



KINGDOM OF CAMBODIA

Nation Religion King

Royal Government of Cambodia

No 83 ANK,BK

June 09, 2009

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/0908/1055; dated September 25, 2008 on the Appointment of the Royal Government of the Kingdom of Cambodia;
- 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/0196/26; dated January 25, 1996 promulgating the Law of Protecting Cultural heritage;
- Having seen Preah Reach Kram No. NS/RKM/1296/36; dated December 24, 1996 promulgating the Law on Environment Protection and Natural Resource Management;
- Having seen Preah Reach Kram No. NS/RKM/0699/09; dated June 23, 1999 promulgating the Law on establishment of the Ministry of Land Management, Urban Planning and Construction;
- Having seen to Preah Reach Kram No NS/RKM/0301/05; dated March 19, 2001 promulgating the Law on Management of Commune/Sangkat Administration;
- Having seen Preah Reach Kram No.NS/RKM/0801/14; dated August 30, 2001 promulgating the Land Law;
- Having seen Preah Reach Kram No.NS/RKM/0701/09; dated July 13, 2001 promulgating the Law on Management and Exploitation of Mining Resource;
- Having seen Preah Reach Kram No.NS/RKM/0802/016; dated August 31, 2002 promulgating the Forestry Law;
- Having seen Preah Reach Kram No. NS/RKM/0208/007; dated February 15, 2008 promulgating the Law on Natural Protected Area;
- 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. 79 ANK; dated December 02, 2003 on Forest Community Management
- 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 April 24, 2009 ;

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.

Article 2.

The objectives of this Sub-Decree are to provide indigenous communities with legal rights over land tenure, to ensure land tenure security, and to protect collective ownership by preserving the identity, culture, good custom and tradition of each indigenous community.

Article 3.

This Sub-Decree has the scope of application for indigenous communities which have legally been established as legal entity in the territory of the Kingdom of Cambodia

Article 4.

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

- **“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 houses to reside in **or** to live permanently (residences).
- **“Reserved land necessary for shifting cultivation or reserved land for rotation agriculture or swidden farm land”** refers to land used previously by indigenous community as rice field or farm for traditional shifting cultivation.
- **“Spiritual forest land or forest lands of guardian”** refers to the place that the community keeps for worship, or traditional ritual celebration.
- **“Forest lands of cemetery or Burial forest land”** refers to the place that the community uses for traditional burial.
- **“Administrative authority”** refers to local authorities and trustee authorities of state land or state natural resources in those areas.
- **“Traditional authorities or chairman of community committee”** refers to a community leader who is selected by all members of the community.
- **“Neighbors”** refers to people, communities or trustee authorities of state land having boundaries adjacent to the land of the community that has applied for land registration.

- **“Field team”** refers to member of Municipal/District State Land Working Group that their leader assigns to conduct state land and community land identification and mapping.
- **“Calquing paper”** refers to a type of soft white paper used for writing or drawing maps.
- **“Update”** refers to constant recording in cadastral documents for all change or alteration in accordance with legal documents.
- **“Community established as legal entity”** refers to indigenous communities that have assembled and were officially registered at the Ministry of Interior.

CHAPTER 2

Principles of Registration of Land of Indigenous Communities

Article 5.

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

- The registration of land of indigenous communities is the registration of all pieces of land of a community as collective title on a single cadastral map.
- The collective title certificate which will be issued to community should specify the name and location of the community, reference number to the single cadastral map indicating the location, size, boundary, co-ordinates of the land plot collectively owned and certification of the type of land use and other notes.
- Communities established as a legal entity with registered statute and official recognition can apply for land registration as collective title.
- Community shall be officially established as legal entity which has internal rule stipulating the management and collective land use as well as setting some conditions such as collective land management and land use according to land type and reconciliation at community level in case of conflict over traditional land use.

CHAPTER 3

Land to Be Registered as Collective Title of Indigenous Community

Article 6.

Land to be registered as collective title of indigenous community includes:

- State Private Land such as:
 - . Residential land or Land on which the community has built houses
 - . Land on which the community practices traditional agriculture such as actual cultivated land, rice and farm land, and
- State Public Land that has already been registered with the State such as:
 - . Reserved land necessary for sifting cultivation which has been recognized by administrative authorities and agreed by the neighbors.
 - . Spiritual forest land, can be one or more plots, for each community shall not exceed seven (07) hectares in total size.
 - . Burial ground forest land (cemeteries) ,can be one or more plots, for each community shall not exceed seven (07) hectares in total size.

Article 7.

As for other state land on which indigenous communities have traditionally used such as forest land for harvesting forest sub-products and source for water use, the community could continue to

use and enjoy benefits according to its tradition; however, it shall enter into an agreement with relevant trustee institutions of state land.

CHAPTER 4

Procedures and Mechanism of Registration of Land of Indigenous Communities

Article 8.

The chairman of community committee or traditional authority of each indigenous community shall apply for registration of community land as collective title at the Municipal/District Office of Land Management, Urban Planning, Construction and Cadastre by using the sample of application form as in annex 1 of this sub-decree. In the application forms for land registration shall have a certification of the commune/Sangkat chief that the community that applies for land registration is located within his/her commune/Sangkat.

The application forms for registration of land of indigenous communities are as follows:

- Application form with finger print of the chairman of the community committee or traditional authority;
- Delegating letter to a member of the community committee to be a representative of the community in the process of providing information and filling out application forms for registration of the community land according to the procedures in force if the chairman of the community committee or traditional authority cannot participate in;
- Community's statute and list of community members with certification of the commune/sangkat chief;
- Community's internal rule related to the way of collective land use and management;
- Notification of the approval of the community registration by the Ministry of Interior;
- Decision of the commune/sangkat council on the appointment of the community committee; and
- All documents related to the land applied for registration if there are any.

Article 9.

If the location, size, and boundary of land of indigenous community are agreed by the neighbors, the administrative authority and without any dispute or with dispute, but it has been resolved, the Municipal/District Office of Land Management, Urban Planning, Construction and Cadastre; after receiving application for land registration, the office shall make a proposal to the Municipal/District Governor to issue public notification at least 20 days prior to the date of boundary demarcation, surveying, and adjudication. The notification shall be publicly displayed at visible places such as village hall, commune/Sangkat hall, urban area and at the site of the community land.

After boundary demarcation and actual surveying, the public display of collected data shall take place for 30 days at the interested community and at commune/Sangkat hall where the community is located.

After the public display period and resolution of complaints, if there were any, the Cadastral Administration shall conduct land registration and issue a collective title certificate to the community according to the procedure as described in the article 10 of this Sub Decree.

Article 10.

In case the location, size and boundary of land of indigenous community which is applied for registration are not yet agreed by neighbors or administrative authority, it shall proceed through mechanism and procedures as follow:

- 1- Municipal/District Office of Land Management, Urban Planning, Construction and Cadastre

shall make a request to the Municipal/District Governor, the team leader of the Municipal/District State Land Working Group, to conduct state land identification and mapping at the area where the community has applied for land registration.

- 2- After receiving the request the Municipal/District Governor should review and provide comments to the Provincial Governor, Head of Provincial State Land Management Committee, within a duration not exceeding 15 days to request the Municipal/District State Land Working Group to conduct identification and mapping of state land and community land at the area where the community has applied for land registration.
- 3- The Provincial Governor shall assign the Municipal/District State Land Working Group, if it is not assigned yet, to conduct identification and mapping of state land and community land that has applied for registration in compliance with procedures described in the articles 6 and 7 of Sub Decree No. 118 on State Land Management.
- 4- After receiving approval from the Provincial Governor, the Municipal/District State Land Working Group shall inform the people in the interested community, the neighbors and the stakeholders at least 20 days before conducting identification and mapping of state land and community land.
- 5- The Municipal/District State Land Working Group shall hold a meeting to produce a list of state land and community land with participation of the traditional authority of the community or representative of the interested community to draw the location, the boundary and the size on a calquing-paper which is placed on a map with clear coordinates. The trustee authority of state land shall also draw state land on another calquing-paper which is also placed on this map.
- 6- After verifying the results of drawing on the calquing-paper the Municipal/District/ State Land Working Group shall mark overlapping or unclear points for discussion and set a date for joint field visit between the field team which includes officials of the Municipal/District Office of Land Management, Urban Planning, Construction and Cadastre, the traditional authority, the people and/or representatives of the interested community and the adjacent communities or people to define the location, boundary and size of land which the community has been occupying or using.
- 7- In the course of the field visit, the field team can propose a correction if they find out that the location, the boundary and the size of land which the community has been occupying or traditionally using is contrary to the assertions drawn on the map and with the agreement of the representative and members of the community. Every request for correction, even with or without an agreement, it shall also produce a report which are signed or thumb printed by all relevant stakeholders and officials of the field teams.
- 8- Results of land identification and mapping which are to be attached with the report and other minutes shall be submitted to the Municipal/District State Land Working Group for a coordination meeting to seek an agreement.
- 9- Summary results of the meeting and the map of the location, the boundary and the size of community land and state land shall be publicly displayed for a period of 30 days at the Community office, Village office and at the Commune/Sangkat hall to get public comments. The comments shall be received at Commune/Sangkat hall of the interested community.
- 10- After public display, the results of identification and mapping of the community land and state land as well as the summary report of public comments shall be submitted to seek approval from the Provincial State Land Management Committee within 15 days.
- 11- The Provincial State Land Management Committee can assign officials to conduct an

investigation and get additional information in case of any inconsistent or unclear assertion.

12- After the agreement on the location, boundary and size of the land which the community has applied for registration, the Provincial State Land Management Committee shall forward the decision to the Municipal/District State Land Working Group to examine and conciliate other conflicts if there are any. In case the conciliation cannot reach an agreement, the Municipal/District State Land Working Group shall forward these conflicts cases to the cadastral commission.

13- After the decision agreed on the location, boundary and size of the land and conflict resolution, the Municipal/District State Land Working Group shall submit documents related to the land that the community has applied for registration to the Municipal/District Cadastral Administration for surveying and registering other pieces of the community land according to procedures described in the article 9 of this Sub Decree and data entry of state land into the state land database.

Article 11.

The Cadastral Administration shall establish a separate land register for registration of the land of the indigenous communities.

The Municipal/District Cadastral Administration shall register the land of the communities which have applied for collective title on the land register based on the collected data as described in article 9 of this Sub Decree or based on the results of official land identification and mapping as described in article 10 of this Sub Decree.

Registration of community land shall register all parcels of the land of a community on a single cadastral map even though the parcels of the land are located in different villages and communes. Based on the single cadastral map, the Cadastral Administration shall issue a certificate of collective title to the community according to the actual state of each parcel of land by specifying the name and location of the community, reference number to the single cadastral map indicating the location, size, boundary, coordinates of the piece of land collectively owned and certification of the type of land use and other notes. The model of the certificate of the collective title has a form as described in annex 2 of this Sub-Decree.

Article 12.

In case the Municipal/District State Land Working Group conducts identification, mapping and classification of the state land in the area where the indigenous community reside in and it is the community that was registered and officially recognized by the Ministry of Interior; the Municipal/District State Land Working Group shall inform the community to apply for land registration as community ownership. The community shall participate in indicating the location, boundary and size of other pieces of land which the community has been occupying and using to the Municipal/District State land Working Group according to the procedure prescribed in article 9 and article 10 of this Sub Decree.

CHAPTER 5

Conditions for Acquiring Land When a Member Wishes to Leave

or to Join the Community, and Dissolution of the Community

Article 13.

Indigenous people who has legally and privately occupied pieces of land or owned land as private ownership and applied for a member of any indigenous community, the interested person shall give up all his or her privately owned land to be incorporated in collective ownership of the community, and the new member shall receive benefits from the community as other members do.

Article 14.

When any member decides to leave the community, the interested person may receive an appropriate piece of land which will be cut from the land of the collective ownership of the indigenous community, or may receive an appropriate compensation according to the collective decision of the community in case the person who leaves agrees.

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

To cut a piece of land or to incorporate a piece of land into any indigenous community land as a result of leaving or joining the community of a member, the community representative shall request the Cadastral Administration for subsequent registration of all changes.

Article 15.

In case the community is dissolved, the management of the community property shall comply with the statute and internal rule of the community.

CHAPTER 5

Final Provisions

Article 16.

All the provisions that are contrary to this sub decree shall be considered as null and void.

Article 17.

The Minister in charge of the Office of the Council of Ministers, the Minister of Interior, the Minister of Land Management, Urban Planning and Construction, the Minister of Economy and Finance, the Minister of Environment, the Minister of Agriculture, Forestry and Fishery, the Minister of Rural Development, relevant Ministers, Secretaries of State, Capital Governors and Provincial Governors shall be in charge of implementing this sub-decree based on his/her respective duties from the date of signature.

Phnom Penh, June 9, 2009

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 Royal Government
- Cabinet of the Prime Minister
- Cabinet of the vice Prime Ministers
- As in Article 17
- Official Gazette
- Documentation