Draft Law on the Management and Use of Agricultural Land

NB. The following one line descriptions of the contents of the articles in the Law are not a part of the Law but are set out here as a guide to help in understanding the draft Law.

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WE …

- Referring to the Constitution of the Kingdom of Cambodia;
- Referring to Royal Decree No. NS/RKT/1198/72 of November 30, 1998 on the Formation of the Royal Government of Cambodia;
- Referring to Royal Decree No.02/NS/94 of July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Referring to Royal Decree No. NS/RKM/0196/13 of January 24, 1996 promulgating the Law on the establishment of the Ministry of Agriculture, Forestry and Fisheries;
- Pursuant to the proposals of the Prime Minister of the Royal Government of Cambodia and the Minister of Agriculture, Forestry and Fishery;

HEREBY PROMULGATE

The Agricultural Land Law which was adopted by the National Assembly on … during the … plenary session of its … legislature and ratified by the Senate as to its entire form and legality on … during the … plenary session of its … legislature, the whole meaning of which shall be as follows:

DRAFT LAW ON MANAGEMENT AND USE OF AGRICULTURAL LAND

CHAPTER 1
GENERAL PROVISIONS

Article 1
The purpose of this law is to:
1. ensure the sustainable management of agricultural land;
2. bring about the increased productivity of agricultural land and the social and economic benefits that will flow from that;
3. ensure the protection of the environment including the conservation of the biological diversity and agricultural heritage of the Kingdom of Cambodia;
4. improve soil and land conservation

Article 2:
This law defines the framework for the management, use, and development of agriculture and land used for agriculture in the Kingdom of Cambodia.

Article 3
This law applies to all agricultural land whether private, state land or state, privately or communally owned land in all agro-ecological zones in the country.

The state ensures traditional user rights on agricultural land for local communities as provided in this Law and other existing laws.

Article 4
Agricultural management is under the general jurisdiction of the Ministry responsible for agriculture, and is exercised by the General Directorate of Agriculture (GDA).

The GDA shall implement this law in such a way so as to ensure full public participation in all government decisions that have a potential impact on the livelihoods of local communities living on and using agricultural land of the Kingdom of Cambodia.
9. Promote public education programmes that demonstrate the importance to manage, maintain and protect agricultural resources, as well as to take action to rehabilitate natural ecosystems and conserve agricultural land uses.

10. Promote international cooperation to strengthen the capacity to protect and develop agriculture resources.

11. Ensure the timely and complete assessment of all agriculture related activities that may have a significant adverse social and environmental impact prior to approval of such activities.

The GDA may co-operate and assist in the development of agricultural land development agencies at various levels in any area in order to provide technical assistance, demonstration and advice directly to farmers in cases where there are measures for the improvement of the land or the conservation of soil and water specified by the GDA under this law and where the said technique has to be employed and where it is not possible to provide the advice to farmers by other promotional activities.

CHAPTER 3
SUSTAINABLE AGRICULTURAL LAND USE AND MANAGEMENT

Article 8
All persons and legal organisations undertaking any agricultural activity on any land shall be under an obligation to undertake that activity in a sustainable manner. The Ministry shall provide technical support and issue guidelines to assist such persons and organisations to meet their obligations under this article.

Article 9
Sustainable agriculture management shall be conducted in accordance with the National Agriculture Policy and provisions of this Law.

In order to assist the research of the Agricultural Land Policy with effectiveness, the RGC shall establish a Committee on National Agricultural Land, chaired by the Minister of MAFF, with membership from Ministries having an interest in the agriculture sector. The RGC shall develop the National Agriculture Land Policy based on the recommendations of the Committee on National Agricultural Land Policy.

The organization and functioning of the Committee on National Agricultural Land shall be determined by sub-decree.

The National Agricultural Land Policy may be revised by the RGC based on the recommendation of the Committee on National Agricultural Land, if there are significant changes in the conditions and circumstances of agricultural land according to the principle of sustainable agriculture management.

Article 10
The National Agricultural Land Management Plan (NALMP) shall be a plan which sets out in a clear, comprehensive and co-ordinated manner the actions and decisions which the Ministry and other organisations having duties in connection with the management and administration of agriculture propose to take over the time period of the Plan to implement the National Agricultural Land Policy, any other policies connected with agricultural land which may be promulgated by the RGC from time to time, and the provisions of this Law and any other laws which deal with agricultural matters.
Any major agricultural activities relating to any ecosystem likely to cause adverse environmental and social impact shall be subject to social and environmental impact assessment (SEIA) and shall be consistent with the Environmental Protection and Natural Resources Management Law. A copy of the SEIA report shall be made available for public comment.

The Royal Government of Cambodia ("RGC") shall consider final recommendation of the SEIA relating to all final decisions on major agricultural ecosystem related activities and may notify the public any final decision by the RGC referred to in this Article.

**Article 5**
All terms used in this law shall have the definition as provided in the annex attached to this law.

**CHAPTER 2**

**RESPONSIBLE INSTITUTION (GENERAL DIRECTORATE OF AGRICULTURE)**

**Article 6**
Under the authority of the Ministry (MAFF), the GDA is the government institution for implementing the administration and management of agriculture and agriculture resources according to the National Agriculture Policy and this law.

The business of the management and administration of agriculture in the provinces shall be determined by Prakas of MAFF.

The officers of the GDA shall perform their duties in a manner consistent with principles of transparency, thereby ensuring the rights of the public to participate in decision making regarding the management, sustainable use and development and conservation of agriculture.

**Article 7**
The GDA shall perform the following duties:
1. Issue guidelines governing agriculture activities to ensure the sustainable and productive management of agriculture.
2. Collect data on agriculture regarding scientific, economic, social and environmental factors in order to determine productivity levels on a sustainable basis.
3. Assess boundaries, classify and demarcate areas of agricultural land in order to develop a land use map of agriculture in coordination with the Ministry of Land Management, Urban Planning and Construction, local authorities and communities.
4. Formulate the criteria for agricultural land classification, land use planning, and land development and to specify the area for agricultural land utilization.
5. Prepare and implement the National Agriculture Management Plan in association with each level of the government involved in the management and administration of agriculture.
6. Promote agriculture on unused land allocated or usually used for agriculture which is not lying fallow as part of any planned or traditional process of land regeneration.
7. Promote the development of community agriculture by agricultural agreements and programmes and by providing financial and technical assistance suitable to communities.
8. Take appropriate measures to investigate, prevent and suppress unsustainable and destructive agriculture practices and clearing of land and to ensure effective enforcement of this law.
9. Promote public education programmes that demonstrate the importance to manage, maintain and protect agricultural resources, as well as to take action to rehabilitate natural ecosystems and conserve agricultural land uses.

10. Promote international cooperation to strengthen the capacity to protect and develop agriculture resources.

11. Ensure the timely and complete assessment of all agriculture related activities that may have a significant adverse social and environmental impact prior to approval of such activities.

The GDA may co-operate and assist in the development of agricultural land development agencies at various levels in any area in order to provide technical assistance, demonstration and advice directly to farmers in cases where there are measures for the improvement of the land or the conservation of soil and water specified by the GDA under this law and where the said technique has to be employed and where it is not possible to provide the advice to farmers by other promotional activities.

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The details of the content of the NALMP and the mode of its preparation shall be provided for by Sub-Decree.

Based on recommendations of the National Committee for Agricultural Land, the Minister of MAFF shall submit to the RGC an annual progress report on the implementation of the NALMP. This report shall be published and made available to the public in an accessible manner.

Article 11

The fundamental principle for the management of agriculture in Cambodia by the GDA is community management, that is a diversity of co-management approaches that will empower local communities actively to participate in the conservation, sustainable management and increased productivity of agricultural resources through different strategies including community agriculture, participatory agricultural land use planning, community protected agricultural conservation areas and the co-planning and management of agricultural development areas.

It shall be the duty of technical officers within the GDA to assist communities who wish to do so to establish community-based associations to assist in the development and management of agriculture with a view to increasing both productivity and sustainability of agriculture within the community.

Within a social land concession where farming is a significant activity, the community within the social land concession, acting through and with the advice and assistance of the commune council shall prepare a community action plan for the development and management of agriculture within the social land concession. The GDA shall provide technical support and monitor the implementation of the plan, upon the request of the community.

Within the context of the above principles, staff of the GDA shall have the following specific duties and tasks:

1. Develop and issue general guidance on the appropriate sustainable management and use of different types and classifications of agricultural land.
2. Provide advice and assistance to users of agricultural land on their modes of use and how they may improve them in the interests of better sustainable use and productivity of the land.

Article 12

An agricultural bio-diversity conservation area may be created either by the Ministry or, with the approval of the Ministry, by a local authority for the purpose of safeguarding the areas of origin and representative samples of local agriculture genetic resources and ecosystems thereby conserving and protecting the national agricultural heritage.

The national agricultural heritage may include but shall not be limited to:
- different types of soils;
- different varieties of seeds;
- different strains of crops;
- different fruit growing trees, bushes and plants; and
different species of animals kept and reared primarily for their food, which are native to or have for a considerable length of time been present, grown or reared in Cambodia and are in danger of disappearing owing to the introduction of modern agricultural methods, hybrid seeds, genetically modified organisms, pesticides, herbicides, diseases, noxious insects, and the introduction of imported species harmful to vegetation, and any other practice, activity or thing likely to harm any part or aspect of the national agricultural heritage.

The GDA shall assess and survey state land used for agriculture to see whether any such land is suitable for an agricultural bio-diversity conservation area and shall accurately demarcate any such land which it considers is suitable for that purpose.

An agricultural bio-diversity conservation area may be created out of any state agricultural land but where that land has been allocated to and is being occupied and used by individuals or organisations, those individuals and organisation must be consulted about the establishment of such an area and if after consultation the GDA decide to create such an area, fair compensation shall be paid for the taking of that land from those individuals and organisations and no individual or organisation shall be required to surrender their land for the purpose of such an area until they have been paid their compensation in full.

The GDA shall in conjunction with the local authorities having jurisdiction where an agricultural bio-diversity conservation area is to be created prepare a plan for the management and use of the land comprised in the area.

The specifics of a plan prepared under this article shall be determined by Prakas by MAFF.

**Article 13**

All biological resources and their intangible products, whether naturally occurring or naturalised in on or under agricultural land in Cambodia including genetic resources belong to the Kingdom of Cambodia and shall be conserved and utilised for the people of Cambodia in accordance with this Law and any other law on bio-diversity resources.

The unauthorised transfer of any biological resources, their derivative products or intangible components from agricultural land in Cambodia from the territorial jurisdiction of Cambodia shall not extinguish the sovereignty of Cambodia over those resources.

**CHAPTER 4**

**AGRICULTURAL DEVELOPMENT AREAS**

**Article 14**

An agricultural development area is an area of land occupied and used by smallholder farmers who are to be assisted to increase their productivity in a sustainable manner and develop agricultural produce for the market so as to improve their livelihoods and income.

The area of land over which an agricultural development area may be created may be land privately or collectively owned by the smallholder farmers, or leased by such farmers from state private land or from state common land or from private landowners.
Article 15
An agricultural development area may be established by MAFF, acting on the advice of the GDA.

The Ministry (GDA) shall assess and survey land used for smallholder agriculture and the farmers using that land to see whether that land is suitable for agricultural development and whether the smallholder farmers are interested and willing to participate in an agricultural development area and shall accurately demarcate any such land which it considers is suitable for that purpose.

The Ministry (GDA) shall explain to the smallholder farmers what will be expected of them in, and what benefits they may expect to obtain from, an agricultural development area and what inputs will be provided by the GDA to assist them to improve their agricultural productivity and increase their incomes and improve their livelihoods.

An agricultural development area shall only be established if a substantial majority of the smallholders within the proposed area clearly indicate, after the proposal has been explained to them and they have had an opportunity to discuss the proposal and consult with such persons and organisations as they consider will assist them to make an informed decision, that they are in favour of the establishment of such an area and that they will work with the GDA to implement the agricultural development area plan.

Article 16
If there is already in existence one or more smallholder farmers organisations within an agricultural development area, the GDA will use those organisations to carry out its obligations under this chapter of the Law.

If there is not a smallholder farmers organisation in existence within an agricultural development area, the GDA will, in association with the commune having jurisdiction within the area, assist the smallholder farmers to form one or more smallholder farmers organisations which shall be the organisations which will represent the smallholder farmers in the preparation and implementation of an agricultural development area plan.

Article 17
After the establishment of an agricultural development area, the GDA and the smallholder farmers organisations shall together prepare an agricultural development area plan which shall set out the actions to be taken, who will be responsible for taking the actions, the processes and procedures for implementing the actions, including regular consultation with the smallholder farmers, the period over which the actions are to be taken, and the expected outcomes to be achieved as a result of the implementation of the actions in order to increase the productivity of the smallholders in the agricultural development area and improve their livelihoods.

In preparing an agricultural area development plan, close attention shall be paid to existing agricultural practices of the smallholder farmers in the agricultural development area and these practices shall, unless it can be clearly demonstrated by or from verifiable evidence that
they are deleterious to sustainability or inimical to improved productivity, be built on and utilised in the plan.

An agricultural development plan shall not come into operation unless and until it is approved by a majority of the smallholder farmers occupying and using land for agricultural purposes within the agricultural development area.

The detailed specifics and contents of an agricultural development plan and the mode of consultation with smallholder farmers during the preparation and implementation of the plan shall be determined by Prakas by MAFF.

Article 18
Where an agricultural development plan has been approved under article 17 and has come into operation, it shall be the duty of all smallholder farmers within the agricultural development area to co-operate and work with the officers of the GDA in the implementation of the plan and where the plan requires certain actions to be taken by smallholder farmers to bring about an increase in sustainable agricultural production, to comply with any directions by those officers directed to effect that increase.

Where an agricultural development plan has been approved under article 17 and has come into operation, it shall be the duty of all officers of the GDA working in or on the agricultural development area to work in a collaborative and supportive manner with the smallholder farmers fully explaining to them the purpose and objectives of any actions they are being asked or required to take, considering any suggestions or requests that may be made by any smallholder farmers with respect to any actions that they are being required to take or that they would wish the officers to take and assisting them to take any such required action.

CHAPTER 5
LAND AND SOIL CONSERVATION

Article 19
The purposes of land and soil conservation are to:
1. improve the conservation, rehabilitation and sustainable use of soils and maintain soil quality.
2. promote the sustainable use of soil in consideration of an ecologically stable and healthy soil environment.
3. ensure that soil is used in an ecologically sustainable way, utilising appropriate ecological standards including values from the knowledge and traditional land use practices of indigenous peoples and local communities.
4. monitor land use activities to identify and tackle new forms of soil degradation in its earliest possible stages.
5. encourage land and soil conservation through community landcare management.

Article 20
This law will apply to all areas of soil used for agriculture and areas of soil used for non-urban and non-industrial purposes

Article 21
The GDA will be responsible for the preparation of a National Soil Conservation and Land Care Plan (NSCLCP), the purpose of which will be to:
1. assess the status and trends of soil degradation
2. define impact indicators and monitoring tools
3. provide guidance to develop and implement national soil policies and strategies and national and local actions to combat soil degradation and improve soil quality and land conservation.
4. ensure the inclusion of soil-related issues in development programmes.
5. develop public education and awareness programmes on the importance of land and soil conservation.
6. foster and support the growth and activities of community landcare associations and community farmers' groups.
7. recommend suitable, appropriate and additional legal instruments to facilitate and regulate soil conservation and land care.

In the preparation of the NSCLCP, the GDA will adopt a participatory and transparent process, involving local authorities, smallholder communities, landcare communities, local and indigenous communities and all other organisations with expertise and interest in the matter of soil quality, soil conservation and land care, inviting all such organisations mentioned in this article to submit their views on the matters that have to be contained within the NSCLCP and to comment on drafts of the NSCLCP.

Based on recommendations of the GDA, the Minister of MAFF shall submit to the RGC an annual progress report on the implementation of the NCSLCP. This report shall be published and made available to the public in an accessible manner.

**Article 22**

The principal means by which land and soil conservation shall be implemented shall be through landcare associations and groups and the GDA shall be under a duty to assist such associations and groups into being and work with them to ensure that all landholders understand the principles of landcare and incorporate those principles into the management and use of their land.

**Article 23**

Every landholder shall, in respect of that landholder’s land, be under a duty take appropriate measures

1. to prevent soil loss or deterioration from taking place, or
2. if soil loss or deterioration is taking place, to stop the loss or deterioration from continuing.

**Article 24**

If the GDA is satisfied that, with respect to land to which this chapter applies, appropriate measures are not being taken

(a) to prevent soil loss or deterioration from taking place, or
(b) in the case where soil loss or deterioration is taking place, to stop the loss or deterioration from continuing, the GDA may serve on the landholder a land and soil conservation order directing the landholder to take, within the time specified in the order, the remedial measures set out in the order.

If the landholder is not the owner of the land in respect of which the order is given, the GDA shall serve a copy of the order on the owner.
Where a landholder does not comply with an order within the period of time specified in the order, the GDA may enter onto the land specified in the order, and carry out the remedial measures set out in the order.

The remedial measures shall relate to the matters set out in article 25 which are contained in the land and soil conservation order and shall be directed to ensuring that those matters are carried out by the person on whom a land and soil conservation order has been served.

**Article 25**

A land and soil preservation order may be made for any or all of the following matters:
1. prohibiting regulating or controlling the breaking or clearing of land for the purposes of cultivation;
2. the firing, clearing or destruction of vegetation; when such prohibiting, regulating or controlling is deemed by the relevant official to be necessary or expedient
   (i) for the protection of land against storms, winds or floods;
   (ii) for the preservation of soil;
   (iii) for the protection of the land against erosion or the deposit thereon of sand, stones or gravel;
   (iv) for the protection of roads, paths and bridges;
   (v) otherwise for the preservation of the soil and its fertility;
3. requiring regulating or controlling -
   (i) the afforestation or re-afforestation of land;
   (ii) the protection of catchment areas;
   (iii) the drainage of land, including the construction, maintenance or repair of artificial or natural drains...
4. requiring the uprooting, cutting or destruction, without payment of any compensation for the same of any vegetation that has been planted or allowed to grow in contravention of a land and soil preservation order;
5. prohibiting, restricting and controlling the use of agricultural land.
6. creating a bio-security buffer zone

In deciding whether to serve a land and soil conservation order on a landowner, the GDA shall:
- have regard to the seriousness of the actions or non-actions of the landowner;
- set out in the order what the actions or non-actions are which must be addressed;
- what the landowner must do or desist from doing to comply with the order;
- the time, being not less than a month, within which the order must be complied with;
- the consequences of not complying with the order.

**CHAPTER 6**

**TRADITIONAL COMMUNITY USE AND MANAGEMENT OF AGRICULTURAL LAND**

**Article 26**

Shifting cultivation is a traditional farming system that rotates its fields and open areas, allowing most of the areas that form part of the system to lie fallow for regeneration of nutrients. Sustainability of the use of the land and the conservation of the soil is ensured by co-opting natural processes and by letting the soil rest and regenerate.

Shifting cultivation is managed by the recognised leaders of the communities that practice it.
Shifting cultivation is a legally recognised use of land for agricultural purposes.

Provision for the allocation and use of land for shifting cultivation is guaranteed by the law.

**Article 27**
GDA shall recognise shifting cultivation as a viable form of agricultural land use capable where it is in operation of delivering sustainable agricultural development and providing for the livelihoods of members of traditional communities.

GDA shall work closely with traditional communities and their leaders in developing programmes designed to improve the productivity of their agriculture through more effective forms of shifting cultivation.

Where there is clear evidence from changing agricultural practices in, or from the views of, traditional communities and their leaders expressed to the GDA or in other forums that a traditional community is moving away or wishes to move away from shifting cultivation to take advantage of market opportunities within the agricultural sector by moving to commercial cash cropping, the GDA shall work closely with that community or those traditional communities and their leaders in developing programmes, including, if agreement can be reached on the matter, to create an agricultural development area, designed to facilitate the supplanting of shifting cultivation with agricultural practices more suited to commercial agriculture while using every endeavour to ensure the sustainability of the land and the conservation of the soil.

GDA shall take all necessary steps to ensure that any programmes which may involve moves away from traditional forms of shifting cultivation are jointly developed and agreed with the leaders of traditional communities, are explained to the members of those communities and take effect only at the pace acceptable to and with the co-operation of the members of those communities.

In carrying out its functions under this article, the GDA shall use its best endeavours, working closely with traditional communities and their leaders, to establish smallholder farmers' associations and landcare associations amongst those persons within areas moving away from shifting cultivation as the most effective means of representing the interests of those persons and ensuring sustainable use of the land.

**Article 28**
To the extent that any areas of shifting cultivation are not within a forest and therefore within the jurisdiction of the Forest Administration and governed by article 37 of the Forestry Law, the GDA shall, for purposes of carrying out its functions under this Law with respect to the agricultural land of traditional communities, classify and set administrative boundaries for all areas of shifting cultivation outside of the PFE. In carrying out this action, the GDA shall coordinate with local communities, traditional leaders, concerned authorities, and the Ministry of Land Management and Urban Planning which is responsible for the registration of community land titles.

**CHAPTER 7**
**CONTRACT FARMING**

**Article 29**
This chapter has the following objectives:
1. Strengthen the responsibilities and trust between Producing and Purchasing parties on the basis of balance and justice
2. Guarantee specific prices and the supply of the production quantity and quality of agricultural products
3. Improve buying, processing and the exporting of agricultural products.

Article 30
This chapter applies on all types of agricultural production business and contract-based agricultural production in the Kingdom of Cambodia

Article 31
The Ministry shall be the Lead Body in communicating, coordinating, providing services under its competency, involving in all activities, providing enabling environment to the development of Contract-based Agricultural Production, monitoring and evaluating and making reports to the Royal Government.

Article 32
The Ministry of Agriculture, Forestry and Fisheries shall cooperate with the concerned Ministries and institutions to undertake the following roles:
1. bring investors and farmers, producers, processors together in the framework of contract based agricultural production
2. promote and encourage the formation of associations, agricultural communities, or agricultural organizations as the bases to develop contract-based agriculture
3. improve standards, classification and quality of agricultural products to meet with market demand and international standards.
4. be involved in addressing conflicts and problems pertaining to the implementation of contract-based agricultural production on the basis of existing laws
5. facilitate access to on land legal right on the basis of existing law to producing and farming parties to conduct agri-business and agro-industry
6. provide enabling environment to access technical support services, good quality crop seeds, aquatic animal species, vegetation species, animal breeds, means of production, high quality of fertilizers, pesticides.
7. enhance intensive production and agricultural diversification and competitiveness of produce in order to meet with the demand of domestic market and exportation.
8. facilitate agri-business, agro-industry, and exportation
9. strengthen and expand the capacity of checking sanitary and phytosanitary inspection.

Article 33
A Contract-based Agricultural Production Committee is hereby established.

The arrangement and duties of this committee shall be defined by the decision of Royal Government.

Members of the committee will be drawn from and represent the following Ministries and other agencies:
Minister of Agriculture, Forestry and Fisheries
Ministry of Interior
The Council of Ministers
Ministry of Economy and Finance
Ministry of Commerce
Ministry of Environment
Ministry of Land Management, Urban Planning and Construction
Ministry of Water Resources and Metrology
Ministry of Rural Development
Ministry of Justice
Ministry of Public Works and Transport
Ministry of Industry, Mines and Energy
Cambodia Development Council
Council for Agricultural and Rural Development
Governors of Capital City and Provincial Municipalities
General Director, Rural Development Bank
President, Cambodia Chamber of Commerce

The responsibilities of the Committee are to:
- prepare strategic plans and policies to promote contract-based agricultural production
- coordinate and strengthen co-operation among contract-based agricultural production parties
- intervene and solve conflicts and problems arising from contract-based agricultural production which the parties are unable to solve by their own expert institutions or need to solve by an inter-institutional input

The Committee will be assisted by the Department of Agro-Industry of MAFF.

Article 34
The producing party has the rights and is under the obligation to:
- comply with the conditions of production on the basis of the agreement
- proceed with production activities based on seasonal and required timeframe
- apply technologies and producing methods as demanded by purchasing party
- supply on time appropriate products in terms of grade, quality, and quantity
- accept the payments of product value as agreed upon

Article 35
The purchasing party has the rights and is obligated to:
- comply with the conditions of production on the basis of the agreement
- determine the commodity items such as their quantities, qualities, place and the date of delivery and acceptance of the commodities
- provide agricultural supplies such as vegetation species, crop seeds, aquatic animal species, animal breeds, and provide in advance credit support, technical services, and other supports to the producing party to ensure the process and receive good results
- pay for the agricultural products delivered in specific quantity and quality as agreed upon
- pay the commodities to the producing party as specified under the conditions and at specific time frame on the basis of the agreement

Article 36
The contract for contract-based agricultural production shall be in a written format and
be authenticated and conform to the coordinating mechanism cited in Article 35.

The contract of contract-based agricultural production shall fall under the provision of the Civil Code and the existing law.

Article 37
If there are any conflicts or problems regarding the implementation of the contract-based agricultural production, producing and purchasing parties shall negotiate with each other in advance based on the condition stated in the contract.

If the problem cannot be solved, both parties shall implement the mechanism cited in Article 35 of this Law.

CHAPTER 8
AGRICULTURAL LAND LEASES

Article 38
An agricultural land lease is one of the following types of leases:

1. a lease by a concessionaire of a land concession granted for agro-industrial purposes to legal or physical entity to farm the land of the concession.

2. a lease granted by a competent government authority out of land which is State private property to legal or physical entity to carry on agriculture on that leased land.

3. a lease granted by any legal or physical entity who owns land to any other legal or physical entity to carry on agricultural activities on that leased land.

Article 39
An agricultural lease shall be in writing and shall contain:

1. the names and addresses of the parties;
2. the rent provided for and the place and times at which the rent is payable;
3. the length of the term of the lease;
4. a clear description of the land referred to in the instrument of lease;
5. the conditions as provided by this Law
6. such other conditions as may be provided by a Sub-Decree.

Article 40
A lessee may, subject to the provisions of this article, sub-lease the whole or a part of the land comprised in the lease to a sub-lessee.

A lessee must apply for and obtain the prior consent of the lessor who granted the lease to any sub-lease of the land comprised in the lease.

Article 41
The following conditions in a lease apply to the lessee:

1. the rent payable under the lease shall be paid by the lessee not later than the day or days in each year specified in the lease and in the manner agreed between the parties.
2. the lessee shall not terminate the lease except as permitted and authorised by the provisions of the lease.
3. the lessee shall not part with the possession of, mortgage, assign, sublease or otherwise alienate the land or any part of the land without the consent in writing of the lessor previously obtained, which consent shall not be unjustifiably withheld, and then, only in accordance with
4. the lessee shall permit the lessor or any person authorised by him or her in writing at all reasonable times to enter upon the land to examine the state and condition of the land and for all other reasonable purposes connected with the proper use and cultivation of the land by the lessee.
5. the lessee shall farm, cultivate, manure and manage the entire holding in a good and husbandlike manner according to the practices of good husbandry and not to allow any part of the land or the soil to become impoverished, injured or deteriorated by neglect or improper cultivation, and to keep the same clean and free from weeds.
6. the lessee will hand over, at the expiration of the lease, the entire holding in such a state of cultivation and management as shall be in compliance with the lessee’s obligations under the lease.
7. the provisions of this Law;

Article 42
There shall be implied in every lease conditions by the lessor with the lessee empowering or requiring the lessor

1. at all reasonable times, to enter, either personally or by agents, the leased land for the purpose of inspecting its condition and for making good any defects which it is the lessor’s obligation so to do but that in the exercise of such a power, the lessor will not unreasonably interfere with the occupation and use of the land by the lessee;
2. to terminate the lease by serving a notice of intention to terminate the lease on the lessee where any rent or other required payments are unpaid for three consecutive months after the due date for payment whether or not a demand in writing for payment has been made by the lessor; or the lessor has failed for a period of three consecutive months to observe or perform any condition of the lease;
3. to issue or ensure that there is issued to the lessee, at the time the rent is paid, a receipt in writing for the payment of such rent by or on behalf of the lessee;
4. not to evict or attempt to evict the lessee or give the lessee notice to quit or otherwise terminate or attempt to terminate the lease except as permitted and authorised by the provisions of this Law;
5. to give reasonable notice to the lessee of an intention to enter upon the land to examine the state and condition of the land and for all other reasonable purposes connected with the proper use and cultivation of the land by the lessee;
6. to permit the lessee, on the lessee’s paying the rent and performing the conditions implied in the lease, peaceably and quietly to hold and enjoy the land during the term of the lease without any interruption by the lessor or any employee of the lessor;
7. that on termination of the lease, the lessee, if the lessee has paid all the rent and observed and performed all the conditions of the lease, shall be entitled to cultivate and to reap any standing crops and to receive compensation for the value of any unexhausted improvements made to the land as a result of any investment in infrastructure made under the conditions of the lease.

Article 43
On any breach arising of a condition specified in article 41 or upon any failure to pay any rent, other required payments or taxes, the lessor may take any one or more of the following actions against the lessee:
1. serve a notice on the lessee requiring the breach to be remedied;
2. terminate the lease.

Before proceeding to take any action under this section, the lessor shall consider
1. the nature and gravity of the breach and whether it could be waived.
2. the circumstances of the lessee;
3. whether the condition that has been breached could be amended so as to rectify the breach.

In any case before a lessor takes action under this article the lessor shall first issue a warning letter to the lessee advising that the lessee is in breach of the conditions of the lease and that the breach should be rectified and then take no further action until not less than one month has passed from the date of the service of the warning letter.

Where the lessor decides to take one or more of the actions referred to in this article, the lessor shall serve a notice on the lessee alleged to have committed the breach setting out
1. the alleged breach;
2. the proposed remedy;
3. where some action has to be taken the time, being not less than one month, within which it must be taken.
4. the consequences of a failure to remedy the alleged breach;
5. the rights of the lessee to go to court to seek relief from any of the actions which the lessor is proposing to take.

Where a lessee fails to comply with the notice served under subsection (3), the lessor may serve a notice to terminate the lease.

A notice to terminate a lease shall not take effect nor shall the lessee be required to vacate the land to which it relates until not less than one month from the date of the service of the notice.

Article 44
An application of relief against an order of termination of a lease may be made by
1. the lessee.
2. if two or more persons are entitled to the lease as co-occupiers, by one or more of them on their own behalf.
3. a sub-lessee of the lessee.
4. a mortgagee of the lessee or of a sub-lessee of a lessee

Article 45
In considering whether to grant relief against a notice of termination, a court shall have regard such of the following matters as it considers relevant to the case before it, namely
1. whether to recommend to the parties that the action should be adjourned to enable the parties to enter into a process of conciliation and arbitration to resolve the matter provided that any resolution agreed upon by the parties must be approved by the court.
2. the gravity of the breach.
3. the reasonableness of the action required to be taken or desisted from by the lessee to remedy the breach and the time within which it has to be taken or desisted from as specified in the notice served by the lessor under article 42.
4. whether the lessor has committed any breaches of conditions which the lessor is under an obligation by the lease to comply with and the extent to which those breaches have contributed to any breaches by the lessee.
5. the degree of forbearance shown by the lessor in respect of other breaches of conditions by the lessee;
6. whether there is any alternative remedy which can be applied in the circumstances.
7. the interests of all other parties involved in the lease and
8. any other matters which the court considers appropriate and reasonable.

A court may grant such relief against the operation of an order as the circumstances of the case require.

Article 46
On any breach arising of a condition set out in article 41, the lessee may serve a notice on the lessor that the lessor is in breach of the conditions of the lease and requesting that the breach should be rectified and then take no further action until not less than one month has passed from the date of the service of the notice.

If the lessor takes no action to rectify the breach or continues to breach a condition of the lease, the lessee may serve a notice on the lessor stating that the lessee will seek an order from the court requiring the lessor to comply with the terms of the lease.

In any case where a lessee seeks an order from the court requiring the lessor to comply with the conditions in the lease, the lessee may also seek an order from the court that the lessor pay damages to the lessee for the financial losses, inconvenience and suffering caused by the failure of the lessor to comply with the conditions of the lease.

CHAPTER 9
CONVERSION OF LAND TO OR FROM AGRICULTURAL USES

Article 47
The land and the uses of land to which this chapter applies is land under private ownership or land under a lease held by a legal or physical entity and is
- agricultural land as provided for in this Law-
- forestry land as provided for in the Forestry Law
- protected areas as provided for in the Protected Areas Law
- land used for fisheries as provided for in Fisheries Law
- land protected under the Environment Law
- land the use of which is the subject of a land use master plan prepared under the Law on Land Management, Urban Planning and Constructions
- land allocated for a specific purpose under the Land Law as an economic or social concession

Article 48
Prior to the conversion of any land to or from agricultural uses, in addition to any permissions or licences required from any other department of MAFF or any other Ministry for the development of such land for the purposes for which it is to be converted. The person proposing to convert the land from or to agricultural uses shall apply to the Agricultural Land Conversion Committee for a land conversion permit.

Article 49
There is hereby established an Agricultural Land Conversion Committee.

The arrangement and duties of this committee shall be defined by the decision of Royal Government.

Members of the committee will be drawn from and represent the following Ministries and other agencies:
- Ministry of Agriculture, Forestry and Fisheries
- Ministry of Interior
- Ministry of Commerce
- Ministry of Environment
- Ministry of Land Management, Urban Planning and Construction
- Ministry of Water Resources and Metrology
- Ministry of Rural Development
- Ministry of Justice
- Ministry of Public Works and Transport
- Ministry of Industry, Mines and Energy

The Agricultural Land Conversion Committee shall
- hear and determine applications for conversion of land to or from agricultural uses.
- develop policies and strategies to manage and regulate the conversion of land to and from agricultural uses.

The Committee will be assisted by the GDA.

**Article 50**
In considering whether to grant a land conversion permit the Agricultural Land Conversion Committee shall have regard to:
1. the uses to which the land which is the subject of the application for a land conversion permit is being put, the number of people employed on the land and the value that the land is contributing to the national economy compared to the likely contribution to employment and value to the economy that the proposed changed use will be likely to provide;
2. where the application is to convert agricultural land to non-agricultural uses, the National Agricultural Land Policy and the National Agricultural Land Management Plan and any other relevant agricultural policies;
3. where the application is to convert forestry land to agricultural uses, the National Forest Policy and the National Forest Management Plan;
4. where the application is to convert land not used for urban purposes to land to be used for urban purposes, any land use master plan prepared under the Law on Land Management, Urban Planning and Constructions applicable to the land which is the subject of the application.
5. such other factors as may be provided for in a Prakas issued by the MAFF.

In determining any application under this article, the Committee must give
1. adequate notice to the applicant of the time and place where the application will be considered
2. the applicant adequate opportunity to present the case for a conversion of land
3. any person with an interest in opposing the application an adequate opportunity to present the case against a conversion
4. full reasons for its decisions
Article 51
The Committee may grant or may refuse to grant a land conversion permit and where the Committee grants a land conversion permit, it may grant it for the whole or one or more parts of the land for which the land conversion permit is being applied for and in granting any such land conversion permit, it may impose conditions on any such grant which shall have as their purpose the regulation of any process of development on the land to which the land conversion permit applies to ensure that the land not included in the land conversion permit shall be enabled to remain in its existing use.

Article 52
The commencement of any uses or development on land for which a land conversion permit has been applied but has not yet been granted or has been refused by the Committee shall be illegal development, punishable in accordance with the provisions of chapter 10.

Article 53
The modalities of the procedures for applying for and obtaining a land conversion permit shall be provided for in a Sub-Decree.

CHAPTER 10
OFFENCES AND PENALTIES

Article 54
Any person who contravenes or fails to comply with any of the provisions of this Law or of any Sub-Decree made under this Law which require that person to do or not to do some thing or with any lawful order of an officer of the GDA issued to that person shall be guilty of a Class III offence.

Any person who knowingly obstructs or hinders any person or officer in the exercise of his powers or the performance of his duties under this Law shall be guilty of a Class III offence.

The process of preparing the files of offence under this law shall be conducted in complying with the law on criminal procedures.

The standard form for an allegation letter on an offence under this law shall be determined by Joint-Prakas issued by MAFF and the Ministry of Justice.

A person who has been convicted of a Class III offence under this law shall be liable to a punishment of 1 month to 1 year in prison and a fine from 1,000,000 riels to 10,000,000 riels.

Article 55
Any individual who has committed an offence harming the national agricultural heritage or the agricultural ecosystem shall be liable in addition to any fine payable on conviction for that offence to pay damages in order to restore or repair the national agricultural heritage or the agricultural ecosystem to its prior condition.

Article 56
The MAFF (GDA) may instead of prosecuting a person for committing an offence under this Law issue a written warning to that person.

A written warning shall be registered in the records of the GDA.

CHAPTER 11
FINAL PROVISIONS

Article 57
Where a person on whom a notice is to be served under this Law cannot be served personally, service of the notice may be carried out by notifying the person concerned of the contents of the notice by an announcement made through a newspaper or the radio; or

1. by serving the notice on an adult member of the family of the person to be served who is residing with him or her; or

2. by serving the notice on an agent of the person on whom the notice is to be served; or

3. by fixing a copy of the notice in a conspicuous place on or as near to the residence of the person to be served.

Article 58
An officer authorised by MAFF shall have power, on the giving of not less than forty-eight hours' notice, to enter and inspect at all reasonable times any land, other than land occupied exclusively as a house, for any purpose connected with the implementation of this Law.

Every person authorised to enter or inspect land under this article shall carry a written authorisation signed by the Director-General of the GDA and if so required by any person occupying the land which he or she enters and inspects, shall produce the same to such person.

Where any person authorised under this article causes any damage to land or anything on the land during his or her entry and inspection, the Director-General of the GDA shall appoint a person to assess such damage and pay promptly compensation based on that assessment to the person whose land or things on the land have been damaged.

Article 59
MAFF may provide private individuals and communities that demonstrate high quality agricultural land use and management practices, one or more of the following incentives or rewards:

1. A monetary award to an individual
2. Appreciation certificates
3. Direct development assistance to a community; and
4. Publicity of the award for good practices.

Article 60
Sub-Decrees may be made on all matters contained in this Law to give further and better effect to the provisions of this Law.

Article 61
The Sub-Decree on the Management/Administration the Use of Agricultural Lands No. 06 ANK/6th April 1985 shall cease to apply to any matters provided for by this law from the time this law is brought into operation.

Article 62
This Law shall be declared as urgent.
ANNEX
DEFINITIONS

In this Law unless the context otherwise requires, the following words and expressions have the meanings given to them in this annex, that is to say:

“administration of agriculture” means the making of decisions, the taking of actions and the doing of any other thing which have as their purpose the carrying out of the objectives of national policies on agriculture and implementing the provisions of the laws on agricultural matters;

“agriculture” means the cultivation of land and the use of land including any buildings on the land for any purpose of agriculture and the growing of agricultural produce and includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land for grazing land, meadow land, market gardens or nursery grounds, woodlands, the use of hydroponics for agricultural production and the processing of any agricultural produce;

“agricultural holding” means a parcel of agricultural land to which the provisions of this Law apply;

“agricultural land” means all land together with any buildings or structures on the land whether state private property or whether held in individual or collective ownership and used or proposed to be used or allocated by any policy or plan made under this law or any land use master plan prepared under the Law on Land Management, Urban Planning and Constructions for use for purposes of agriculture and includes land granted under an economic or social concession under the Land Act for agricultural uses whether or not the land is in practice being used for the purposes of agriculture;

“agricultural produce” includes:
1. all root crops, plants, grasses, pulses, vegetables, cereals, fruit and fibres;
2. all planting material and seeds
3. any other crop, plant, grass, pulse, vegetable, cereal, fruit, fibre, material, seed, product, used in agricultural production;

“agricultural production business” includes any occupations relevant to producing, selling and purchasing agricultural products such as:
- cultivation of all kinds of crops;
- sericulture, arboriculture, aquaculture, animal husbandry;
- production of crop seeds, livestock breeds, aquatic animal species, and vegetation species;
- processing of agricultural produce;
- contract-based agricultural production purchase to supply the markets, for processing factories, or for export

“agricultural production contract” means an agreement concerning agricultural production business made by two or more parties which is legal binding and specifies in advance any requirements which all the parties to the contract are obliged to comply with;
"contract-based agricultural production" means a production that would ensure the price, quantity, quality and other conditions of the product agreed to prior to the production;
“landholder” means a person occupying and using land who is doing so by virtue of a right to be in occupation of the land, whether that right is derived, directly or indirectly, expressly or by implication from legislation or traditional and customary law and includes holding land by virtue of being an individual or collective owner or a lessee of an individual owner or of the State;

“landcare” means a strategic approach to land and soil conservation issues involving cooperation at scales greater than the individual property in which community groups take collective action to conserve and improve the quality of agricultural land;

“land conversion permit” means an agricultural land conversion permit;

“lease” means any contract, express or implied or presumed to exist under this Law, that creates a lease of agricultural land or any transaction that creates a right to cultivate or use any agricultural land and includes a sub-lease;

“lessee” means a person to whom a lease is granted and includes any such person who has accepted a transfer or assignment of a lease and a sub-lessee;

“lessor” means a person who grants a lease of immovable property (and who may or may not be the owner of the property) and who is entitled for the time being to receive the rents and profits of any agricultural land and includes the personal representatives, executors, administrators and assigns of any such natural person who is a lessor and includes a sub-lessor;

“the Ministry” means the Ministry responsible for agriculture;

“the Ministry responsible for agriculture” means the Ministry of Agriculture, Forestry and Fisheries (MAFF) and any Ministry which replaces MAFF and which is allocated the responsibility for agriculture;

“national agricultural heritage” means the natural agricultural products of the earth including soil, seeds, plants, trees which exist in Cambodia and whose origins in Cambodia can be traced back many centuries and which contribute to the diverse and unique biodiversity systems of Cambodia;

“officer” means an officer of the GDA and/or officer of MAFF;

“permit” means an agricultural land conversion permit;

“person” includes a natural or a legal person;

“practice of good husbandry” means, in relation to agricultural land, that the land will be used farmed and managed in a manner calculated to ensure good standards of efficient and sustainable production;

“producing party” means a physical or legal person who has a specific occupation in agricultural production;

“purchasing party” means a physical or legal person who legally conducts agricultural business and conforms to required procedures;
“receipt” means any note, memorandum or writing whatsoever whereby any rent is acknowledged or expressed to have been received or deposited or paid, or whereby any debt or demand or any part of any debt or demand for rent is acknowledged to have been settled, satisfied or discharged, or which signifies or imports such acknowledgement, signed by or on behalf of the lessor and describing the land to which the rent relates sufficiently to enable it to be identified;

“soil” means the natural dynamic system of unconsolidated mineral and organic material at the earth’s surface;

“soil conservation” includes any technical or non-technical process applied to the soil to ensure that soil together with all other aspects of the ecosystem is conserved;

“soil degradation” includes aspects of physical, chemical and or biological deterioration which may embrace loss of organic matter, decline in soil fertility, decline in the structural condition, soil erosion, adverse changes in salinity, acidity or alkalinity and the effect of toxic chemicals, pollutants or excessive flooding;

“soil quality” means the capacity of a specific type of soil to function, within natural or fabricated ecosystems or land use boundaries to sustain plant or animal productivity, maintain or enhance water and air quality and support human health and habitation;

“termination”, in relation to a lease, means the ending of the contract of lease by reason of the lease reaching the end of its agreed term or from any other cause;

“urban uses” means the use of land for any purposes for which a construction permit is required under the Law on Land Management, Urban Planning and Constructions and any other use or development of land which makes further non-urban use of that land impracticable.