

**RECORD OF DISCUSSIONS BETWEEN  
JAPAN INTERNATIONAL COOPERATION AGENCY AND  
AUTHORITIES CONCERNED OF THE ROYAL GOVERNMENT OF CAMBODIA  
ON JAPANESE TECHNICAL COOPERATION  
FOR THE LEGAL AND JUDICIAL DEVELOPMENT PROJECT (PHASE 2)**


In response to the request of the Royal Government of Cambodia, Japan International Cooperation Agency (hereinafter referred to as "JICA") has decided to implement Japanese Technical Cooperation on the Legal and Judicial Development Project (Phase 2) (hereinafter referred to as "the Project").

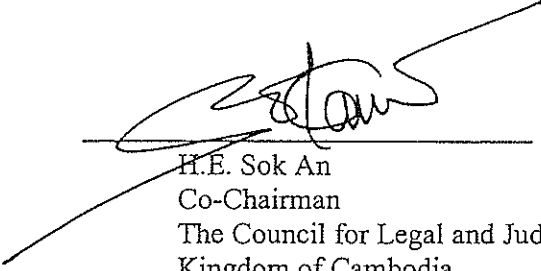
Accordingly, JICA, the independent administrative institution responsible for the operation of the technical cooperation program of the Government of Japan, will cooperate with the authorities concerned of the Royal Government of Cambodia.

JICA and Cambodian authorities concerned exchanged views and had a series of discussions with respect to desirable measures to be taken by JICA and the Royal Government of Cambodia for the successful implementation of the Project. As a result of the discussions, and in accordance with the provisions of the Agreement on Technical Cooperation between the Government of Japan and the Royal Government of Cambodia, signed in Phnom Penh on June 17, 2003), JICA and the Cambodian authorities concerned agreed to recommend to their respective Governments the matters referred to in the document attached hereto.

Phnom Penh, 9 April 2004

  
Mr. Juro Chikaraishi  
Resident Representative  
JICA Cambodia Office  
Japan

  
H.E. Neav Sithong  
Minister of Justice  
Kingdom of Cambodia

  
H.E. Sok An  
Co-Chairman  
The Council for Legal and Judicial Reform  
Kingdom of Cambodia  
WITNESS WITH HONOR

## THE ATTACHED DOCUMENT

### I. COOPERATION BETWEEN JICA AND THE ROYAL GOVERNMENT OF CAMBODIA

1. The Royal Government of Cambodia will implement the Project in cooperation with JICA.
2. The Project will be implemented in accordance with the Master Plan in Annex I.

### II. MEASURES TO BE TAKEN BY JICA

In accordance with the laws and regulations in force in Japan and the provisions of Article III of the Agreement, JICA, as the executing agency for technical cooperation program by the Government of Japan, will take, at its own expense, the following measures according to the normal procedures of its technical cooperation scheme.

#### 1. DISPATCH OF JAPANESE EXPERTS

JICA will provide the services of the Japanese experts as listed in Annex II. The provision of Article V of the Agreement will be applied to the above-mentioned experts.

#### 2. PROVISION OF MACHINERY AND EQUIPMENT

JICA will provide such machinery, equipment and other materials (hereinafter referred to as "the Equipment") necessary for the implementation of the Project as listed in Annex III. The provision of Article VII of the Agreement will be applied to the Equipment.

#### 3. TRAINING OF CAMBODIAN PERSONNEL IN JAPAN

JICA will receive the Cambodian personnel connected with the Project for technical training and for conducting seminars or workshops in Japan.

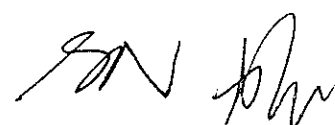
### III. MEASURES TO BE TAKEN BY THE ROYAL GOVERNMENT OF CAMBODIA

1. The Royal Government of Cambodia will take necessary measures to ensure that the self-reliant operation of the Project will be sustained during and after the period of Japanese technical cooperation, through full and active involvement in the Project by all related authorities, beneficiary groups and institutions.
2. The Royal Government of Cambodia will ensure that the technologies and knowledge acquired by the Cambodian nationals as a result of the Japanese technical cooperation will contribute to the economic and social development of the Kingdom of Cambodia.

3. The Royal Government of Cambodia will take necessary measures to ensure that the knowledge and experience acquired by the Cambodian personnel from technical training in Japan will be utilized effectively in the implementation of the Project.
4. In accordance with the laws and regulations in force in the Kingdom of Cambodia, the Royal Government of Cambodia will take necessary measures to supply or replace at its own expense machinery, equipment, instruments, vehicles, tools, spare parts and any other materials necessary for the implementation of the Project other than the Equipment provided by JICA under II-2 above.
5. In accordance with the laws and regulations in force in the Kingdom of Cambodia, the Royal Government of Cambodia will take necessary measures to meet the running expenses necessary for the implementation of the Project.

#### IV. ADMINISTRATION OF THE PROJECT

1. The Minister of Justice of the Kingdom of Cambodia, as the Project Director, will bear overall responsibility for the administration and implementation of the Project.
2. The Undersecretary of State, the Ministry of Justice of the Kingdom of Cambodia (hereinafter referred to as "MOJ"), who has been a member of the Committee for Defending the Draft Civil Code and the Code of Civil Procedure, as the Project Manager, will be responsible for the managerial and technical matters of the Project.
3. The Council for Legal and Judicial Reform will ensure effective coordination between the Project and the Council as well as other organizations under the Council for smooth implementation of the Project.
4. The Resident Representative of JICA in the Kingdom of Cambodia, on behalf of JICA, will bear responsibility for smooth implementation of the Project.
5. The Japanese experts will provide necessary recommendations and advice to the Project Director and the Project Manager on any matters pertaining to the implementation of the Project. They will give necessary technical guidance and advice to Cambodian counterpart personnel on technical matters pertaining to the implementation of the Project.



6. Working groups for supporting the draft of the Civil Code and the Code of Civil Procedure in Japan, established under the Project, will undertake technical work and give necessary technical guidance or advice to Cambodian counterparts necessary for the smooth progress of the legislative process and for drafting the laws related to the Codes. The members of the groups will be dispatched to Cambodia as short-term experts or conduct lectures at training sessions in Japan.

#### V. MONITORING AND JOINT EVALUATION

The progress of the Project will be monitored properly through various measures such as mutual consultations or dispatch of monitoring missions. Evaluation of the Project will be conducted jointly by JICA and the Cambodian authorities concerned, at the middle and during the last six months of the cooperation term in order to examine the level of achievement.

#### VI. CLAIMS AGAINST JAPANESE EXPERTS

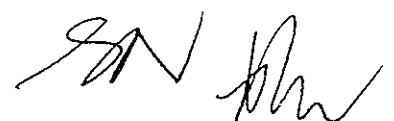
In accordance with the provision of Article VI of the Agreement, the Royal Government of Cambodia undertakes to bear claims, if any arises, against the Japanese experts engaged in technical cooperation for the Project resulting from, occurring in the course of, or otherwise connected with the discharge of their official functions in the Kingdom of Cambodia except for those arising from the willful misconduct or gross negligence of the Japanese experts.

#### VII. MUTUAL CONSULTATION

There will be mutual consultation between JICA and Cambodian Government on any major issues arising from, or in connection with this Attached Document.

#### VIII. MEASURES TO PROMOTE UNDERSTANDING OF AND SUPPORT FOR THE PROJECT

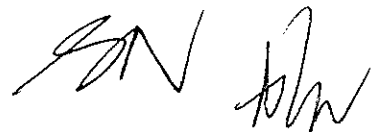
For the purpose of promoting support for the Project among the people of the Kingdom of Cambodia, the Royal Government of Cambodia will take appropriate measures to make the Project widely known to the people of the Kingdom of Cambodia.



IX. TERM OF COOPERATION

The duration of the technical cooperation for the Project under this Attached Document will be three years from January 30, 2004.

- ANNEX I MASTER PLAN
- ANNEX II LIST OF JAPANESE EXPERTS
- ANNEX III LIST OF MACHINERY AND EQUIPMENT
- ANNEX IV LIST OF CAMBODIAN COUNTERPART AND ADMINISTRATIVE PERSONNEL
- ANNEX V LIST OF BUILDINGS AND FACILITIES

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## ANNEX I      MASTER PLAN

### 1. Title of the Project

The Japanese Technical Cooperation for the Legal and Judicial Development Project in the Kingdom of Cambodia (Phase 2)

### 2. Overall Goal

Laws and regulations with respect to civil affairs and their applications are reliable and useful for Cambodian people.

### 3. Project Purpose

Conditions for promoting legislation of the Civil Code and the Code of Civil Procedure are prepared.

### 4. Outputs

- (1) Knowledge and capacity of the personnel involved in the various stages of legislation, in addition to the Members of the Defending Committee of the Codes in MOJ, are enhanced enough to manage and advance the legislation process appropriately.
- (2) Level of understanding of legal and judicial experts in Cambodia with respect to technical details of the Codes is improved.
- (3) Draft provisions of transitional measures, etc., regarding application of the Code of Civil Procedure are prepared.
- (4) Draft provisions of transitional measures, etc., regarding application of the Civil Code, and draft laws and bylaws to enforce the Civil Code are prepared.
- (5) Draft laws related to the Code of Civil Procedure are prepared.
- (6) Draft laws related to the Civil Code are prepared.

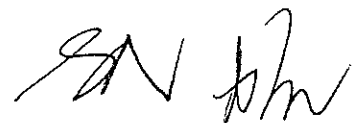
### 5. Activities

- (1)-1 Formulate detailed work plan of the Committee based on the legislative schedule.
- (1)-2 Introduce monitoring system for measuring the achievement of project activities.
- (1)-3 Prepare annotations for each article.
- (1)-4 Prepare Q & A for the Codes.
- (1)-5 Prepare Lexicon for the Codes.
- (1)-6 Advise the Committee on the revision of the Codes as well as for securing consistency between the Codes and other related laws at the respective stages of deliberation process (Council of Jurists, Inter-Ministerial Meeting, National Assembly, Senate<sup>1</sup>, etc)<sup>2</sup>.

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<sup>1</sup> Regarding the support for the deliberation at the National Assembly and Senate, the actual contents or scope of cooperation would possibly be reconsidered depending on the progress of the legislative schedule.

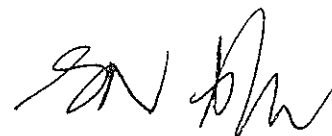
<sup>2</sup> If the essences of the Draft Codes are vastly modified or eliminated through the deliberation process, the contents or degree of cooperation for the legislative process will be reconsidered through the mutual consultations.



- (1)-7 Conduct workshops and training sessions for the members of the Committee and the Council of Jurists to deepen their understanding of the Codes.
- (2)-1 Conduct seminars on the Codes for practicing judges, prosecutors, lawyers.
- (2)-2 Prepare outline or manual for executing the Code of Civil Procedure, including a textbook and forms of some fundamental documents to be used in civil proceedings.
- (3)-1 Draft the provisions of transitional measures, etc., regarding the application of the Code of Civil Procedure and hold workshops or training session for explaining the contents.
- (3)-2 Finalize the draft of the provisions, etc., by holding terminology-selecting meetings.
- (4)-1 Conduct preliminary survey on the relevant laws (including the Land Law, Draft Secured Transactions Law, etc.) to the provisions of transitional measures, etc., regarding the application of the Civil Code.
- (4)-2 Draft the provisions, etc., and hold workshops or training session for explaining the contents.
- (4)-3 Draft the laws and bylaws to enforce the Civil Code, including provisions on procedure in non-litigation matters related to the Civil Code, and hold workshops for explaining the contents.
- (4)-4 Finalize the draft of the provisions, etc., and the laws and bylaws by holding terminology-selecting meetings.
- (5)-1 Conduct preliminary survey on the laws related to the Code of Civil Procedure (Law on Bailiff, Law of Procedure in Family Matters.).
- (5)-2 Formulate detailed work plan including the persons in charge of drafting each law both in Japan and in Cambodia, as well as the time schedule for drafting the laws.
- (5)-3 Draft the laws and hold workshops for explaining the contents.
- (5)-4 Conduct training session in Japan for promoting the understanding on the articles in each law.
- (5)-5 Finalize the draft of the laws by holding terminology-selecting meetings.
- (6)-1 Conduct preliminary survey on the laws related to the Civil Code (Law on Deposit, Registration Law on Civil Status<sup>3</sup>).
- (6)-2 Provide information on the aforementioned laws and other related laws in foreign countries including Japan.
- (6)-3 Formulate detailed work plan including the persons in charge of drafting the laws both in Japan and in Cambodia, as well as the time schedule for drafting the laws.

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<sup>3</sup> Whether the support for drafting the Registration Law on Civil Status is possible or not would be considered when the actual contents of Family Law in the Civil Code are to be determined during the course of the deliberation.



- (6)-4 Draft the laws and hold workshops for explaining the contents.
- (6)-5 Conduct training session in Japan for promoting the understanding of the articles in each law.
- (6)-6 Finalize the draft of the laws by holding terminology-selecting meetings.

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## ANNEX II LIST OF JAPANESE EXPERTS

### 1. Long-Term Experts

- (1) Legal Adviser
- (2) Project Coordinator

### 2. Short-Term Experts

Short-term experts in related field will be dispatched in accordance with necessity for effective implementation of the Project. A tentative plan for the assignment of experts is as follows:

- (1) Experts on the Civil Code
- (2) Experts on the Code of Civil Procedure
- (3) Experts on the laws related to the Civil Code
- (4) Experts on the laws related to the Code of Civil Procedure

#### Note:

Other than those experts, members of working groups for supporting the draft of the Civil Code and the Code of Civil Procedure in Japan will undertake technical works and give necessary technical guidance or advice to Cambodian counterparts necessary for the smooth progress of the legislative process and for drafting the enforcement law and/or the provisions of transitional measures, etc., as well as the laws related to the Codes. Short-term experts will be dispatched basically from or by recommendation of the groups.

Assignment schedule of the experts will be fixed depending on the progress of the Project and availability of suitable experts. Number and Terms of Reference of short-term experts will be decided in consideration of the progress of the Project through mutual consultations.

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## ANNEX III LIST OF MACHINERY AND EQUIPMENT

1. Computers;
2. Office equipment and supplies; and
3. Other items mutually agreed upon as necessary

Note:

The contents, specifications and quantity of the above-mentioned equipment will be decided through mutual consultation within the allocated budget during the project period.

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ANNEX IV LIST OF CAMBODIAN COUNTERPART AND ADMINISTRATIVE  
PERSONNEL

1. Counterpart officials

The Cambodian side will assign a sufficient number of counterpart officials with sufficient experience in legal practice and with good knowledge on the Codes to ensure effective operation of the Project.

2. Administrative Personnel

The Cambodian side will assign a sufficient number of administrative personnel to ensure effective operation of the Project.

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ANNEX V LIST OF BUILDINGS AND FACILITIES

1. Land, buildings and facilities necessary for the Project
2. Office space and facilities for the Japanese experts
3. Room and space necessary for seminars and workshops
4. Other facilities and equipment mutually agreed upon as necessary

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