



KINGDOM OF CAMBODIA

Nation Religion King

Royal Government of Cambodia

No

SUB DECREE

ON

PROCEDURES OF REGISTRATION OF LAND OF INDIGENOUS COMMUNITIES

The Royal Government

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Preah Reach Kret No. NS/RKT/0704/124; dated July 15, 2004 on the Appointment of the Royal Government;
- Having seen Preah Reach Kram No. 02/NS/94; dated July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Preah Reach Kram No. NS/RKM/0699/09; dated June 23, 1999 promulgating the Law on Land Management, Urban Planning and Construction;
- Having seen Preah Reach Kram No NS/RKM/0301/05; dated March 19, 2001 promulgating the Law on Management of Commune/Sangkat Administration Management,
- Having seen Preah Reach Kram No.NS/RKM/0801/05; dated August 30, 2001 promulgating the Land Law;
- Having seen Preah Reach Kram No.NS/RKM/0802/016; dated August 31, 2002 promulgating the Forestry Law;
- Having seen Sub-decree No. 46 ANK; dated May 31, 2002 on Procedures for Establishing Cadastral Maps and Land Register;
- Having seen Sub-decree No. 47 ANK; dated May 31, 2002 on Organization and Functioning of the Cadastral Commission
- Having seen Sub-decree No. 48 ANK; dated May 31, 2002 on Sporadic Land Registration;
- Having seen Sub-decree No.118 ANK; dated October 07, 2005 on State Land Management;
- Pursuant to the approval of the full session of the Council of Minister on

D E C I D E S

CHAPTER 1

General Provisions

Article 1.

The purposes of this Sub-Decree are to determine principles, procedures, and mechanisms for the registration of land of indigenous communities as collective title.

The registration of land of indigenous communities has the purpose to provide legal land tenure, ensure and protect the community ownership and land tenure security by keeping the identity, culture, custom and tradition of each indigenous community.

Article 2.

The following terms used in this sub-decree are defined:

- **“Collective title”** refers to jointly owned land of an indigenous community and this ownership is not private individual ownership of the community member. Each member or family of the community does not have the right to dispose of any community ownership.
- **“Residential land”** refers to land used by members of an indigenous community for building residences for temporary (for shifting cultivation) **or** permanent living.
- **“Reserved land necessary for shifting cultivation or reserved land for rotational agriculture or swidden farm land”** refers to land used previously by indigenous community as rice field or farm for traditional shifting cultivation.
- **“Spirit forest land or Forest lands of guardian”** refers to the place that the community keeps for own traditional worship or celebrating rituals.
- **“Forest lands of cemetery or Burial forest land”** refers to the place that the community uses for traditional burial.
- **“Administrative authority”** means a local authority and authority that has mandate to manage state land or state natural resources in those areas.
- **“Traditional authorities or Chairman of Community Committee”** means a community leader who is selected by all members of the community.
- **“Neighbors”** refer to people, communities or authorities who occupy state land which have boundaries next to the land of the community proposing land registration.

Article 3.

General principles that shall be applied in the registration of land of an indigenous community are as below:

- Only communities established as a legal entity which have registered community by-law and legal recognition can apply for registration of collective title.
- The registration of land of indigenous communities is the registration of all pieces of land of a community as collective title on one title only. Parcels can be located in one or different communes.
- The collective title certificate shall be attached with one title indicating the location, size and boundary, clear coordinates of parcels which is the collective title and has reference number clarifying the land classification, land use and other remarks. Sample of the

collective title certificate of the community has a format as stated in annex 2 of this sub-decree.

CHAPTER 2

Land which is to be registered as collective title of indigenous community

Article 4.

Land which is to be registered as collective title for indigenous community includes:

- Residential land or land which is reserved for building residences;
- Traditional agricultural land, actual cultivated land, farm land and reserved land necessary for shifting cultivation recognized by administration authorities and neighbors;
- Spiritual forest land can have one or more places for each community, with the total land size not more than seven (07) hectares; and
- Forest land of cemetery can have one or many places for each community, with the total land size not more than seven (07) hectares.

CHAPTER 3

Procedures of Registration of Land of Indigenous Communities

Article 5.

The traditional authority or representative of each community shall apply for registration of collective title to District/Khan Office of Land Management, Urban Planning, Construction and Cadastre, using the sample as stated in annex 1 of this sub-decree. The application form shall have the verification from a commune chief that the applying community is really located in the respective commune.

The application shall be attached with:

- Letter delegating representatives of the community to sign the application form if the chairman of community committee can not participate;
- Community by-laws;
- Internal regulations related to land use of the community
- Letter which approves that the community is registered by Ministry of Interior
- Community by-laws are recognized by Commune Council's Deika
- Commune decision on the nomination of committee of indigenous community; and
- All documents related to the land proposed for registration, if there are any.

Article 6.

If the location, size and boundary of land of indigenous community are agreed by the neighbors, the administrative authority and without any dispute or resolving dispute going on the District/Khan Office of Land Management, Urban Planning, Construction and Cadastre shall raise after receiving the application a proposal to District/Khan Governor to issue public notice at least 20 days before the date of demarcation, surveying and adjudication. The announcement shall be displayed to the public in a visible place, for example village hall, commune hall, urban area and in the community itself.

After demarcation and actual surveying the public display of collected data shall take place for 30

days in the community of its own and in the respective commune hall.

After the public display period and completion of conflict resolution, if there were any, the Cadastral Administration shall issue a collective title certificate to the community according to the procedure as described in the article 8 of this Sub Decree.

Article 7.

If the location, size and boundary of land of indigenous community which is proposed for registration are not yet agreed by neighbors and administrative authority:

- 7.1 District/Khan Office of Land Management, Urban Planning, Construction and Cadastre shall make a request to District/Khan Governor to conduct land identification and mapping at the proposed place.
- 7.2 After receiving the request the District/Khan Governor should review and bring comments to Provincial/Municipal Governor, Head of Provincial/Municipal State Land Management Committee, within 15 days to request District/Khan State Land Working Group to conduct state land identification and mapping at the requested registration place.
- 7.3 The Provincial/Municipal Governor shall assign District/Khan State Land Working Group, if it is not assigned yet, to conduct state land and community land identification and mapping according to the procedure described in the articles 6 and 7 of Sub Decree No. 118 on State Land Management.
- 7.4 After receiving approval from Provincial/Municipal Governor the District/Khan State Land Working Group shall inform the people in the community, the neighbors and the stakeholders at least 20 days before conducting the state land and community land identification and mapping.
- 7.5 The District/Khan State Land Working Group shall hold a meeting to prepare a list of state land and the community land with participation of traditional authority and/or representative of the community to draw the location, the boundary and the size on a millimeter paper which is placed on a map with clear coordinates. The State land authority shall also draw the existing state land on another millimeter paper which is also placed on this map.
- 7.6 After reviewing the results of drawing on the millimeter paper the District/ Khan State Land Working Group shall mark overlapping or unclear points for discussion and set a date for joint field visit between a field team including officials of District/Khan Office of Land Management, Urban Planning, Construction and Cadastre, traditional authority, people and/or representatives of the community and the adjacent communities or its people to define a location, boundary and size which the community is occupying or using.
- 7.7 In the actual visit the field team can propose a correction if they found out that the location, the boundary and the size which the community has been occupying or traditionally using is contrary to the drawing on the map and agreed from the representative and members of the community. Every request for correction, with or without an agreement, shall be recorded and signed or thumb printed from all relevant stakeholders.
- 7.8 Results of land identification and mapping shall be attached with a report and other minutes and shall be submitted to the District/Khan State Land Working Group for a coordination meeting to seek an agreement.
- 7.9 Summarized results of the meeting about the map, the location, the boundary and the size of

community land and state land shall be displayed to the public for a period of 30 days at Commune/Sangkat hall to get comments.

- 7.10 After public display the results of state land and community land identification and mapping as well as the summary report of public comments shall be submitted to seek approval from the Provincial/Municipal State Land Management Committee within 15 days.
- 7.11 The Provincial/Municipal State Land Management Committee can nominate officials to conduct an investigation and get additional information in case of any inconsistent or unclear assertion.
- 7.12 After the agreement on the location, the boundary and the size of requested registration community land the Provincial/Municipal State Land Management Committee shall send the decision to the District/Khan State Land Working Group to solve other conflicts, if there are any.
- 7.13 After the agreed decision on location, boundary and size of the land and conflict resolution the District/Khan State Land Working Group shall submit documents related to the applying community for registration of community land to the District/Khan Cadastral Administration for surveying and registering other pieces of community land according to procedure described in the article 8 of this Sub Decree and data entry of state land into the state land database.

Article 8.

The District/Khan Cadastral Administration shall register the land of the community which applies for collective title based on the collected data as described in article 6 of this Sub Decree or based on the results of official land identification and mapping as described in article 7 of this Sub Decree.

The community land registration shall register all parcels of a community on a common title even if parcels of the land are located in different villages and communes and are used differently.

Parts of each land shall specify coordinates, size and reference number to clarify land classification and types of land use and other remarks.

Article 9.

If the District/Khan State Land Working Group implements state land identification and mapping at the area where the indigenous community reside, the District/Khan State Land Working Group shall inform established and officially recognized indigenous community to apply for registration of land of the community and participate to demonstrate the location, the boundary and the size of the land which the community has been using to District/Khan State land Working Group according to the procedure prescribed in article 7 and article 8 of this Sub Decree.

CHAPTER 4

Condition for receiving land when a member wishes to leave or to join the community and dissolving the community

Article 10.

Indigenous people who have legal land possession or have legal private ownership on land and if they have the purpose to be a member of any indigenous community they shall give up his or her private land by integrating it into community land. This new member shall receive same benefits

from the community as other members.

Article 11.

When any member intends and decides to leave the community the concerned person has rights to receive the appropriate piece of land which will be cut from the land of indigenous community.

The piece of land which is allocated to the member who leaves from the community can be residential land and/or land for traditional agriculture such as land for actual cultivation and rice field and/or land for shifting cultivation.

In cutting a piece of land from or integrating a piece of land into any indigenous community land because of leaving or coming in the community, the community representative shall request Cadastral Administration for updating all these transactions.

Article 12.

In case the community is dissolved, the allocation of property of community shall follow the conditions of community by-laws and internal regulation of community.

CHAPTER 5

Final Provisions

Article 13.

All the provisions that are contrary to this sub decree shall be repealed.

Article 14.

The Minister in charge of the Office of the Council of Ministers, the Chairman of the Council for Land Policy, the Minister of Interior, the Minister of Land Management, Urban Planning and Construction, the Minister of Economy and Finance, the Minister of Agriculture, Forestry and Fishery, relevant Ministers, Secretaries of State, all provincial-municipal Governors and all heads of relevant institutions shall be in charge of implementing this sub-decree based on his/her respective duties from the date of signature.

Phnom Penh, 2008

Prime Minister

Hun Sen

c.c:

- Ministry of Royal Palace
- General Secretariat of the Constitutional Council
- General Secretariat of the Senate
- General Secretariat of the National Assembly
- General Secretariat of the Supreme Council for State Reform
- Cabinet of the Prime Minister
- General Secretariat of the Royal Government
- All central ministries and institutions
- All provincial/municipal halls
- As in Article 14
- Archive File