

KRAM DATED JUNE 26, 1995

ON THE COMMERCIAL REGULATIONS AND THE COMMERCIAL REGISTER

We,

His Majesty Norodom Sihanouk,

King of Cambodia,

- having seen the 1993 Constitution of the Kingdom of Cambodia;
- having seen Kret dated November 1, 1993 on the appointment of the Royal Government of Cambodia;

upon the proposal of the two Prime Ministers and the Minister of Commerce;

promulgate;

the Law on the Commercial Regulations and the Commercial Register adopted by the National Assembly of the Kingdom of Cambodia on May 3, 1995, the text of which is as follows:

CHAPTER I:

GENERAL PROVISIONS

Article 1:

Merchants are people or legal entities who conduct acts of commerce and make this their usual profession.

Commerce is the activity of buying and selling merchandise or services, engaged in regularly, for the dual purposes of exchange and profit.

Article 2:

The following are considered to be acts of commerce:

- Purchases for resale, including immovable property;
- The activities of businesses engaged in renting, manufacturing, factoring, transporting, printing, and other services;
- Operations of banking and exchange;
- The furnishing of intermediary services, agencies, employment offices, cultural services, and public performances and exhibitions;
- The operations of construction businesses, purchases or chartering of ships for internal or external navigation, terrestrial, maritime or aerial transport and shipping;
- The different types of insurance;
- Fishing, exploitation of forests and mining.

Article 3:

The following are not considered to be acts of commerce:

- Acts of production not followed by sale;
- Acts of production or services of a family character;
- Artistic production of pure creativity;
- Individual instruction, or instruction delivered by authorized associations.

Article 4:

Artisans whose activity is of familial character are not considered to be merchants.

Article 5:

Persons who only sell the merchandise of their merchant spouses are not considered to be merchants.

Employees who only sell the merchandise of their merchant employers are not considered to be merchants.

Article 6:

The spouse is considered a merchant only if he or she operates a separate business that is itself enrolled in the Commercial Register.

Nonetheless, the consent of the spouse is necessary for that merchant.

Article 7:

Minors, unless they are emancipated, cannot be merchants under the present Law.

Article 8:

The rights and obligations of the merchant are governed by the Commercial Laws in the absence of proof to the contrary.

Article 9:

The capacity to exercise acts of commerce can be nullified for the following reasons:

- Bankruptcy;
- The decision of the court to prohibit the exercise of a commercial activity;
- Incompatibility between commercial and public employment.

CHAPTER II:

THE COMMERCIAL REGISTER

Section 1: Its Maintenance and Objective

Article 10:

A register for enrolling merchants and commercial companies, called "The Commercial Register", is maintained at the Office of the Clerk of the Commercial Court.

Article 11:

The Clerk of the Commercial Court is responsible for maintaining this Register under the supervision of the Presiding Judge of the Commercial Court.

Article 12:

The merchants and commercial companies which have their domicile, branch office, subsidiary or agency in the Kingdom of Cambodia are required to enroll in this Register, except those merchants exempt from taxation on profits.

Article 13:

All references concerning merchants and companies exercising acts of commerce shall be recorded in this Register.

*Section 2: Merchants Having Their Principal Establishment in the Kingdom
Of Cambodia*

Article 14:

At least 15 days prior to opening their business, merchants must enroll in the Commercial Register at the office of the Clerk of the Commercial Court in the jurisdiction in which they are conducting their business.

The merchants must submit to the Office of the Clerk a declaration in duplicate with the signature or thumbprint of the interested party.

This declaration shall be written on a model form provided by the Clerk. It includes:

1. Family name and first name of the merchant and identity document number.
2. Name used in business, or pseudonym.
3. Date and place of birth and personal address of the merchant.
4. Original nationality and, where the interested party has acquired another nationality, the manner and date of that acquisition must also be indicated.
5. The objective of the business.
6. The place of the business and the addresses of establishments or branches of commercial assets set up in the Kingdom of Cambodia.
7. The commercial mark of the establishment, sample signature of the interested party, and the imprint of the model seal.
8. The identity of the agent empowered to enroll at the Commercial Register.
9. The business establishments which the applicant has previously operated or which the applicant currently operates within the jurisdiction of other Commercial Courts.
10. The sworn declaration of the applicant that he or she has not been found guilty in any Commercial, Civil, or criminal matters.

I 1. The authorization to practice when the occupation is regulated or when the object of business requires it.

The Clerk shall transcribe into the Commercial Register the contents of the declaration and return to the applicant one of the two copies on the bottom of which is the certification "has been copied".

Article 15:

The following shall also be mentioned in the Commercial Register:

- I. Any change or modification relevant to the facts which the preceding article requires be entered into the Commercial Register.
2. Judgments or judicial orders determining the divorce of the merchant.
3. Patents of inventions used or the trademarks used by the merchant.
4. Judgments or judicial orders appointing advisors to assist the merchant or judgments or judicial orders or interdictions prohibiting commercial activities as well as judgments or judicial orders lifting such interdictions.
5. Liens or mortgages issued on the goods necessary for the business.
6. Declarative judgments of bankruptcy or court-ordered liquidation.
7. The transfer of commercial assets.

Article 16:

The references above shall be provided by the merchant himself or herself. But in the instances cited in numbers 2, 4 and 6 of Article 15, the Clerk of the Commercial Court or the Court which has rendered the judgment or the judicial order may enroll such references in the Commercial Register where the concerned merchant is enrolled.

Section 3: Companies Having Their Head Offices in the Kingdom of Cambodia

Article 17:

All companies engaging in a commercial activity, whatever be the terms of their formation and their duration, shall be enrolled in the Commercial Register.

Enrollment shall be required of the managers or of the directors in the month in which the company is established and fifteen days prior to the commencement of commercial operations.

Applicants shall furnish the Office of the Clerk of the Commercial Court where the head office is located a declaration in duplicate signed by them at the same time that they deposit the articles/documentation of formation.

The declaration, the model of which shall be furnished by the Clerk, indicates:

- I. The family names, first names, or pseudonyms of the members, the date and place of birth, their family status and nationality.

2. The company name.
3. The objective of the company.
4. The places in Cambodia where the company has its principal office, branch offices, or agencies.
5. The names of members or third parties authorized to direct, manage and sign for the company, the date and place of their birth.
6. The amount of registered capital, its origin, and the amount of the sums or values to be furnished by the shareholders, if the company issues shares.
7. The dates on which the company will begin and end.
8. The form of the company.
9. Sample signatures of the members or the third parties provided in number 5 of this Article and the imprint of the model seal of the company.
10. The attestation of a bank confirming the deposit of capital.
11. The sworn declaration of the applicant that applicant has not been found guilty in any commercial, civil or criminal matters.

Article 18:

The following shall also be indicated in the Commercial Register:

1. Any change or modification relative to the facts which the preceding Article requires be enrolled in the Commercial Register.
2. The family names, first names, date and place of birth of the managers, administrators or directors appointed during the existence of the company.
3. The patents or inventions used and the trademarks employed by the company.
4. Judgments or judicial orders pronouncing the dissolution or the nullity of the company.
5. Judgments or judicial orders declaring the company in bankruptcy or any court-ordered liquidation.

Section 4: Foreign Companies Having Only Branch Offices Or Agencies In

The Kingdom of Cambodia

Article 19:

All foreign business companies having only a branch office or an agency in the Kingdom of Cambodia are subject to enrollment in the Commercial Register.

The formalities required for this enrollment are the same as those stated in Articles 17 and 18.

Article 20:

Any modifications or changes taking place in this branch office or agency shall be entered into the Commercial Register in accordance with the provisions of Article 18.

Section 5: Common Provisions

Article 21:

The declaration in duplicate may be deposited by the applicant or by his or her specifically authorized agent. In this case, the agent must have an authorizing letter which shall be deposited at the office of the Clerk of the Commercial Court.

Article 22:

If the declaration is deposited by the applicant himself or herself, the Clerk shall confirm the depositor's identity. If it is deposited by a representative, the Court Clerk shall require the authentication of the signature on the commission, or the certification by fingerprint if the principal does not know how to sign, or the presentation of an identity document.

Article 23:

The particular references required by law shall be written legibly on the declaration without abbreviation, alteration or words written over others. Marginal notes shall be initialed, and their number, as well as that of words crossed out, shall be counted and certified.

Article 24:

Patents of inventions used and marks deposited shall be designated by the date of their deposit and their delivery number by the competent institutions.

Article 25:

The Court Clerk shall bear personal responsibility for verifying that all required information has been furnished. He or she will write at the head of the declaration:

1. The date, hour of deposit, and the location of the Commercial Court.
2. The serial number assigned to the declaration according to a sequential numeration which recommences anew each year beginning on January 1.
3. The code number by type of activity under which the merchant is registered shall be entered into the Analytic Index discussed later in this Law.

A supplemental fifteen-day period shall be granted to an applicant who does not present all the information necessary for registration.

Article 26:

Upon receipt of written declarations and deposited documents, the Court Clerk shall deliver a certificate of registration called an "Abstract" bearing the enrollment number in the Commercial Register. This certificate shall remain provisional for a period of one month from the date of delivery, a period during which the Clerk of the

Commercial Court may contest the enrollment or annul the registration in the event of a false declaration.

The Court Clerk who, in full knowledge of the case, delivers a false certificate is subject to prosecution under the law.

Article 27:

Every declaration subsequent to registration shall reproduce the number of the initial declaration and that of the Analytic Index assigned during enrollment.

Article 28:

When a merchant ceases to conduct his or her trade or dies without having transferred his or her business assets, or when a company is dissolved, a cancellation of the registration shall occur.

This cancellation shall be implemented officially through a decision by the Judge in charge of monitoring the Register, if it has not been requested by the merchant or his or her heir, or by the person responsible for winding up and removing the name from the Register.

Article 29:

All persons may have the Clerk deliver a certificate indicating evidence of their Registrations in the Commercial Register. If there is no registration, the Clerk shall deliver a certificate of non-registration.

The failure or refusal to deliver a certificate for a period of one week from the day of the request shall result in disciplinary sanctions for the Clerk, in addition to the imposition of damages.

The copy delivered by the Court Clerk shall not indicate declaratory judgments of bankruptcy or court-ordered liquidations when there is a subsequent rehabilitation. Mention also shall not be made of judgments or judicial orders prohibiting commercial activities or judgments or judicial orders nominating an administrator when such prohibition has been lifted.

Section 6: The Register - Its Form and Composition

Article 30:

The Commercial Register maintained by the Office of the Clerk of the Commercial Court shall consist of two parts:

1. A Chronological Register.
2. An Analytic Index.

Article 31:

The declarations shall be enrolled at the end of the Chronological Register in the order of their deposit with the Clerk and under the number that has been assigned to them.

A receipt of acknowledgment, detached from the end of the Chronological Register and called the "Abstract," shall be delivered confirming the fact of deposit and indicating:

1. The serial number of the declaration.
2. The date, hour of deposit, and the location of the Commercial Court.
3. The family names, first names and trade name or company name and the domicile of the declarants.

The Analytic Index is maintained in the form of a table recording the date and hour of the deposit, the registration number, the company name, the company objective and the company's registered capital. Every commercial establishment subject to a separate registration number shall be registered in a folio to which the Clerk adds the number of the initial enrollment declaration.

Article 32:

Following a request to enter a cancellation of existing items, the Clerk shall cancel the latter with red ink, or with a cross on a computer program, indicating in the margin the reference to the new item and the number under which the declaration or requisition requesting the enrollment has actually been registered.

Article 33:

If there is a cancellation of an enrollment, this cancellation is effected by means of two diagonally crossed lines traced in red ink or on the computer program.

A notice is made in red ink in the margin either of the decision to cancel enrollment by the Judge charged with monitoring the Register, or of the request to cancel enrollment. This notice shall be initialed by the Court Clerk.

Article 34:

When the information contained in the declaration has been recorded in the Analytic Index, the Court Clerk shall give the depositor one of the copies of the declaration, duly signed, to serve as a Certificate of Registration.

The copies of the declarations retained at the Office of the Clerk of the Commercial Court shall be bound in their numerical order at least once a year by the Clerk.

Article 35:

The Chronological Register and the Analytic Index shall be classified, initialed and verified at the end of each month by the Presiding Judge of the Commercial Court or the Judge charged with monitoring the Register. Indication of this verification is made under the seal of the Court and the signature of the verifying Judge.

If the Presiding Judge of the Court or the Judge charged with verification determines that a declaration falls under the scope of Articles 40 and 41 of this Law, he or she shall state this fact to the Prosecutor of the competent Court.

Article 36:

The enrollment, cancellation, or delivery of various certificates is the responsibility of the Court Clerk. They shall be delivered in sequentially numbered notebooks. Fees for registration formalities, cancellation or delivery of certificates shall be determined by a proclamation of the Ministry of Economics and Finance and shall be collected by the Clerk for payment to the national budget.

Article 37:

Copies of enrollments in the Register and the Certificates of non-registration delivered by the Court Clerk shall be furnished gratis at the request of judicial or administrative authorities under condition that their destination shall be indicated.

Article 38:

Enrollment in and cancellation from the Commercial Register shall be published by the Court Clerk in the Official Journal. The references to be published are as follows:

a. For merchants:

1. Registration number.
2. Family name, name, pseudonym, and name of spouse.
3. Activities, place and date of commencement of activities.
4. Commercial marks.

b. For companies:

1. Registration number.
2. Name.
3. Amount of registered capital.
4. Place of office.
5. Activities and starting date.
6. Form of company.

Section 7: Penalties

Article 39:

Any merchant or any manager of a commercial company who does not request the mandatory registration within the period prescribed shall be prosecuted for illegally engaging in commercial activity.

Article 40:

The following shall be punished by a fine of fifty thousand to five hundred thousand riels:

1. Any merchant or any manager of a commercial company who has not completed his or her enrollment within the period prescribed.

2. Any merchant or any manager of a commercial company who has enrolled in the Commercial Register who has not indicated on invoices, letters, order forms, rates and publicity documents the location of the Court where enrollment was made and the number of his or her enrollment in the Commercial Register.

Article 41:

In case of bankruptcy, failure to complete the mandatory registration in the Commercial Register during the defined period may entail the penalty of ordinary bankruptcy for the merchant or manager of a commercial company.

Article 42:

Any merchant or any manager of a commercial company who has provided inaccurate information, in bad faith, with a view towards enrollment or registration in the Commercial Register shall be punished by imprisonment from one to five years and a fine of one million to ten million riels.

Where information has been corrected as provided for in Articles 15 (1), 18 (1) and 20, any merchant or manager of a commercial enterprise who has not completed the process at the office of the Clerk of the Commercial Court within 15 days following such correction shall be punished by a fine from five hundred thousand to one million riels.

Article 43:

Any merchant or any manager of a commercial company who has intentionally made use of a fraudulent document in his or her business connections shall be sentenced to imprisonment from one to five years and a fine from one million to ten million riels.

Article 44:

In the event of repeat offenses, the penalties provided in Articles 40, 42 and 43 shall be carried out to the maximum. Any merchant or manager of a commercial company who repeatedly violates the provisions of Article 42 (1) shall be condemned to imprisonment for a period ranging from three months to one year.

Article 45:

Anyone who solicits or receives a possession or a sum of money by using the power of his or her position is subject to the punishments provided for under the law in force.

Article 46:

The fines provided in the present law are paid to the state budget.

CHAPTER III:

BOOKKEEPING REQUIREMENTS

Article 47:

Every merchant or manager of the commercial company has an obligation to maintain accounting records according to the rules of accounting and the General Accounting Plan of the Kingdom of Cambodia, as well as various directives relating to their application.

Any merchant or any manager of a commercial company who does not comply with the accounting regulations cited in the above sentence shall be sanctioned and prosecuted in conformity with the laws in force.

Article 48:

Every commercial company registered in the Commercial Register shall open at least one account with a bank in the Kingdom of Cambodia.

Article 49:

All the acts of business transpiring between business people shall give rise to an invoice in duplicate. The original shall be delivered to the customer and the other retained by the vendor.

The sale of goods and the provision of services to customers do not necessarily require invoices or evidentiary documentation unless requested by the customer.

Article 50:

Invoices shall contain at least all the fixed references determined by kret of the Ministry of Economics and Finance.

Article 51:

Every merchant shall display the rates and conditions of sale in force. The modalities of posting shall be determined by a kret of the Minister of Commerce.

Article 52:

Prices shall be established in the national currency (riels) except in cases where otherwise authorized by the Ministry of Commerce.

Article 53:

Every purchase or sale transaction between merchants in an amount equal to or greater than ten million riels or its equivalent in foreign currencies shall be the object of a transaction by check or by negotiable instrument.

CHAPTER IV:**TRANSITIONAL PROVISIONS****Article 54:**

During the period in which the Kingdom of Cambodia has no Commercial Court, the organization and maintenance of the Commercial Register and the governance of

the capacity to conduct commerce as provided in this Law shall be entrusted to the Ministry of Commerce.

Article 55:

During the period in which the Kingdom of Cambodia has no Commercial Court, the ordinary courts of the Kingdom of Cambodia shall be competent in all commercial matters.

Article 56:

Every ministry concerned shall encourage every merchant and every commercial company to register once this Law enters into force.

Article 57:

At the end of this transition period, the Ministry of Commerce and the Commercial Court shall cooperate in regard to the transfer of the Commercial Register to the Clerk of the Commercial Court.

Article 58:

Every merchant and commercial company conducting activities prior to the promulgation of this Law is required to apply for registration in the Commercial Register within six months. If necessary, the Ministry of Commerce may prolong this date for another six months.

CHAPTER V:

FINAL PROVISIONS

Article 59:

All provisions contrary to this Law shall be considered as null and void.

Article 60:

This law is declared to be of urgency. This law is enacted by the National Assembly of the Kingdom of Cambodia on May 3, 1995 during the Fourth Session of the First Legislature.

Phnom Penh, May 3, 1995
The Chairman of the National Assembly
Chea Sim