base and gets value from it.

Fixed assets may be consolidated manually (an ongoing inventory in order to gain knowledge of and manage fixed assets) and automatically, from the entries posted in Class 1 and Class 2 accounts.

Intangible assets must not be overlooked: the State's portfolio in State-owned or semi-public companies, patents and licenses, as appropriate.

13. Payroll

Contrarily to the French model, in Cambodia it is the Council for Administrative Reform (CAR), and not the Ministry of Economy and Finance, which is responsible for payroll.

Whenever a standalone computer application exists, the computer integrator system has to schedule an interface that either receives synthetic data or enables the standalone application to access detailed data from the integrator system.

14. Managing budget items

Management of budget items is generally a module upstream from paycheck so as to authorize recruitments; the paycheck module then indicates within which budget heading a given officer's wage is assignable. The budget item module may be used to make wage cost estimates over one year or more.

15. Management of a (major) project

The success of a (major) project depends on compliance with principles:

- **Project design:** It is to be carried out under the authority of a designer who acts as guarantor for the project team vis-à-vis the outside. A poorly designed project (whether it involves civil engineering work or a data-processing project) is bound to be costly to carry out as endless talks on modifications with the suppliers will be needed. Its implementation will fall behind schedule; it will have a negative impact on the motivation of the project team, final beneficiaries and users.
- **Project team:** In many cultures, a project manager in command is required whose job is to submit the detailed action plan, motivate the team, inform the partners and monitor the project development process. The team members take charge of the different scheduled and budgeted activities; they are required to have the technical capabilities necessary for their sphere of intervention.
- **Partners:** They are to update on project progress, difficulties encountered and solutions found.
- **Users:** They are to be identified right from the project design stage along with their constraints; they are to be made partners in the project throughout its implementation. Appropriate training courses are to be organized so that the project is operational upon completion.
- **Suppliers:** They are to be partners in the implementation of the public service but

they entitled to fair remuneration guaranteeing their financial security and development.

- Project schedule: Any (major) project has a beginning and an end; a representation in the form of a spindle-shaped PERT planning device with a starting point, an expansion and then a convergence of the tasks towards the end point, i.e. the project delivery. A poorly designed time line is immediately identifiable by taking a look at it. The number of tasks should not be too large: around 50 is a good figure. Secondary time lines may structure coherent sub-clusters under the same conditions. The resources and costs are associated with the tasks; the critical path is identified, as well as the critical sub-paths, and overall time-line management is carried out through critical path management. Specialized software programs have been designed to manage project time lines, costs and resources.



SECTION FOUR

PUBLIC FINANCE MANAGEMENT REFORM

1. Vision of public finance management

The goal of Public Finance Management Reform is to put in place the standards of management and accountability in the mobilization of all government resources—ordinary and in capital—and also in the effectiveness, economics and efficiency of their use by the government in the framework of the National Poverty Reduction Strategy Program and for other priority programs.

The Public Finance Management Reform Program (PFRMP) is soundly built upon four sequenced and prioritized platforms: **(i) a more credible budget; (ii) more effective financial accountability; (iii) the Royal Government of Cambodia’s policy agenda becomes more accessible and prioritized; and (iv) RGC managers have become fully accountable for program performance.**

The reform program will be phased in based on four steps: The **first step** is the short-term action plan including all actions necessary to fully achieve the first platform, plus long-term activities that are needed for subsequent platforms. **Steps two and three** are mid-term actions targeting the completion of the first step, when the objectives of the first platform are in sight. **Step four** includes the long-term actions needed to round out the vision.

In summary, the contemplated public finance management system is a system that meets a set of **characteristics** intended to ensure compliance with best practices and standards. The overall system will have sub-systems that will retrace the **actions, steering and assessment.**

1.2 Characteristics of the public finance management system

When the PFM reform program is completed as envisaged, Cambodia’s public financial system will incorporate the following characteristics:

- Legal separation of functions and fiscal powers between the national, provincial and local levels, yet within a unified budget system that covers all government offices, functions, programs and projects.
- A consistent plan and program framework across all sectors, with budget

transactions classified on administrative, economic, and functional or programmatic bases which identifies poverty-related spending and which supports a general orientation of public expenditure management towards the achievement of policy results.

- An operational Medium Term Expenditure Framework (MTEF) which governs multi-year programming.
- A budget that covers all aspects of government operations, including longer term budget financing and debt management planning, and resource plans which include all of the government sector's financial, fixed and other assets with its liabilities.
- A budget formulation process that has an impact on the composition, incentives, size, training, deployment and other staffing implications of the government's policies and programs. The budget system will also ensure that post-budget supplementary expenditure requirements are fully financed.
- The acquisition, deployment, use and disposal of all government assets and resources, including human resources, will be open, competitive, apolitical, non-discriminatory and transparent. The government will establish and enforce clear rules that promote the principle of value for money for the procurement of goods and services, including privatization, contracting out government services and management processes to the private sector, and the recruitment, deployment and promotion of officials.
- Prompt, clear and well publicized government response to problems which emerge during the course of budget implementation. Monthly up-to-date reports will be made public on the progress of budget implementation, including a comprehensive mid-year review. The finance ministry will recommend remedial action to the government if the implementation plan is threatened, for example, by revenue flows underperforming or an unexpected need arising for additional expenditure.
- Computerized, comprehensive and integrated financial and budget management information and accounting system will be in place to facilitate prompt, regular reporting on financial transactions by government agencies, and reconciliation of fiscal data with government bank accounts, suspense accounts and advances.
- The finance ministry will set the standards for internal audit, and guide and monitor, financial management in line ministries and other spending agencies.
- Each ministry and spending agency will establish an internal audit committee to: (i) direct the preparation and management of an annual internal audit plan and (ii) carry

out oversight and support audits. This will be supplemented by a timely and independent external audit.

- The National Audit Authority will provide audit reports which are disclosed to the public, and the government will act promptly on recommendations made in the audit reports.
- The PFM system will be designed to seek performance, both in the use of public resources and in the achievement of policy results through sound public finance management. It will seek maximum value for money over time from the use of government resources. Good performance will be rewarded and offences detected and prosecuted.

1.3. Operational sub-systems of the desired public finance system

In order to build the public finance system that has the characteristics as described in the previous section, the system must be made up of several operational sub-systems:

Accounting and transaction processing systems:

- Consistent approach to accounting across Government as a whole based initially on accounting for cash payments made within the fiscal year;
- Future considerations to be given to possible change to accounting on an accrual basis relating to the consumption of resources in a year - staff inputs, goods and services;
- Empowerment of budget holders to implement transactions, unhindered, in accordance with budget (as revised during the year). Greater reliance on post payment review and internal audit rather than pre-payment scrutiny by MEF;
- Separate capture and control of information about commitments entered in to, but not yet liquidated.

Budgeting systems:

- Annual budgets of all budget holders set in context of realistic multi-year estimates published alongside them;
- Roll-over of multi-year estimates so that second year in one cycle becomes starting point for the budget in the next cycle;
- Comprehensive in that all significant deployments of public resources, however

financed, are captured;

- Encompasses program based analysis of resource deployment and monitoring of the use of resources;
- Decentralized and conveys both authority and responsibility to budget implementers.

Resource mobilization systems: (Tax and non tax revenue, external assistance and debt financing)

- Effective use of revenue raising capacity in Cambodia through balanced approach to use of taxation (direct and indirect), levy of user charges to the public and other financing sources available to the public sector (including external assistance and external and domestic borrowing);
- Ensure full compliance with the prevailing laws and regulations (including the Law on Taxation, Customs Law and Law on Investment) and prudent and transparent management of external assistance and debt financing, whilst minimizing cost to the taxpayer and to the Royal Government, and optimizing the amount of revenue available for the Royal Government to implement its policies through public expenditure programs;

Access systems:

- Common access of all budget implementers to the same accurate and reliable data on a timely basis based on integrated use of modern IT;
- Open to scrutiny by all interested parties, inside and outside of Government, to view performance compared to budget based on a clear and transparent data trail;
- An effective system of both external and internal audit in which audit supports rather than hinders management to make effective use of resources.

1.4. Monitoring and evaluation system

The Royal Government is in the process of developing a monitoring and evaluation sub-system to enable regular monitoring and assessment of the public financial management system. The key features of the targeted vision of PFM reform program are consistent with international standards and best practices, which will cover the following aspects:

- ***Budget Realism:*** The budget is realistic and implemented as intended in a

predictable manner (e.g. composition of expenditures compared to approved budget, actual amount of funds received by service delivery units etc.);

- ***Comprehensive, Policy-based Budget.*** The budget captures all relevant fiscal transactions, and is prepared in an orderly, predictable way with due regard to government policy (e.g. single budget process - calendar and circular - fully coordinating budgeting for investment and recurrent expenditures, budget ceilings informed by government's relative spending priorities defined at political level);
- ***Fiscal Management.*** Aggregate fiscal position and risk are monitored and managed (e.g. few or no expenditure arrears, adequate system for management of domestic and foreign debt);
- ***Information.*** Adequate fiscal, revenue and expenditure records and information are produced, maintained and disseminated to meet decision-making, control requirements and management purposes (e.g. budget reports, with classification allowing comparison with budgets, are made available in a timely manner say after the month/ quarter end; regular, high quality reconciliations of bank accounts);
- ***Control.*** Effective control and stewardship is exercised in the use of public funds (e.g. effective internal audit system; public procurement system based on clear, consistent and enforced rules; payroll records and nominal rolls linked through computerized system to which MEF has access);
- ***Accountability and Transparency.*** Effective external financial accountability and transparency arrangements are in place (e.g. communities have regular access to information on budgets allocated to and funds received by service delivery units; external audit covers all major public sector entities and a full range of financial audit);
- ***Clarity and accountability.*** Clear legal and institutional frameworks for functional and spending responsibilities across government levels, and for budget holders' management accountability (e.g. Program managers have maximum possible flexibility in selection, mobilization and use of resources to achieve program objectives accompanied by a system of accountability to deliver the results. Accountability to national assembly and people for use of resources is transferred to line ministries, which are also publicly accountable for program performance);
- ***Value for money.*** in use of public resources (e.g. negotiated decrease in price of items procured regularly by the government; unifying procurement by different agencies to obtain discounts associated with larger purchases);

- **Responsiveness:** of fiscal and budget management (e.g. institutionalized mid-year review of budget performance feeding into implementation during the first half of the second budget year and preparation of subsequent budget);
- **Professionalism:** in the civil service and incentive systems (e.g. build a core group of technical experts).

1.5. Long term sequenced strategy

The reform program will progress in four stages: Stage One: comprises short term action plans including all necessary activities for achieving Platform One, plus activities with long lead times and necessary for later Platforms; Stages Two and Three: Medium term, planned for towards the end of Stage One, when Platform One objectives are within sight; and Stage Four: Long term while well on the way to achieving the vision.

- **Platform 1** - More credible budget: In the first instance, the Royal Government will strive to achieve a position in which the budget becomes more credible as an instrument of strategic and day to day management of public resources, because it delivers a reliable and predictable resource to individual budget managers. This entails that the budget reflects mobilization of all significant public resources and their deployment. It thereby enables steps in subsequent stages to hold budget managers more accountable for the proper, efficient and effective use of resources;
- **Platform 2** – Effective financial accountability: Having secured compliance with budget practices established in Platform 1 and eliminated inappropriate practices by budget stakeholders, the Royal Government will turn on tightening the accountability of the budget stakeholders and for rewarding good practice. This will require initial improvements in internal control and accountability systems at all levels. It will focus on the monitoring of resources by providing better data, effective discipline, and greater internal transparency;
- **Platform 3** – The RGC’s policy agenda becomes fully affordable and prioritized: From the base established in previous stages, by which the budget is now established as a credible instrument for policy implementation, the Royal Government will focus on developing techniques and capacities for analyzing the budgetary impact of policies and for connecting policy priorities and service targets to budget planning and implementation, thereby assuring that government policies are fully affordable and prioritized. This will enable greater accountability for program performance;
- **Platform 4** – RGC managers become fully accountable for program performance:

Having reinforced the stability, soundness and policy orientation of budget planning and management practices, the Royal Government will start to hold budget managers accountable and rewarding them for achieving agreed objectives and standards of performance. Processes of accountability and review for both financial and performance management will be fully integrated, resulting in greater external transparency and more effective feedback from implementation into policy formulation.

Achieving the vision of Public Financial Management will require long term government commitment and willingness to plan and devote resources, financial and human over the long haul. In addition, the success of the Public Financial Management reform program depends on progress made in other key pillars of good governance including Legal and Judicial Reform and Civil Service Reform, and active participation of Development Partners including donor community, private sector, civil society, and all levels of government officials.

The government has given high priority to the timely and orderly implementation of the PFM reform program since it is required for the effective and efficient use of the scarce public financial resources, so crucial to the achievement of the ultimate goals of enhancing growth, employment, equity, and efficiency of the Rectangular Strategy.

2. Reform program initiatives

2.1. Overview of the PFM reform program activities

At this point in time activities of the PFM reform program are specified in some detail for achieving Platform One. Activities for achievement of later Platforms are outlined indicatively. The following section is an overview of these activities, detailed for Platform One and indicative for Platforms Two, Three and Four. The section also elaborates on the progression from one Platform to the next one.

ACTIVITIES IN SUPPORT OF PLATFORM 1

Platform one aims at achieving a position in which the budget becomes more credible as an instrument of strategic and day to day management of public resources, because it delivers a reliable and predictable resource to individual budget managers. One crucial objective is to ensure that the budget reflects all significant public resources and their deployment, thereby enabling steps in subsequent platforms to hold budget managers more accountable for the proper, efficient and effective use of resources. Key activities that are necessary in order to reach these objectives are identified in table A below.

- Improve comprehensiveness and integration of the budget (formulation and

execution);

- Improve realism and sustainability of the budget;
- Streamline ability of budget holders to spend in line with budget provision;
- Steps to avoid re-accumulation of payment arrears;
- Improve process for post-budget supplementary expenditure credit approvals;
- Development of revised procurement procedures;
- Capacity development measures;
- Motivational measures within MEF;
- Motivational measures within Ministries;
- Initial integration of functions within MEF.

As a result of these activities, improved macro-financial management and forecasting coupled with attention to improving revenue mobilization framework provide greater confidence in the overall ability of the system to deliver cash in line with budget.

Budget Managers are enabled to commit their budgets, which are a full and integrated expression of the resources available to them, in the knowledge that as they demonstrate their capacity to exercise internal control they can pay staff and contractors by transfer, issue of check, cash or some proxy for cash within a reasonable and predictable period conditioned only by macro controls.

INDICATIVE ACTIVITIES IN SUPPORT OF PLATFORM 2

Platform Two aims at achieving initial improvements in internal controls and in holding managers accountable. Having removed any excuses for non-compliance or inappropriate practices by budget holders, government is in a position to tighten arrangements for bringing them to account and for rewarding good practice. Indicative activities to reach this objective include:

- Improved accountability lines: Clarify roles, functions and responsibilities (including spending) between levels of Government.
- Improved accounting: Initial consolidation of accounting data, improved reconciliation procedures.
- Improved reporting: Interim improvements in reporting of performance against

budget, introduction of tracking studies

- Improved auditing: Deepening capacity of both internal and external audit.
- Related institutional, capacity and motivational measures.

INDICATIVE ACTIVITIES IN SUPPORT OF PLATFORM 3

The objective under Platform Three is to improve the linkage of priorities and service targets to budget planning and implementation. From the base established by Platforms 1 and 2 by which the budget is now a credible instrument for policy implementation, Platform 3 activities aim at developing techniques and capacities for analyzing the budgetary impact of policies and for connecting priorities to budget deployment:

- Deepen budgetary reform: Roll out use of MTEF, multi-year budgeting, techniques for setting sector resource envelopes, procedures for rolling from one multi-year cycle to the next, connection to strategic planning processes, linking of mobilization and deployment of resources to policy priorities including poverty reduction strategies.
- Improve budget analysis and appraisal: Improve abilities to cost and appraise spending proposals, carry out expenditure reviews, update spending norms.
- Deepen decentralization: Further de-concentration of budgets and accountability, improve fiscal decentralization.
- Widen engagement in resource deployment decisions: Create improved opportunities for politicians and civil society to have visibility of and contribute to resource allocation decisions.
- Related institutional, capacity and motivational measures.

INDICATIVE ACTIVITIES IN SUPPORT OF PLATFORM 4

Platform 4 is about integration of accountability and review processes for both financial and performance management. Having reinforced the stability and soundness of budget planning and management practices in Platform 1, 2 and 3, government starts to hold budget managers accountable and rewarding them for achieving agreed objectives and standards of performance.

- Improved information about both financial and service performance: Computerized FMIS, computerized state asset register, integrated data on performance and budget implementation, move to accrual accounting to improve match between resources consumed and results achieved.

- Increased visibility of results achieved: Production of annual reports on budget and service performance by Ministries, consultation with public and politicians about results achieved.
- Feedback into resource deployment decisions: Review of results achieved and establishment of procedures to reflect on lessons and adjust future resource deployment decisions accordingly.
- Related institutional, capacity and motivational measures.

2.2. The Strategy: Moving through Stages to Build one Platform at a Time

Many steps are needed to upgrade Cambodia's PFM system and its operations to meet the basic standards for a modern system for a developing country. For several reasons, all these steps cannot be taken at once and they must therefore be sequenced and paced. First, many of the steps can only be taken once others have been successfully completed. Secondly, the steps being taken at any one time need to be kept to manageable numbers so that key MEF officials including those at the most senior levels can give effective leadership and direction to implementation. The time of these officials is scarce and valuable and the program design has to take account of these and other capacity constraints. Thirdly, success will also depend on the pace of the program. A reform momentum needs to be built and maintained. At the same time however, the program must be paced at a slow enough rate to allow for satisfactory internalization of the changes by the thousands of MEF officials who will be affected sooner or later, let alone its eventual impact on many more officials across all line ministries. Fourthly, the annual budget cycle can also determine the pace at which some elements of the program can proceed – if they are not implemented at the right point in the cycle in one year, and then their implementation must necessarily be delayed until the right point in next year's cycle.

The four platforms need to be constructed one at a time, one on top of another. To be practical, program activities should be focused first on repairing existing critical operational deficiencies. Only when these are made good should the steps aimed at higher-level systemic improvements be taken. The concept of platforms is used to help work out the sequence for system improvement and reform activities. Thus, Platform 1 in the program has been designed to focus on critical improvements to overcome basic operational deficiencies which are detracting from the budget's credibility. Only when these basic deficiencies should steps be taken to begin to install the basic PFM system upgrades which have been identified for Platforms 2, 3 and 4. These form the logical step changes of the four platforms: budget credibility, accountability for resource usage,

close policy/ budget linkage and accountability for outcomes. Each platform in turn provides the base on which to build the next.

While most of the activities needed to install these later platforms will be scheduled for later in the program, the development of some system features needed for later platforms will be long and complicated, stretching over a number of years. This applies, for example, to the development of a fully comprehensive medium term framework (MTEF) and an integrated financial management information system (FMIS). Work is already underway on these advanced PFM system features and the reform program design has to include these ongoing development activities from the beginning.

The reform program is thus being phased over four Stages. The first steps will include (i) activities which are essential to the installation of Platform 1 plus (ii) ongoing activities on PFM system development on features which are needed to support later platforms but which have long lead times. Together, these activities make up Stage 1 of the reform program. Thus, the program consists of four stages of activities, with Stage 1 being the short term phase. Each stage leads to the installation of a platform of new PFM system features plus each stage also includes ongoing development activities on those PFM system features which support the eventual installation of a later platform. So Stage 2 will continue the long lead time activities carried on from Stage 1 plus any new activities needed for Platform 2 achievement and so on through Stages 3 and 4. (Stages 2 and 3 could be seen as being for the medium term and Stage 4 for the longer term.) This is illustrated in the diagram below.

2.3. PFM Reform Program for Stage One

Stage 1 of the PFM Reform Program will consist mainly of activities to support the installation of Platform 1: the achievement of a more credible budget. However, it will also include other activities which will assist in the consolidation of Platform 1 but whose main ultimate purpose will be to support all three of the later platforms.

The following table B lists, first, the Stage 1 reform activities which will most directly support Platform 1 and then the activities which will begin in Stage 1 and will consolidate Platform One achievements but which are intended mainly to eventually support the installation of the later Platforms. These include the following activities:

Even if it takes some time to implement a new unified classification system and FMIS until Platform's 2 and 4 respectively, the future shape of both have implications for improved transaction management processes being developed under Platform 1 and it is important to have at least carried out design work.

Similarly, it is important to have commenced foundation work for the development of

internal audit capacity as it will take time and the internal audit role is important to a transaction processing system that will increasingly rely on post payment audit.

The early piloting of expenditure tracking will enable its systematic use as part of the accountability framework under Platform 2.

Although fundamental changes in budgetary practice cannot be made sustainable until Platform 3, it is important to have a concept of a new form of budget cycle that is more integrated and allows room for more consideration of options and priorities in order to inform the changes in transaction management that will be undertaken in Platform 1 and to have deepened earlier pilots in program budgeting so that lessons are being gained before more general application in Platform 3.

Similarly, although it would not be safe to extend fiscal decentralization until the national framework for resource management and accountability has been approved, it is important to have now a clear vision of how fiscal decentralization might be achieved as it will have implications for the design of cash, transaction management and procurement systems under Platform 1.

While a full FMIS is vital to the fulfillment of the connection of accountability for financial management and performance envisaged under Platform 4, having a clear vision of its design will be important earlier, in order to inform the re-shaping of transaction processing systems in Platform 1 and the consideration of the early introduction of ‘core’ computerized facilities that will support Platform 2 and build the foundation for the full system in Platform 4.

While the introduction of a full FMIS in Platform 4 will represent a major upgrade in IT systems, the use of IT will gradually be increasing through all platforms, and thinking through a clear IT strategy now will help inform design, procurement and management decisions as the whole of the program unfolds.

Similarly, while the full value of establishing a register of assets might not be felt until Platform 4, carrying out the design now will help to inform earlier decisions about systems to which it must connect and draw from.

2.3.1. Action plan for Step 1

Since March 2004, a tremendous amount of work has been done to further flesh out the MEF action plan for Step 1 of the reform program. Draft action plans were fine-tuned and expanded over the March to June period with the support of the team of facilitators when necessary. In August, the MEF developed a Consolidated Action Plan (CAP) for Step1, consisting of a summary statement of the work required to complete Platform1 and launch the main activities of the following platforms. The CAP is

composed of three sections: 13 activities (with sub-activities) are required to complete Platform 1; 10 activities (with sub-activities) are needed to complete Step 1 (for instance, work for the following platforms that need to be started immediately); and four activities are necessary for capacity building and improving motivation. Each section includes a time frame (beginning and length), the department in charge, the technical assistance required and human resources needs. Subsequent work will be particularly needed to schedule the MEF human resources needs for the reform program.

The Ministry of Economy and Finance has suggested immediate actions, based on the CAP, designed to help show its involvement, identify the officials in charge of the activities and provide an opportunity to acquire experience in inter-ministerial work. By suggesting these priorities, the goal is not to distort the action plan but rather to suggest certain anticipatory activities that, if completed early, will generate subsequent impetus (these activities must also be perceived as supplementary to ongoing activities). The objective is to complete these activities by early 2005, even though further work will remain to be done.

A detailed estimated cost of Step 1 and a budget estimate of the whole program have been drawn up. Without including the cost of a merit-based pay initiative, the cost of Step 1 is estimated to be 4.2 million dollars and the total cost of the reform program at 19.1 million dollars (note that this cost does not include contributions from the Royal Government, financed through a different source or in kind in the program). The government will ask its partners for financial support immediately after the official signature of the program.

The MEF and its development partners have agreed on the following time frame for the program:

- a. Step 1: 15-20 months
- b. Steps 2-4: 6-7 years

Many activities inspired by the TCAP, IFAPAPER, multilateral and bilateral aid (ADB, IMF, WB, France, DFID and JICA) are ongoing, but the MEF is now launching a genuine implementation phase after the official inauguration of the public finance management reform program on December 5, 2004. Both the government and its partners understand that ongoing support of the program depends upon sustained progress within the agreed-upon performance framework. The challenge will be to build and maintain trust and keep the impetus going during execution of Step 1.

2.3.2. Performance management framework

The performance management framework for the reform program includes: (a) the draft framework for measuring program performance in respect of the vision and Platform 1; and (b) the CAPs; the CAP, which identifies some 200 individualized activities to be undertaken at department level during a fifteen-month period, provides the links between Platform 1 performance measurements and the responsibilities of the department that are to be entrusted to individuals or teams. The third component of the performance management framework is staff performance evaluation designed to link individual performance to the departmental action plans provided for in the CAP. Design of the principles for the human resources performance evaluation system was included the terms of reference of the third Incentives and Organizational Change Consultancy (IOCC) mission in August 2004.

The overall measure of Platform 1 achievement lies in reaching the platform objective—which means that the credibility of the budgetary process has been achieved and that the partners consider this process as a support, since it is a genuine tool for implementation of policy priorities. Fourteen measures concerning the platforms linked to four overall vision measures have been developed. Specific implementation related measures have been identified for the 14 measures concerning the platforms. Moreover, two classes of measurement have been identified:

Overall measurement of Platform 1 completion: Determine if the activities carried out are in keeping with the anticipated outcome for the building of a sound basis enabling the transition to the next platform.

Measurement of mid-term progress to ensure that the program activity has had the anticipated outcome.

The draft framework is to be viewed as a preliminary definition of appropriate management and a steering tool for the MEF to regularly review the public finance management reform program in relation to Vision 2015 and Platform 1. It is in keeping with the mission that the MEF is trying to achieve, a fundamental exercise aiming at spelling out ongoing performance in relation to the framework proposed. The mission also understands that the MEF, based on the information revealed by the fundamental exercise, must give further consideration to the measures proposed, as requested. The outcomes of the fundamental exercise are to be shared with a large target group including MEF officials, policy makers, staff members in the provinces, as well as officials and policy makers in decentralized facilities. This exercise is considered to be crucial for internalization of responsibilities and accountability as to performance and final progress with regard to expected outcomes in the program.

Clear definition of responsibilities for joint steering and review of the reform progress are required. The following mechanisms are proposed to that end:

Joint steering of the finance management program and review mechanisms are to be based on internal steering of the government and its review procedures, with the involvement of development partners.

Development partners will endeavor to use joint mechanisms for the review and steering of their contribution to the program.

Joint review and steering are to be designed so as to comply with the requirements of all development partners, including those who are not members of the fund.

The joint monitoring and evaluation mechanism is to specifically include an activity schedule allowing time for the development partners to arrange to attend meetings and share in review missions, and have the required flexibility to allow for a rolling approach to planning within the framework of a Sector-Wide Approach (SWAP).

The joint monitoring and evaluation mechanism is to be periodically reviewed and adjusted on consensual basis.

2.3.3. Institutional and organizational development

Capacity building and development of performance managing strategies are crucial to bring the public finance management reform program to a successful conclusion. The development of strategies to increase incentives, undertaking organizational improvements and developing sustainable capacities are closely linked, which means that careful coordination is required.

An Incentives and Organizational Change Consultancy (IOCC) mission was asked to formulate recommendations for the MEF on: short- and mid-term organizational improvements required for completion of Platform 1; short- and mid-term provisions to improve the (financial and non-financial) incentive structure where MEF are officials involved; and management of the change required to build a consensus around and implement the public finance management reform program.

It is important to evolve towards a merit-based pay system to promote mobilization and completion of the reform program. By identifying the major implications of the MEF pay reform for broadened governance, it is necessary to draw attention to the importance of this program element that must be sustainable, transparent, rooted in an internalized vision by the government of a pay reform, approved as governmental initiative.

All principles have been formulated so as to support a merit-based pay program in

support of the public finance management reform program. These principles seek to define the parameters for building accountability, transparency, sustainability, the goals and basis of the pay reform, but they do not define salary arrangements or scales (which will follow based on technical input).

In anticipation of the development and implementation of a merit-based pay initiative (MBPI), development partners are considering a shortened version of the activities required as a preliminary step towards resource mobilization. Even before the start of the first six months of the program (Stage 1), such activities would include:

- Official approval from the Prime Minister of the merit-based pay initiative.
- Agreement on the fact that payments are to be firstly made by the banking system and, from January 2006, through the salary payment.
- Setting up of a basic system for evaluation of officer performance, based on the framework principles.
- Systems ensuring transparency in terms of payments made and an operational biannual audit of resources for the merit-based pay reform.
- Agreement on the fact that overall implementation of the merit-based pay initiative is to be carried out within the framework of principles.

Since the outset of Stage 2, the government has been providing a 20-percent contribution to the merit-based pay initiative for 2005 (it should be entered in the budget). The government contribution is expected to increase in time so that the program becomes fully financed by it by the time the public finance management program concludes.

2.3.4. Development partner coordination and aid mobilization

There is a broad consensus among development partners and the Royal Government of Cambodia for a Sector-Wide Approach (SWAP) to be implemented in order to lead the public finance management reform program built on TCAP achievements, IFAPAPER analyses and recommendations, as well as other analysis reports, such as studies conducted by the Partners Working Group on aid, coordination and capacity building practices. The donor coordination agreement proposed under the PFM SWAP framework is based on Royal Government ownership and leadership. This is reflected in the “Partnership Principles” that outline the principles of undertaking for the development partners that will be promoted by both the Royal Government and its development partners.

Furthermore, a subgroup of development partners decided to pool a set of means aimed at improving the reality of technical assistance, partly by reducing the transaction cost for the Royal Government and at increasing the impact thereof. To this end, a Multi-Partner PFM Fund has been established at the World Bank in cooperation with AusAID, DFID and the European Union. Preliminary discussions reveal that the MEF prefers to have the Reform Committee Secretariat manage the Fund. The Fund is to have a Secretariat for which the following duties are proposed:

- Manage the Multi-Trust Fund, including close cooperation with the MEF Reform Committee Secretariat on operational and technical matters.
- Coordinate with the Fund donors (including facilitation of periodic meetings, preparation of ongoing activities and summary reports for the Trust Fund donors, quality assurance of technical assistance reports funded out of the Trust Fund, etc.).
- Liaise with development partners that are not members of the Fund in order to coordinate between member and non-member parties supporting the finance management reform (when the Fund becomes fully operational, it is likely that the Secretariat will take on greater responsibilities pertaining to the overall coordination of development partners).
- Provide assistance to the PFM development partners in coordination mechanisms, as required and agreed; and
- Provide advice, as requested by the MEF Reform Committee Secretariat.

3. Progress of the public finance management reform program

3.1. Impact of trends in performance

Significant advancement was made in the improvement of macroeconomic and resource estimates, and budget implementation was improved, thus strengthening resource collection and improving the expenditure process. However, the risk of persistent delay in improving the budget by making it more universal and integrated may drag out completion of Platform 1 and delay the targeted implementation of a credible budget with Platform 1.

3.2. Outcomes to be taken into account

Several operational outcomes, as well as achievements and challenges require attention and corrective action, such as the slow, ineffective, inefficient review of the departmental action plan in accordance with the new structure of the department. This

is resulting from some lack of clarity in the roles and functions of individual departments, in particular those that were recently created, merged or split in order to ensure a clear separation of responsibilities and enhance mechanisms for corrective action in the areas concerned. Coordination mechanisms among departments and ministries for overlapping results call for development and strengthening, in particular in areas in which budgetary universality and integration has been below expectations. The coordination mechanism between the Fund's bilateral donors and the government is not yet clear and this interferes with technical assistance allocation and annual budget preparation, especially in the areas of taxation and customs.

3.3. Key remedial measures suggested

A more proactive behavior is required of partners at all levels. Fund management and merit-based pay implementation must be started as a matter of urgency. There is an urgent need for donors to have a clear vision of technical assistance, as well as procedures for making technical assistance available, in particular as regards bilateral donors. Furthermore, implementation of coordination mechanisms targeting overlapping results is necessary. Strengthening of ownership and accountability on the part of all partners is required, in particular for deadlines for meetings.

APPENDIX I

Bibliography

BALIVET Beatrice, Coordinator, *Introduction au droit cambodgien* [Introduction to Cambodian Law], Presses Universitaires du Cambodge, 2005.

BLOCH Bernard-Michel, *Code des marchés publics annoté 2004* [Annotated Public Procurement Code 2004], Berger-Levrault 2004.

CHAMBAS Gérard, *Afrique au Sud du Sahara : Mobiliser des ressources fiscales pour le développement* [Sub-Saharan Africa: mobilizing tax revenue for development], Economica, 2005.

CHHORN Sopheap, OUCH Channora, SOU Socheat, YAN Vandeluxe, CORNUT Etienne, *Droit constitutionnel cambodgien* [Cambodian Constitutional Law], Presses Universitaires du Cambodge, 2005.

European Commission, *Manuel de Gestion du Cycle de Projet* [Project Cycle Management Handbook], 2001

IMF, *Cambodia: Selected Issues and Statistical Appendix*, IMF Country Report 06/265, 2006.

GUILLIEN Raymond and VINCENT Jean, *Lexique des termes juridiques* [Glossary of French Legal Terms], Dalloz, 1999.

HANG CHUON NARON Dr., *L'Economie du Cambodge, la lutte pour le développement* [Cambodia's Economy, the Struggle for Development], Phnom Penh, 2005.

MAGNET Jacques, *La Cour des Comptes, les institutions associées et les Chambres des Comptes* [The Audit Court, associated institutions and Chambers of Accounts], Berger-Levrault, 1996.

MUCCHIELLI Jean-Louis, *Principes d'économie internationale* [Principles of International Economics], ERE, SA/AUPELF, 1989.

NONJON Alain, *Comprendre l'économie mondiale* [Understanding the World Economy], EDICEF/Ellipses, 1995.

RAFFINOT Marc, *Dette extérieure et ajustement structurel* [External Debt and Structural Adjustment], EDICEF/AUPELF, 1991.

STIGLITZ Joseph E., *Un autre monde, contre le fanatisme du marché* [Another World, Against Market Fanaticism], Fayard, 2006.

APPENDIX II

BUDGET AND ACCOUNTING NOMENCLATURE

2007

CLASS 1 - INVESTMENT EXPENDITURE AND REVENUE - CAPITAL ACCOUNTS

10 CAPITAL AND RESERVES

101 Endowment

102 Fixed-assets received through provision

104 Legacies and grants to the State

106 Capitalized operating surplus

11 BALANCE CARRIED FORWARD

12 ANNUAL BALANCE

13 INVESTMENT GRANTS

131 Equipment grants – bilateral

131.1 Japan

131.2 France

131.3 Germany

131.8 Other countries

132 Equipment grants—international organizations

132.1 World Bank

132.2 Asian Development Bank

132.3 IFAD

123.4 OPEC

132.8 Other

133. Debt redemption grants

133.1 Bilateral

133.2 International organizations

16 BORROWING AND SIMILAR DEBTS

161 Domestic borrowing

161.1. NBC

161.2 Other banks—Cambodia

162 Foreign borrowing—International organizations

162.1 World Bank

162.2 Asian Development Bank

162.8 Other banks and international agencies

163 Foreign governments and related agencies

164 Guarantees and deposits received

164.1 Guarantees and deposits received at the National Treasury

164.11 In riels

164.12 In dollars

164.2 Guarantees and deposits received at the Provincial Treasury

165 Subscription of Treasury bonds

165.1 Non-negotiable Treasury bonds

165.2 Current account Treasury bonds

166 Securities

CLASS 2 – INVESTMENT EXPENDITURE AND REVENUE—INTANGIBLE AND TANGIBLE FIXED ASSETS

20 INTANGIBLE FIXED ASSETS

203 Survey, research and development costs

203.1 Survey costs

203.2 Research and development costs

205 Patents, licenses and similar rights

205.1 Patents

205.2 Licenses

205.3 Similar rights

21 TANGIBLE FIXED ASSETS

211 Land, resource reserves and other natural assets

211.1 Land

211.2 Resource reserves

211.8 Other natural assets

212 Improvements and development

212.1 Land

212.2 Resource reserves

212.8 Other natural assets

213 Constructions

213.1 Buildings

213.2 Building fixtures and fittings

214 Infrastructure

214.1 Road

214.2 Hydraulic

214.3 Railway

214.4 Airport

214.5 Telecommunications

214.6 Electricity

214.8 Other infrastructure

215 Plants, equipment and tools

215.1 Plants

215.2 Equipment

215.3 Tools

216 Works of art and collections

217 Fixed-assets received under provision

217.1 Land

217.2 Constructions

217.3 Plants, equipment and material

217.4 Other tangible fixed assets

218 Other tangible fixed assets

218.1 Transport equipment

218.2 Office equipment

218.3 Computer and telecommunications equipment

218.4 Furniture

218.8 Other

23 FIXED ASSETS IN PROGRESS

231 Tangible fixed-assets in progress

231.2 Improvements and developments

231.3 Constructions

231.4. Infrastructure

231.5 Plants

232 Intangible fixed assets in progress

238 Procurement advance payments

238.1 Tangible fixed assets

238.2 Intangible fixed assets

24 FIXED ASSETS ASSIGNED, TRANSFERRED, DEMISED OR HANDED OVER

26 INVESTMENTS AND CORRESPONDING ACCOUNTS RECEIVABLE

261 Equity securities

27 OTHER FINANCIAL FIXED ASSETS

271 Loans

274 Deposits and securities remitted

28 DEPRECIATION OF FIXED ASSETS

CLASS 6—OPERATING EXPENSES

60 PURCHASES

601 Maintenance supplies

6011 Cleaning and hygiene products

6012 Building maintenance supplies

6013 Road maintenance supplies

6014 Equipment maintenance supplies

6015 Petroleum, oil and lubricants

602 Administrative supplies

6021 Office supplies and forms

6022 Books and documentation

6028 Other

603 Food and agricultural products

6031 Foodstuffs for human consumption

6032 Foodstuffs for animal consumption

6033 Seeds and plants

6034 Phytosanitary products and fertilizers

6035 Veterinary products

6038 Other

604 Clothing and decorations

6041 Uniforms

6042 Safety clothing

6043 Medals

6048 Other

605 Small material, furniture and equipment

6051 Material and equipment

6052 Furniture

6053 Tools

6058 Other

606 Energy, water

6061 Electricity

6062 Water

6068 Other

607 Hygiene and health products

608 Other supplies

61 EXTERNAL SERVICES

611 Contracts for service delivery with companies

612 Rentals (means of transport)

613 Rents and charges (real estate)

614 Staff training expenses

615 Maintenance and repair

6151 Land

6152 Buildings

6153 Road networks

6154 Other networks

6155 Fisheries

6156 Transport equipment

6157 Office, computer and telecommunications equipment

6158 Technical equipment

616 Insurance premiums

617 Survey, fee and royalty costs

6171 Surveys

6172 Fees

6173 Royalties

618 Freight costs (equipment and goods)

62 OTHER EXTERNAL SERVICES

621 Field staff

6211 Cambodian contract employees

6212 Foreign contract employees

6213 Other staff of local or regional authorities

622 Public relations—Advertising

6221 Receptions for Cambodian dignitaries

6222 Receptions for international dignitaries

6223 Meetings and seminars

6224 Celebrations and ceremonies

6225 Purchases of objects for national or international events

6226 Organization of shows, fairs and exhibitions

6227 Advertising and information

623 Subscription, newspaper and magazine costs

624 Travel and mission expenses (Cambodia)

6241 Travel expenses

6242 Mission expenses

6243 Subsistence allowances

625 Travel and mission expenses (abroad)

6251 Travel expenses

6252 Mission expenses

6253 Subsistence allowances

626 Postage and telecommunications expenses

6261 Postage

6262 Telecommunications expenses

627 Bank charges

628 Miscellaneous

63 TAXES AND DUTIES

631 Fee stamps

64 STAFF COSTS

641 Wages and allowances for holders of public office

6411 Cabinet of the Royal Palace

6412 Members of the National Assembly and Senate

6413 Head and Deputy-Head of Government

6414 Ministers, Secretaries of State and Under-Secretaries of State

6415 Ambassadors

6416 Advisers

6417 Heads of missions

6418 Adviser assistants

6419 Reimbursements and remittances

642 Wages and allowances for permanent incumbent staff

6421 Principal wage

6422 Post allowance
6423 Overtime allowance
6424 Education bonus
6425 Specific allowances
6426 Zone allowance
6427 Responsibility allowance
6428 Heavy work and toxic substance allowance
6429 Reimbursements and remittances

643 Other bonuses, allowances and rewards

6431 Special bonuses
6432 Examination allowances
6433 Rewards
6434 Allowances for staff of other ministries
6435 Meal expenses for staff
6438 Other
6439 Reimbursements and refunds

644 Wages and allowances for non-incumbent staff and casual staff

6441 Principal wage—non-incumbent staff
6442 Allowances—non-incumbent staff
6443 Principal wages—casual staff
6444 Allowances—casual staff
6449 Reimbursements and remittances

645 Allowances—social benefits

6451 Family allowances

6452 Sickness benefits and maternity allowance

6453 Death grant

6454 Retirement benefits

6455 Severance allowance

6456 Occupational accident or disablement benefit

6457 Orphan's benefits

6458 Other

6459 Reimbursements and remittances

65 GRANTS AND SOCIAL ASSISTANCE

651 Grants to local or regional governments

6511 Provinces and towns

6512 Districts

6513 Communes

652 Grants to national public agencies

653 Grants to public institutions of an administrative nature

654 Project-allocated contributions

6541 Ongoing projects

6542 Capital projects

6542.9

655 Grants to companies

6551 Non-financial State-owned or public-private companies

6552 Financial State-owned or public-private enterprises

6553 Non-financial private companies

6554 Financial private companies

656 Contributions to international agencies

657 Social assistance—Allowances—Relief

6571 Inpatient assistance

6572 Medication

6573 Food and equipment

6574 Natural disaster relief

6575 Study and research scholarships in Cambodia

6576 Study and research scholarships abroad

6578 Training fellowships abroad and other

658 Grants to agencies of a social and cultural nature

6581 Communities

6582 Orphanage centers

6583 Holiday camps

6584 Charitable organizations

6585 Sports and cultural organizations

6586 Rehabilitation and training centers

6587 The King's social grants

66 FINANCIAL EXPENSES

661 Domestic debt burden

6611 NBC

6612 Private banks

6613 Treasury bonds

6614 Bonds

662 Foreign debt burden

6621 With international organizations

6622 With governments and related agencies

666 Exchange losses

668 Other financial expenses

67 EXTRAORDINARY CHARGES

671 Deferred charge accounts receivable or accounts receivable subject to gratuitous discharge

675 Book value of assigned assets

678 Other extraordinary expenses

68 ENDOWMENT FOR AMORTIZATION EXPENSES OF FIXED ASSETS

CLASS 7—OPERATING REVENUE

70 DOMESTIC TAX REVENUE

700 Taxes on income, profits and capital gains—natural persons

7001 Income tax—tax deduction at source

7002 Land occupation tax

7003 Immovable property transfer tax

701 Taxes on income, profits and capital gains—legal persons

7011 State-owned company profit tax

7012 Private company profit tax

7013 Land occupation tax

7014 Immovable property transfer tax

702 General goods and services taxes

7021 Turnover tax, domestic transactions, tax on State-owned companies

7022 Turnover tax, domestic transactions, tax on private companies

7023 VAT, domestic transactions: public enterprises

7024 VAT, domestic transactions: private enterprises

7025 VAT, import scheme: oil companies

7026 VAT, import scheme: oil companies

703 Taxes on specific goods

7031 Specific duty on certain goods, domestic transactions

7032 Specific duty on certain goods, import scheme, petroleum products

7033 Specific duty on certain goods, import scheme, non-petroleum products

704 Taxes on specific services

7041 Casino tax

7042 Lottery duty

7043 Sports betting tax

7044 Airport tax

7048 Other

705 Use tax on goods and business tax

7051 Timber export license

7052 Royalties paid by concession holders

708 Other tax revenue

7081 Revenue stamps

7082 Non-appurtenant fines and tax penalties

709 Reimbursements and refunds

7090 Reimbursements and refunds under revenue account 700

7091 Reimbursements and refunds under revenue account 701

7092 Reimbursements and refunds under revenue account 702

7093 Reimbursements and refunds under revenue account 703

7094 Reimbursements and refunds under revenue account 704

7095 Reimbursements and refunds under revenue account 705

7098 Reimbursements and refunds under revenue account 708

71 TAX REVENUE FROM FOREIGN TRADE

710 Import duties and taxes

7101 Customs duties and charges

7102 Duties on customs services

7103 Duties on petroleum products

7104 Additional duty on petroleum products for road maintenance

7105 Sale of seized assets

7106 Fines

711 Export duties and taxes

7111 Timber export customs duty

7112 Rubber export customs duty

7113 Export customs duty on other products

7114 Export quota charges

7115 Fines

72 PROPERTY INCOME

720 Land leasing income

7201 Fishing concession

7202 Forestry concession

7203 Oil concession

7204 Mining concession

7205 Vacant land leasing

721 Income of State-owned companies

7211 Working capital surplus

7212 Profits

7213 Returns from State-owned companies calculated on the basis of depreciation

amounts

73 INCOME FROM THE SALE OF GOODS AND SERVICES

730 State-owned companies, general government and market services

7301 Civil aviation revenues

7302 Film revenues

7303 Tourism revenues

7304 Culture revenues

7305 Revenue from Post and Telecommunications

7306 Radio and television revenues

7307 Water Authority revenues

7308 Other

731 General government and non-market services

7311 Sale of written off equipment and furniture

7312 Sale of documentation, stamps and other printed matter

7313 Proceeds from freight transport

7314 Income from intervention measures for stock price guarantee

7315 Health care delivery

7316 Sale of wrecks, stray animals and abandoned goods

732 Administrative fees

7321 Chancellery fees

7322 Political party registration fees

7323 Business start-up fees

7324 Sign fees

- 7325 Vehicle licence plate fees
- 7326 Litigation fees
- 7327 Land registry fees
- 7328 Fees on quality control and observance of standards

733 Capital asset leasing

- 7331 Central State-owned company leasing
- 7332 Provincial State-owned company leasing
- 7333 Rental of equipment and means of transport
- 7334 Rental of immovable property
- 7335 Royalties remitted by farmers

74 INCOME FROM FINES AND PENALTIES

75 GRANTS-DONATIONS

- 751 Grants remitted by governments
- 752 Grants remitted by international organizations
- 753 Donations and legacies (individuals, associations)

76 FINANCIAL PROCEEDS

- 761 Loan interest
- 762 Exchange gains
- 763 Other financial proceeds

77 MISCELLANEOUS AND EXCEPTIONAL PROCEEDS

- 771 Miscellaneous revenue from management operations

- 7711 Repayment of the surplus from provinces
- 7712 Treasury commissions repaid to the budget
- 772 Proceeds from privatization of State-owned companies
- 773 Cancelled or prescribed payment orders
- 775 Proceeds from fixed-asset assignments
- 776 Proceeds from royalties paid by farmers and concession holders
- 777 Quota of investment grants transferred to profit and loss account
- 778 Other exceptional proceeds

78 FORCE ACCOUNT OPERATIONS

APPENDIX III

UNITED NATIONS CLASSIFICATION OF THE FUNCTIONS OF GOVERNMENT

01 - General public services

- 01.1 - Executive and legislative organs, financial and fiscal affairs, external affairs
- 01.2 - Foreign economic aid
- 01.3 - General services
- 01.4 - Basic research
- 01.5 - R&D General public services
- 01.6 - General public services n.e.c.
- 01.7 - Public debt transactions
- 01.8 - Transfers of a general character between different levels of government

02 - Defense

- 02.1 - Military defense
- 02.2 - Civil defense
- 02.3 - Foreign military aid
- 02.4 - R&D Defense
- 02.5 - Defense n.e.c.

03 - Public order and safety

- 03.1 - Police services
- 03.2 - Fire-protection services
- 03.3 - Law courts
- 03.4 - Prisons

03.5 - R&D Public order and safety

03.6 - Public order and safety n.e.c.

04 - Economic affairs

04.1 - General economic, commercial and labor affairs

04.2 - Agriculture, forestry, fishing and hunting

04.3 - Fuel and energy

04.4 - Mining, manufacturing and construction

04.5 - Transport

04.6 - Communication

04.7 - Other industries

04.8 - R&D Economic affairs

04.9 - Economic affairs n.e.c.

05 - Environmental protection

05.1 - Waste management

05.2 - Waste water management

05.3 - Pollution abatement

05.4 - Protection of biodiversity and landscape

05.5 - R&D Environmental protection

05.6 - Environmental protection n.e.c.

06 - Housing and community amenities

06.1 - Housing development

06.2 - Community development

06.3 - Water supply

06.4 - Street lighting

06.5 - R&D Housing and community amenities

06.6 - Housing and community amenities n.e.c.

07 - Health

07.1 - Medical products, appliances and equipment

07.2 - Outpatient services

07.3 - Hospital services

07.4 - Public health services

07.5 - R&D Health

07.6 - Health n.e.c.

08 - Recreation, culture and religion

08.1 - Recreational and sporting services

08.2 - Cultural services

08.3 - Broadcasting and publishing services

08.4 - Religious and other community services

08.5 - R&D Recreation, culture and religion

08.6 - Recreation, culture and religion n.e.c.

09 - Education

09.1 - Pre-primary and primary education

09.2 - Secondary education

09.3 - Post-secondary non-tertiary education

09.4 - Tertiary education

09.5 - Education not definable by level

09.6 - Subsidiary services to education

09.7 - R&D Education

09.8 - Education n.e.c.

10 - Social protection

10.1 - Sickness and disability

10.2 - Old age

10.3 - Survivors

10.4 - Family and children

10.5 - Unemployment

10.6 - Housing

10.7 - Social exclusion n.e.c.

10.8 - R&D Social protection

10.9 - Social protection n.e.c.

APPENDIX IV

KINGDOM OF CAMBODIA

NATION RELIGION KING

LAW ON

PUBLIC FINANCE SYSTEM

CHAPTER 1

General Provisions

Article 1

The Law on Public Finance System aims at setting fundamental principles to manage overall financial system and to develop the Law on Finance, especially each step of budget preparation, adoption, and implementation, to review budget performance, identifications of roles and responsibilities, and consequences of wrongdoings in public financial management of ministries, institutions, similar public entities, public establishments, and sub-national administrations.

Article 2

The Law has its objective to manage public financial system by complying with the principles of integrity, authority, unity, associability, universality, consistency, accountability, transparency, stability, comprehensiveness, and achievements. The public financial management covers national public finance including relations and interactions between national and international public finance, national and international private finance ensuring compliance with budget principles, financial accountability, linkages between budget and policies, and accountability for achievements.

Article 3

This Law has its scope as a fundamental law served as basis and required compliance by national and sub-national public financial management in the Kingdom of Cambodia.

Article 4

In using in this Law, the following terms mean:

Financial Law refers to the Law that plans annual state revenues and expenditures, regulations pertaining to financial system and payments used to perform roles, and to undertake programs and responsibilities of ministries/institutions at the national and sub-national levels in compliance with the provisions of the Constitution and the Law on Public Financial System, and regulations on financial system determined by it.

Annual Financial Law plans and allows for each year state's resources and expenditures.

Amended Law refers to the Amended the Annual Financial Law.

Law on Budget Execution refers to the Law that reviews and assesses the performance of the implementation of the Annual Financial Law.

Ministries, institutions or similar public entities refer to ministries, institutions or entities that obtain full or partial financing from the national budget and/or that manage state assets and liabilities and/or accounting established by laws and manage, arrange any activities that would lead to the obligations or liabilities of the state.

Medium Term refers to a period not less than 3 years, but not exceeding 5 years.

Policy Agenda refers to the strategy to achieve the vision of the Royal Government reflected in the State's plan, including national policies, sector, and sub-sector policies.

Program refers to group of independent sub-programs and/or group of independent sets of activities with close linkages and developed to contribute to achieve a common policy objective, and that states activities to be implemented, annual performance, final results, and indicators, which are bases for review and assessment of the achieved results from programs implementation. Program can be divided into sub-programs.

Budget Comprehensiveness refers to the comprehensiveness of budget that reflects all sources of revenue and all expenditure items.

Transparency refers to all laws, regulations, principles, procedures, and their implementations broadly disseminated to ministries, institutions or public entities and the public.

Accountability refers to the responsibilities of ministries, institutions or similar public entities, sub-national administration, and individuals over roles and responsibilities assigned to undertake these through a reporting system.

Consistency refers to all ministries, institutions or similar public entities, and all sub-national administrations of the Kingdom of Cambodia that must use the same inter-linked principle.

Budget Universality refers to all types of revenues that can be used for expenditure items free of conditions.

Budget Associability refers to all types of revenues and all expenditure items that need to be paid and settled through a Treasury Single Account.

Integrity refers to the single system of public finance that is complete and comprehensive without controversial policy in both legal and institutional frameworks that cannot be abused.

National Administration refers to ministries, institutions, similar public entities and subordinated provincial technical departments.

Sub-national Administration refers to cities, provinces, municipalities, districts, khans, communes, Sangkats under the jurisdiction of each council.

Budget refers to the set of accounts described on annual basis all permanent assets of and liabilities to the state or to any institution or entity.

National or State Budget refers to the planned balance of all permanent assets of and liabilities to the state. National or state budget includes budgets at the national and sub-national levels. National budget is the budget of the national administration. Sub-national budgets are those of the sub-national administrations.

Financial Fixed Assets refer to investments on securities or securities obtained from capital participation with enterprises or companies. Financial Fixed Assets are financial assets that are fixed and non-current. Financial assets being financial fixed assets include all kinds of securities, certificates of deposit, insurance policies, commercial papers, payments by order, bill of exchange, and checks, etc.

Financial proceeds refer to all financial gains obtained by investing temporary cash surplus in tradable securities for a short period of time. Financial gains include interest rates on debts, profit obtained from overnight investment of foreign treasury bonds, benefits obtained from provision guarantees, and other fees obtained from financial transactions.

Article 5

Budget shall have eleven key principles that need to be absolutely implemented:

- Authoritativeness
- Twelve - month financial year
- Comprehensiveness
- Unity
- Universality
- Specialty
- Balance
- Accountability

- Transparency
- Stability
- Achievability

Article 6

National administration, public establishment, sub-national administrations, individual public officials and operators in the whole public financial system shall firmly maintain the principles of integrity, associability, consistency, accountability, transparency, and comprehensiveness as well as scope in overall public financial management and the 11 key principles of the budget.

Article 7

In order to assure effective implementation of this Law and any other relevant rules and regulations, sub-decrees, decisions, instructions, and instructive circulars shall be issued by the Royal Government together with Prakas and other instructing circulars issued by the Minister of Economy and Finance.

Article 8

Any law that has the characteristics of a financial law shall include:

- Law on Annual Finance
- Amended Law
- The Law on Budget Settlement

Article 9

Annual Financial Law plans and allows for each year assets and liabilities to be spent by the state to serve the policy agenda of the Royal Government for socio- economic developments by taking into account of maintaining macro-economic stability, financial and monetary equilibriums, especially through the assurance of budget balance.

Article 10

Besides what is stipulated in the Law, the financial regime and the management of state properties of the sub-national administration are subject to separate law(s).

Article 11

The budget fiscal year starts from 01 January and ends on 31 December.

CHAPTER 2

Structure of the Budget and the Authority

Section 1

Structure of the Budget

Article 12

Budget shall be prepared in line with administrative classifications based on administrative management structure, economic classifications by types of expenditure, functional classifications by objective and program classifications.

Article 13

Permanent resources of the state include current and capital revenues.

Current revenue is divided into 2 groups and 3 categories, namely:

Group 1: Real revenue

Category 1: Fiscal revenue

Category 2: Non-fiscal revenue

Group 2: Revenue by order

Category 3: Revenue by order

Capital revenue is divided into 2 groups and 3 categories, namely:

Group 1: Real revenue

Category 1: Revenue from own sources

Category 2: Revenue from external sources

Group 2: Revenue by order

Category 3: Revenue by order

Each type of revenue is classified by chapter, account, sub-account, and eventually can be in more detail by the Prakas issued by the Minister of economy and Finance.

Article 14

Budget account includes national budget, annexed budget, budget of public administration establishment, and special accounts of the National Treasury. Other budget accounts can be created under Financial Law.

Annexed budget shall be implemented by public entities with industrial and commercial characteristics which are non-legal person. Annexed budget shall be created or abrogated by Financial Law. The operations of annexed budget shall be conducted within the conditions and rules similar to those of the national budget.

Public administration establishments shall have autonomous budgets. The recurrent resources of the public administration establishments include direct revenue and eventual balance subsidies financed by state budget. On the other hand, recurrent expenditure of the public administration establishments shall also comply with the rules of classification and management similar to that of the current expenditure under the state budget.

The organization and the functioning of annexed budget and the budget of the public administration establishments shall be determined by sub-decree of the Royal Government.

Article 15

Fiscal revenue includes the revenues obtained from domestic and international trade taxes and excises, and other fiscal revenues.

Non-fiscal revenue includes the revenues obtained from management, business operations and sales of state properties, proceeds from concessions, fees generated from public services, proceeds from penalties and fines, subsidies, financial donations, other proceeds and special proceeds, and other non-tax revenues.

Capital revenue includes revenues obtained from financial fixed assets, grant for investments, borrowings, and other capital revenues.

Article 16

Taxes, excises, and other fiscal revenues shall be determined by laws, collected and supervised by the Minister of Economy and Finance. The rates of taxes, excises, basis for taxation, tax exemption, and disputes related to the identification, collection, and control of taxes shall be determined in the framework and formalities stated in the law pertaining to the types of each tax and excise.

No regulations of any kind, no international conventions shall induce changes leading to losses of revenue. The above case can only happen unless implementation of the formalities of similar laws and orders after having the approval from the Minister of Economy and Finance.

The collection of non-fiscal revenue shall be under the supervision of the Minister of Economy and Finance.

Article 17

State properties consisting of state private and state public properties shall be properly managed and controlled according to provisions in existing laws and orders. The Ministry of Economy and Finance is the executive agency of the Royal Government supervising state properties in terms of selling, leasing, transferring, and other arrangements with regard to state properties, granting of various state concessions, and undertaking

inventories. All contracts on the management of state properties and the granting of state concessions related to public finance shall be under review and approval of the Minister of Economy and Finance. Under the provisions of Article 19 of this Law, all revenues resulting from the operations and management of state properties shall be paid into the Treasury Single Account of the state budget at the National Treasury and this revenue cannot be withdrawn for offsetting directly with any expenses.

Article 18

State service fee is a charge on public services delivered by state public entities to private and third organizations. State service fees shall be under a price list determined by the Royal Government according to the request by Minister of Economy and Finance and suggestions by line ministries and institutions.

As for state service fees that are minimal such as fees generated from administrative authorization, formalities, tickets visiting resorts and museums, and receipts of fines shall be determined by a joint Prakas issued by Minister of Economy and Finance and the ministers of relevant line ministries or heads of relevant institutions.

Article 19

Revenues shall be fully recorded and shall not be used to directly offset expenses. Any increase by a revenue manager to an approved level of credit supplemented by basing on any special revenue sources shall be strictly prohibited.

Article 20

The entire revenue shall be allocated to all expenditure items. However, some revenues can be allocated only for actual expenditure items under forms and conditions specified by law.

Article 21

Permanent obligations of the state consist of recurrent and capital expenditures. These obligations are divided into groups and categories.

Article 22

The current expenditure is divided into 2 groups and 6 categories:

Group 1: Real Expenditure

Category 1: Services

Category 2: Financial obligations

Category 3: Public interventions

Category 4: Other expenses

Group 2: Expenditure by order and unexpected expenses

Category 5: Expenditure by order

Category 6: unexpected expenditure

Each category of expenditure shall be classified by chapter, account, sub-account, and eventually can be classified in more detail by Prakas issued by Minister of Economy and Finance.

Article 23

Capital expenditure of budget is used for implementing programs, executing investment projects, contributing as counterpart contribution, and debt payments.

Capital expenditure is divided into 2 groups and 3 categories, namely:

Group 1: Real Expenditure

Category 1: Settlement of loans and similar debts

Category 2: Immobilization

Group 2: Expenditure by order

Category 3: Expenditure by orders

Each category of the expenditure shall be classified by chapter, account, sub-account, and eventually can be classified in more detail by Prakas issued by Minister of Economy and Finance.

Externally financed investment credits are estimated credits which shall not be the subject of legalization to any other expense categories.

Article 24

Annual Financial Law allocates credits to ministries, institutions, and similar public entities and reflects also annexed budget and the budgets of public administration establishments by categories of current and capital expenditure. These ministries, institutions, or similar public entities shall mobilize all credits to undertake their respective tasks at the national level of administration.

Annual Finance Law shall allocate credits as package to administration of sub-national level.

Article 25

Budget credit approved by the Annual Financial Law is allocated in detail internally within each category in line with its characteristics and objectives. These credits can be subject for preparing program budgets and mobilizing by sector as well. Program budgets shall be determined by a Prakas issued by Minister of Economy and Finance.

Current expenditure of category 2 “financial obligations” and category 6 “unexpected expenditure” shall not be allocated to ministries, institutions, or similar public entities. These credits are kept for payments of interests on loans and other obligations including as reserves for unexpected expenditures. Reserved credit shall be allowed to cover any expense whose allocation cannot be accurately specified when credit is approved. The allocation of these reserved credits by ministries, institutions and similar public entities shall be made by sub-decree pursuing to the request made by the Minister of economy and Finance.

Category 1 of capital expenditure is to cover loans domestically and externally borrowed and to cover similar debts. The Minister of Economy and Finance is the spending manager responsible for paying interests on borrowings and other expenses, debt repayments, and refunds including payments for domestic and external borrowings as well as payments of similar debts.

Article 26

There are two categories of budget credit -- ceiling and estimated credits. Ceiling credit is granted as commitment with a highest level of authorization where this type of spending is pre-determined. Spending under this credit type can only be increased by an amendment to the Annual Financial Law. Estimated credit, not sufficiently planned, is allowed for necessary expenses, after the approval of the budget. This category of spending can be used in excess of the planned budget in relevant budget chapter. Estimated credit occurs on public debts, salaries, staff allowances, membership fees for international or inter-governmental organizations as well as for other expenses that shall be specified in Annual Financial Law.

Article 27

Current expenditure credit is divided into credit for approved work activities and the credit for new measures.

Credit for approved work activities includes the one specified in the previous year's current expenditure *minus* endowment and credit for work activities that will not recur in the budget planning year *plus* credit adjustment for actual situations.

Credit for approved work activities shall be within the necessary minimum level needed for operating work activities in previous year's conditions.

Adjustments for actual situation shall take into account impact occurred last year and the evolution of other potential public obligations as a result of the measures taken last year.

New measures are those related to any decisions causing additional financial impact on budget.

Article 28

Capital expenditure credit is the investment credit divided into committed (pledged) credit and mandated (disbursed) credit. Investment credits are set by programs or projects initiated by the state during the year with a calculation of the need for total spending. Investment credit plans committed (pledged) fund for the entire project operation without additional investment required for its completion. Nevertheless, investment credit allows the Royal Government to only commit within the committed credit approved in the Annual Financial Law.

Committed credit shall be placed under spending manager for necessary spending in the implementation of investment determined by the Annual Financial Law. Mandated credit shall be used for issuing payment orders which are obligations of the state within the limit of the committed credit.

Article 29

Committed credit can be indefinitely valid. This credit can be carried forward from one year to another until its eventual disappearance. Mandated credit that has not been used by (year-end) financial management closing shall be forfeited and a new credit can be allowed for next year.

Article 30

No regulatory measures, orders, or administrative instructions can be approved, accepted or decided if the need for the would-be payments of new obligations has not been assessed, forecasted, and authorized prior to planning and determining budget. Creating or changing jobs as well as recruiting by exams can only occur from the job list determined by the Government or entity and planned in budget. Promotion, granting of new bonuses or increase of remunerations cannot be made if those measures have not been supplemented by sufficient credit in advance in the state budget.

Article 31

Special account of the National Treasury is an account opened in the National Treasury's record in order to:

- Record separate revenue booking for specific financing to public service transactions, known as specially arranged account.
- Show temporary spending of the state, known as advance account.
- Record all transactions with industrial or commercial characteristics which are secondary undertaken by the state, known as commercial account.

The special account of the National Treasury shall be created or eliminated by the Law on Finance under the conditions set forth in the provisions of this Law.

Article 32

All revenue and expenditure of the special account of the National Treasury shall be planned and authorized in the same manner similar to the general transactions of the state budget.

Article 33

Spending transactions that can be recorded in the special account of the National Treasury shall be processed similar to the state budget under the separate conditions as follows:

- Total committed spending or mandated spending issued to the special account of the National Treasury shall not exceed the total resource of the account itself.
- During a managerial period, if the revenue of the National Treasury's special account is larger than the estimated planned spending, then the credit of this account can be increased by Prakas issued by the Minister of Economy and Finance within the exceeding amount of the revenue.

- Credit balance of the National Treasury's special account can be carried forward from one year to another unless otherwise specified in the Law on Finance.

Any spending such as salaries or allowances that does not belong to special account of the National Treasury i.e. contrary to the account's objectives is not allowed to be recorded in this account.

Section 2

Authority and Responsibilities

Article 34

The Minister of Economy and Finance shall have the responsibilities to manage revenue, expenditure, borrowing, lending, and guarantees of the state as authorized by laws.

Article 35

The Minister of Economy and Finance is the executer of the Royal Government in the preparation, implementation, monitoring, and management of the medium and long-term macro-economic framework and public financial policies of the Kingdom of Cambodia.

Article 36

The Minister of Economy and Finance shall report to the National Assembly and the Senate the macro-economic and public financial policies of the Royal Government and the current economic and public financial situation and medium term forecasts.

Article 37

The Minister of Economy and Finance shall take the lead in maintaining public finance discipline, drafting the Law on Finance, prepare medium term expenditure framework, complying with the Law on Finance, and ensure constant oversight over budget management.

The Minister of Economy and Finance shall take the responsibility to provide reports on macro-economic and public financial situations to the National Assembly and the Senate twice a year, i.e. when discussing the approval of the Draft Law on Annual Finance and in middle of the year.

Article 38

National and sub-national administration shall have the responsibilities to develop budget strategic plan, budget management, and review of its budget implementation, especially shall ensure accountability for determination and the performance of policy implementation in its own sector in line with the policy of the Royal Government.

CHAPTER III

Budget Preparation

Section 1

Budgeting Framework

Article 39

The Minister of Economy and Finance shall draft the Annual Financial Law based on the following calendar:

The Preparation of Budget Strategic Planning (March to May)

During the first week of March, the Minister of Economy and Finance shall prepare medium term macro-economic framework and public financial policy consistent with national policy for developments and submit them to the Royal Government for review and approval.

During the first week of April, the Minister of Economy and Finance shall issue instructive circular on the preparation of Budget Strategic Plan based on medium term macro-economic framework and public financial policy determined by the Royal Government.

Ministers of all ministries, Heads of all institutions, Heads of similar public entities, and governors of sub-national administration shall prepare Budget Strategic Plan for ministries, institutions, similar public entities, and sub-national administration based on the instructive circular on the preparation of Budget Strategic Plan, visions, purposes, targets of program and priority action plans of ministries, institutions, similar public entities, and sub-national administration serving priority policy by sector and national policy for developments. These Budget Strategic Plans shall be sent to the Minister of Economy and Finance not later than the 15th of May.

Preparation of Budget Package (June to September)

During the first week of June, the Minister of Economy and Finance shall prepare draft instructive circular on budget preparation techniques by specifying the formality and procedures of budgeting attached with explanatory note and relevant documents to be submitted to the Royal Government for review and approval and then send to ministries, institutions, similar public entities, and sub-national administrations to prepare their detailed budget revenues and expenditures.

Ministers of all ministries, Heads of institutions, Heads of similar public entities shall prepare their detailed revenue and expenditure budget for national and sub-national administrations based on the instructive circular on the budget preparation techniques and their policy priorities. These budget plans shall be sent to the Minister of Economy and Finance on the 15th of July at the latest.

The Ministry of Economy and Finance shall combine and sum up the revenue and expenditure plans submitted by the ministries, institutions, similar public entities, provinces and cities.

During the whole month of August, the Ministry of Economy and Finance invites ministers of all ministries, institutions, and heads of similar public entities together with the governors of all provinces and cities to discuss and defend their budget proposals in order to reconcile all revenue and expenditure plans in according with provisions stipulated in the instructive circular reducing unnecessary spending and to appropriately increase revenue.

During the whole month of September, the Ministry of Economy and Finance sums up all revenues and expenditures to balance the budget again and then prepare a draft financial law as well as an explanatory note of the law.

Budget Approval (October to December)

During the first week of October, the Ministry of Economy and Finance sends this draft law to the Council of Ministers for review and approval, and then submit it to the National Assembly in the first week of November for review and approval. The draft then is submitted to the Senate in the first week of December, so that this draft law is finally approved prior to 25th December.

Section 2

Budget Preparation Process

Article 40

The budget preparation shall comply with the provisions stipulated in Articles 1, 2 and 6 of this Law.

Article 41

Planning of current revenue shall be based on the sources of fiscal and non-fiscal revenues.

The Minister of Economy and Finance shall directly plan fiscal and non-fiscal revenues which are subject to collection under his authority and also plans fiscal and non-fiscal revenue from public enterprises.

Ministers of all ministries, heads of institutions and similar public entities, and provincial/municipal governors involve in revenue management under their jurisdiction shall submit to MEF lists of all revenues and estimated revenues in order to completely and properly record in planned budget revenue. These revenues are integral part of the state's total budget.

Article 42

The Minister of MEF shall plan capital budget based on the resources generated from:

- Revenue from financial fixed assets;
- Debt repayments and repayment of advances, by public enterprises, that shall be appropriately recorded in the amortization tables;
- All sources of revenue from domestic borrowings approved by the Royal Government that the Minister of Economy and Finance shall evaluate and analyze economic situation, and characteristics of the borrowing in collaboration with the Governor of the National Bank of Cambodia.
- External financing in forms of grant for investment or borrowing that shall be recorded in the planned revenue in compliance with the conditions stated in the agreements. Resources for budget support and for projects shall be evaluated based on the flows of funds and progresses of project implementation. Counterpart fund in forms of goods shall be planned as state budget revenue with expected amounts according to their scheduled imports.
- Other capital revenues.

Article 43

Planned recurrent and capital expenditures shall be made by national and sub-national administrations to manage all services and activities.

Article 44

Planning of budget requirements shall be thoroughly and clearly based on legal principles and policy objectives, programs, activities, and expected results. The Minister of Economy and Finance shall establish norms and measurements for all different types of work related activities as well as for properties and services in collaboration with ministries, institutions, similar public entities, and sub-national administrations.

Article 45

Capital expenditure shall be based on separate programs or projects that have prior approvals and shall be prepared for achieving the objectives defined in the policy agenda of the Royal Government. Those programs or projects are the foundations for evaluating the total capital expenditure of programs and projects, and for determining the terms of commitments and the payments for each phase in the year.

Article 46

To comply with the calendar of Article 39 of this Law in drafting Annual Financial Law, Minister of Economy and Finance has the right to plan, based on the result of the current year implementation, revenues and expenditures of national and sub-national administrations that have not planned their revenues and expenditures within the period allowed.

Article 47

The Annual Financial Law submitted to the National Assemble and the Senate shall be enclosed with:

- Report analyzing trends and overall evolution of the current economic and financial situations, and an analysis of the characteristics of the new (proposed) budget as well as explanation on maintaining macro-economic stability, financial and monetary equilibriums, especially balanced budget.
- Reports related to trends of current expenditures by analyzing and showing the credit situation in relation to last year's approval against demand, and new measures necessary for new management.
- Set of programs and projects of capital expenditure that reflects investment credits, committed credits, and mandated credits for in-year programs and projects, planning for reserved credits with similar categories necessary for continuing these programs and projects, and analysis of new programs and projects together with credit needs for these new programs and projects defined according to a planned utilization calendar.
- Other relevant and necessary documents for information and oversight by the National Assembly and the Senate.

Article 48

The draft of Annual Financial Law consists of two parts:

In part I, the draft law allows all public resources be collected and determined in a total amount. The draft law shall define directions and means for implementation of capital expenditure. The draft law specified credit ceiling that is beneficial to state budget and special account of the National Treasury. Draft law includes all provisions related to fiscal, non-fiscal, capital revenues, and all other financial regulations.

Part II includes tables broken down by group, categories, chapter, account, and sub-account relating the revenue of the state budget. This draft law consists of the planned current expenditure of the state budget allocated to ministries, institutions, and similar public entities by types of expenditures that need to be approved. The draft law consists of planned capital expenditure allocated to ministries, institutions, and similar public entities by chapter broken down by committed and mandated credits. The draft law shall specify records of special accounts of the National Treasury with administrative nature and specify each special account with an amount of revenue and expenditure.

Article 49

The Annual Finance Law shall be adopted by the National Assembly and reviewed by the Senate and declared effective by Royal Decree and published to be implemented as a Law of the Kingdom of Cambodia.

Article 50

If the draft Annual Finance Law is not adopted prior to January, 1st of the financial year, previous year's budget will officially continue under the following conditions:

- Fiscal, non-fiscal, and all kinds of other revenues shall be permitted and continued to be collected with the conditions and formalities stipulated in the previous Law on Finance and within the existing legal framework and orders.

- Current expenditure, apart from public debt obligations, shall be implemented based on previous year's budget using temporary method of 1/12 for each month until the approval of the new budget.
- Capital budget expenditure, besides public debts amortization, shall continue to be implemented following the previous year's framework where credit is available within or exceeding the mandate but not over committed credit approved in last year's budget.
- All spending in forms of obligations with regard to Cambodia's membership within international institutions and inter-governments, and the obligations relating to public debts including amortizing principle, payments of interests, service fees and/or eventual fines shall have their continuations ensured following effective agreements.

Section 3

Authority and Responsibilities

Article 51

The Law on Finance shall be adopted under conditions similar to other laws, with special exceptions as follows:

- Planned revenue shall be approved as package for both current and capital revenues
- Planned expenditure shall be approved in total for both current and capital expenditures based on the documents of ministries, institutions, or similar public entities.
- Special accounts of the National Treasury shall be approved as a total package based on the record of all available accounts.
- All provisions of the Law on Finance are subject to final approval.

Article 52

No any amendment on the draft Law on Finance is permitted if such amendment has impact on the balance of a proposed budget. This type of amendment can only be made in the following conditions:

- Newly proposed expenditure shall be compensated by elimination or reduction of any other spending in order to maintain balanced budget;
- Newly proposed expenditure shall be made with accompanied proposed savings on any types of an already proposed spending in order to maintain balanced budget;
- Newly proposed expenditure shall be made with accompanied proposal to create new item of revenue or increase revenue to maintain balanced budget.

Any amendment in contrary to the provisions of this above Article shall be rejected and considered as null and void.

Article 53

Breaking down of credit into chapters shall be made by sub-decree. This sub-decree shall not lead to any alterations of credit that is determined by law.

Article 54

The division of credit detailed in chapters, accounts, and sub-accounts shall be made by Prakas issued by Minister of Economy and Finance.

CHAPTER 4

Budget Implementation

Section 1

Budget Implementation Framework

Article 55

A transfer of credit from one ministry, institution, or similar public entity to another shall be determined by the Law on Finance. However, any necessary transfer of credit from one ministry, institution, or similar public entity to another in order to strengthen the structure or the administration of the Royal Government can be made by sub-decree in case that such transfer would not change items of expenditure and allocation of credit by each chapter.

Article 56

Any transfer of credit from one chapter to another within the budget of a ministry, institution, or similar public entity shall be made by sub-decree given that this will not change capital expenditure credit for investment to current expenditure credit for operations.

Article 57

Transfer of credit from one account or sub-account to another within the same chapter shall be made by Prakas issued by the Minister of Economy and Finance.

Article 58

A sub-decree issued following a request by MEF can allocate budget credit recorded under unexpected expenditures in forms of additional credit beneficial to various chapters of ministries, institutions, or similar public entities.

Article 59

Credit that is no longer used in implementing budget year can be eliminated by Prakas of the Minister of Economy and Finance after having received information from national or sub-national level of administration.

Article 60

When there is any revenue and expenditure evolution contributing to budget imbalances, the Minister of Economy and Finance may issue a Prakas to partially or entirely freeze certain types of credit approved in the Law on Finance. In case of severe imbalances, the Royal Government can establish regulations via a sub-decree pursuing to a request of

the Minister of Economy and Finance to eliminate partly or entirely certain types of credit adopted in the Law on Annual Finance.

Article 61

In case of natural disasters or any emergent necessity beneficial to the nation, based on a report of the Minister of Economy and Finance, the Royal Government may issue a sub-decree to increase credit for utilization. This credit shall be adopted by the amended law on the Law of Annual Finance and the Government shall seek immediate approval from the National Assembly and the Senate when these special circumstances end.

Contradicting to the above paragraph of this Law, if the amended law of the Law on Finance cannot be done in the fourth quarter of a fiscal year of the Law on Annual Finance for each year's management, these credits are subject to regularization in the Law on Finance in the following year.

Article 62

Any other changes to the Law on Annual Finance can be made during the period of budget year via the amended law of the Law on Annual Finance which shall be submitted to the National Assembly and the Senate for approval similar to the adoption of the Annual Financial laws.

Section 2

Budget Implementation Process

Article 63

The execution of the state's financial operations and the special accounts of the National Treasury are the tasks of managers and public accountants. Roles of managers and public accountants are incompatible with one another.

Ministers, heads of institutions, and heads of similar public entities are principal managers of their budget both at the national and sub-national levels of administration along the vertical line of subordination. The principal managers are the ones who order budget revenue and budget expenditure under their respective parts.

Ministers, heads of institutions, and heads of similar public entities who are principal managers of their budget may delegate their rights to administrative governors at the sub-national level to serve as delegated managers for financial operations of budget under their jurisdiction of authority. Ministers, heads of institutions, and heads of similar public entities who are principal managers of their budget can delegate their rights to subordinates being the heads of entities, heads of provincial and municipal technical departments to serve as delegated managers for financial operations of budget with prior approval from the Minister of Economy and Finance.

In case the principal or delegated managers are absent or busy, they can designate government officials for the delegation of rights or to replace them based on the regulations of public accounting. The delegation of rights or signing shall be made by Prakas following prior approval of the Minister of Economy and Finance.

Article 64

Spending of state budget and on special accounts of the National Treasury is subject to visa approval from financial controller of MEF assigned by the Minister of Economy and Finance. The objectives of and actual reasons for any inspection together with operations techniques shall be determined by sub-decree pursuing to the request made by the Minister of Economy and Finance.

Article 65

Spending state budget including national and sub-national budgets and the budget of public administration establishments and the special accounts of the National Treasury for purchasing, repairing, constructing, and renting services shall be made in compliance with methods and procedures of public procurement defined by the Law and Regulations on Public Procurement.

Section 3

Authority and Responsibilities

Article 66

Ministers, heads of institutions, and heads of similar public entities including governors at the sub-national administration level shall be responsible for executing their budgets. Revenue collection and spending shall comply with their jurisdiction of authority which is defined by laws.

Article 67

Under the limits defined by the Law on Finance and under the authority of the Prime Minister, only the Minister of Economy and Finance has the rights to borrow, issue state securities, receive grants, invest on financial fixed assets, guarantees, and other financial commitments, and to lend money domestically and externally. No other ministers, heads of institutions, heads of similar public entities, heads of public enterprises, governors at sub-national level administrations or any public officers have the rights to borrow or lend money, or issue letter of guarantee, or undertake any other actions directly or indirectly that can lead to the occurrence of debts or other financial obligations to the Kingdom of Cambodia.

Article 68

Under the limits defined by the Law on Finance and under the authority of the Prime Minister, only the Minister of Economy and Finance has the rights to prepare debt repayment schedules for either debt liable to and from others. The preparation of debt schedule shall be defined by the Law on Finance.

Article 69

Financial conditions and sizes of borrowed or lent loans, issuance amounts of state securities, guarantee, and other financial commitments shall be defined by the Law on Finance.

Article 70

The Minister of Economy and Finance has the duties to manage public procurement and provide instructions to implement it. Ministries, institutions, similar public entities, institutions at the sub-national level, public establishments, and public enterprises shall comply with law, sub-decrees, prakas, and instructions on public procurement.

CHAPTER 5

Accounting and Performance Review

Section 1

Accounting Framework and Budget Execution

Article 71

In compliance with the principle of accountability, ministers, heads of institutions, heads of similar public entities, and governors of the sub-national level administration shall have the duties to prepare for and provide to the Minister of Economy and Finance a report on budget execution, a report on the implementation of projects pertaining to borrowings, issuance of state securities, guarantees and financial commitments, acceptance of financial grants and report related to revenue from investments on financial fixed assets, and other necessary information as required by the Minister of Economy and Finance.

The Minister of Economy and Finance, as defined in the above paragraph of this article, has the obligation to set submission date for and to provide sample reports to ministers of all ministries, heads of all institutions, heads of all similar public entities and governors of sub-national administrations to implement.

Article 72

Ministers of all ministries, heads of all institutions, heads of all similar public entities, heads of public enterprises, and governor of sub-national administrations shall have the responsibilities for developing a framework and for managing operations of their internal audits to ensure accuracy and to comply with standards, provisions, and instructions of the Royal Government.

The Minister of Economy and Finance, however, shall have the responsibilities for providing instructions on the preparation of the framework for internal audit operations in ministries, institutions, similar public entities, public enterprises, and administrations at the sub-national levels, and shall also have the duties to conduct financial inspections at ministries, institutions, similar public entities, public enterprises, and administrations at sub-national levels.

Article 73

Financial operations and public accounting at both the national and sub-national levels of administration shall be centralized at the National Treasury and undertaken by public accountants.

Article 74

Public accounting system shall be consistent with international accounting standards generally accepted, and the Minister of Economy and Finance shall issue a Prakas to determine this accounting system.

Article 75

General rules of public accounting shall identify all conditions enabling accounting and financial operations to be recorded and analyzed, and allowing for accountable, effective and efficient management of the implementation of the Law on Finance.

Article 76

Budget execution is subject to laws.

Article 77

The draft law on budget execution reviews and records final amount of revenue paid to the single account of the National Treasury and payment orders paid over the period of budget fiscal year. This draft law nullifies unused credit and reflects real financial performance of the year by recording into “income statement” of the National Treasury.

Article 78

The draft Law on Budget Execution shall be prepared by the Minister of Economy and Finance in line with each budget nomenclature based on revenue expenditure data reported by public accountants after having correctly checked with relevant budget managers.

Article 79

The framework and the functioning of external audit shall be implemented in compliance with the Law on Audit of the Kingdom of Cambodia.

Article 80

Operations shown in the draft Law on Budget Execution shall reflect public accounting rules as follows:

- Revenue: planning at the beginning period along with changes and actual revenues by group, category, chapter, account, and sub-account.
- Expenditure: planning at the beginning period, new authorization and actual spending at ministries, institutions, or similar public entities and administrations at sub-national level in line with the budget nomenclature.
- Comparison of total amount of the planned revenue and expenditure and changes made, if any, with final results of the budgets of each public administration.

Operations shown in the draft Law on Budget Settlements under both state budget and special accounts of the National Treasury shall be presented in detail the credit amounts approved at the beginning of the year and credit amended in line with budget nomenclature.

Article 81

The draft Law on Budget Execution submitted to the National Assembly for enactment and the Senate for review shall be accompanied by:

- Analytical report of the results of revenue collection and the situation of budget expenditure execution;
- Report of overall economic and financial situations in the implementing year, and the situation of achievement of macro-economic balance.

- Balance sheet of the Royal Government
- After having been promulgated, the Law on Budget Execution shall be published similar to the publication of the Law on Annual Finance.

Section 2

Authority and Responsibilities

Article 82

Public accountants are in charge of revenue collection, spending execution, keeping securities funds, products, and materials that belong to public institutions. Only public accountants have the authority to execute all operations and address other funding issues related to revenues and expenditures.

Under this authority, public accountants bear personal and monetary responsibilities.

Article 83

Public accountants shall be designated by the Minister of Economy and Finance. Public accountants have their special authority. Prior to holding their positions, public accountant shall take official oath based on appropriate procedures in front of competent authorities. Principal and delegated managers and other public accountants shall recognize the public accountants who have been designated by the Minister of Economy and Finance.

Article 84

All execution of state revenues and expenditures shall comply with the regulations and instructions of the Minister of Economy and Finance. All records on revenues and expenditures of national and sub-national administrations shall comply with the chart of accounts and budget nomenclature and all accounting and financial reports must be transparent and publicly disclosed.

For all financial operations, the Minister of MEF shall have the rights to assign subordinates to inspect public financial management at ministries, institutions, or similar public entities and a national and sub-national administration executing state budget in order to ensure accurate information and data for preparing annual budget execution.

CHAPTER 6

Penalties

Article 85

All public officials at all positions who are found non-compliant with the provisions of this Law in undertaking their roles and duties offered by the state shall subject to punishment under effective legal discipline and existing legal formalities, not yet taking into account criminal acts and other civil responsibilities. In case of causing money losses or damaging public assets, the value of the loss or damage including interest on the loss value or damage shall become liabilities to those public officials who must cover and pay back into the state budget.

Article 86

Public officials specified in Article 85 of this Law cover those who are currently in service and who had previously been in public services.

CHAPTER 7

Transitional Provisions

Article 87

Other relevant regulations based on the Law on Financial System promulgated by the Royal Decree # 01 NS dated December 28, 1993 and sub-decrees, decisions, orders, instruction circulars of the Royal Government and Prakas, other instructing circulars of the Minister of Economy and Finance constituting legal documents to support the implementation of the said Law on Financial System are effective and implemented until new regulations, sub-decrees, decisions, orders, instruction circulars of the Royal

Government, Prakas and other instructing circulars of the Minister of Economy and Finance come to replace them consistent with the substance of this Law.

CHAPTER 8

Final Provisions

Article 88

This Law shall prevail if there are provisions of other laws contradicting to the provisions of this Law.

Article 89

This Law on Public Financial System shall replace the Law on Financial System which was promulgated by the Royal Decree # 01 NS dated December 28, 1993, and provisions arising from its amendments.

Article 90

Any provisions that are contrary to this law shall deem null and void.

Article 91

This Law shall be declared with urgency.

Done at the Royal Palace, Phnom Penh, May 13, 2008

Royal Signature and Royal Seal

Norodom Sihamoni

PRL.0805.533

Submitted report to his majesty

for signature

Prime Minister

Signature

Samdech Akka Moha Sena Padei Techo HUN SEN

Having informed Samdech Akka Moha Sena Padei Techo HUN SEN

Prime Minister of Kingdom of Cambodia

Senior Minister, Minister of Economy and Finance

Signature

KEAT CHHON

Number 494 Ch. L.

For copy and circulate

Phnom Penh, May 20, 2008

Deputy Secretary General of RGC

Signed and sealed

KHUN Chinken

APPENDIX V

Kingdom of Cambodia

Nation Religion King

Royal Government of Cambodia

No.: 07. SRNN

Circular on the Formulation of the Draft of Financial Law 2005

I. Context for the Preparation of Draft Budget Law 2005

The year 2005 will be the second year of the third mandate Royal Government of Cambodia, and the second year for it to implement the political platform for the third legislature of the National Assembly. The upcoming 2005 will be the challenging year for Cambodian economy. In comparison to positive gains over the last five years of the second legislature, reflected an averaged annual growth of 6.74%, economic growth for Cambodia is projected to slowdown to 2-4% in 2005-06. The estimates are based on a number of unfavorable factors such as: (i) growth base for agriculture remains weak, as after high growth in 2003 and little growth in 2004 the sector will slightly rebound in 2005, compared to high growth baseline of 2003; (ii) uncertainties in manufacturing sector, especially the garment sector, which is linked to the end of quota system for garment exports to the US market, the continued decline of FDI flows to Cambodia, increasing price of petroleum and unfavorable international political climate (threats of terrorist acts and wars in a number of regions) could create negative impact and concerns for industry sector in Cambodia in 2005-2006, although tourism sector is expected to increase; and (iii) the possibility of steady decrease in the flow of official development aid to Cambodia which is linked to the economic, financial and political problems of donor countries and higher requirement to compete for aid.

Facing with this problem, the Royal Government has laid out and actively promotes the implementation of a comprehensive and in-depth reform program, especially the “Rectangular Strategy” for growth, employment, equity, and efficiency in Cambodia which is an economic agenda of the government’s political platform to ensure competitiveness and economic diversification, and move away from the total dependence on garment manufacturing and tourism towards an enlargement of economic base through good governance; enhancing favorable environment for each sector development; promotion of sustainable economic growth which concentrates on the development of agriculture, agro-

industry and private sector; and continuing to improve physical infrastructure and development of human resource.

Law on 2005 financial management is the most important mean to achieve prioritized objectives as stated above. In this sense, all ministries and institutions concerned of the Royal Government, especially the Ministry of Economy and Finance has to do its best to prepare a draft law on 2005 financial management with an aim to fulfill the following objectives:

- To ensure the effectiveness and continuation of comprehensive reforms of the government in all sectors, both private and public, especially the implementation of government's political platform and the "Rectangular Strategy" for Growth, Employment, Equity and Efficiency.
- To ensure favorable conditions for the management and governing process of the country in this third legislature in order to achieve a vision of annual growth from 6 to 7 percent and to promote sustainable and equitable development, especially through the continued implementation of the second five years of the Social and Economic Development Plan (2001-2005), the National Poverty Reduction Strategy (NPRS) and the three years rolling Public Investment Program (PIP).
- To ensure macroeconomic stability by ensuring good budget balance and maintaining inflation under 5 percent per year.
- To ensure the strengthening of administrative, technical and financial capacities of commune councils for local development.
- To attract foreign investments in the form of both oversea development assistance and foreign direct investment and to promote domestic businesses.

Although there had been a delay in the functioning of the government in the third legislature, the Royal Government is obliged to timely prepare a draft law for 2005 financial management and to submit to the two legislative bodies for adoption not later than the 25th December 2004. In this process, the Ministry of Economy and Finance has to start negotiations and discussions on the draft law for 2005 financial management with all line ministries, institutions and provincial departments, starting from 1st September 2004.

II. National Budget Framework in 2005

2.1 Macroeconomic Framework for Budget 2005

Based on the overall context, the macroeconomic framework for budget 2005 will be determined based on a very careful scenario and has the following important indicators:

- The stable cost of economic growth will be around 2 percent which will enable the GDP reach around to 18,887 billion riels or equal to about 4.7 billion dollars.
- The inflation must be under 5 percent and the Royal Government has to continue the implementation of a prudent public financial and monetary policy.
- The exchange rate of riels against the dollars, will be kept around 4,050 riels per US dollar.
- Money supply will increase by 20 percent at most.
- Current account deficit will increase from –10.8 percent of GDP in 2004 to –11.5 percent of GDP in 2005.
- International reserve will continue to increase and can secure three months of imports.

The Ministry of Economy and Finance cooperates with the Ministry of Planning and other ministries and institutions concerned to monitor and to review Cambodian macroeconomic conditions in the context of monitoring the implementation of financial law in the mid 2005.

2.2 Challenging Issues in the Implementation of Financial Management Law 2005

With the possibility of macroeconomic condition getting worse as stated above, the Royal Government is facing a number of challenging issues in the public financial management, especially Cambodia's limited capacity in raising revenue amid the gradual increase in expenditures. The implementation of financial management law 2005 will face a number of major challenges as follows:

First, the loss of revenue from quota preferences and the continued decrease in non-tax revenue.

Second, the amount of cash arrears, which the government owes to private suppliers, has not been clearly determined. This causes difficulties in cash management and implementation of budget 2005, although the Ministry of

Economy and Finance has been preparing strategic plan and introduced concrete measures for this purpose.

Third, The obligation to pay debt to companies that suffered in 1997 and other Thai companies that suffered in the violent riot on 29th January 2003.

Fourth, the gradually increased obligation, from one year to another, to pay back loan with interest and principle to development partners, especially the loan from the ADB and the World Bank since 1992. Moreover, the government is negotiating to settle old debt with the Russia and the United States of America. When the negotiation finishes, the need to pay back foreign debt will be further increased.

Fifth, the increased need for expenditures for social sectors and public investments to achieve the objectives of the National Poverty Reduction Strategy and the political platform of the government in the third legislature.

2.3 Promoting an Implementation of Public Financial Management System Reform

To solve all challenging issues, the Royal Government has introduced necessary measures to clean and strengthen national budget system through a comprehensive public financial management system reform under the support of a group of development partners of 10 countries and a number of institutions, by using the “sector-wide approach-SWAP”. The implementation of this program has been planned for a long term, up to 2015, and it will be divided into 4 stages. The first stage, which focuses on the necessary priorities to ensure that “national budget can be trusted”, will be implemented within 15 to 20 months. In this first stage, the Ministry of Economy and Finance must lead the implementation of 33 priority clusters, in which there are 200 concrete actions. Nevertheless, it should be noted that the most critical point in this work is to strengthen governance and discipline in the national budget management, in which the focus will be on the strict implementation of the 10 disciplines in the public financial management set in the “Rectangular Strategy” for growth, employment, equity and efficiency in Cambodia. The Ministry of Economy and Finance is obligated to put forward concrete proposals and measures in order to submit to the head of the government for consideration and adoption. In turn, the government imposes orders on all ministries and institutions to effectively implement them.

2.4. Projection of Revenue and Expenditure for 2005 National Budget

2.4.1. Domestic Revenue Projection

Mobilization of Domestic Revenue

2005 budget is aimed to increase domestic revenue up to 12.67 percent of GDP. This objective includes:

- The current revenue has to be achieved approximately 2,377,600 million riels (including budgets of cities and provinces). This will make an increase of 16.83 percent compared with the estimation of 2004 implementation or equal to 12.59 percent of GDP. In this regard :
- Tax revenue has to be achieved around 1,796,600 million riels (including budgets of cities and provinces). This will make an increase of 20.6 percent compared with the estimation of 2004 implementation or equal to 9.51 percent of GDP.
- Non-tax revenue has to be achieved around 581,000 million riels (including budgets of both cities and provinces). This will make an increase of 6.3 percent compared with the estimation of 2004 implementation or equal to 3.02 percent of GDP. The projected non-tax revenue in 2005 will be lower than in 2004 due to the loss of revenue sources from quota of garment export to the US.

Measures to Strengthen the 2005 Revenue Collection

To achieve the objective of 2005 revenue projection as stated above, the Ministry of Economy and Finance and other line ministries and institutions concerned of the government must put their efforts to mobilize major revenues as stated in the action plan of the first stage of the Public Financial Management system reform program as follows:

Strengthening capacity for revenue management and collection.

- To develop different options in order to strengthen capacity of the Ministry of Economy and Finance in formulating policies and establishing a mechanism to manage a fully integrated budget resource mobilization program
- To develop a framework for the mobilization and allocation of revenue to all administrative levels and provide guidelines to develop measures, aimed at increasing resources in provinces and communes.

- To develop different options for an integrated medium and long-term budget resource mobilization to facilitate a medium term expenditure framework (MTEF) preparation.
- To develop different options for an integrated budget mobilization, which can be included into the process of national budget formulation and review of national budget implementation.
- To clearly identify tax and non-tax arrears in order to develop an effective collection plan.
- To strengthen auditing, which includes internal audit within ministries/departments and external audit, and inspection, both the inspection of the Royal Government and inspection of the MEF, on the management of national budget, especially revenue collection.

Revenue Collection by the Customs and Excise Department

- To strengthen customs revenue collection through: (1) – impose a strict implementation of law on individuals, who have a record of not complying with law and regulations and on goods with high risk of losing revenue; and (2) – strengthening the implementation of the Royal Government’s orders related to preventing and cracking down on smuggling.
- To implement an enforcement strategy and risk management principles to reduce smuggling and other illegal activities along borders.
- To strengthen legal framework based on new customs law and its strict implementation, which includes the development of sector policies of customs and excise department; formulate customs implementation procedure guidelines; and train officials.
- To implement a comprehensive customs program in analyzing revenue and providing updated and accurate revenue data and commercial statistics.
- To promote the computerization project for the customs and excise department, and to develop short term measures to implement customs automated program, which includes the development of legal base and procedures related to training and project formulation.

- To identify and implement measures to strengthen customs department, which includes the improvement of benefit provision structure and incentives for customs officials and the development of good governance program.

Tax Revenue Mobilization

- To strengthen tax revenue collection through the implementation of fiscal law and other related law such as amended law on the investment law of the Kingdom of Cambodia and other concerned regulations.
- To continue expanding the tax base by extending the "Real Regime" in other provinces/cities and to strengthen the implementation of Value Added Tax (VAT) and the VAT refund mechanism.
- To improve analysis and forecasting of tax revenue aiming at formulating new policy options to increase tax collection.
- To identify clear procedures to strengthen information flow, especially information on large taxpayers between customs and excise department and tax department.
- To increase the use of banking system to a maximum level to facilitate tax payment, especially with regards to large and medium taxpayers.
- To strengthen excise tax administration in tax department.
- To strengthen the comprehensive tax audit, especially with regards to large and medium taxpayers.
- To strengthen tax arrears management and to strictly implement the collection of tax arrears, which includes the development of technological information system for management operation and on-spot tax audit as well as account settlement of taxpayers.
- To continuously strengthen tax department, which includes restructuring, recruiting new staffs, enhancing services for taxpayers, implementing training program, conducting internal audit, equipping with necessary facilities and etc.
- To enhance information verification to search for turnover in the estimated regime that needs to be transferred to real regime.

Strengthening the Management and Collection of Non-tax Revenue

- To issue urgent measures to strengthen legal framework and institutions to manage and collect non-tax revenue.
- To strengthen the management of state property inventory account.
- To strengthen the management of privatized state property according to the existing law and regulation.
- To issue immediate and effective implementation of: (1) – measures to strengthen the collection of non-tax revenue from lease or sale of real estate, which includes strengthening the lease and contracting procedures; (2) – measures to strengthen non-tax revenue collection from state-owned enterprises by strengthening the management framework of all enterprises; (3) – measures to strengthen non-tax revenue collection from selling public goods and providing public services; and (4) – measures to strengthen non-tax revenue collection from managing all kinds of natural resources.
- To strengthen a controlling system and revenue collection from lottery and other gambling activities by learning from international experiences related to choices that can increase revenue from lottery and all those gambling activities.
- To strengthen legal framework in controlling operational activities of casinos and revenue collection from casinos that have to be accordingly increased with the real revenue from this sector activities. This will include strengthening institutions and capacity of officials that are responsible for collecting those revenues.
- To adopt and implement a system which gives the MEF a final decision-making authority with regards to all concessional contracts and agreements in order to increase revenue from state concession contract and also to prevent negative effect to the national budget.
- To adopt and to immediately and effectively implement disciplinary measures towards those ministries/institutions or officials responsible for managing all types of non-tax revenue that do not pay revenue to national treasury or to keep those revenues for spending outside the national budget or not according with adopted legal procedures.
- To constantly and strictly implement auditing and inspection on non-tax revenue payment obligation of all ministries/departments and related public enterprises.

2.4.2 Projection of Budget Expenditure in 2005:

a – Current Budget Expenditure 2005

The 2005 budget has a strategic objective to determine current expenditure within available resources of 2,078,600 million Riels (including budget for provinces/cities) which increased by 9.04% compared to projected implementation of 2004 budget accounting for 11.0% of GDP.

The 2005 budget has been divided into different important parts as follows:

- The total amount of military and security spending is 452,000 million Riels or equal to 2.39% of GDP.
- The total amount of administrative spending is 271,375 millions Riels or equal to 1.44% of GDP.
- At the same time, expenditure on social administration continues to rise in order to successfully implement government policies aiming at poverty reduction.
- In 2005, the projected spending on economic administration equals to 9.6% of current expenditure or 1.06% of GDP.
- To be consistent with the commitment identified in the Royal Government policy program, the 2005 budget expenditure will include the increase in salary of government servants and military personnel amounted for 15.0%.
- In order to achieve objectives aiming at increasing expenditure for rural development and making budget credible, the Royal Government continues to promote policy to reduce budget debt at national treasury and to maintain current expenditure of all ministries/institutions at the same level with the 2004 budget implementation.

The 2005 budget is allocated into key chapters as follows:

- Chapter 12, subsidies to provinces and municipalities has been allocated an amount of 95,000 million riels for the following activities:

province/city budget support.....37,000 million
riels

commune budget support.....56,000 million
riels

- Chapter 20 has been allocated an amount of 50,000 million riels.
- Chapter 40, other expenditures have been allocated an amount of 161,705 million riels, including counterpart budget for the trial of the former Khmer Rouge leaders.
- Chapter 41, unplanned expenditures have been allocated an amount of 20,000 million riels.,

b – Projection of Capital Expenditure for 2005

The capital expenditure for 2005 is planned to be equal to 1,185,000 millions riels or 6.27% of GDP. This capital expenditure has been divided as follows:

- Investment project that is financed domestically amounted for 345,000 million riels or 1.83% of GDP. Compared with the 2004 budget, it has increased by 6.1%. This investment project has been divided into: construction and equipment project which amounted for 145,000 million riels; counterpart budget amounted for 60,000 million riels; and external fund for budget support amounted for 120,000 million riels.
- Investment project, which is financed externally and does not pass through national treasury, is equal to 750,000 million riels or 3.97% of GDP. This investment project will be financed from support program, which is directly managed by donors.
- Debt amortization project amounted for 90,000 million riels or 0.48% of GDP. This debt amortization project includes 50,000 million riels for debt service and 40,000 million riels for settling outstanding money orders at the national treasury.

C- Projection of 2005 Revenue and Expenditure in Province and Municipalities

The 2005 program for revenue-expenditure of municipalities and provinces is formulated under package budget as follows:

Current revenue is 103,000 million riels, which increases by 1.98 % compared to 2004 budget (101,000 million riels). This revenue includes:

- Excises amount for 54,000 million riels, which is up by 10% compared to 2004 budget (50,000 million riels),
- Non-excises amount for 11,000 million riels, which is equal to 2004 budget,
- State subsidies amount for 37,000 million riels, which is down by 7.5% compared to 2004 budget,
- Current expenditures amount for 103,000 million riels, which is equal to current revenue and increase by 1,98% compared to 2004 budget.

Note: Details of revenue-expenditure program for each municipality and province is shown in annex 6.

2.4.3 Priorities in 2005 Budget Expenditure Management:

To strengthen the foundation for the management of 2005 budget and to maintain public finance as well as national macroeconomic stability, the MEF shall continue to boost the implementation of concrete measures as follows:

1 – Cash Management:

The disbursement of cash shall be according to the following order of priority:

A- First priority for urgent disbursement includes:

- Salaries, principal and interest payments, counterpart funds for project implementation, and deposits of other institutions.
- Priority Action Program (Chapter 13 – PAP) disbursements especially the Ministry of Education, Youth and Sports, and the Ministry of Health. The Ministry of Economy and Finance shall coordinate with these two ministries as well as key donors to review the PAP in 2004 to strengthen and improve the PAP in 2005 to avoid the rollover of budgets from previous years as what have happened in the last three years. In special

circumstances, PAP must be limited and maintained at a level that can assure efficient cash management.

- Projects that have been passed through proper public procurement procedures.
- Payments for utilities of ministries/institutions.
- Chapter 30.03: fund for road maintenance.

B. Second Priority - little by little disbursement in the following order:

- Ministry, which is the owners of projects, uses the military engineering group to implement infrastructure projects within the framework of national budget financing in chapter 50.01.
- Other chapter 50 expenditures.

C. Third Priority - disbursement based on arrears in medium term:

Arrears owed to companies that have supplied or implemented projects without going through public procurement procedures, and the companies have agreed to receive payments based on the capacity of national budget. MEF shall continue to settle these projects according to a specific plan of payment for 2005.

2. Second Measure – Payments for Other Debts:

While settling payment of arrears for the remaining money order in the National Treasury, there are still some other debts from 2003 due for settlement within the framework of Chapter 53 (debt payments), which includes:

- Debts to companies incurred during the July 1997 political event,
- Debts to companies incurred from the disturbances of 29th January 2003, and other similar obligations.

The MEF shall prepare settlement program for these debts within Chapter 53 framework, which includes a credit of 40,000 million riels out of 90,000 million riels for 2005 budget.

Nevertheless, above measures can only settle on-going issues in a temporary manner if there is no strong package of measures for national budget management. In this spirit, to create necessary and sufficient condition for effective management of 2005 national budget, the MEF shall prepare another detailed directive circular on different measures to improve 2005 budget management and to submit to the head of the government for consideration, adoption and recommendation to different related ministries and institutions to strictly implement their obligations.

III. Implementation of Financial Decentralization:

The RG continues to strengthen the implementation of financial decentralization for enhancing local capacity. In this context, commune budget funds for 2005 will be financed by national budget of about 58,000 million riels or 2.52% of national current revenue. The commune budget fund is to be used for the following:

- First: general administration in commune-sangkat;
- Second: economic and social infrastructure development in the commune-sangkat; and
- Third: service delivery in local areas

To ensure transparent management of the Commune Fund, the Royal Government has created the Commune Fund Board, which comprises representatives from the Ministry of Economy and Finance as Chairman, and as members, representatives from the Ministry of Interior, Ministry of Planning, Council for the Development of Cambodia and three representatives from the Commune Council. The operation of the Commune Fund shall encourage the Commune Councils and Administrations to strengthen their capacity and to perform with accountability, transparency and effectiveness. This requires capacity building and support for Commune Councils. This capacity building is crucial for service delivery, including social services to villages. Under the decentralization program, the Royal Government will support the Commune Councils in the planning and management of local development management.

IV. Linking Medium Term Plans with the Budget Framework

To further improve the implementation of Financial Law that is linked with program and contract credits, the draft law on 2005 Financial Management shall include programs for the medium term expenditure framework (MTEF) in order to link the short and long terms

national development program as laid out in previous years. The framework of national budget for 2005 tends to incorporate MTEF with the following characteristics:

- To further strengthen the linkage between annual budget with objectives in the SEDP, PIP and other policies of the Royal Government;
- The 2005 budget is based on medium term forecasts, attached as annexes to the 2004 annual budget that have been updated and forecasted on medium term basis for the following years. These forecasts will be attached as annexes in 2005 budget;
- The annual budget defines the strategy for both investment and operational expenditures.
- Indeed, based on the principle of annual budgeting, the forecasts for 2006 and the following years will not have legal validity as in annual budget. Nevertheless, these forecasts will not only ensure accuracy and effectiveness of budget preparation, but they also transform budget to be concrete tools of the Royal Government's policies.

The creation of MTEF framework is applied to all ministries/institutions. But only for 2005, the MTEF will be applied specifically to four priority ministries, namely MOEYS, MOH, MAFF and MRD as well as ministries that require high expenditures such as Ministry of Defense, Ministry of Interior, Council of Ministers and MEF.

V. Preparation and Analysis of Budget Proposals

The budget program for 2005 must be finalized and presented by departments and functions.

The on-going budget (n-1) 2004 adopted by the National Assembly and the Senate (if it can be adopted in time) must be modified to become the basis for the preparation of the year 2005 (n) budget to ensure the smoothness of public services. In case where both legislative bodies do not adopt the year 2004 budget before the preparation of 2005 budget, data basis for 2003 and draft budget for 2004 will be used as basis for the preparation of 2005 budget. Where activities are continued from last year, ministries and institutions shall prepare their budget proposal for the present year by modifying their approved budgets, according to urgency as defined below:

- Credit flow which has been done in the current year budget includes:

- To transfer internal budget credit in the same chapter, or from one to another chapter, which modify the original allocations of ministries and institutions.
- Supplementary budget credit transfer for the additional benefits of ministries and institutions.
- Effects of inflation on the prices of necessary products and services such as electricity, water, fuel, transport, administrative expenses, etc.
- With new initiatives, spending ministries-institutions, especially four ministries with high spending, which are Ministry of Defense, Ministry of Interior, Council of Ministers and MEF can prepare and propose their main activities (excluding daily operational activities) in order of priority to be considered in annual budget. In particular, ministries implementing PAP must pay attention on accurate and timely preparation of these PAPs.

The proposed budget programs of Ministries and institutions must include explanations and justifications as mentioned above. Justifications must also be attached to proposals for additional budgets, where such may be tabled for discussion only if the program concerned has already been included in the program of activities for the planning year.

Offices in provinces shall prepare their budget proposals to be presented by their respective ministries to MEF through Budget and Finance department from the year 2005 onward.

Budget that is formulated based on the above grounds will be modified for the reason of expansion of activities in current year or additional activities that are to be started in the planning year.

Other analysis techniques are to take last year budget expenditure such as administrative expenses for each public official, scale of expenditure, sources of expenditure and benefits from some necessary expenses, for the preparation of planning year budget.

In summary, the full budget of each ministry and institution shall cover:

- Objectives of each ministry, institution and provincial department,
- Priority programs that have been identified,
- On-going programs or to be started,
- Operational means, and

VI. Procedures and Techniques for 2005 Budget Preparation

A. 2005 Budget Revenue Programming

The calculation programming of current revenue of the budget must be based on production resource or output, which is the source of fiscal and non-fiscal revenue. Based on economic condition and other criteria of resource as mentioned above, ministries, institutions, provinces and municipalities must prepare their budget income program as follows:

- Tax income must be programmed according to:
 - Results obtained during the rolling year,
 - Inflation impact on taxes,
 - Projections on future economic development,
 - Eventual changes or imperative consideration on rates and tax collection, and
 - Additional revenues expected from expansion of tax administration and strengthening of customs and excise administration, and from tax rationalization.
- In parallel, non-tax income must be programmed according to revenue-generating activities such as services contracts, etc. These revenues must be based on statistics for previous years as well as developments in the economy.

B. 2005 Budget Expenditure Programming

Budget expenditure programming must be formulated according to needs and directly based on key expenditures such as staff payrolls, equipment and supplies estimated according to defined expenditure standards such as mission expenditures, average unit expenditure for hospitalization of a single patient, expenditures for the education of a single pupil or student, or on statistics from previous budget accounts.

In general, all the 2005 expenditure programs must be accompanied by rigorous analysis and supporting documents to clarify chapters and articles and used as basis for discussions. In particular, chapter 11 which covers equipment expenditures and operating costs of ministries, institutions and their provincial offices must include supporting documents

justifying the proposed expenditures. Overall, Chapter 11 expenditures shall be decreased at least by 6 percent compared to 2004.

C. 2005 Budget Ceiling

Based on macroeconomic performance, the Royal Government has defined budget ceilings for ministries, institutions and their provincial offices in provinces to be not very different from 2004 allocations. The 2004 budget for current expenditures shall be reallocated as follows:

- Increase in expenditures for strengthening of administrative, technical and financial capacities of commune councils for local development;
- Increase in expenditures for the four priority ministries; and
- Preparation of budget for the repayment of loans.

Therefore, this budget package reflects the highest budget ceilings on the current expenditure program for ministries, institutions and their provincial offices, allocated specifically under appropriate chapters, articles, paragraphs and sub-paragraphs of the budget document. The budget package shall be formulated according to the action programs and priorities for 2005 that are paralleled to the real needs because in the first semester 2005, there will be no internal regulation in the budget of ministries-institutions and provincial offices.

Special measures in the allocation of the 2005 budget package are:

- Payroll must be based according to the new salary scale set out by the Council for Administrative Reform and according to the number of civil servants in 2004. Civil servants in excess of the 2004 level must be submitted for decision by the Royal Government through the State Secretariat for Public Functions as endorsed by the Ministry of Economy and Finance. The number of civil servants that have been retired, transferred, resigned or deceased must be deducted from the official records. Promotions or new recruitments must be proposed separately under Chapter 10. Ministries, institutions and their provincial offices shall not consider inflation under chapter 10. The State Secretariat for Public Functions must propose to the Ministry of Economy and Finance a budget for contractual or temporary employees prior to recruitment or employment of employees in ministries, institutions and provincial offices. The increases in base salary in average about 15 percent according to the government policy will be decided based on the reserved fund, 34 billion riels.

- Administrative and operating expenses, equipment maintenance and minor repairs must be programmed with economy and according to action programs and appropriate standards to curtail within the budget limit. Increased care should be taken in the programming of recurring expenditures on telephone services, electricity, water, office equipment, fuel and protocol costs to manage these expenses in the most economical manner. Expenditures in excess of programmed budgets, as well as debts and obligations incurred outside of the budget framework, are explicitly prohibited.
- Expenditures in other chapters must be programmed according to requirements and needs and included in the overall budget package.

The budget package shall be discussed in budget meetings of the ministries, institutions and their provincial offices. These discussions shall focus on the budget allocations by chapters. Ministries, institutions and provincial offices must establish expenditure programs not to exceed their assigned ceilings. Any ministry, institution and their provincial offices that fail to submit their budget proposals or whose proposals exceed their assigned ceilings shall have their budgets limited to the level existing at the beginning of the budget process. The discussion of the budget proposals of the four priority ministries participating in the Accelerated District Development Program and the Priority Action Program shall be held separately by basing on programs that each ministry has to finish before the adoption of budget. The ADD allocation shall be under chapter 13.01. The PAP shall be under chapter 13.02. The budget ceilings and discussion procedures for ministries, institutions and their provincial offices are attached to this document.

After receiving this circular, ministries, institutions and their provincial offices shall prepare their respective revenue and expenditure programs for 2005 according to the attached table. Their proposed programs must be sent to the Ministry of Economy and Finance (Department of Budget and Finance) in two copies by 31st August 2004 at the latest. Budget discussions shall be held between 1st September and 12th October 2004. Data in the revenue – expenditure program must be in international numbers (1.2.3), with minimum units in the million Cambodian riels (0.1).

Any questions or requests for clarification must immediately be directed to the Ministry of Economy and Finance (Department of Budget and Finance).

Phnom Penh, 23rd August 2004

Prime Minister

HUN Sen



Dr. Hang Chuon Naron

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