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ASEAN AUSTRALIA DEVELOPMENT COOPERATION PROGRAM  
PHASE II (AADCP II)

# **ROADMAPPING CAPACITY BUILDING NEEDS IN CONSUMER PROTECTION IN ASEAN**

Consumers International

**COUNTRY REPORT: THE KINGDOM OF CAMBODIA (FINAL)**

(Revised 3 June 2011)

“The final report was prepared by the Consumers International Kuala Lumpur Office (“CIKL”), a not-for-profit company limited by guarantee, as the approved Contractor on the *Roadmapping Capacity Building Needs in Consumer Protection in ASEAN* (“Project”) under the Special Services Agreement signed by and between the ASEAN Secretariat and the CIKL on 9 August 2010. The views expressed in this report do not necessarily represent or are not necessarily endorsed by the relevant agencies in ASEAN Member States. Mention of specific entities, departments and/or government agencies do not necessarily imply endorsement of it by the relevant entities, departments, and/or government agencies of ASEAN Member States. The author of this report can be contacted at [consint@ciroap.org](mailto:consint@ciroap.org).”

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## **ABSTRACT**

Cambodia is a small, largely agrarian economy with a low (but growing) level of economic development. Accordingly it has a number of gaps in its consumer protection regime, including its lack of provision for consumer redress, its weak implementation and enforcement of existing consumer laws, and its unregulated telecommunications sector. There also seems to be some difficulty in passing new regulations for consumer protection due to coordination problems. Amongst the recommendations given in this report to address these issues are to consider consolidating certain laws and procedures (such as inspection), to establish a new consumer complaints centre as well as specialist offices of ombudsman for the service sectors, and to support the development of a local consumer organisation.

**Keywords:** Consumer protection, capacity building, complaints, redress mechanisms, best practices, Cambodia.

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## ABBREVIATIONS

<b>AADCP II</b>	ASEAN Australia Development Cooperation Program Phase II
<b>ACCP</b>	ASEAN Committee on Consumer Protection
<b>ADB</b>	Asian Development Bank
<b>ADR</b>	Alternative Dispute Resolution
<b>ADSL</b>	Asymmetric Digital Subscriber Line
<b>AEC</b>	ASEAN Economic Community
<b>AFTA</b>	ASEAN Free Trade Agreement
<b>AMSs</b>	ASEAN Member States
<b>AOC</b>	Actual Operating Context
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>ASEC</b>	ASEAN Secretariat
<b>ATM</b>	Automated Teller Machine
<b>CAPROCO</b>	Cambodian Association for Protection of the Rights of Consumers
<b>CB</b>	Capacity Building
<b>CBD</b>	Convention on Biological Diversity
<b>CERT</b>	Computer Emergency Response Team
<b>CI</b>	Consumers International
<b>CIKL</b>	Consumers International Kuala Lumpur Office
<b>CIRD</b>	Cambodian Institute for Research and Rural Development
<b>CMA</b>	Cambodian Medical Association
<b>CMO</b>	Cambodian Microfinance Association
<b>CoRAA</b>	Cambodian Organic Agriculture Association
<b>CP</b>	Consumer Protection

<b>CSO</b>	Civil Society Organization
<b>EIA</b>	Environmental Impact Assessment
<b>EU</b>	European Union
<b>FAO</b>	Food and Agriculture Organization
<b>FOC</b>	Formal Operating Context
<b>GAHP</b>	Good Animal Husbandry Practice
<b>GAP</b>	Good Agricultural Practices
<b>GDP</b>	Gross Domestic Products
<b>GDP</b>	Gross Domestic Product
<b>GHP</b>	Good Handling Practice
<b>GIs</b>	Geographical Indicators
<b>GMOs</b>	Genetically Modified Organisms
<b>GMP</b>	Good Manufacturing Practice
<b>GS</b>	General Survey
<b>HACCP</b>	Hazard Analysis Critical Control Point
<b>HDI</b>	Human Development Index
<b>HRM</b>	Human Resource Management
<b>ICT</b>	Information Communication Technology
<b>IEC</b>	International Electrotechnical Commission
<b>ILO</b>	International Labour Organisation
<b>IMF</b>	International Monetary Fund
<b>ISC</b>	Institute of Standards of Cambodia
<b>ISO</b>	International Organization for Standardization
<b>ISP</b>	Internet Service Provider
<b>ITU</b>	The International Telecommunications Union

<b>KII</b>	Key Informant Interviews
<b>LAC</b>	Legal Aid Cambodia
<b>LDC</b>	Least Developed Country
<b>LMQSP</b>	Law on the Mangement of the Quality and Safety of Products
<b>MoH</b>	Ministry of Health
<b>MRC</b>	Mekong River Commission
<b>NGO</b>	Non-Governmental Organisation
<b>RTD</b>	Roundtable Discussion
<b>SCP</b>	Sustainable Consumption and Production
<b>SEACC</b>	Southeast Asian Consumer Council
<b>SEDOC</b>	Socio-Economic Development Organisation of Cambodia
<b>SEP</b>	Strategic Economic Partnership
<b>SME</b>	Small to Medium Enterprise
<b>SOE</b>	State Owned Enterprise
<b>SPIN</b>	Sustainable Product Innovation Project
<b>SSOP</b>	Sanitation Standard Operating Procedures
<b>SWOT</b>	Strengths, Weaknesses, Opportunities and Threats
<b>TA</b>	Technical Assistance
<b>TPC</b>	Trade Policy Council
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Program
<b>UNECE</b>	United Nations Economic Commission for Europe
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change.
<b>WHO</b>	World Health Organization

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## EXECUTIVE SUMMARY

Cambodia is the third least developed country in ASEAN. Over the last two decades it has been recovering from a legacy of war and genocide, and has made much progress in rebuilding its society and economy. It joined ASEAN in 1999, and the WTO (World Trade Organisation) in 2004. Its government's commitment not to leave consumers behind as the economy advances is illustrated by the passage of a succession of consumer laws and regulations in recent years. The most significant of these is the *Law on the Management of Quality and Safety of Products 2000*, which comes close to being a general consumer protection law – but omits to cover a few critical areas, such as consumer redress and unfair contract terms.

It is apparent, however, that even the existing terms of this law are not being very effectively enforced. Food safety practices are not well observed in markets, products are not properly labelled, and the (very few) existing product standards are widely ignored by producers. This indicates that there is a large implementation and enforcement gap in Cambodia. The same pattern is repeated with respect to sectoral laws, such as the laws on pharmaceuticals and medical practice, the provisions of which are poorly observed, particularly in rural areas. One sector – telecommunications and Internet services and e-commerce – is hardly regulated at all.

This report finds that the following needs exist for addressing the above capacity gaps, and gives recommendations about how to begin doing so:

1. Assistance to expedite the finalisation and passage of needed laws and regulations.
2. Assistance in the development and promulgation of local standards.
3. Assistance in retaining and training staff to implement and enforce consumer protection laws and programmes.
4. Assistance with awareness raising campaigns.
5. Assistance to develop new general and sectoral redress mechanisms for consumers.
6. Assistance to rationalise consumer protection functions that could be more efficiently executed.
7. Assistance to streamline coordination between authorities responsible for consumer protection.

8. Assistance with the formation of a new consumer protection association.

# 1. INTRODUCTION

## 1.1 STUDY BACKGROUND

This Country Report, which is complemented with a Subgroup Report, and to be read in tandem with a Regional Report, is part of the research titled *Roadmapping Capacity Building in Consumer Protection in ASEAN*. It is a project of the ASEAN-Australia Development Cooperation Program II (AADCP II) which aims to strengthen consumer protection in the region as well as in individual ASEAN Member States (AMS). The major output of this research is a regional capacity building roadmap on consumer protection and supporting roadmaps for each of the AMS. The roadmaps were based on the following information that were gathered and presented in this report:

- a mapping of consumer protection policies, laws and regulations in AMS
- consumer education programs, initiatives and best practices
- capacity building needs of major stakeholders in consumer protection and recommendations

The overarching framework of the study is primarily based on the UN Guidelines on Consumer Protection (1985), which has been further espoused and reiterated by Consumers International into 8 fundamental rights as follows:

1. The right to basic needs
2. The right to safety
3. The right to information
4. The right to choose
5. The right to representation
6. The right to redress
7. The right to consumer education
8. The right to a healthy environment

The following key principles are also adhered to in the development of the national road map, contributing towards the regional framework:

1. **Protection:** Consumers should be protected from unfair practices
2. **Responsibility:** Transparent legislation in addition to effective consumer programs to enable consumers to have sufficient information in order for them to exercise their responsibilities

3. **Enforcement:** There should be prompt and efficient enforcement of legislation to deter breaches of the consumer protection laws by businesses
4. **Change:** new and emerging consumer issues are identified so that legislation is updated and consumers have access to relevant information on these issues in order to make informed choices.
5. **Competition:** free and open competition is generally beneficial for consumers and Government regulations and legislation help to ensure a fair environment in the marketplace for consumers and businesses
6. **Representation:** Legitimacy for representation by non-governmental consumer organizations must be recognized such as the right to association

Consumers International Kuala Lumpur (CIKL) Office carried out the study in cooperation with its members in the AMS and partners, or appointed local focal points. In Cambodia it was done with the Cambodian Institute for Research and Rural Development (CIRD), as the local focal point. CI is a not-for profit federation of consumer groups that serves as the only independent and authoritative global voice for consumers. Founded in 1960 and with over 220 member organisations in 115 countries, it is building a powerful international movement to help protect and empower consumers everywhere. The KL office is CI's regional office for Asia Pacific and the Middle East.

### *Organization of Report*

This report is organized into 6 Chapters. Chapter 1 provides general background on Cambodia and a general state of consumer protection in the country. Chapter 2 outlines the methods applied for data gathering that led to the outcomes and findings presented in this report. Findings of the project are presented in Chapters 3, 4 and 5. The general mapping and situational analysis on national legislation and consumer protection programs are presented in Chapter 3. Chapter 4 covers the assessment on the capacity building needs of the various stakeholders that took part in the project, and Chapter 5 presents some recommendations and the national roadmap for capacity building needs in consumer protection at the national level. Finally, Chapter 6 draws an overall conclusion of the report.

## **1.2 COUNTRY BACKGROUND**

### **1.2.1 Population and government**

The Kingdom of Cambodia (Cambodia), located between Thailand to the west, Lao PDR to the North and Vietnam to the east, is one of the world's least developed countries (LDC),

along with two of the other subgroup member states, Laos and Myanmar.<sup>1</sup> It has a population of approximately 14.5 million, more than 50% of whom are under 21 years old. The country is still largely agrarian, with urban dwellers account for only 22% of the total population (against, for example, 33% in neighbouring Thailand, and 70% in Malaysia).<sup>2</sup>

Cambodia gained independence from France on 9 November 1953. It is a Constitutional Monarchy. The Constitution of Cambodia, which was adopted on 21 September 1993, established three branches of government – the executive, legislative and judicial. The executive branch is made up of the Prime Minister, the Council of Ministers, the ministries, provincial and municipal authorities, and the various government agencies. The legislative branch is comprised of the National Assembly and the Senate. The judicial branch is comprised of the Supreme Court, the Court of Appeal, and the provincial and municipal courts.

The country has a tragic history of wars, civil strife and genocide that severely diminished its human capital, governance structure, administrative system and its urban and rural infrastructure. The country has in the last two decades moved away from a state planned economy to a private sector led free market economy and made a concerted effort to join the league of democratic nations and integrate into the world economy. Cambodia became a member of ASEAN in 1999 and the World Trade Organization (WTO) in 2004.

### 1.2.2 Economy

Cambodia's GDP in 2009 has been estimated at approximately US\$27.92 billion (\$1900 per capita) in purchasing power parity terms. This is the second lowest of ASEAN member states, after Myanmar. 31% of the population live below the poverty line as at 2004.<sup>3</sup> In the rural areas, poverty is particularly high. This is primarily due to the pattern of recent economic growth that has been concentrated in the garments, tourism, and urban construction sectors.

From 2004 to 2007, the economy grew about 10% per year, driven largely by an expansion in the garment sector, construction, agriculture, and tourism. GDP dropped to below 7% growth in 2008 and probably contracted in 2009 as a result of the global economic slowdown. In conjunction with this, the inflation rate is estimated to have dropped from a high 25% in 2008 to -0.7% in 2009.<sup>4</sup>

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<sup>1</sup> See <http://www.unohrrls.org/en/ldc/related/62/>.

<sup>2</sup> Central Intelligence Agency. *CIA World Factbook*. 2010. URL: <https://www.cia.gov/library/publications/download/download-2010/factbook-a.zip> (visited on 28/10/2010).

<sup>3</sup> Ibid.

<sup>4</sup> Central Intelligence Agency, see n. 2.

The country's main industries are tourism, garments, construction, rice milling, fishing, wood and wood products, rubber, cement, gem mining and textiles. Agricultural products produced include rice, rubber, corn, vegetables, cashews, tapioca and silk. Opportunities for oil and mineral extraction exist, which could result in the rapid expansion of the economy should these opportunities be exploited in the future.<sup>5</sup>

## 1.3 CONSUMER PROTECTION IN CAMBODIA

### 1.3.1 General overview

Consumer protection has only begun to receive serious attention in Cambodia during the last decade, since during the 1980s and 1990s the country's limited resources were devoted entirely to the process of post-war reconstruction. Furthermore, while Cambodia was a largely self-sufficient agrarian economy, the need for consumer protection was less obvious. But as the country urbanises and consumerism increases, consumer protection is gaining importance and attaining a higher profile as a public policy issue.

With the help of foreign donors, significant progress in improving the lives of Cambodian consumers has already been made. Alongside the economic improvement described in the previous section, Cambodians are also becoming healthier, with recorded reductions in HIV prevalence, in tuberculosis and malaria mortality, and in infant and child mortality, along with substantial expansion and strengthening of the health system, and improved access to health services.<sup>6</sup> Access to water has also improved markedly over the last decade.<sup>7</sup>

But in other areas progress is slower, and overall the state of consumer protection in Cambodia could be further improved across all of the six areas on which this report will focus (see section 2.1). An overview of some of the pressing areas of concern in each of these areas is given below.

### 1.3.2 Product Safety and Labelling

A number of those we interviewed made the point that although product safety and labelling standards exist in Cambodia, they are honoured more frequently in the breach than in the observance. Labelling requirements are not commonly observed, with both imported and domestic products frequently being sold without labels written in Khmer (contrary to

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<sup>5</sup> Ibid.

<sup>6</sup> WHO. *Country Cooperation Strategy: Cambodia 2009-2015*. 2009, p.7. URL: [http://www.who.int/countryfocus/cooperation\\_strategy/ccs\\_khm\\_en.pdf](http://www.who.int/countryfocus/cooperation_strategy/ccs_khm_en.pdf) (visited on 28/10/2010).

<sup>7</sup> eStandardsForum. *Country Brief: Cambodia*. 2010, p6. URL: <http://www.estandardsforum.org/system/briefs/241/original/brief-Cambodia.pdf> (visited on 28/10/2010).

Art. 3 of the LMQSP), or with their expiry dates long past (contrary to Art. 1 of the prakas on Product Expiry Date).

Ironically, we heard that consumers have more trust in a product if it *doesn't* carry labelling in Khmer. This is because Khmer-labelled (and therefore presumably local) products are assumed by consumers to be of lower quality than products labelled in other languages, particularly English, which are presumed to be imported and therefore of higher quality.

The same deficiencies are observed with regard to pricing information (required by Art. 51 of the *Law on Commercial Regulations and Commercial Register*). Prices are usually displayed in middle-class urban shops and supermarkets, but at the wet markets and open air markets at which most Cambodians shop this is rarely the case, and prices are instead established by haggling between the consumer and vendor. Moreover most prices, if they are displayed at all, are shown in US dollars, which is the unofficial currency of choice in Cambodia. Only items priced under US\$1 are more commonly expressed in Riels.

The ISC agreed that only a few producers comply with the (also few) product standards that exist in Cambodia, due to a combination of lack of awareness and lack of enforcement. It has attempted to raise awareness through workshops, seminar and conferences for capacity building among the producers, but much more work remains to be done. Most market and street food vendors, are even many larger suppliers, are unaware of product standards that apply to them.

Complaints of lack of enforcement indicate a lack of capacity on behalf of the relevant enforcement authorities, which are most most importantly CAMCONTROL, as well as to a lesser extent the Ministries of Agriculture, Health and Industry.

Taking the case of CAMCONTROL, it does have the authority under Article 22 of the LMQSPS to temporarily or permanently ban the sale of products, close down manufacturing facilities, and to withhold, confiscate or destroy non-compliant products. Article 52 also authorises inspecting agents to temporarily detain, take measures to ensure compliance, redirect, confiscate and destroy products as well as require compliance of service.

However, its resources are limited and in practice, most infringements of product safety and labelling requirements go unpunished. One respondent (CoRAA) described to us that when a raid or inspection does take place, it is often featured on the television news. Were these a more commonplace occurrence, presumably they would be thought less newsworthy.

### 1.3.3 Phone and Internet Services and E-commerce

Despite the dynamic competition in the telecommunications and Internet sector, problems for the consumer abound. In relation to telephony, interconnection between mobile

operators is poor. The effect of this is that calls from a handset registered with one operator's network, to another operator's network, sometimes fail or are dropped. Networks are also often saturated so that phone calls cannot be made, or received. Part of the problem stems from the lack of a telecommunications law to regulate interconnection between carriers.

In relation to the Internet sector, prices for broadband services are high compared to other countries, and most providers offer slower-speed connections. The differences in speed between providers are not clearly stated, or are misrepresented, in advertising materials. There is no active enforcement of advertising standards in the Internet industry.

The rate of piracy of computer software in Internet cafes and other public Internet facilities in Cambodia is close to 100%. This is a consumer safety issue, because pirated commercial software is more likely to carry viruses, spyware or other malware. There is a very small local free and open source software movement swimming against the tide of software piracy, by seeking to provide a quality and safe no-cost alternative to the importation of licensed commercial software from overseas. However, this movement has so far made little impact outside of a tiny community of technical enthusiasts and NGOs.

The need for the telecommunications law to address consumer issues is acute. Whilst a law is planned, in the meantime the telecommunications and Internet industries are essentially operating unregulated. They are not adopting consumer protection policies through self-regulation. In particular:

- ISPs (including AngkorNet to whom we spoke) operate without any privacy policy to protect their users' personal information.
- Providers engage in misleading advertising, claiming speeds for their network that they do not actually possess.
- Most ISPs fail to pass on the security bulletins that have periodically been received from the Ministry of Post and Telecommunications.
- ISPs do not participate in regional industry forums (such as the Asia & Pacific Internet Association), in which best practices are shared.

#### **1.3.4 Consumer Credit and Banking**

In the consumer credit and banking sector, the biggest complaint that our research uncovered is that the interest rates charged by microfinance providers in Cambodia are very high. This can end up driving indebted borrowers further into poverty rather than lifting them from it. Due to the lack of financial education in Cambodia, and lack of simple and uniform disclosure of terms by lenders, inexperienced borrowers often will enter into a



microcredit transaction without fully appreciating the total amount of interest payable under the loan.

When a default later occurs, there are no rules or guidelines that ensuring that the lender's collection practices are fair. The lender can for example move to seize property given as collateral without giving the borrower an additional period of time within which to rectify the default.

### **1.3.5 Environmental Quality and Services**

Environmental programmes in Cambodia have given the most attention to rural and agricultural conservation efforts. Whilst these are important, this emphasis has led to a relative lack of attention being given to urban issues such as pollution, waste water and domestic waste removal.

Floods are a common occurrence in many parts of Cambodia, and only in urban areas are waste water drains to help channel the flood waters away. Even in the capital Phnom Penh, the drainage pipes are of a relatively narrow diameter of 1 metre, which is often insufficient to drain flood waters quickly. The pipes also easily become blocked by refuse, and are difficult to clear. When flood waters accumulate, they quickly enter latrines and create unsanitary conditions.

On a separate issue, COrAA reports that consumers in Cambodia are not willing to pay a premium for organic products. This contrasts with the position in Lao PDR, where the Ministry of Environment there had invested in promotion of the benefits of organic food to consumers, as a result of which consumers there are willing to pay a 10-30% price premium. A similar programme has not been undertaken in Cambodia. Furthermore, there is no separate market for organic products in Cambodia – also contrasting with the position in Lao PDR.

Neither have farmers taken the initiative to do much promotion, as most farmers do not manage their farms as small enterprises, and generally overlook the element of marketing. The role of promotion of organic products therefore falls, at present, on already overburdened NGOs.

### **1.3.6 Health and Healthcare Services**

There is no universal public healthcare in Cambodia. Those in need of treatment must pay out of pocket. This drives many Cambodians away from modern medical treatment to informal alternatives, such as pharmacists who illegally prescribe medicines directly, unregistered medical practitioners, and traditional medicines which are not effective for all ailments.

Unregistered or under-qualified medical practitioners give wrong diagnoses, or fail to carry out procedures properly. Some are deliberately fraudulent and dishonest, whereas

others simply have limited experience. In one case, a sixteen-year old girl told that she had a breast cancer that required removal of the breast. The distressed mother came to an NGO worker who paid to have a second opinion taken from a more qualified practitioner. The second practitioner found that there was no cancer at all, and that the small lump found in the girl's breast was due to the fact that she was still physically developing.

Even in the hospital system, there is a relatively low level of care. Practitioners in public hospitals are frequently under-educated, with many services being provided by paramedical staff such as medical assistants and nurses, that ought to be provided by fully-qualified doctors. The availability and standard of treatment is even more limited in night hours than during the day, and in rural areas than urban.

In private hospitals, the qualifications of healthcare staff are somewhat higher, but these hospitals still lack modern medical equipment – and of course their fees are higher than in the public system.

### **1.3.7 Professional services**

The position of the medical profession has been covered above, but the legal profession in Cambodia suffers similar problems with practitioners practising with low levels of qualifications. Moreover, the cost of private legal advice and representation is far beyond the reach of ordinary Cambodians, and the resources of the legal aid NGOs are limited.

An example given of one of the legal problems that affects ordinary Cambodians is that a land owner with rice paddies or vegetable fields might leave to seek their fortunes elsewhere, and at some point later return to find that their land has been occupied by a squatter who is now working the paddies or tilling the fields for their own profit. Records of land ownership are poor, inaccurate, and difficult and expensive to obtain. In such cases, ownership of land can easily be lost.

Another problem is that there is a culture in Cambodia of reluctance to complain. This leads to Cambodians whose rights are infringed failing to seek legal recourse, but simply suffering in silence.

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## 2. METHODOLOGY

### 2.1 SCOPE

In developing the capacity building roadmap on consumer protection for ASEAN, this research covered two main areas of consumer protection. It looked at

- i) consumer protection laws in the country vis-à-vis enforcement, and
- ii) the relevant agencies' capacity building needs in carrying out the relevant laws.

The study focuses mainly on the aspects of consumer protection that been specifically identified by AADCP II as being of particular relevance to the ASEAN's goal of becoming a single market. As such, it has been mutually agreed that in addition to the general consumer protection measures, six key consumer areas will be specifically addressed in the project. The following are the 6 areas that will be covered in this study:

**Table 1:** Selected Key Consumer Areas and issues of focus.

Key consumer areas	Specific aspects to be covered
<ul style="list-style-type: none"> <li>● Product safety and labeling</li> </ul>	Consumer products including Food (excluding drugs and medicines)
<ul style="list-style-type: none"> <li>● Phone and internet</li> </ul>	E-commerce, phone and internet including broadband services, online purchase.
<ul style="list-style-type: none"> <li>● Consumer Credit and Banking</li> </ul>	Banking and financial institutions providing loans; money lending, hire purchase or other financial assistance to consumers.
<ul style="list-style-type: none"> <li>● Environment</li> </ul>	Policies, laws and programs for safe and healthy environment, products or services related to water, energy and air
<ul style="list-style-type: none"> <li>● Health care services</li> </ul>	Public and private health care services, pharmaceuticals.
<ul style="list-style-type: none"> <li>● Professional services</li> </ul>	Laws related to chargeable fees and accountability with regards to legal and medical professions, consumer redress/ access

Across all consumer protection relevant laws, the study also examined these areas:

- Legal provisions that provide for consumer redress vis-à-vis the mechanisms already in place.

- Initiatives and best practices on consumer protection that are being implemented both by relevant government agencies, nongovernmental, and business organisations.

For the capacity building needs, the study covered the enforcement agencies that are principally in-charge of carrying out the provisions of the main consumer protection act and of the six major areas as listed above. Particularly, the agencies' capacity to enact, enforce and implement relevant laws was studied. The capacity building needs of nongovernmental organisations and business groups in the country were also considered.

## 2.2 APPROACHES

The approach in carrying out the Cambodian research was hinged on the review of the formal operating context vis-à-vis the actual operational environment of consumer protection in the country. The analysis and findings from this exercise served as basis in developing the recommendations for capacity building needs in consumer protection.

The **formal operating context covered** the assessment of

- The national consumer laws and regulations, including those that are being drafted or are awaiting enactment,
- National consumer protection programs and initiatives
- Key stakeholders' views and analysis

While in the **actual operational environment** of consumer protection legislations and programs, the following activities were carried out:

1. Evaluated how well laws and programs are actually implemented and enforced, and
2. Review human and institutional capacities to draft and enforce consumer legislations and implement related programs.

### 2.2.1 Capacity Building Needs Assessment on Consumer Protection

In order to achieve this objective, the study adopted an overall approach of the Formal and Actual Operating Contexts. The FOC involves legislation, policies and regulations that govern the responsibilities of the governments, businesses, consumers, and other stakeholders in the area of consumer protection. The FOC also includes the structures related to consumer protection. On the other hand, the AOC relates to the protection levels actually experienced by consumers, viewed from a rights-based perspective. The AOC

includes governance and consumer welfare matters e.g. how enforcement mechanisms actually operate, the nature of consumer complaints/injuries and the nature of redress and compensation which consumers actually obtain.

The assessment of capacity building needs (CBN) constituted the following activities:

- **System level:** Reviewed the principal legislation and mapped other related laws covering consumer protection, institutional structures specifically for the purpose of consumer protection laws and policies that explicitly protect the rights of consumers such as Ombudsmen schemes, tribunals and industry based complaints handling systems. Private “structures” such as complaint cells in multi-national companies were not included as the motivation behind such structures is not always in the public interest.
- **Organisational level:** Identified gaps in institutional capacities such as roles and functions including monitoring and implementation of polices, laws and regulations, operation procedures, budget, number of staff, infrastructure, management and leadership,
- **Individual level:** Identified gaps in human capacities knowledge, experience, competencies, and skills.

The capacity building needs (CBN) were identified based on the existing gaps and deficiencies in the current (actual) operating context of consumer protection vis-à-vis a comprehensive protection regime at the System, Institutional and Individual levels. The gaps were then translated into the areas for capacity building that were recommended in order to attain the desired outcomes. The desired outcomes in implementing CP at the national level were benchmarked at the different states of needs and capacities for the different stakeholders and were tailored in order to harmonise CB strategies towards the desired outcomes at the regional level.

### 2.3 DATA COLLECTION PROCESS

A major activity under the analysis approach was the **regional mapping** exercise. A compilation of national consumer protection legislations, programs in the country as well relevant regional agreements, plans and targets in relation to consumer protection was done. All these were reviewed vis-à-vis actual situations within the national context.

The following research activities were implemented in carrying out the mapping of available records, database, reports and documents including annual reports:

- Desk research of consumer laws, programs, initiatives and reviews.

- A general survey of national laws, programs and implementation with national government stakeholders as well as about their issues and needs and expectations.
- Key informant interviews in relation to consumer protection implementation and about issues and gaps in national consumer laws and enforcement.
- Roundtable discussions with key stakeholders

At the national level, stakeholders were identified based on their direct and indirect involvement in consumer protection and the six main sectors that have been specified such as:

- The government entities (the relevant ministries, particularly with relevance to the sector specified, including consumer tribunals and courts;
- Local authorities
- Regional Institutions or inter-government organizations such as ASEAN Secretariat (ASEC) Competition, Consumer Protection, and IPR Division (CCPID), ASEAN Committee on Consumer Protection (ACCP) and SEACC;
- Policy makers (Members of parliament)
- Training Institutes for government officials;
- Industries/business associations;
- National non-governmental organizations (NGOs)/civil society organizations (CSOs) including consumer associations,
- Academic or think-tank institutions such as ASEAN ISIS
- Professional bodies of legal and medical services

In addition to looking at the formal context and actual operational environmental of consumer legislations and programs in ASEAN, we also assessed the consumer situation. We examined what their needs and issues are and how well these are addressed by national and regional legislation and programs through desk research.

### **2.3.1 General survey**

General survey questionnaires were collected from the following organisations as recommended by our Cambodian focal person, based on the criteria also set out in the inception report:

- Mr Sar Sanphirom, Executive Manager of the Cambodian Organic Agriculture Association (COrAA).

- Mr Nin Vantha from the Department of Pollution Control of the Ministry of Environment.
- Mr Prak Sereyvath of CIRD.
- Mr Sam Saroeun of the Kampong Speu Palm Sugar Promotion Association.
- Mr Chhorn Ravouth, General Manager of Confirel.
- Mr Mao Bora, Executive Director of the Peri-Urban Agriculture Cooperative (PUAC).
- Mr Ngoung Lay, President of the Kampot Pepper Production Association.
- Mr Phoung Pheakdey of the Gret SKY programme.

More questionnaires were sent out, but there was a poor response rate. An explanation for this problem is given in the next section. As a result, the survey responses are rather heavily weighted towards agricultural organisations, which were those already familiar with CIRD, the organisation of our Cambodian focal person.

The questionnaire format used is found in Annex 2 to the inception report. Relevant responses from the questionnaires have been incorporated into this report. The contact details of the respondents are found in Appendix 1 to this report.

### **2.3.2 Key informant interviews**

In most of the other countries in this study, when seeking cooperation with the general survey and appointments for key informant interviews, a direct approach was made by Consumers International (CI) to the intended respondents, annexing the support letter from the ASEAN Committee on Consumer Protection (ACCP). For Cambodia and Laos, this approach met with limited success.

Following a meeting between CI and the ACCP members for Cambodia and Laos in Kuching, Malaysia on 4 October 2010, a different approach was suggested, which would involve obtaining a letter of endorsement from the relevant authority in that country, written in the local language, endorsing the respondent's participation in the project. It was thought that this would better facilitate a positive response from participants.

Accordingly CI went about obtaining a letter from, in the case of Cambodia, His Excellency Cham Prasidh, Senior Minister and Minister of Commerce for Cambodia. Unfortunately not enough time was allowed for such a letter to be obtained in time for our key informant interviews. By the time of CI's visit to Cambodia in the week of 18 October, and despite assistance from our contact at CAMCONTROL, the Senior Minister had only



seen the draft letter of endorsement but not signed it, instead returning it to his Ministry for advice (which is the standard bureaucratic practice in Cambodia).

As a result, despite waiting until the last minute to write to intended respondents seeking appointments for key informant interviews, we were unable to include the letter of endorsement when we did so. This, together with the short notice to respondents when we did eventually contact them (on 15 October, the Friday prior to our visit), led to a relatively disappointing response reflected in the low number of interviews eventually obtained.

To compensate for this low response rate, some interviews were arranged “on the fly” during our Cambodian visit. For example, the interviewers noticed the head office of a local Internet provider in Phnom Penh, AngkorNet, and made an unscheduled visit to that office seeking an appointment with its manager. A similar approach secured our interview at the Ministry of Health, though we were unable to secure an “on the fly” interview at the Ministry of Environment.

In the end, seven key informant interviews were conducted. Details of the key informant interviewees are contained in Appendix 2 to this report, and contact details for these parties are reproduced in Appendix 1 to this report.

The interviewers were Jeremy Malcolm of Consumers International and Foon Weng Lian of Forum Air Malaysia. As the interviews with CAMCONTROL and the ISC coincided, Jeremy took the former and Foon the latter; otherwise, the interviews were conducted jointly. The format used for the interviews was as set out in Annex 3 to the inception report, though liberties were taken by the interviewers to adapt the questions to the individual circumstances of each respondent.

The interviews were recorded (with one exception, as permission was withheld), and notes were taken, from which much of the material in this report has been derived.

### **2.3.3 Roundtable discussions**

The roundtable discussion meeting for Cambodia was held on 21 October 2010 in the Sunway Hotel in Phnom Penh. Eight participants, other than the organisers and translator, were in attendance. They are listed in Appendix 3 to this report, and their contact details are given in Appendix 1.

The relevant comments received during the roundtable discussion have been incorporated into this report. Once again, the contact details of these participants are available in Appendix 1.

## 2.4 DATA ANALYSIS

### 2.4.1 Secondary Data Analysis

The review and analysis of policies and laws entailed the identification of existing consumer protection related laws, the scope of the relevant Acts such as the areas or elements covered, how the Act is implemented and regulations enforced; and how consumers seek redress under the Act. In Cambodia, due to the absence of a principal Consumer Protection Act, the enforcement of these other Acts were also examined through state actions or Ombudsmen schemes and through private action.

The process also involved reviewing of consumer protection regimes in other parts of the world where consumers enjoy a fairly higher degree of protection. Legal, structural, institutional and regulatory arrangements for consumer protection found in the European Union, Australia, United Kingdom and United States of America were examined with a view to establish a basis for a consumer protection regime that would be appropriate for the ASEAN region.

In analyzing the other aspects of data and information collected, it was necessary to take into account the socio-economic, cultural and political characteristics of Cambodia. By drawing upon examples of good practices from the more advanced consumer protection regimes and adopting or adapting them to the requirements of the country, key components of a comprehensive consumer protection regime were identified.

### 2.4.2 General Survey Analysis

Six types of analysis were performed on the data from the General Survey using the 17.0 version of Statistical Package of Social Sciences (SPSS) in order to identify priority areas for capacity building and gaps in consumer protection (Table 2.2).

Table 2.2: Types of Statistical Analysis Used

Type of Analysis	SPSS analysis
Normality test of the data	Kurtosis and skewness, P-P Plot
Reliability test of the data	Cronbach alpha
Organizational profile and consumer protection measures	Frequencies
Level of difficulty in implementing consumer protection programs and activities	Frequencies, Index
Capacity building needs and form of assistance required	Frequencies, Index

Relationship between level of difficulties and capacity building needs	Pearson correlation, T-Test
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Qualitative information obtained from Key Informant Interviews and Round Table Interviews was used to substantiate or supplement quantitative information obtained from the general survey. The open-ended Key Informant interviews and the Round Table Discussions served as a sounding board to fill in the gaps in formation, to check the validity and relevance of the capacity building needs of the AMSs.

Based on the findings from the General Survey, secondary data collection, key informant interviews and roundtable discussions at country levels, strategies and recommendations as well as a road map for strategic thrust areas for consumer protection was developed for the short, medium and long terms.

### 2.4.3 Capacity Building Needs Analysis

The identification of the capacity building needs was accomplished by making a systematic analysis of the information gathered through the general survey, especially with regard to difficulties expressed by respondents, and the types and forms of assistance which they needed. The information gathered from the above-mentioned analysis was used to identify weaknesses and gaps in the existing operating context for consumer protection among the stakeholders in the country.

An index was developed to measure capacity building needs, using an interval scale of 1 to 7. Level 1 is the least priority and level 7 is the highest priority. The Index level was based on the total scores (i.e. the total computed score for all items related to capacity building needs) and the mean for each area of capacity building need. The mean for the total score is called the Index for each item listed in the questionnaire.

The Index was also used to measure the level of difficulty in implementing consumer protection programmes and activities, and the preferred forms of assistance required by the stakeholders for work on consumer protection.

By making reference to a proposed framework for comprehensive consumer protection regime, it was possible to identify capacity building needs that would assist Cambodia to make the transition from the current state to the desired state of consumer protection at the national and regional levels.

## 2.5 PROFILE OF STAKEHOLDERS

Generally, the stakeholders were identified based on their direct and indirect involvement in consumer protection and the six main sectors that were specified including:

- The government entities (the relevant ministries, particularly with relevance to the sector specified, including consumer tribunals and courts);
- Local Authorities
- ASEAN Committee on Consumer Protection (ACCP);
- Industries/business associations;
- National non-governmental organizations (NGOs)/civil society organizations (CSOs) including consumer associations,
- Academic or think-tank institutions
- Professional bodies of relevant services

The 17 CP-related stakeholders in Cambodia that participated in this study could be categorised into three main groups:

- Government agencies
- Non-government organisations
- Private Sector or Industry-based Associations

*A) Government Agencies*

- i) CAMCONTROL
- ii) Institute of Standards of Cambodia
- iii) Ministry of Environment
- iv) Ministry of Health
- v) Ministry of Post and Telecommunications

*B) Non-government organisations*

- vi) Cambodia Defenders Project
- vii) Cambodian Institute for Research and Rural Development
- viii) Socio-Economic Development Organisation of Cambodia

*C) Private Sector or Industry-based Associations*

- ix) AngkorNet
- x) Cambodia Microfinance Association
- xi) Cambodian Medical Association
- xii) Cambodian Organic Agriculture Association
- xiii) Confirel
- xiv) Gret SKY
- xv) Kampong Speu Palm Sugar Promotion Association
- xvi) Kampot Pepper Production Association
- xvii) Peri-Urban Agriculture Cooperative

### **2.5.1 Overview of Consumer Movement**

There is no general consumer protection organisation in Cambodia. Perhaps the closest to such an organisation is SEDOC, the Socio-Economic Development Organisation of

Cambodia, which has a programme on consumer protection (amongst other programmes, mainly on sustainable agriculture and community development). SEDOC is not a member of Consumer International and the extent of its activities on consumer protection has been quite limited due to funding restraints.

During an earlier visit by Consumers International to Cambodia in 2003, CI attempted to bootstrap the creation of a new consumer organisation, the Cambodian Association for Protection of the Rights of Consumers (CAPROCO), by helping it develop its constitution. Regrettably CAPROCO does not seem to have survived – again, most likely to due funding restraints. Anecdotally, the organisation did not even have the funding to pay the registration fee required of registered associations in Cambodia to enable them to operate legally.

## **2.6 LIMITATIONS**

Due to the time constraints, some relevant stakeholders were not able to participate in the survey, key informant interviews and the RTD.

Further, the availability of detailed materials primarily depended on the available resources and publications or reports available through internet search, which would be further limited by availability in English version. Data were also mainly based on secondary compilation by the focal points and Key Informants and general survey respondents, who were selected by the local focal points. However, it was also noted during the course of interviews, the participants might have limited knowledge or experience in answering some of the questions pertinent to areas beyond their scope of functions.

Complete data representation on enforcement was also critically lacking in this report due the absence of participation of enforcement unit or departments. Only small passing reference and general remarks were made by respondents or key informants, without any specific mentioned of or reference materials, cases or statistics provided.

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### 3. MAPPING AND SITUATIONAL ANALYSIS OF CONSUMER PROTECTION LAWS AND PROGRAMMES

#### 3.1 LAWS AND REGULATIONS RELATED TO CONSUMER PROTECTION

Article 64 of the Constitution of Cambodia adopted on 21 September 1993 provides, “The State shall ban and severely punishes those who import, manufacture, sell illicit drugs, counterfeit and expired goods which affect health and life of the consumers.” In compliance with the constitutional requirement, the Government of Cambodia has introduced a number of laws, sub-decrees and regulations to regulate the marketplace and safeguard the interest of consumers.

##### 3.1.1 Principal Consumer Protection Act

The closest that Cambodia has to a general consumer protection law is its *Law on the Management of Quality and Safety of Products 2000* (LMQSP). Some of the provisions of this law are dealt with in more detail below under the appropriate specific subject area, but amongst the more general consumer protections are the following:

- It is prohibited to falsify or to attempt to falsify products, goods or services by any means as to their identity, nature, place of origins, physical or nutritional characteristics, quantity, usage guidelines, date of production or use, etc. (Art. 16).
- Commercial advertising is prohibited if it is deceitful, misleading, false, or likely to cause confusion on the quality and safety of the products, goods and services advertised (Art. 21).
- The possession at production, processing and commercialisation sites (Art. 19), or the introduction into the stream of commerce (Art. 20) of “products and instruments used for falsifying all types of goods and tampered scales and measurement equipment used for producing or commercialising products” is prohibited.
- Authorities have the right to inspect products or services for compliance with the law’s quality and safety standards (Chapter 6) and if any are found that can cause grave or imminent danger to consumers’ health or safety, can temporarily or permanently ban them from sale, confiscate or destroy them, and even close down their manufacturing facility (Article 22).

The current progress in Cambodia is that by the end of 2014, Consumer Law, E-Commerce Law and Competition Law will be enacted in National Assembly and then Consumer Association and external private sector will be establish. These drafted laws are now under funding of World Bank. It is expected that he result will be effective for the next nearly future.

### **3.1.1.1 Implementing agencies**

The consumer agency for Cambodia is the Cambodia Import-Export Inspection and Fraud Repression Directorate-General of the Ministry of Commerce, or CAMCONTROL. CAMCONTROL implements and enforces the *Law on the Management of Quality and Safety of Products and Services*. It also, besides other functions, sets food standards and specification and labeling requirements, and controls the production and importation of products including food products.

The *Prakas on the Organization and Functioning of Consumer Protection and Fraud Repression Department under CAMCONTROL Directorate-General (2008)* read with sub-decree 59 of the same year, sets out its duties in more detail. Pursuant to Art. 2 of that prakas, the department is divided into four offices, details of which are set out in subsequent Articles. These four offices are:

1. Investigation office (whose responsibilities include monitoring and evaluating the surveillance of the quality and safety of products and services).
2. Fraud and deceitful advertising repression office (which is responsible for developing consumer protection on products and services with regard to product labelling, deceitful advertising and commercial fraud repression).
3. Consumer complaint handling and publication office (responsible for receiving and handling complaints, establishing and encouraging the movement of consumerism and building consumer awareness).
4. Commercial inspection office (which performs commercial inspection of imports and exports).

The third of these offices is responsible for consumer education and information programmes in Cambodia. Pursuant to this mandate CAMCONTROL has developed a strategic plan for 2008-2013 on training of the trainers and consumer education campaigns on product quality, safety and services.

CAMCONTROL's education campaigns have been undertaken through a number of parallel means:



- Seminars given to traders, craftsmen and students to explain provisions of the LMQSPS. The seminars covered training on the contents of the Law, provided recommendations on methods of choosing food products (including canned and packaged food), expiry dates, general hygiene at food establishments, and risks caused by the use of drugs.
- Education and information campaigns conducted at schools by CAMCONTROL-trained trainers – since consumer education does not yet form part of the basic curriculum of the education system.
- Distribution of printed materials including banners, instructional posters and fliers on product labelling, product safety, hygiene and food-borne disease, and publications on the efficient use of energy and health issues related to the use of tobacco and drugs.
- A combination of paid television spots, and unpaid public service announcements aired voluntarily by the broadcaster (there is no quota of compulsory airtime for public service announcements in Cambodia).

### 3.1.2 Laws on Product Safety and Labelling

In addition to the more general provisions noted above, the LMQSP contains some detailed prescriptions on product safety and labelling. Taking product safety first, the relevant provisions are as follows:

- Pursuant to Articles 6 and 7, it is prohibited to produce or place in to the stream of commerce products, goods, or services that could harm the health or safety of consumers when no prior disclosure has been made or no prior authorization has been issued by the competent institutions following a proper inspection.
- Pursuant to Article 17, it is prohibited to falsify products used, or kept, for commercialization by modifying the products through treatment or tampering such as adding, subtracting, or substituting any part of or the whole component. It is also prohibited to put in the stream of commerce products that are known to be falsified.
- Pursuant to Articles 18 and 20, it is prohibited to put in the stream of commerce food products which are known to be contaminated or toxic or do not meet bacteriological or sanitary requirement, as well as products and instruments used for falsifying and counterfeiting products.
- Chapter 6 of the law authorises the inspection of the quality and safety of goods and services and the analysis of product samples. Their quality and safety are to be compared against “the requirements as prescribed by law,” which are for the most part separately specified in regulations or “prakas.”

Specific prakas and sub-decrees that exist on food and product safety include those covering:

- Vinegar (2003);
- Iodized salt (2003);
- Electrical and electronic products (2004);
- Bottled drinking water (2005);
- Chilli sauce (2005);
- Chemicals prohibited in food (2006); and
- Soy sauce (2007).

In more general terms is Anukret No. 47 on Food Hygiene for Human (2003), which relevantly provides as follows:

- Staff who touch food must be thoroughly clean, with appropriate protective clothing (Art. 32).
- Food products are to be protected from contamination by wrapping (if not otherwise naturally protected), and not to be touched by customers' bare hands before sale (Art. 37).
- Food products must be elevated from the ground and protected from contamination by customers, and once contaminated must be withdrawn and destroyed (Art. 39).
- Products must also be protected from climatic conditions and from insects, rodents and other animals (Art. 45).

As to labelling, the LMQSP provides as follows:

- In Art. 3, that vendors “indicate on their products, goods, and services in Khmer language the ingredients, composition, users’ guidelines, manufacturing date, and expiration date along with other requirements which guarantee the safety and health of consumers,” and (in Art. 4) to provide “accurate information of their composition or configuration ... so as to prevent confusion by consumers or damage competition.”
- Where goods or services can harm the health of safety of consumers, their manufacturing and commercialisation shall be subject to a prior submission of a

declaration to the competent institutions, prior authorisation, and an indication of usage guidelines in Khmer language (Art. 6).

- A quality mark may be used by manufacturers and service providers who comply with relevant quality and safety criteria as established by sub-decree (Chapter 3 and Art. 59).

There are numerous other laws bearing on product labelling, which have somewhat overlapping requirements:

- The *Law on Commercial Regulations and Commercial Register 1995* and its Amendment Law of 18 November 1999 require merchants “to display the rates and conditions of sale in force” (Art. 51), and to establish prices “in the national currency (Riels) except in cases where otherwise authorised by the Ministry of Commerce.”
- The *Law on Metrology* requires (in Article 33) information on the quantity or weight of product, name and address of the manufacturer, packer or the trade mark.
- Prakas No 329 (MoC/M99) on Measures Against Food Products Devoid of Appropriate Packaging Labels (1999), prohibits the importation, circulation, sale or display for sale of products that lack appropriate trademarks or labels or where such labels do not meet legal requirements (Art. 1). Such goods may be seized and destroyed or shipped back to their point of origin (Art. 3).
- Prakas No 335 on Product Expiry Date requires both imported and locally produced food to display an expiry date (Art. 1), for which sellers are to be accountable (Art. 2). The customs department will issue an expiry date certificate for food products that are imported or exported (Art. 3).
- The *Law on Geographical Indications* forthcoming will establish a system of whereby a registered mark can be applied to Cambodian products such as agricultural goods, foodstuffs, handcrafted goods, indicating their geographical origin. Art. 28 of the law prohibits unauthorised use or “other false or misleading indication as to the provenance, origin, nature, or essential qualities of the goods,” or “other practices likely to mislead the public as to the true origin of the goods.” Art. 42 provides penalties of from one to twenty million Riels (about US\$4745), or from one to five years imprisonment, or both.
- The *Law on Standards of Cambodia 2007* establishes a National Standards Council (Art. 11) with authority to approve voluntary or mandatory standards or standards marks (Art. 12). Licences to use a standards mark on compliant products or systems are issued for a term of three years (Arts 24 and 38), and may be suspended or revoked if the product is later found non-compliant (Arts.

31, 32, 40 and 41). The wrongful use of a standards mark is punishable by imprisonment of up to three months and a fine of up to six million Riels (about US\$1423 – Chapter X).

### ***3.1.2.1 Implementing agencies***

The implementing agencies for labelling standards are CAMCONTROL and the Institute of Standards of Cambodia (ISC).

The ISC is the official national standards body of Cambodia, under the Ministry of Industry. It is the agency that implements the decisions of the National Standards Council, which has formal authority to set or rescind standards. The ISC has 44 staff, divided between four departments:

- Information Department: providing information on standards for trade, especially on international trade.
- Standard Development, Training and Consultancy Department: for development of standards, training, consultation and standardisation.
- Certification Department: in turn divided into two sections:
  - Product Certification Section: accredited by the Norwegian accreditation body against an international standard, ISO/IEC Guide 65.
  - System Certification Section: in the process of being accredited.
- Regulatory and Accreditation Department: carries out inspection activities. In the future, it will be separated to become two different departments.

The ISC's Product Certification Section has developed a quality mark and a safety mark. The presence of these marks on any product indicates that the product is in conformity with a Cambodian standard and that its quality is assured. However so far, only three products have been certified.

The ISC has developed little over ten standards, mainly by adopting standards from Malaysia, Singapore, Thailand and Indonesia. Its first was CS001, on food labelling. There are only three mandatory standards for food: these are for drinking water, vinegar and chilli sauce. As of December 2010, an influx of new food standards is expected as a result of a new inter-ministerial prakas adopting the Codex Alimentarius food standards as local standards.

Any person can submit a proposal for a new standard to the National Standards Council. This proposal will be sent to the Standard Development Department of the ISC which will delegate it to a technical committee. Reference documents relevant to the proposal (eg ISO standards) will be researched, and may be adopted as-is or modified to suit the situation in Cambodia. The text will then be translated into Khmer language and submitted as a draft to the Council for adoption. Before adoption, public comment will be sought, and if necessary, the draft will be readdressed. The proposal will finally be certified as a standard by the National Standard Council.

The Regulatory and Accreditation Department of the ISC registers electrical and electronic products, assigning them a safety mark indicating that the products have passed safety tests. The actual testing is carried out in other ASEAN countries with testing laboratories, such as SIRIM in Malaysia. So far, 60 electrical and electronic products have been tested.

### 3.1.3 Laws on Phone and Internet Service and E-commerce

There is not yet any overarching telecommunications law in Cambodia, though a draft law was submitted to the National Assembly for approval in 2006. The lengthy delay between its drafting and eventual passage is not unusual, and also affects a number of other consumer-facing laws such as a proposed Competition Law as well as the new Consumer Law.

When passed, the new Telecommunications Law will set goals for the sector of:

- reliability;
- regulatory environment for fair competition and efficient market;
- universal service;
- promotion of investment;
- encouragement of advanced technology;
- effective use of the scarce telecommunications resources;
- international standards; and
- development of human resources.<sup>8</sup>

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<sup>8</sup> Asian Development Bank. *Kingdom of Cambodia: Implementation of Telecommunications Sector Policy Reforms and Capacity Building*. Asian Development Bank, 2006. URL: <http://www.adb.org/Documents/TARs/CAM/39125-CAM-TAR.pdf> (visited on 29/10/2010), p. 2.

### ***3.1.3.1 Implementing agencies***

The relevant authority is the Ministry of Post and Telecommunications. It issues licences for communications resources such as spectrum bands, and (to a limited extent, in the absence of a Telecommunications Law) regulates the sector.

The Ministry has also periodically engaged in consumer awareness campaigns, some directed directly at consumers through the media, but more often others through providers, by issuing (albeit very occasional) technical bulletins warning of Internet safety and security issues, and holding workshops. As there is no telecommunications or Internet industry body in Cambodia, providers are called to these meetings individually.

### **3.1.4 Laws on Consumer Credit and Banking**

The *Law on Banking and Financial Institutions 1999* regulates the consumer credit and banking sector, but has limited provisions for consumer protection. Most notably:

- Chapter 21 of the law covers “customer protection,” and empowers the supervisory authority to “define, after having consulted the profession, a corpus of rules of good conduct aimed at ensuring customer protection,” including “transparency, openness and the level of charges and remuneration for banking or financial services.”
- The law in Art. 9 prohibits the conduct of banking operations “on a regular basis” by any person other than a licensed entity covered by the law, and disallows the use of any business name, advertising or expression implying that the person doing so is an institution covered by the law, if in fact they are not.
- The Central Bank established by the law is authorised by Art.40(3)(1) to issue regulations on the practice of door-to-door selling of banking or financial services.
- Chapter 22 requires all covered institutions to be members of a professional association of bankers endorsed by the supervisory authority.

One notable omission from this law is that it does not establish any banking ombudsman or tribunal to hear consumer complaints.

There is also a prakas on microfinance regulation, enacted in 2000, which the Central Bank administers. Although the prudential requirements of microfinance institutions differ than for banks, there are no additional consumer protection requirements.

The prakas on Utilization and Protection of Credit Information (2006) establishes a process for banks to share negative credit information as part of a government sponsored framework known as CIS (Credit Information System). The current system is inactive, but the wording of the prakas has been interpreted by lenders to preclude the sharing of

personal credit information other than the negative information provided for under this system.

The prakas on calculation of interest rates on Microfinance Loans (2001) requires interest charged on a loan granted by specified entities to be calculated “taking into account the repayments of principal already made on that loan,” that is, the declining balance. The prakas covers rural credit specialised banks, microfinance institutions registered and licensed from the National Bank of Cambodia, non-governmental organisations, and associations. Article 3 requires the loan agreement between microfinance institutions and customers to have a credit amortisation table, but there is no uniform disclosure required.

#### ***3.1.4.1 Implementing agencies***

As noted above, the National Bank of Cambodia is the country's Central Bank and as such carries several responsibilities under the *Law on Banking and Financial Institutions 1999*.

#### **3.1.5 Laws on Environmental Quality and Services**

Laws that bear on the consumer’s right to a healthy environment – too many to summarise here – include the following:

- *Law on Forestry 2002.*
- *Law on Land Management, Urban Planning and Constructions 2004.*
- *Law on Environmental Protection and Natural Resource Management 2006.*
- *Law on Water Resources Management 2007.*
- *Sub-Decree on Solid Waste Management 1999.*
- *Sub-Decree on Water Pollution Control 1999.*
- *Sub-Decree on Air Pollution and Noise Disturbance 2000.*

There is also a national environmental plan issued pursuant to the *Law on Environmental Protection and Natural Resource Management*. It is required to be revised at least once every five years (Art. 5).

#### ***3.1.5.1 Implementing agencies***

The implementing agency for the environmental laws listed above is the Ministry of Environment.

### **3.1.6 Laws on Health and Healthcare Services**

The *Law on the Management of Pharmaceuticals 1996*, makes it an offence for a person to produce, import, export or trade poor quality or counterfeit pharmaceutical products that affect the health or life of the consumer, or pharmaceuticals containing addictive substances without authorisation (Art. 12). The law also regulates the businesses of pharmaceutical vending, production, import and export, storage and advertising, requiring authorisation from the Ministry of Health for these activities (Art. 8).

Sub Decree 44 on Visa and Registration of Drugs (1994), and Prakas 364 on Implementation of Visa and Registration of Drugs (1994), requires all pharmaceutical drugs to be registered prior to sale (Art. 6 and 7). Prakas 936 of the Ministry of Health (1996) makes it an offence to store, sell or distributed unregistered or disallowed drugs.

There is also a *Law on the Management of Private Medical, Paramedical and Medical Aide 2000*, designed to address the problem of unregistered private medical practitioners providing unqualified services to the public. It requires (in Art. 3) that any person practising as a medic, paramedic or medical aide must hold a degree recognised by the Ministry of Health, and be registered with the relevant medical professional association.

The practitioner's consultation rooms or office must also be registered with the Ministry (Art. 5). Practitioners may only advertise consistently with a code of ethics to be determined by prakas of the Ministry of Health (Art. 11). Violations may be penalised by a fine of up to five million Riels (about US\$1186) and suspension from practice for up to three months (Art. 13).

#### ***3.1.6.1 Implementing agencies***

As implied above, it is the Ministry of Health that is the implementing agency for the various laws on health and healthcare services.

### **3.1.7 Laws on Professional Services**

The professional services considered here are those provided by the medical and legal professions. The laws that cover the medical profession have been dealt with in the preceding section, so here we will limit our attention to the legal profession.

The *Law on Bar Statutes 1995* states that the “legal profession is an independent and autonomous profession involved in serving justice and may be only pursued within the framework of the Bar Association,” which is an “organization bringing together all lawyers who establish offices in the Kingdom of Cambodia.” All practising lawyers must be registered with the Bar Association. Membership requires that the lawyer hold a recognised degree, and have successfully completed a fourteen-month training course and the exam



that follows it. Trainee lawyers must also undergo an internship in a law office for a period of one year.

### ***3.1.7.1 Implementing agencies***

The responsible agency for the legal profession is the Ministry of Justice.

### **3.1.8 Other Laws Protecting Rights of Consumers**

Some of the provisions of the LMQSPS are reinforced by more specific laws. The two most notable examples are the *Law on Metrology* and the *Law Concerning Marks, Trade Names and Acts of Unfair Competition*, which will be briefly dealt with in turn.

The *Law on Metrology 2010* establishes a National Metrology Centre (NMC) as a department of the Ministry of Industry, Mines and Energy. It relevantly requires the use only of authorised units of metrology in trade and commerce (Chapter 5) and requires metrological instruments sold or used in the course of trade to use these units of measurement and to be accurate (Articles 22 and 23) and for certification of such instruments (Chapter 7). Goods sold to consumers by weight must be weighed in front of them (Article 26). For pre-packaged goods, whilst these are not weighed in front of the consumer except by request (Article 26), those goods must specify the net weight of the products in approved units (Article 33). Penalties are prescribed for breach in Chapter 10 of the law.

Chapter 7 of the *Law Concerning Marks, Trade Names and Acts of Unfair Competition 2002*, prohibits acts of unfair competition, defined as “any act of competition contrary to honest practices in industrial, commercial, service matters” (Art. 22). As set out in Art. 23, such acts include:

- all acts of such nature as to create confusion by any means whatever with the establishment, the goods, or the industrial, commercial or service activities of a competitor;
- false allegations in the course of trade of such a nature as to discredit the establishment, the goods, or the industrial, commercial or service activities of a competitor; and
- indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability or their purpose, or the quantity of the good.

### 3.2 INTER AGENCY CO-ORDINATION

The Ministry of Commerce has convened an inter-ministerial committee, the Coordinating Committee on Inspection of Quality and Safety of Products and Services, dealing with the area of consumer protection. It has been responsible for introducing ministerial orders and sub-decrees and other regulations on food hygiene, food labelling and packaging, and chemical substances banned in food products (see 3.1.2). Currently the relevant line ministries are considering food standards by adopting and/or adapting from Codex Alimentarius.

### 3.3 REDRESS MECHANISMS

Whilst the consumer complaint handling and publication office of CAMCONTROL is directed to provide a consumer complaints and redress service, public awareness of this role is low. To redress this, CAMCONTROL has recently instituted a physical mailbox marked “consumer voice and opinion” at wet markets to receive complaints from consumers. Complaints also come in to CAMCONTROL by telephone or letter.

However, there is no regimented system for dealing with the complaints that are received. For example, there is no central registry of complaints that would allow for statistics of complaint handling to be generated. The establishment of such a registry, according to CAMCONTROL, would require a supportive sub-decree. Neither are organised records kept of enquiries made or warnings given to industry in response to consumer complaints received.

CAMCONTROL’s complaints service, which is focussed on food and product safety, does not adequately cover the services sector. Thus, consumers of banking, professional services and phone and Internet services have nowhere to turn for redress but to their providers, or to the courts. Local Internet service provider AngkorNet advises that it has an internal call centre to receive complaints, but cannot suggest where a consumer might turn if the call centre is unable to assist. It claims however that if there were an industry-wide independent complaints resolution body, the company would participate in this programme.

There is no institutionalised mechanism for alternative dispute resolution in Cambodia, either. However many Cambodians do resort to traditional dispute resolution by submitting them to elderly people, or other respected or prominent persons in their villages or communes for reconciliation.<sup>9</sup> Whilst a practical and cost effective form of resolution, this mechanism is unenforceable except with the cooperation of both parties, and is not suitable

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<sup>9</sup> Koy Neam. *Introduction to the Cambodian Judicial Process*. Phnom Penh: The Asia Foundation, 1998.

to all classes of dispute, such as where expert legal or technical knowledge may be required to help the parties reach a resolution.

There is a non-governmental body Legal Aid Cambodia (LAC), formed in 1995, with offices in seven locations including in rural areas.<sup>10</sup> It represents thousands of poor Cambodians in both civil and criminal matters, and aims “to provide quality legal aid, legal and human rights education/outreach and advocate for the poor in Cambodia in order to ensure access to justice, promote respect of law and human rights and advance legal and judicial reform.” Along similar lines is the Cambodian Defenders Project, established in 1994.<sup>11</sup>

### **3.4 CONSUMER PROTECTION PROGRAMMES, INITIATIVES AND BEST PRACTICES**

#### **3.4.1 Programmes and Initiatives**

Outside the public sector, there are numerous NGOs engaged in consumer protection initiatives of some sort. A few of these are described here.

##### ***3.4.1.1 Product Safety and Labelling***

Other than the ISC, there is also at least one informal private sector standards body. COrAA, the Cambodian Organic Agriculture Association<sup>12</sup> is a membership-based cooperative that has developed a Cambodian standard for certification of organic agricultural products. COrAA plans also to develop a second, slightly less stringent standard for certification of chemical-free products. Whilst primarily a voluntary industry initiative, this programme has the potential to benefit consumers also.

Until now, Cambodian companies wishing to label their products as organic have had to rely on foreign certification schemes – as for example the palm sugar producer, Confirel, has done, utilising a certification of the German body Ecocert. Once COrAA begins labelling in the near future, this will offer Cambodian consumers more choice and provide a badge of identity for Cambodian organic products. However, COrAA is not yet self-sufficient, as the farmers who are its members have little disposable income to invest in the association. For the foreseeable future, it is and will remain reliant on donor income.

##### ***3.4.1.2 Phone and Internet Services and E-commerce***

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<sup>10</sup> See <http://www.lac.org.kh/english/>.

<sup>11</sup> See <http://www.cdpcambodia.org/>.

<sup>12</sup> See <http://www.coraa.org/>.

Competition in the telecommunications and Internet industry in Cambodia is healthy. There are nine mobile telephony providers, and about 30 Internet Service Providers (ISPs). However, there are no identifiable consumer protection programmes from industry or NGOs in this sector.

### ***3.4.1.3 Consumer Credit and Banking***

Microfinance loans are an important source of finance for Cambodians. The largest microfinance lender by number of borrowers, Amret Bank,<sup>13</sup> began in 1991 as a program of the NGO Gret. Now a self-sustaining business, it operates in 4,025 villages in 14 provinces, has 228,231 borrowers, and manages a loan portfolio of KHR 230.31 billion (US\$56.27 million). Each of its credit agents manage an average of 521 clients. An even more remarkable statistic is that 83.64% of its borrowers are women.

There is also a Cambodian Microfinance Association (CMA), with the microfinance providers as members. It is separate from the National Bankers Association, whose members are banks. Neither of these professional associations, however, provide consumer protection services, for example by promulgating industry codes of conduct on consumer protection issues.

Due to the success of the microfinance model in Cambodia, alternative sources of finance such as pawnbroking and hire purchase are relatively less used. Credit cards are also used only by a small minority of Cambodians, in part reflecting the lack of a consumer culture amongst the population, which is still largely subsistence-based, particularly in rural areas.

Conventional bank loans are also little used by consumers. Moreover, the policy of the government on bank loans is to encourage banks to loan money to local entrepreneurs. There is no emphasis on loans for household purposes.

### ***3.4.1.4 Environmental Quality and Services***

There are a large number of NGO-run environmental programmes in Cambodia, most of which concern either conservation of water resources or sustainable agriculture. There is less emphasis on programmes for the urban environment, such as improving domestic waste collection.

An example of an NGO working on environmental issues in Cambodia, in this case emphasising agriculture, is the Cambodian Institute for Research and Rural Development (CIRD). It is involved in capacity building for farmers, but its programmes have flow-on benefits to consumers. It promotes:

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<sup>13</sup> See <http://www.amret.com.kh/>.

- Standards for agricultural products, such as geographical indicators (GIs). It has been instrumental (with other NGOs such as Gret) in promoting a new law on GIs and the issue of the first two GIs to Kampot Pepper and Kampong Speu Palm Sugar in 2010.
- Sustainable agriculture, through techniques such as agro-biodiversity, which means cycling the production of different agricultural products, to avoid degrading the soil.
- Organic production, eliminating the use of chemicals in agriculture in order to access niche markets and to promote the health of consumers.

One of the main strategies used by CIRD for capacity building is to train rural youth. There are no agricultural schools in Cambodia – only university-level courses. These courses are not accessible to rural farmers, and those who complete them do not go back to rural areas but tend to prefer to work as administrators in the city. By setting up rural agricultural training courses, CIRD aims to help instil best practices in farmers who would otherwise not receive this knowledge.

Another of its strategies is to help farmers to organise. 80% of farmers are not organised, and indeed are naturally suspicious of attempts to organise them, because they were brutally forced to do so under the Khmer Rouge. CIRD must overcome their reluctance, in order that they may gain the benefits of knowledge-sharing and collective action that membership of a guild or cooperative can provide.

One such successful cooperative is the Peri-Urban Agriculture Cooperative (PUAC) which markets vegetables organically produced by Khmer farmers at Kampong Speu. Whilst still also reliant on supplemental donor funding, it is slowly becoming self-sufficient through the sale of local organic produce.

#### ***3.4.1.5 Health and Healthcare Services***

Gret, which earlier boot-strapped the now-successful microfinance lender Amret, has now moved on to establish a not-for-profit health insurance programme called SKY (an Khmer acronym for “Health of our Families”). The SKY scheme is a voluntary community-based health insurance programme, relying on a monthly registration and premium collection system at family level. The SKY scheme partners with public health facilities for health care delivery, for both primary health care in health centres, and hospital care at district or provincial level. As at 2009, SKY has 60,000 members.

The services covered for SKY members include consultation and treatment, medicines, and para-clinic services (such as laboratory, X-ray and echography services). Hospital

expenses are also covered for emergency cases, general medicine, non-elective surgery, delivery, para-clinic services and medicine.

An additional benefit is paid to mothers who comply with the conditions of SKY's "Safe Motherhood" programme. This requires that the mothers submit to three antenatal care visits, voluntarily have an HIV/AIDS blood test, breastfeed the baby during hospitalisation, immunise the baby, and comply with two postnatal health care visits including reproductive health consultation.

The premium paid for SKY membership ranges from 18,000 riels (under \$US5) per month for a single person, to a maximum of 32,000 (US\$8) per month for the largest family size. Although these fees are low, they are still out of reach of many Cambodians, who subsist on US\$1 per day or less. For them, the premium may amount to more than one sixth of their monthly salary.

#### **3.4.1.6 Professional Services**

There are two medical professional bodies in Cambodia; the Medical Council and the Cambodian Medical Association (CMA). The Medical Council (which, confusingly, is described as a professional association in the *Law on the Management of Private Medical, Paramedical and Medical Aide 2000*), is the body with which all persons practising medicine must be registered. The CMA is a professional association of doctors, of which membership is voluntary.

The CMA does not carry on any consumer protection functions. Complaints about medical services can only be taken to the Medical Council. The Medical Council has authority to discipline registered medical practitioners, and to take action against those carrying on the unregistered practice of medicine. In doing so, it relies on complaints and reports from the public. It does not have the mandate or resources to proactively monitor the quality of medical services. The Council is staffed by volunteers and runs on a nominal budget.

Neither the Medical Council nor the CMA has any power to award compensation to consumers. Such claims can only be brought through the courts.

### **3.4.2 BEST PRACTICES**

Identification of best practices in Consumer protection program implementation are general made based on the following criteria.

- there is continuity and replicability, and follow-up, with regular reporting and updates (each time the program is conducted)
- meets the objectives and targets of the program

- program is evaluated by participants
- documentation of the program's effects
- reaches out to target groups as expected or beyond.
- program is implemented within the budget

Confirel is a Cambodian company that employs a number of best practices that offer a model for local industries, and for those from neighbouring ASEAN countries.<sup>14</sup> Founded in 2001, the company's products are juices, liquors, vinegars, sugar and other products produced from the sap of the sugar palm tree (*Borassus Flabellifer*) that is indigenous to South and South East Asia.

Although all parts of the sugar palm tree have been used for generations by local Cambodians, most of the renewable uses (such as the use of the tree's sap and leaves) have had little commercial value. As a result the tree has been subject to illegal mass logging for timber, which was the most profitable use to which the tree could be put.

Confirel's mission is to build economic value around sustainable production from the sugar palm tree, to ensure that this resource is protected from illegal logging, and contributes to the betterment of the communities who harvest it. Only renewable parts of the tree are used. The sap is harvested by local farmers who climb up the tree in the early morning to incise the buds and harvest the nectar, which leaks from the flowers. The leaves are also used to produce traditional packaging for their palm sugar. Used in this manner, the slow-growing sugar palm tree can survive for more than fifty years.

Confirel has a Quality Control Laboratory that undertakes analysis at each stage of the production process, including measurement of the product's acidity and sugar content. Independent tests are also performed by the Pasteur Institute of Phnom Penh and the National Laboratory of Control.

Confirel's production processes have been certified as organic. Although Confirel is a member of COrAA, COrAA's domestic organic certification label was not available at the time Confirel began production; and in any case, Confirel's sales are aimed mainly at the export market. Therefore it has been certified the relevant foreign organic food standards, EC 834 for Europe and NOP for America, by a German consultanting company, Ecocert. Part of the certification process involves undertaking ongoing training of staff on food safety.

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<sup>14</sup> See <http://www.confirel.com/>.

Confirel also aims to achieve certification to the GMP (Good Manufacturing Practice) quality standard, which is required for exports to some countries.

In November 2004, Confirel has won the GMS-BF Golden Award from Greater Mekong Sub-Region and Asian development Bank (ADB) for its contribution to social and economic development in Cambodia. In 2005, it won the Corporate Citizenship Award for Environmental Stewardship from the International Finance Corporation (IFC)'s Mekong Private Sector Development Facility (MPDF) and the Ministry of Commerce.

The best practices demonstrated by Confirel include:

- Adherence to best practice standards of production and food safety.
- Development of an original, local product suitable for sustainable consumption.
- Utilisation of production processes that are also environmentally and socially sustainable.



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## **4. NEEDS ASSESSMENT FOR CONSUMER PROTECTION**

The top five priority factors for difficulties implementing consumer protection programmes and activities, cited by the stakeholders in the general survey were:

1. Finances.
2. Adequate number of staff.
3. Office equipment and facilities.
4. Access to experts.
5. Coordination among relevant authorities.

To a large extent the first of these issues underlies all of the others. In other words, lack of funding is only a problem because it prevents the Cambodian consumer protection organisations from hiring adequate numbers of staff, purchasing office equipment and facilities, accessing experts and adequately coordinating among each other.

Leaving aside this underlying problem, this section will expand upon the remaining four challenges in the implementation of consumer protection in Cambodia, and add some additional needs that are not captured in the general survey, but which were uncovered during our key informant interviews and roundtable discussion.

This will lay the groundwork for the following chapter 5 in which some recommendations can be formulated to address the needs we have outlined here.

### **4.1 ANALYSIS OF SYSTEM, INSTITUTIONAL AND HUMAN RESOURCE CAPACITY GAPS**

This section will introduce eight system, institutional and human resource capacity gaps for consumer production in Cambodia that have been identified from our research, building upon but expanding, those reported in the general survey. We also suggest the corresponding underlying capacity building needs that are to be addressed to fill those gaps. The specific recommendations to address the identified needs will follow in chapter 5.

The capacity gaps and needs are each summarised in the table below:

**Table 4.1: Capacity building gaps and needs**

Capacity gap	Capacity building need indicated
1 Lack of needed consumer protection laws and regulations	Assistance to expedite the finalisation and passage of needed laws and regulations
2 Lack of local quality and safety standards for products and services	Assistance in the development and promulgation of local standards
3 Lack of trained human resources	Assistance in retaining and training staff to implement and enforce consumer protection laws and programmes
4 Lack of awareness of consumer protection issues	Assistance with awareness raising campaigns
5 Lack of redress mechanisms	Assistance to develop new general and sectoral redress mechanisms for consumers
6 Duplication of functions	Assistance to rationalise consumer protection functions that could be more efficiently executed
7 <b>Problems with coordination between authorities</b>	Assistance to streamline coordination between authorities responsible for consumer protection
8 <b>Lack of a local consumer organisation</b>	Assistance with the formation of a new Consumer Protection Association

## 4.2 CAPACITY BUILDING NEEDS AND STRATEGIC THRUSTS

The above eight human and institutional capacity gaps that we should aim to address in Cambodia can usefully be sub-categorised. The first two can be understood as gaps relating to laws and programmes on consumer protection, the next two as gaps relating to enforcement, the next concerns redress, and the remaining three are gaps that specifically relate to the implementing agencies for consumer protection.

To some extent, of course, these categories are artificial as most of the gaps do cut across each of those categories. In any case, the capacity gaps and needs in each category will next be examined in turn.

### 4.2.1 Laws and programmes on CP

The two capacity gaps that have been identified as relating to laws and programmes on consumer protection are:

1. Lack of needed consumer protection laws and regulations.

2. Lack of local quality and safety standards for products and services.

These will be discussed in turn.

Amongst the laws that are needed to protect the interests of consumers in Cambodia, but which remain in the planning stages, are the Consumer Protection Law, the Competition Law and the Telecommunications Law. Since the first of these is the most central to this report, its lack will be dealt with here.

The LMQSPS comes close to being a general consumer protection law, but it is deficient in several respects such as not dealing with the areas of:

- Redress and Alternative Dispute Resolution (ADR).
- Unfair terms and conditions in contracts (inequality of bargaining power).

A new consumer protection law is planned for Cambodia. Indeed, the same has already been drafted by a consultant, former Head of Consumers International's Regional Office for the Asia-Pacific, Dr Sothi Rachagan of Malaysia. The draft law was then translated from English into Khmer, where it has undergone a process of inter-ministerial review. The outcome of this is that there have been a number of changes to the draft law, and will likely be more changes to come before the law is passed. Details of the changes made to date remain confidential to the Cambodian government.

The timetable for passage of the new law is uncertain. The intention of the Cambodian government is to pass its proposed new competition law before the new consumer law is introduced. However Minister of Commerce Cham Prasidh said on 24 August 2010 that the government's decision to introduce the competition law in Cambodia has been deferred. He said the government will wait until 2011 to consider whether to implement the legislation.<sup>15</sup> Thus the earliest the new consumer law could be passed is 2011, but more likely it may take longer.

In the interim, it would be possible to fill many of the holes in the consumer law through the issue of sub-decrees under the existing LMQSPS. CAMCONTROL wrote a report to the Minister in 2006 requesting these supportive sub-decrees. The Minister's response was to ask whether it would be possible to wait until the new consumer protection law is passed. CAMCONTROL's response was that it would be better not to wait, but even so at this point in time, no decision has been taken by the Minister and the matter has not been taken further.

The second capacity gap identified in consumer laws and programmes is related to the lack of local quality and safety standards for products and services. There are in fact only

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<sup>15</sup> See <http://www.confirel.com/>.

around ten standards, with only three mandatory standards for food products. The locally-developed product quality and safety certification marks have only been applied to three products. This indicates that to date, standards in Cambodia are largely seen as irrelevant. This indicates an obvious capacity gap, which needs to be addressed as a matter of priority.

#### 4.2.2 Enforcement

The two capacity gaps that can be categorised as relating to enforcement are:

1. Lack of trained human resources.
2. Lack of awareness of consumer protection issues.

The lack of trained human resources prevails in several different areas:

- CAMCONTROL particularly pointed to a need for staff to deal with consumer redress and to review misleading advertising. It also reports a need for infrastructure support to enable it to engage in networking with provincial officers.
- The need for greater capacity for inspection and testing was also identified by almost all respondents. The ISC sends products overseas for testing, due to lack of local capacity – whereas the other ministries attempt to test locally, but with quite limited effectiveness.
- In the healthcare sector, the most serious need is for trained doctors and pharmacists, particularly in rural areas.

The other capacity gap is lack of awareness. The areas where awareness is weakest differs between urban and rural populations; food safety awareness is more important for urban populations, as the rural population tends to be more self-sufficient for food. But rural populations have more need for awareness raising on health issues, as trained professionals are more scarce there. For developing consumer awareness, most of our respondents agreed that television was the most suitable medium overall, though that in rural areas radio could be more effective.

Awareness also needs to be raised amongst business, with the aim of stimulating a better culture of consumer protection. Currently, Cambodian industries and professional associations do not take enough responsibility for consumer protection. Of all the industry and professional bodies referred to in this report – including the Cambodian Medical Association, the Cambodian Microfinance Association and the National Bankers Association – none of them have voluntary functions for the consumer. In other areas such as telecommunications and Internet, there simply is no industry association at all.

### **4.2.3 Redress mechanism**

According to our respondents, if a consumer becomes sick from eating unsafe food, the recourse that they seek is likely to begin and end with the vendor. They are not likely to be aware of the possibility of complaining further to CAMCONTROL, and the option of taking civil legal action is completely out of the question.

The position in the services sector is worse. Consumers of banking, telecommunications and to some extent legal and medical professional services, literally have nowhere to turn. Thus, a very clear need is shown for an accessible and cost-effective means of redress for consumers, not only for products but also for services.

### **4.2.4 Implementing agencies on CP**

The remaining three identified capacity gaps and needs relate to the agencies that implement consumer protection.

#### ***4.2.4.1 ACCP focal point***

A capacity gap amongst the implementing agencies that specifically relates to the ACCP focal point, CAMCONTROL, is the duplication of inspection and testing functions. Part of this results from the shifting of responsibility along the food chain, with the Ministry of Agriculture dealing with food at the point of production, the Ministry of Industry dealing with it as it is processed, and the Ministry of Health dealing with it when it is served to the consumer. Yet it is CAMCONTROL (from the Ministry of Commerce) that has taken responsibility for the majority of testing of food.

This overlap has been dealt with by the other ministries partially ceding their inspection roles to CAMCONTROL – for example pricing and weight are regulated by the Ministry of Industry, but mostly enforced through CAMCONTROL inspections. Similarly, although the regulation of agricultural chemicals is the responsibility of the Ministry of Agriculture, it is CAMCONTROL that tests for the conformity of those agricultural chemicals to the regulated standards.

But this transfer of authority has not been complete. The Ministry of Health and Ministry of Industry continue to inspect and test independently. The ISC reported to us that there is a lack of coordination in these testing activities between CAMCONTROL and the Ministry of Health testing lab, and Confirel reported being confused as to why products were independently being tested by the Ministries of Commerce and Industry. Yet despite this overlapping authority, there is a broad consensus that inspection is ineffective at controlling quality and safety in practice.

#### ***4.2.4.2 Inter agency coordination***

Many of our respondents commented on the difficulty in coordinating between authorities. This is seen in the slow progress made in developing subsidiary instruments such as prakas and sub-decrees. Since this normally involves the portfolios of more than one ministry, an inter-ministerial committee needs to develop the policy principles that are to be implemented in the instrument. The fact that this must be done by consensus operates as an impediment to the passage of necessary instruments. Each ministry will, naturally, give the highest priority to the interests that its own mandate covers, and resist compromising those interests in favour of another ministry. This can result in some proposed new instruments being delayed or abandoned, or their intent altered to excise contentious provisions.

Despite these difficulties, the Ministry of Commerce has as noted above convened an inter-ministerial committee, the Coordinating Committee on Inspection of Quality and Safety of Products and Services, dealing with the area of consumer protection. The existence of a Coordinating Committee in this area has been useful, but its progress is still slow, because the instruments it introduces generally require the consideration of each ministry before a decision can be made.

#### ***4.2.4.3 Other stakeholders***

The final capacity gap that our research suggests is the lack of a local consumer organisation. Addressing this would in turn catalyse many other needed improvements throughout the economy, as the consumer organisation advocates for change. SEDOC has reported that it would like to expand its activities in this area. An enabling environment for the expansion of consumer protection activities in Cambodia may well also see the emergence of other Cambodian consumer protection organisations to fill this gap.

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## **5. RECOMMENDATIONS FOR CAPACITY BUILDING ON CONSUMER PROTECTION**

To recap, in section 4 it was determined that the following capacity building needs exist for the planning, development, implementation and enforcement of consumer protection laws and programmes in Cambodia:

1. Assistance to expedite the finalisation and passage of needed laws and regulations.
2. Assistance in the development and promulgation of local standards.
3. Assistance in retaining and training staff to implement and enforce consumer protection laws and programmes.
4. Assistance with awareness raising campaigns.
5. Assistance to develop new general and sectoral redress mechanisms for consumers.
6. Assistance to rationalise consumer protection functions that could be more efficiently executed.
7. Assistance to streamline coordination between authorities responsible for consumer protection.
8. Assistance with the formation of a new consumer protection association.

This chapter will suggest concrete forms of capacity building assistance to address each of these needs. Also considered are the priorities that should be assigned to each of the areas of need identified.

### **5.1 CAPACITY BUILDING ROADMAP AND IMPLEMENTATION PLAN**

#### **5.1.1 Laws and programmes on CP**

The capacity building needs to be dealt with under this heading are expediting the finalisation of laws and regulations and assistance in standards development. Amongst the concrete steps that could be taken towards addressing these needs are the following:

- Holding inter-ministerial strategy workshops facilitated by ASEAN experts, in which all government stakeholders could map out exactly what laws, prakas and

sub-decrees are needed, and set a firm timetable and work plan for their development and passage.

- Providing expert consultancy services to assist with the process of drafting needed laws, regulations and standards based on examples from around the ASEAN region and internationally.

### 5.1.2 Enforcement

The next set of capacity building needs identified above – and amongst the most important – are the enforcement needs of retaining and training staff, and raising awareness. To address the needs for staff and training, we recommend:

- Training, and training of trainers, in the relevant areas where knowledge and experience are lacking, in both classroom and seminar formats.
- The provision of manuals, toolkits and Web-based products in the Khmer language to allow for self-education in these areas, and for use as works of reference.
- Internships or study and exposure visits for staff to similar organisations that are operating effectively elsewhere in the ASEAN region.
- Secondments of experienced staff from other organisations elsewhere in the ASEAN region.

For awareness raising, we recommend:

- Preparation of a cost-benefit analysis for the Ministry of Information to address the desirability of new regulations mandating public and private broadcasters to air public service announcements on consumer protection issues at no charge to government ministries and other approved consumer protection organisations.
- Technical assistance from consultants in the design of awareness raising campaigns that will be effective in reaching their target audience.
- Workshops for consumers, with a focus on those in rural areas, to raise their awareness of consumer protection issues.
- Holding separate workshops for each sector of industry (including, but not limited to, the banking and financial services industry and the telecommunications and Internet industry), on consumer protection issues relevant to those industries.

- Initiating a programme to encourage the existing professional associations in the banking and financial services industry and the medical and legal professions in Cambodia, to establish committees or programmes on consumer protection.

### **5.1.3 Redress mechanism**

The need for new mechanisms of redress for Cambodian consumers has been identified. We recommend the following capacity building assistance be considered to facilitate these new mechanisms:

- Technical and legal assistance in establishing a new general consumer complaints centre and registry within CAMCONTROL, with jurisdiction over product quality and safety complaints.
- Initial staffing of the complaints centre and registry with expert complaints officers and mediators from ASEAN countries in which similar complaints centres are running successfully.
- Technical assistance in the establishment of new independent specialist offices of ombudsman for the financial industry and telecommunication industry, and complaints committees for the medical and legal professions.
- Appointment of consultants to the offices of the financial industry and telecommunications industry ombudsman and the legal and medical complaints committees, by way of secondment from similar offices in other ASEAN countries.
- Assistance in drafting new legislation or sub-decrees necessary to facilitate the development of the above new mechanisms, and empowering at least the ombudsman offices and complaints committees to order financial redress in appropriate cases.

### **5.1.4 Implementing agencies on CP**

Under the category of needs of the implementing agencies for consumer protection, the first was executing consumer protection functions more efficiently. In this context we recommend:

- An expert report on whether greater efficiencies could be realised by authorising and equipping CAMCONTROL to conduct all inspection and testing of food, medicines and consumer goods at markets, restaurants and factories, including inspections and tests currently performed by other ministries.

- Another expert report on whether the implementation of multiple overlapping laws and regulations on issues such as food labelling could be simplified if these were consolidated into a single instrument.

The second was the need for streamlining coordination between authorities, for which the following recommendation is given:

- Appointing an independent Secretariat to the inter-ministerial committee on consumer protection, to assist the committee with agenda-setting, coordination, follow-up and reporting. This Secretariat could be composed of expert consultants from other ASEAN countries.

The need for the need to support the development of a local consumer protection association has also been identified. This may be addressed by means of the following recommendations:

- Training on consumer issues, management/leadership and fund-raising for staff of the new consumer protection association.
- Staff exchanges, internships, secondments and/or study and exposure visits for staff of the new association with other consumer organisations in ASEAN.
- Networking assistance for the new association in establishing relationships with other consumer organisations in ASEAN and beyond, leading to possible partnerships and future membership of Consumers International.

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#### 5.1.4 Capacity building implementation plan on consumer protection

In due course, Cambodia will have to evaluate and prioritise each of the recommendations above and to incorporate them into an achievable implementation plan. An example implementation plan covering many of the recommendations given above is suggested below.

**Table 5.1**

Focus Areas	Strategic Thrust Areas		
	Short Term (2011)	Medium Term (2011-2013)	Long Term (2011-2015)
<b>NATIONAL CONSUMER PROTECTION POLICY</b>	<p><b>Identifying and analyzing consumer market problems</b></p> <p><b>Focusing on:</b>            What is consumer detriment?            How can markets be screened to detect problems where consumer detriment may exist?            Analysis of market problems</p>	<p>Identify, evaluate and test the most promising tools for addressing the problems they are confronting.</p> <p><b>Focusing on:</b>            Consumer awareness and education            Information provision and disclosure            Contract-term regulation            Cooling-off periods            Moral suasion            Codes of conduct            Standards            Licensing and accreditation            Prohibitions            Dispute-resolution and redress mechanisms            Enforcement strategies</p>	<p>Develop a Framework with objectives that consumer agencies can use to decide when they might want to intervene in market to address a problem.</p>
<b>CONSUMER PROTECTION MASTER PLAN</b>	<p>Commission a Consumer Protection Master Plan for a 10-year time frame with a clear vision and mission. Set objectives for enhancing consumer protection</p>	<p>Develop set of recommendations with implementing strategies for undertaking different activities under each identified</p>	<p>Review the Master Plan to improve the Consumer protection regimes in the</p>

regimes in Cambodia covering all the consumer related areas while strengthening the infrastructure including human resources of the consumer protection institutions.

objective. Based on UN Guidelines for Consumer Protection, develop a Master Plan for achieving a consumer protection regime of international standing to implement the recommendations.

Country

## CONSUMER PROTECTION LAW

- Developing objectives and reviewing the state of consumer protection in comparison with United Nations Guidelines for Consumer Protection.
- Identifying objectives and purpose of consumer protection law.
- Holding inter-ministerial strategy workshops facilitated by ASEAN experts, in which all government stakeholders could map out exactly what laws, prakas and sub-decrees are needed, and set a firm timetable and work plan for their development and passage.
- Appointing an independent Secretariat to the inter-ministerial committee on consumer protection, to assist the committee with agenda-setting, coordination, followup and reporting. This Secretariat could be composed of expert consultants from other ASEAN

- Define Consumer rights and Protection framework with related provisions.
- Establish legal and/or administrative measures to enable consumers getting protected from the unfair market practices.
- Executing consumer protection functions more efficiently, and raising awareness by providing training in the relevant areas where knowledge and experience are lacking.
- Provision of manuals, toolkits and Web-based products in the Khmer language to allow for self-education in these areas, and for use as works of reference.
- Provide internships or study and exposure visits for staff to similar organisations that are operating effectively elsewhere in the ASEAN region.
- Secondments of experienced

Institutionalize consumer protection mechanism to build consumer confidence in the country.

countries.

- Providing expert consultancy services to assist with the process of drafting needed laws, regulations and standards based on examples from around the ASEAN region and internationally.

staff from other organisations elsewhere in the ASEAN region.

## CONSUMER RELATED LAWS AND STATUES

### Product Safety and Labeling:

Conduct Research on Product Safety Issues in Cambodia

Review applicable National and International standards on product safety

Develop, implement and evaluate product safety policies

Enact Product Safety Law by setting product safety standards

### Develop Mechanisms for Consumer Redress

- Identify technical and legal assistance that is required in establishing a new general consumer complaints centre and registry within CAMCONTROL, with jurisdiction over product quality and safety complaints.
- Initial staffing of the complaints

- Enforce Product Safety provisions
- Enhance consumer education on product safety issues

- Identify technical assistance requirements in the establishment of new independent specialist offices of ombudsman for the financial industry and telecommunication industry, and complaints committees for the medical and legal professions.
- (Appointment of consultants to the offices of the financial

- Emulating best practices from ASEAN Member State
- Collaboration among ASEAN Member States

- Develop new mechanisms, and empowering at least the ombudsman offices and complaints committees to order financial redress in appropriate cases.



centre and registry with expert complaints officers and mediators from ASEAN countries in which similar complaints centres are running successfully.

## HUMAN RESOURCE DEVELOPMENT

- Identify training/development opportunities that help employees to develop skills related to their current job duties, and to enhance career development.
- Develop a long range staffing plan to maintain adequate staff for addressing consumer affairs

industry and telecommunications industry ombudsman and the legal and medical complaints committees, by way of secondment from similar offices in other ASEAN countries)

- Implementing employee training and development programs
- Taking steps to ensure that consumer protection departments are appropriately staffed with trained and qualified personnel.

- Through continuous performance evaluation, review and planning, develop the capability of the workforce to carry out various activities of the consumer protection .
- Provision of adequate staff and resources for consumer related activities in different agencies

## Develop local consumer protection association

- Government to identify or establish a new consumer protection association on a non-profit basis.

- Provide training on consumer issues, management/ leadership and fund-raising for staff of the new consumer protection association.
- Provide staff exchanges, internships, secondments and/or study and exposure visits for staff of the new association with other consumer organisations in ASEAN.

- Provide Networking assistance for the new association in establishing relationships with other consumer organisations in ASEAN and beyond, leading to possible partnerships and future membership of Consumers International.

**CONSUMER EDUCATION AND AWARENESS**

- Preparation of a cost-benefit analysis for the Ministry of Information to address the desirability of new regulations mandating public and private broadcasters to air public service announcements on consumer protection issues at no charge to government ministries and other approved consumer protection organisations.
- Provide technical assistance from consultants in the design of awareness raising campaigns that will be effective in reaching their target audience.
- Organise workshops for consumers, with a focus on those in rural areas, to raise their awareness of consumer protection issues.
- Holding separate workshops for each sector of industry (including, but not limited to, the banking and financial services industry and the telecommunications and Internet industry), on consumer protection issues relevant to those industries.
- Initiating a programme to encourage the existing professional associations in the banking and financial services industry and the medical and legal professions in Cambodia, to establish committees or programmes on consumer protection.

**FINANCE**

- Identifying priorities for enhancing the work of consumer protection agencies which are not included in the budget
- Make and adopt adequate budget provisions to enable related agencies to work on consumer protection
- Work out methods by which the Ministry can augment adequate funding from the Government to carry out different activities of consumer protection

**STRENGTHENING COORDINATION THROUGH AMONG DIFFERENT AGENCIES**

- Intra-governmental co-operation among relevant organisations should be promoted. In particular, co-operation between
- Stakeholders should work together to determine how to share consumer education responsibilities in different areas,
- An intergovernmental relation system should be promoted that consists of facilitative systems and relationships that enable the

education ministries and consumer affairs ministries is essential to strengthen consumer protection.

with a view towards exploiting synergies and avoiding redundancy.

units of government to participate effectively and carry out mandates so that governmental goals are achieved. This includes executive mechanisms, coordinating mechanisms, cooperative agreements, judiciary and legislative mechanisms that all facilitate delivery by government machinery. Intergovernmental relations can thus be defined as the “glue” that holds them together. In other words, it is the interactions, relationships and the conduct of officials between governmental activities. It seeks the achievement of common goals through mutual relationships between and across vertical and horizontal governmental arrangements, alignment and cohesion across all spheres of government. The aim of intergovernmental relations therefore, is to enable governmental activities (primarily service delivery), through synergy, efficiency and effectiveness in delivering services, to sustain consumer protection and strengthen delivery capacity across all

## WOMEN AND CONSUMER PROTECTION

- Study and analyse women's role in consumer protection especially on role of women in advertising and their roles; health and Reproductive needs of women.
- Enact Laws and regulations to protect women as consumers

- Develop educational programmes for Education for women as consumers

spheres of government for the common good.

- Enforce Laws and Regulations
  - o protect women as consumers

## PROTECTION OF CHILDREN AS CONSUMERS

- Establish Specific Platform for addressing “CHILDREN AS CONSUMERS” at domestic and regional level
- Develop specific programs or initiatives to address issues related to children being targeted for products or marketing or advertising
- Cigarettes, toys, junk food, fast food, pornography, communication services and technology

- Adopt specific recognition in nationally and regionally on the rights of children as consumers

- Develop New Health Policy to include specific provisions for children
- Enhance SR in industry
- Collaboration with experts for research on impact of products on children
- Develop ASEAN Code of Conduct for marketing to children

## 5.2 PRIORITIZATION OF STRATEGIES AND FOCUS AREAS

As noted in the preceding section, the strategies to be taken forward in implementing the recommendations given must be prioritised. Some suggestions in this regard emerge both from our primary research in Cambodia, including the feedback provided at the roundtable discussion meeting, and from a subsequent regional meeting of ACCP focal points held in Kuala Lumpur on 30 November and 1 December 2010.

At that meeting, the following five possible focus areas were identified:

- Principal Consumer Protection Law – New law and inter-ministerial prakas are medium-term goals, but new sub-decrees under the existing law is short-term.
- Establishing Institutional Structures – Strengthening CAMCONTROL, beginning with a review of its 5-year strategic action plan; also improving infrastructure as per the report, contingent on funding.
- Enforcement – Building up the capacity of enforcement officers, in the short term.
- Redress Mechanisms – Looking at models from other countries to establish a more streamlined redress mechanism, and building capacity of complaints officers (short-term).
- Consumer Education & Awareness – Cooperation with the Education Ministry to enable campaigning in schools, covering product safety, labelling and health care.

More broadly, but consistent with the above focus areas, we can attempt to rank each of the eight needs that were developed in the previous chapter, and for which recommendations were given in this chapter.

A very clear message was received from our respondents, without any dissent, that there is a serious deficit between what the law provides with regard to product safety and labelling, and the actual practice that exists in Cambodia. This stems from a lack of effective enforcement of the existing laws and regulations on product safety and labelling. Therefore, the first priority area for attention must be the areas that relate most directly to enforcement.

These are the needs numbered 3, 4 and 6 above – retaining and training staff, raising awareness, and executing consumer protection functions more efficiently. In combination, addressing these three areas of need should have the most immediate impact on the state of enforcement of consumer protection measures in Cambodia. Details of the particular strategies that could be used for addressing these needs were given earlier in this chapter.

The next priority area (number 5), based on the statements from and discussions with our respondents, should be the need for accessible and inexpensive mechanisms of redress. Currently there is only a fairly ad hoc system of complaints handling through CAMCONTROL which covers mainly food and product safety and quality issues. A more

wide-ranging scheme or schemes that extends to services such as banking and telecommunications would be a great step forward for Cambodian consumers.

The next priority area (number 8), which supports the previous one, is the need to support the establishment or development of a consumer protection association in Cambodia. Without a dedicated watchdog organisation looking out for consumers' interests, businesses will have little incentive to adopt good practices that improve the state of consumer protection in Cambodia. A consumer protection association can also be of immense assistance to the government in developing new consumer protection laws and programmes.

The remaining three priority areas (numbered 1, 2 and 7) are also all related; namely the need for assistance in developing laws, regulations and standards, and in streamlining coordination between authorities. These three areas of need are accorded the last priority not because they are unimportant, but because we consider that it is most important to raise the level of enforcement and awareness of existing laws and standards before addressing the need for new ones.

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## 6. CONCLUSION

As one of the poorest countries in ASEAN, the disadvantage of Cambodia's consumers is to be expected – but this does not mean that it should be accepted. Cambodia's government and NGOs operating in that country have shown their commitment to improve the lot of its consumers, through means ranging from the passage of new consumer law, to the establishment of an innovative grassroots health insurance scheme. But there are a number of important areas where more support is needed from ASEAN members and partners.

The priority areas of need identified in this report were the improvement of implementation and enforcement – particular with regards to food and product safety and labelling – and the provision of new, accessible and affordable mechanisms of consumer redress. The implementation of the recommendations given in this report should go some way towards meeting these needs, and bringing Cambodian consumers closer to the position of their peers elsewhere in ASEAN.



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## **APPENDIX 2: KEY INFORMANT INTERVIEW PROGRAMME**

Key informant interviews were conducted from 18 to 21 October 2010 with the following seven interviewees:

- The Cambodian Organic Agriculture Association (COrAA), with Mr Sar Sanphirom, Executive Manager and Mr Winfried Scheewe, an advisor to that organisation.
- The Institute of Standards of Cambodia (ISC), with its President Mr Ping Sivlay.
- The Consumer Protection and Fraud Repression Department under CAMCONTROL D.G., with its Director Mr Kim Meas Sok Seiha and deputy Director Mr Sameng Muny.
- The Ministry of Health with His Excellency Professor Sea Huong.
- Confirel, with its Managing Director Mr Chhorn Ravouth.
- AngkorNet, with its Admin/HR Manager, Mr Vong Ravuth.
- CIRD, with its elected President and co-founder Karun Khouth.

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**APPENDIX 3: ROUNDTABLE DISCUSSION PROGRAMME**

The programme for the roundtable discussion meeting, which was held in Phnom Penh on 22 October 2010, was as follows:

<b>Time</b>	<b>Program</b>
8:30 – 9:00 am	Registration
9:00 – 10:00 am	<p>Opening Address</p> <p><b>Roadmapping Capacity Building Needs on Consumer Protection in ASEAN region</b></p> <ul style="list-style-type: none"> <li>• The Project</li> <li>• Methodology &amp; Stakeholders</li> <li>• Analysis of Results</li> <li>• Findings (overall roadmap, Where? How?, focus areas, Implementation plans for capacity building)</li> <li>• Discussions / Q&amp;A</li> </ul>
10:00 – 10:30 am	Tea Break
10:30 – 11:30 am	<p><b>Capacity Building Needs on Consumer Protection &amp; Sectoral Impact in Lao PDR</b></p> <p>Short presentation for specific areas. Feedback and discussions from relevant stakeholders</p> <ul style="list-style-type: none"> <li>• Product Safety and Labelling</li> <li>• Consumer credit and banking</li> <li>• Phone &amp; internet services, and E-commerce</li> <li>• Health care services</li> <li>• Environment</li> <li>• Professional services</li> <li>• Other emerging needs</li> </ul>
11:30 am – 12:30 pm	<b>The Way Forward:</b> Conclusions and Reaffirmation of Study's Findings

In attendance were:

- Mr Chhy Sokha of the Ministry of Post and Telecommunications.
- Dr Saint Saly of the Cambodian Medical Association.

- Messrs Kim Meas Sok Seiha and Sameng Muny both of CAMCONTROL.
- Messrs Sar Sanphirom and Winfried Scheewe both of COrAA.
- Mr Ping Sivlay of the Institute of Standards of Cambodia.
- Mr Sil Veneth of SEDOC.

#### **APPENDIX 4: LIST OF RELEVANT LAWS FOR CONSUMER PROTECTION**

- Anukret No. 47 on Food Hygiene for Human 2003
- Law Concerning Marks, Trade Names and Acts of Unfair Competition 2002
- Law on Banking and Financial Institutions 1999
- Law on Bar Statutes 1995
- Law on Commercial Regulations and Commercial Register 1995
- Law on Environmental Protection and Natural Resource Management 2006
- Law on Forestry 2002
- Law on Geographical Indications (forthcoming)
- Law on Land Management, Urban Planning and Constructions 2004
- Law on Metrology 2010
- Law on Standards of Cambodia 2007
- Law on the Management of Quality and Safety of Products 2000
- Law on the Management of Pharmaceuticals 1996
- Law on the Management of Private Medical, Paramedical and Medical Aide 2000
- Law on Water Resources Management 2007

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## **APPENDIX 5: LIST OF IMPLEMENTING AGENCIES FOR CONSUMER PROTECTION**

- Ministry of Agriculture
- Ministry of Commerce
  - Cambodia Import-Export Inspection and Fraud Repression Directorate-General (CAMCONTROL)
- Ministry of Health
- Ministry of Industry
  - Institute of Standards of Cambodia
- Ministry of Justice
- Ministry of Post and Telecommunications

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## **APPENDIX 6: CONSUMER PROTECTION ACT**

### **Law on the Management of Quality and Safety of Products and Services**

PREAH REACH KRAM  
No. NS/RKM/0600/001

We Preahbath Samdech Preah Norodom Sihanouk Reach Harivong Uphatosucheat Visothipong Akamohaborasratanak Nikarodom Thammikmohareacheathireach Boromaneat Boromabopit Preah Chau Krong Kampuchea Thipdey

- Referring to the 1993 Constitution of the Kingdom of Cambodia; Referring to Reach Kram No. NS/RKM/0399/01 of March 8, 1999 on the Amendment of the Articles 11, 12, 13, 18, 22, 24, 28, 30, 34, 51, 78, 90, 91, and 93 and Articles of Chapters VIII to XIV of the Constitution of the Kingdom of Cambodia,
- Referring to Reach Kret NS/RKT/1198/72 of November 30, 1998 on the formation of the Royal Government of Cambodia;
- Referring to Reach Kram 02/NS/94 of July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Referring to Reach Kram No. NS/RKM/0196/16 of January 24, 1996 promulgating the Law on the Establishment of Ministry of Commerce;
- Pursuant to the Proposal of the Prime Minister and the Minister of Commerce.

HEREBY PROMULGATE

The Law on the Management of Quality and Safety of Products and Services as ratified by the National Assembly on 29 May 2000 at the third plenary session of the second legislature and as ratified by the Senate as to its entire form and legality on 02 June 2000 at the second plenary session of the first legislature and whose meaning are as follow:

### **Chapter 1 – General Provisions**

#### **Article 1:**

The scope of this law shall govern the following:

- all commercial enterprises;
- all manufacturers for commercial ends;
- importers, exporters, and merchants;
- service providers of products and goods;
- advertisers of products, goods and services; and
- civic associations and non governmental agencies engaged in manufacturing, commerce, or humanitarian relief.

**Article 2:**

"Production/manufacturing" within the meaning of this law shall be defined as including the following: animal husbandry, dairy production, agricultural crop harvesting, fruit collection, fisheries, animal slaughtering, and the production, processing, and packaging of products together with stocking during production and the first pre- commercialization services.

"Commercialization" within the meaning of this law shall be defined as including the following: all stocking operations, transport, custody for purpose of trade, sale display, and sales of products and goods; all gratuitous gifts of all products including importation and exportation as well as sales, provisions of services or the provisions of gratuitous services.

## **Chapter 2 – Consumers’ Rights and Economic Operators’ Obligations**

**Article 3:**

Manufacturers and service providers shall be required to indicate on their products, goods, and services in Khmer language the ingredients, composition, users’ guidelines, manufacturing date, and expiration date along with other requirements which guarantee the safety and health of consumers prior to their commercialization.

Manufacturers and services providers shall be liable for strictly complying with the provisions in the above mentioned paragraph.

**Article 4:**

Manufacturers and services providers shall comply with the general requirements of providing accurate information of their composition or configuration of the products, goods, or services so as to prevent confusion by consumers or damage competition.



Manufacturers and traders shall comply with the provisions in the above mentioned paragraph for all commercialized products and services.

**Article 5:**

Merchants, traders and services providers responsible for products, goods, or services first placed in the stream of commerce in the Kingdom of Cambodia shall be required to ensure that their products or services are in compliance with the provisions of this law.

Upon request from the competent inspecting agents as stipulated under Article 27 of this law, local manufacturers, importers, and service providers responsible for the first commercialization of these products and services shall be required to provide proof of inspections or records of prior examinations.

**Article 6:**

When the products, goods, or services could harm the health or safety of consumers, their manufacturing and commercialization shall be subject to a prior submission of a declaration to the competent institutions and have a prior authorization by the competent institutions following an inspection and an indication of usage guidelines in Khmer language.

**Article 7:**

It shall be strictly prohibited to produce or place into the stream of commerce products, goods, or services above mentioned in Article 6 of this law when no prior disclosure has been made or no prior authorization has been issued by the competent institutions.

**Article 8:**

The following acts shall be strictly prohibited:

- evasion or attempt to evade inspections as stipulated under Article 6.
- commercialization of products, goods, or services which have not been inspected.

**Article 9:**

Importation of products or goods not found in compliance with this law can be authorized provided they are only transited for re-exportation.

**Article 10:**

Importation of products and goods which are of humanitarian status or non-commercialized purposes can be made provided there is a special prior authorization from the Ministry of Commerce subsequent to the approval of the Royal Government.

This special authorization can only be made provided that the products and goods concerned are in conformity with international trade fair practices or internationally recognized norms.

**Article 11:**

Manufacturing of products not in compliance with this law shall be allowed provided they are destined for export to other countries where their sales are legal and pursuant to a specific international contractual arrangement.

**Article 12:**

Presentation of proper compliance certificate, for exportation and importation, shall be required for certain products which:

- may be harmful to the health or safety of consumers;
- may affect fair commercial practices;
- may preserve and enhance the quality of locally manufactured products;
- are required by international trade or international conventions.

The inspection of the compliance certificate shall be the responsibility of the Ministry of Commerce and other concerned ministries.

**Article 13:**

The Ministry of Commerce shall be responsible for entering into international technical cooperation agreements governing inspections of exported and imported goods, except for gas and petroleum.

### Chapter 3 – Quality Label and Creation Formalities

**Article 14:**

A quality label is a separate mark to identify the quality of a product, good, or service that the manufacturers or service providers voluntarily affix to their products or services. The affixing of the quality label is done for the purpose of meeting the consumers' demand for information, to improve the manufacturer's and service provider's production performance, and to enhance the quality of domestic products.

Manufacturers and service providers shall affix the quality label in strict compliance with the conditions stipulated under Article 59 of this law.

The modalities for determining a quality label shall be determined by a sub-decree upon the proposal of the Ministry of Commerce and other concerned ministries.

**Article 15:**

A norm within the meaning of this law shall be defined as a technical specification accessible to the public which has been established with the cooperation and consensus of all parties concerned, based on scientific and technological outcomes

and experiences, which is adopted by a national accrediting institution for repeated or permanent use and whose recognition is not compulsory.

A national standard system shall be established in order to provide norms and other reference documents to assist in the settlement of technical and commercial problems related to products, goods and services which can occur repeatedly in the relations between economic, scientific, technical, and social partners.

The organization and functioning of the National Standard Institute shall be defined in a sub-decree.

## Chapter 4 – Commercial Fraud Repression

### Article 16:

Whether the party is privy or not to a contract, or a third party, it shall be prohibited to falsify or attempt to falsify products, goods, or services by any means on:

- identity, type, nature, place of origin, physical or nutritional quality, contents, and quantity;
- past inspections, usage guidelines, non conforming usage, risks associated with usage, precautionary measures for all products, goods, and services;
- manufacturing methods and date of production, use, or consumption of products.

### Article 17:

It shall be prohibited to falsify products for, or kept for, commercialization by modifying the products through treatment or tampering by adding, subtracting, or substituting any part or the whole component which is prohibited by regulations or in the absence of which by customs, or which is not in compliance with the regulations.

It shall be strictly prohibited to put in the stream of commerce products which are known to be falsified.

### Article 18:

It shall be prohibited to put in the stream of commerce food products which are known to be contaminated or toxic or do not meet bacteriological or sanitary requirement as stipulated by regulations of the ministries concerned.

### Article 19:

It shall be prohibited to keep at all production, processing, and commercialization sites the following:

- products known to be falsified.

- food products known to be contaminated or toxic, or do not meet bacteriological or sanitary requirement as stipulated by regulations.
- products and instruments used for falsifying or counterfeiting all types of goods.
- tampered scales and measurement instruments used for producing or commercializing products.

**Article 20:**

It shall be prohibited to put into the stream of commerce products and instruments used for falsifying and counterfeiting products.

**Article 21:**

All forms of commercial advertising shall be prohibited if they are deceitful, misleading, false, or likely to cause confusion on the quality and safety of products, goods, and services when they pertain to the following:

- product expectation;
- identity, type, nature, place of origin, physical or nutritional quality, contents, quantity, manufacturing methods and date of production;
- expiry date, usage guidelines and terms;
- methods of sales, product availability, price;
- other warranties.

Advertisers placing commercial advertisements for their own account shall be held principally accountable in their capacity as an initiator.

Advertisers are required to provide information attesting to the quality and safety and other warranties of the advertisement to the inspecting institutions as stipulated under Article 27 of this law. When the substance of the advertisement is contrary to the provisions of the above mentioned paragraphs 1 and 2, the provisions of Article 26 of this law shall be enforced.

## **Chapter 5 – Actions Against Products or Services Which Are Likely to Induce Grave or Imminent Dangers**

**Article 22:**

For manufacturing, processing, and commercialization of products, goods, and services which can cause grave or imminent danger to consumers' health or safety, the competent ministries can take the following actions:

- temporarily or permanently banning from sale;
- temporarily or permanently closing down the manufacturing facilities; or
- if necessary, withholding, confiscating, or destroying the products.

The destruction shall be carried out unless there is a prior written agreement between the competent authority and the products' owners.

Without such agreement, the owners of the confiscated products can file a complaint to the municipal and provincial court within the period allowed.

Manufacturing, processing, commercialization facilities, and other establishments which have been temporarily or permanently closed can resume their business activities provided they have obtained authorization from the competent ministries.

**Article 23:**

The competent ministries can issue a Prakas ordering legal and physical entities stipulated under Article 1 of this law to make the necessary modification to meet the quality and safety requirements as stipulated under Article 3 of this law.

The expenses incurred in the publication of warning or precautionary usage measures as well as the recall of defective products for modification or the partial or total refund of the purchase price shall be borne by the entities in the above mentioned paragraph.

**Article 24:**

Similar measures to those stipulated under Articles 22 and 23 of this law can be taken to ensure safety of the provisions of services.

## **Chapter 6 – Inspection Procedures for Quality and Safety of Products, Goods and Services**

**Article 25:**

Acts in violations of this law shall be thoroughly investigated and observed in accordance with the provisions stipulated under Articles 28 through 51 of this law. However, these provisions shall not prejudice other evidence obtained through other available means.

All safety measures shall be in compliance with, and implemented according to, the provisions stipulated under Articles 52 through 58 of this law.

**Article 26:**

The Ministry of Commerce and relevant ministries shall be responsible for the repression of commercial fraud in accordance with this law. These ministries shall establish a specialized institution to be in charge of fraud repression and inspections of exported and imported goods.

**Article 27:**

The inspection agents of the Ministry of Commerce shall be authorized to carry out inspection, investigation, and offenses recording activities, or to take other measures in cooperation with other relevant ministries.

**Article 28:**

Inspection agents specified under Article 27 of this law are authorized to conduct inspections, prepare official records, and audit relevant issues. Their official records shall remain valid until proven otherwise.

Individuals subject to inspections shall be required to cooperate with inspection agents so that they may carry out their tasks.

Inspection agents can request additional forces for protection and intervention.

**Article 29:**

Inspection agents specified under Article 27 are authorized to enter into and inspect the premises where the manufacturing, processing, commercialization, and services provisions take place, as well as inspect means of transportations, goods, warehouses, offices, and other related premises.

If these premises are used as residences, inspection agents can only enter during working hours. Outside working hours, permission from a prosecutor and the presence of local authority shall be required.

**Article 30:**

Inspection agents specified under Article 27 of this law can investigate, make a duplicate, or confiscate documents essential for their investigations.

In the event of confiscation, an official minutes shall be made immediately on the spot.

All confiscated documents shall be sealed and stamped by the inspection agents. A receipt acknowledging the confiscation and a full list of inventory shall be provided by the inspection agents to the individuals whose goods are subject to the confiscation.

Official minutes which are made not in compliance with the above provisions shall be considered invalid.

All confiscated documents shall be joined with the legal procedures as stipulated under Article 51 of this law or returned to the individuals if no charge is made against them. Official minutes for the surrender of these documents shall adhere to the same process as for confiscation.

When the confiscated documents are necessary for the functioning of the enterprise activities, the inspection agents can issue a duplicate upon request, the cost of which shall be borne by the requesting party.

**Article 31:**

Inspection agents specified under Article 27 of this law are authorized to confiscate all evidentiary documents, or product samples as evidence in accordance with the legal procedures to be specified under a sub-decree. Article 32: Inspection agents specified under Article 27 are authorized to collect testimony from individuals who can provide useful information for their investigation.

Records of these testimonies shall contain the following:

- sequential number provided by the recording agent;
- date, time, and place where testimony took place;
- identity, position, and address of the testimony provider;
- identity, position, and address of the recording agent;
- useful comments of the recording agent to ensure honest reporting of information given by the testimony provider; and
- signatures of the testimony provider and the recording agent.

If the testimony provider refuses or does not know how to sign or is illiterate, mention of the said fact shall be made in the records. Official (records) minutes which are made not in compliance with the above provisions shall be considered invalid.

**Article 33:**

Inspection agents specified under Article 27 of this law can conduct inspection of the products, goods, and services either by visual means, ordinary measurement instruments, or by documents verification aimed at determining the identities of the products, goods, and services, and detect their compliance with respect to their declaration, or to investigate whether or not the conditions for the manufacturing, processing, commercialization, and service provisions have been respected.

The agent shall record their inspection in their official (records) which shall comprise the following:

- sequential number provided by the recording agent;
- date, time, and place where the inspection was made;
- identity, profession, and address of the individual subject to the inspection;
- all elements which can provide details on the value of the findings;

- registration number with the institution of the recording agent; and
- signature of the recording agent.

Official (records) minutes of the inspection which are made not in compliance with the above provisions shall be considered as invalid. Photos of observed irregularities can be attached by the inspecting agent for further consideration.

**Article 34:**

Except for the case specified under Article 40 of this law, the taking of goods samples shall be made in at least three units.

The first sample shall be for laboratory testing, the other two samples shall be kept for use in eventual counter-tests as specified under Articles 47 through 50 of this law.

**Article 35:**

Owner of products which have been removed for samples by the agent shall sign the minutes. He can mention in the minutes any remarks that he deems useful about the sources or characteristics of the products. If the individuals do not want to sign or do not know how to sign, or are illiterate, records of the situation must be written in the minutes.

Pursuant to the requests of the product owners, the agent who removes the samples shall issue a receipt which identifies the type, quantity, and value of the product samples in the eventuality that there is a refund in the future.

**Article 36:**

The modalities for the removal of product samples shall be the responsibility of the competent agent that requires that all three removed samples are similar and representative of the batch of the products to be inspected.

**Article 37:**

Each product sample shall be kept under seal. The seal shall be attached with a label which includes the following:

- designation of the goods which are kept for sale, place for sale, or sold;
- date, time, and place where the samples were removed;
- identity and address of the individual at whose location the samples were removed;
- sequential number for the procedure provided by the sample remover;
- registration number of the samples provided by the public institutions whose agents have performed the samples removal, and accurate identification of that institution;
- useful remarks which enable the laboratories to know the purpose of the test to be made along with relevant documents attached to the label; and



- signatures of the sample removers and the owners of the sampled products.

**Article 38:**

One sample out of the three shall be kept by the holder or the owner of the products. The inspection agent shall provide guidance on the proper manner in which the sample shall be preserved in good condition to ensure that future testing is legitimate.

If the holder or the owner of the products refuses to do so, mention shall be made in the minutes and the inspection agent shall store the sample with the other two samples.

**Article 39:**

The other two samples shall be forwarded with the attached minutes to the public competent institutions whose agents performed the sample removal.

These public institutions shall keep the samples, register them, and provide entry numbers on the label and the minutes. One sample shall be sent to the competent laboratory and the other preserved in proper condition.

If special storage conditions of the samples are required, then the two samples or all three samples as may be the case specified in the second paragraph of Article 38 of this law can be sent to the laboratory for taking the necessary measures.

**Article 40:**

When a product whose conditions or value do not allow the removal of three samples, only one sample shall be removed from the whole product or a portion of it.

The implementation of the above paragraph 1 shall be done for products or goods which for technical and scientific reasons the testing can be done only within a limited time frame failure of which future testing results can be invalid.

A minutes of the taking of the sample shall be made and the product shall be sealed and attached with the label in the same conditions as specified under Articles 35 and 37 of this law. Samples shall be registered and forwarded or submitted to the laboratory according to the procedures stipulated under Article 39 of this law.

**Article 41:**

Samples identified for investigation can also be tested in laboratory, or for preliminary findings of the product characteristics by the inspection institutions within the scope of their competence. The removal of the sample shall be made in only one unit.

The results of the investigative sample can be used only for information purposes, and cannot be used as evidence, or for judicial proceedings as stipulated under Article 51 of this law, or for safety measures stipulated under Articles 52 through 58 of this law, except for temporary consignment as stipulated under Article 53 of this law.

**Article 42:**

Government laboratories shall test product samples. Other public or private laboratories recognized by the competent ministries can also conduct product samples testing. The recognition process of these public or private laboratories shall be done by

Prakas of competent ministries. The Prakas shall clearly define the scope of competence of these laboratories.

**Article 43:**

To conduct product samples testing, laboratories shall use testing methods as prescribed by Prakas of competent ministries.

In the event there are no above-prescribed testing methods, laboratories shall use internationally recognized testing methods. The testing methods shall be published in a testing bulletin.

**Article 44:**

Upon completing their work, laboratories shall prepare a testing bulletin that records the testing results. If the testing results can provide clarifications to the inspection institutions, the laboratories can issue their findings on the product non-compliance against this law or other specific regulations.

**Article 45:**

If the laboratories' testing bulletins indicate that the product samples meet the requirements as prescribed by law, and provided that the institutions which made the samples removal have no other indications of fraud, that institution shall notify the product owners about the compliance of their products.

**Article 46:**

If the results of the laboratory testing indicate that the product samples do not meet the requirements as prescribed by law, procedures stipulated under Articles 47 through 50 of this law shall be applied.

**Article 47:**

If the results of the laboratory testing indicate that the product samples do not meet the requirements as prescribed by law, or pursuant to further necessary investigations, the inspecting institutions shall inform the offenders of the legal court proceedings against them by providing the justifications for such actions.

The offenders shall have 15 working days to conduct a counter-test and select their own experts.

If the offenders do not exercise their rights as defined above, the testing results stipulated under the above mentioned paragraph 1, shall be uncontested, except for reason of force majeure.

**Article 48:**

The cost for hiring the expert shall be borne by the party requesting the counter-testing. The selection of the expert shall be drawn from a list of experts prepared by the municipal and provincial court.

In the event there are no experts qualified in the above-mentioned list or in the event an expert list is non-existent, the party can select another expert. This selection shall

require the consent of the municipal and provincial court. Such consent shall be provided within seven working days.

**Article 49:**

The product samples preserved by the registering institution shall be provided to the expert as stipulated under Article 48 of this law. The expert shall have one month to give the inspecting institution his conclusions with regards to technical or scientific aspects only.

When his conclusion differs from the one of the first testing as stipulated under Article 47, the expert and the chief of the laboratory which conducted the first test shall meet to discuss the matter within a timeframe set by the inspecting institutions. When deemed necessary, the two parties can jointly conduct another test on the third sample. A joint report shall be prepared and sent to the institutions no later than one month from the meeting date.

The expert shall use one or more methods similarly employed by the laboratories and proceed as the first test.

**Article 50:**

In the event the party requested a counter-testing for a product which has only one sample as stipulated under Article 40 of this law, the procedures stipulated under Articles 47 and 48 of this law shall be applied. This immediate counter-test shall be done based on documents from the first test.

The expert selected by the party and the chief of the laboratory which conducted the first test shall meet to discuss their conclusions within a timeframe set by the inspecting institutions. A joint report shall be prepared and sent to the institutions no later than two days from the meeting date.

**Article 51:**

In the event of a court action, the inspecting agent shall prepare documents, reports of the testing, expert reports, and other evidence pursuant to the provisions of this law.

**Article 52:**

Inspecting agents specified under Article 27 of this law can temporarily detain, take measures to ensure compliance, redirect, confiscate, and destroy products and goods as well as require compliance of services in accordance with the procedures of this law.

Measures to ensure compliance, redirection, confiscation, and destruction of products can be effectuated by the inspecting agents only after authorization from their head of institutions and consent from the provincial/municipal prosecutor. These provisions shall not be applicable if the measures fall under the scope of Articles 22 to 24 of this law.

**Article 53:**

Temporary detentions are measures aimed at preventing on a temporary basis any distribution by the holders of the products and goods concerned of the following:

- a) suspected batches of products and goods.
- b) batches of products and goods which, based on actual inspection, do not possess the proper requisite characteristics as defined by law or batches products and goods whose ordinary use can harm the safety or health of consumers.
- c) instruments used for the commission of fraud as specified under Articles 19 and 20 of this law.

Suspected batches of products and goods as stipulated under the above mentioned paragraph a) are those which, after actual inspection and or after the samples testing as stipulated under Articles 34 to 41 of this law, are required to undergo further test to determine whether these products are in compliance or not in compliance with the characteristics as defined by law or whether their ordinary use can harm the safety or health of consumers.

Provided the results of the additional inspection, which shall be carried out within 15 working days, do not confirm the suspension as raised during the first inspection, the temporary detention shall be immediately withdrawn. When necessary, and pursuant to the request of the head of the inspecting institution, only the provincial/municipal prosecutor shall be authorized to extend the temporary detention period.

On the contrary, if the products do not meet the requisite characteristics as defined by law then one or more safety measures as stipulated under Articles 54 to 57 shall be applied.

In the cases a), b), and c) above, the temporary detention shall not exceed 15 days and shall be accompanied by one or more safety measures as stipulated under Articles 54 to 57 of this law.

When the temporary detention was initiated by the inspecting agents pursuant to paragraphs a), b), and c) above, product holders shall have three working days to appeal the measure to the chief of the inspecting agent. The chief shall have three working days to make his final decision. This appeal does not have the effect of lifting the temporary detention.

In all cases, products which are subject to temporary detention shall be placed under the custody of the product holders.

**Article 54:**

Compliance measures are those measures which require the holders or owners of products, goods, and services to end the cause of no compliance.

Those measures include the modification of products, goods, and services, particularly product reclassification, if there is more than one classification, and the recategorization of these products into another category where the sale of these products are allowed by law.

**Article 55:**

Redirection of products and goods shall mean:

- the delivery of temporarily detained or confiscated products pursuant to Articles 53 and 56 of this law to enterprises that can directly utilize these products or modify them to meet the legal requirements at the cost of the product owners.
- the cost of the product returns to the enterprises which are responsible for packaging, manufacturing, or exporting these products shall be borne by the product owners.

**Article 56:**

Products and goods confiscation shall mean the complete removal of the ownership rights from the owners, and can be applied only in the following cases:

- for products and goods which are found to be in non-compliance with the laws and regulations after actual inspection and/or after the samples testing as stipulated under Articles 34 to 40 of this law.
- when the product managers or owners do not agree to modify or redirect or when these measures are not applicable.
- for instruments used for the commission of fraud as specified under Articles 19 and 20 of this law.
- for products and goods whose ordinary use can harm the safety or health of consumers.

Confiscated products are contained and sealed and kept under the custody of the holders, or in the event of refusal, the inspecting agents shall decide on the location of their storage.

**Article 57:**

Inspecting agents can destroy, modify, or cause to be destroyed or modified confiscated products under their supervision when no legitimate and economically beneficial use for the products can be found.

**Article 58:**

The measures as stipulated under Articles 53 to 57 of this law pertain only to products or goods that are unreasonably held at a place or places as specified under Article 29 of this law, or when these products are for sale, have been sold, or distributed gratis.

The inspecting agent shall make an official report on the spot. The report shall describe all the points mentioned in Article 33 of this law and an extract of the measures selected and their justifications. A copy of the report shall be provided to the product holders or owners.

**Article 59:**

The modalities that pertain to the manufacturing, processing, commercialization, servicing, and inspection of products, goods, and services as below mentioned shall be defined in sub-decrees or other implementation regulations:

1. For products, goods, and services

- definition, name, composition, criteria, and types of quality or hygiene, and quantity of products and goods.
- labeling, presentation, form of products sale and packaging, and quality label as affixed onto the products.
- use of language and description of commercial advertisement in order to avoid confusion, and if necessary, comparative commercial advertisements of all products and services.
- presentation mode, contents of receipts and delivery bills, and technical, commercial, and other advertisement documents.
- conditions regulating products and services not complying with general safety requirements as specified under Article 3 of this law.
- modalities for the issuance of authorizations and the submission of declarations for pre-production and commercialization of products and services, and modalities for professional self-inspection.
- regulations concerning measurement instruments and their certification.
- precautionary measures, treatments, and inspections and the use of materials in products and services to ensure environmental protection.

2. For food products

- processing of food in conformity with the law, criteria of food purity, ingredients used in the food production, food casing and materials used to clean them.
- hygienic, sanitary, and nutritional characteristics, microbiological norms under which food is produced; hygienic requirement related to food products transport, production, processing, and commercialization facilities, and employees;
- health certificates, health labels or seals.
- health status of individuals involved in the food preparation, if deemed necessary.

3. For inspection methods

- modalities for implementing the provisions stipulated under Articles 9 to 12 of this law and the procedures for sample removals and testing to identify the products' composition, and their hygienic, sanitary, and microbiological characteristics, products fraud, or to indicate the usage.
- When deemed necessary, the modalities for implementing the safety measures stipulated under Articles 52 to 58 of this law.
- books, registers, and documents of individuals involved in the manufacturing, processing, or commercialization of products and services which can be made mandatory.

**Article 60:**

National and international principles governing the guidelines for manufacturing products and goods and providing service shall be set in sub-decrees and regulations of the Royal Government of Cambodia.

## Chapter 7 – Offences

**Article 61:**

Any manufacturer or service provider found in violation of the provisions of Article 14 of this law shall be fined by the inspecting agent an amount from R500,000 to R1,500,000.

**Article 62:**

Any violator of the provisions of Articles 7, 8, 19, or 20 of this law shall be subject to imprisonment from 6 (six) days to one month and/or a fine from R1,000,000 to R5,000,000.

**Article 63:**

Any violator of the provisions of Articles 16, 17, 18, or 21 of this law shall be subject to imprisonment from 1 (one) month to 1 (one) year and/or a fine from R5,000,000 to R10,000,000.

In the event any manufacturer or service provider refuses to pay the fines, the inspecting agent shall bring a legal action in the provincial/municipal court.

**Article 64:**

In the event of repeated offenses under Articles 16, 17, 18, 19, 20 and 21 of this law, the fines and criminal sanctions shall be doubled without prejudice to other serious crimes resulting from the loss of life, health, and safety of consumers.

**Article 65:**

All products, goods, and equipment which are the subject of the offenses committed under Articles 16, 17, 18, 19, 20 or 21 of this law shall be confiscated as state assets.

The act of confiscation shall be within the jurisdiction of the court. All other losses resulting from the offenses committed under Articles 16, 17, 18, 19, 20 or 21 of this law shall result in civil liabilities for the offenders.

**Article 66:**

The offenses stipulated under Article 63 shall be applied to those who have:

- a) regardless of any circumstances, obstructed inspecting agents, as mentioned under Article 27 of this law, from fulfilling their duties;
- b) refused to present, or concealed accounting, technical, or commercial documents in their possession as stipulated under Paragraph 1 of Article 30 of this law;
- c) refused to present advertised commercial texts or information justifying those advertisements;
- d) given, by any means, deliberately false, misleading or confusing written or verbal information in response to requests by inspecting agents as mentioned under Article 27 of this law;
- e) disposed without approval products which have been temporarily detained or confiscated by inspecting agents;
- f) refused to provide products which have been temporarily detained or confiscated by inspecting agents, to dispose the products and goods as instructed by the competent authorities, or to modify the products and goods to meet the compliance as required under Articles 53 to 56 of this law.

**Article 67:**

Inspecting agents as stipulated under Article 27 of this law shall be administratively accountable. They shall be held liable for negligence which resulted in wrongdoings and other consequences in violations of the provisions of this law and other regulations under this law.

**Article 68:**

Administrative sanctions under this law which shall be imposed on inspecting agents or competent officials shall include the following:

- a) administrative sanction of the first degree shall comprise of a warning and a reprimand from the head of the institution.
- b) administrative sanction of the second degree shall comprise of a suspension of salary and other benefits for 6 months or more.



- c) Administrative sanction of the highest degree shall comprise of the removal of duties or position or removal from the civil service.

The above enumerated administrative sanctions shall not exclude other criminal sanctions.

**Article 68:**

Inspecting agents or competent officials who conspire with offenders or abuse their duties under Article 14 shall have administrative sanctions imposed upon them and shall be fined in accordance with the provisions stipulated under paragraph 2 of Article 61 of this law.

Inspecting agents or competent officials who conspire with offenders or abuse their position under Articles 7, 8, 19, or 20 shall have administrative sanctions of highest degree imposed upon them and other sanctions shall be imposed under Article 62 without prejudice to other criminal sanctions.

**Article 70:**

Inspecting agents or competent officials who conspire with offenders or abuse their duties under Articles 16, 17, 18, or 21 of this law shall have administrative sanctions of highest degree imposed upon them and other sanctions shall be imposed under Article 62 of this law.

**Article 71:**

Manufacturing and commercialization facilities as specified in Article 6 which do not comply with the regulations shall have their license's withdrawn by the competent institutions.

**Article 72:**

Experts working in laboratories and individuals performing sample products testing as defined under Article 42 to 50 of this law shall be held legally liable for their test bulletins.

Any expert who conspires with offenders or abuses his/her position shall have sanctions imposed in accordance with the provisions stipulated under paragraph 2 of Articles 61, 62, and 63 of this law.

## Chapter 8 – Final Provision

**Article 72:**

This law shall be declared as urgent.



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**APPENDIX 7: CONSUMER LAW MATRIX**

<b>A</b>	<b>THE RIGHT TO SAFETY</b>	<b>YES</b>	<b>NO</b>
<i>Protect consumers from products or services which are dangerous or unsafe, or whose use might cause injury to others, by:</i>			
1	establishing a general duty of safety upon suppliers	✓	
2	banning the supply of unsafe goods;	✓	
3	prescribing safety and information standards with which goods or services must comply;	✓	
4	establishing procedures to examine products and services alleged to be unsafe	✓	
5	monitoring the market place for unsafe goods and services;	✓	
6	warning consumers of the possible risks involved in the use of certain goods or services.	✓	
<i>Ensure that information about unsafe products and services is collected and made available to consumers, by:</i>			
7	establishing procedures to collect and disseminate information on particular goods and services identified as being unsafe	✓	
8	establishing procedures for the notification to authorities by consumers of alleged hazardous goods and services; and	✓	
9	requiring suppliers who become aware that their goods or services are unsafe to advertise any dangers.	✓	
<i>Ensure that dangerous products are recalled from suppliers, by:</i>			
10	requiring any manufacturer who recalls goods for safety reasons to notify relevant authorities of the recall;		✓
11	establishing procedures for the monitoring of voluntary recalls to ensure they are effective;		✓
12	allowing relevant authorities to order a manufacturer to recall goods, and to specify how those goods are to be recalled; and	✓	
13	giving relevant authorities power to investigate the actions of manufacturers to determine whether they have complied with laws relating to recalls	✓	

<b>B</b>	<b>THE RIGHT TO BE INFORMED</b>	<b>YES</b>	<b>NO</b>
<i>Require all necessary information to be given to consumers about the goods and services they acquire, especially in relation to therapeutic goods and toxic products, by:</i>			
1	requiring appropriate statements and warnings to accompany toxic products;	√	
2	regulating the supply of therapeutic goods and toxic products to ensure information is disclosed in a manner consistent with international best practice;	√	
3	establishing procedures to monitor national and international developments relating to therapeutic goods and toxic products; and	√	
4	prescribing mandatory information standards to require particular information to be disclosed about particular goods not otherwise regulated	√	
5	prohibiting deceptive packaging; and	√	
6	requiring packages to clearly identify their contents	√	
7	requiring packages to clearly identify their price	√	
<i>Protect consumers from conduct which is false or misleading, by:</i>			
7	prohibiting conduct, in relation to the supply of goods or services to a consumer, that is misleading or deceptive, or likely to mislead or deceive, or which is unfair	√	
8	prohibiting representations about goods or manufacturers and suppliers which are not true or which could mislead consumers; and	√	
9	prohibiting any particular sales or marketing practices which act to the detriment of consumers.		√
10	require all necessary information to be given to consumers about food and drinks in order to enable them to make informed decisions regarding health and nutrition		√
11	ensure that necessary information about goods and services is required to be accurate and comprehensible	√	
<b>C</b>	<b>THE RIGHT TO CHOOSE</b>	<b>YES</b>	<b>NO</b>
<i>Encourage consumers to acquire only the things they need, by:</i>			

1	establishing procedures for community and consumer education about products.		√
<i>Protect consumers from anti-competitive conduct and exploitation, by:</i>			
2	ensuring manufacturers and suppliers do not abuse their powers; and		√
3	giving consumers rights to obtain redress for goods which are unsafe, unsuitable, defective or of poor quality.	√	
4	protect consumers by ensuring effective trade measurement practices and standards are adopted and enforced.	√	
5	prohibit direct sales and marketing practices without appropriate 'cooling off' periods.		√
<b>D</b>	<b>THE RIGHT TO BE HEARD</b>	<b>YES</b>	<b>NO</b>
<i>Ensure consumers can participate in the development of policies which affect them, including giving consumer representatives access to the media, by:</i>			
1	requiring administrative and political bodies responsible for matters affecting consumers to include members representing consumers;		√
2	requiring laws and policies which affect consumers to be publicised before they are introduced to allow consumers to comment on them; and	√	
3	establishing procedures to channel any comments or complaints made by consumers to appropriate authorities, and to monitor the response to those comments or complaints.		√
4	facilitate the establishment of complaints handling systems in both the government and non-government sectors, including the involvement of consumer representatives in the process		√
5	ensure consumers have standing to take action in courts and tribunals, including as third parties, to protect consumer interests.		√
6	enable consumers to take collective action before courts and tribunals.		√
7	enable indigent consumers to enforce their rights by providing access to legal and financial assistance		√
<b>E</b>	<b>THE RIGHT TO REDRESS</b>	<b>YES</b>	<b>NO</b>

Provide consumers with cost-effective, speedy and accessible means to enforce their legal rights, by:			
1	establishing a court or tribunal, with a simple procedure, to hear consumer complaints;	✓	
2	prescribing procedures to ensure consumers know their rights and how to enforce them, particularly in relation to disadvantaged groups		✓
3	ensuring that consumers are allowed to play an equal role in the resolution of their disputes; and	✓	
4	providing consumers with effective remedies and reasonable compensation if their complaints are found to be justified.	✓	
5	provide consumers with a right to compensation if they are injured as a result of unsafe goods or faulty services.	✓	
<i>Provide a mechanism through which consumers can channel their complaints and grievances to government, by:</i>			
6	establishing mechanisms to collect and register consumer complaints and grievances;	✓	
7	prescribing procedures to investigate complaints; and	✓	
8	prescribing procedures to monitor the number of complaints and grievances, and to report any results back to the consumer		✓
<i>Ensure that consumers are properly compensated for any loss suffered if their consumer rights are contravened, by:</i>			
9	ensuring any court or tribunal can provide a consumer with an appropriate remedy if it is established that the consumer's rights have been contravened.	✓	
10	protect consumers from intimidation or harassment if they seek to enforce their rights.		✓
<i>Establish effective post-sale consumer protection, by:</i>			
11	implying into contracts for the supply of goods and services, non-excludable warranties governing acceptable quality, fitness for known purpose, and, in relation to services, that they are rendered with due care and skill.		✓
<b>F</b>	<b>THE RIGHT TO CONSUMER EDUCATION</b>	<b>YES</b>	<b>NO</b>
1	Consumer law should be written in language which can be easily understood	✓	

Establish procedures which ensure consumers are informed about their consumer rights, particularly consumers with special needs, by:			
2	prescribing mechanisms to monitor consumer awareness and use of their rights; and		✓
3	introducing laws to protect particular groups with special needs as required		✓
4	set in place mechanisms to inform consumers about how to enforce their rights		✓
5	ensure consumers are aware of their consumer responsibilities		✓
<b>G</b>	<b>THE RIGHT TO A HEALTHY ENVIRONMENT</b>	<b>YES</b>	<b>NO</b>
Protect consumers from pollution of the environment, by:			
1	promoting the use of products which are environmentally friendly;		✓
2	encouraging recycling of consumer goods; and		✓
3	requiring environmentally dangerous products to carry appropriate warnings and instructions for the safe use and disposal of the product	✓	
<i>Promote the use of non-toxic products where available, by:</i>			
4	promoting consumer awareness of safer alternatives to toxic products;		✓
5	establishing procedures to monitor international developments and ensure products which are banned overseas do not find their way into national markets	✓	
6	ensure the social costs of pollution are minimised.	✓	
7	encourage the promotion of ethical and socially responsible practices by the producers and suppliers of goods and services	✓	
<b>H</b>	<b>THE RIGHT TO THE SATISFACTION OF BASIC NEEDS</b>	<b>YES</b>	<b>NO</b>
<i>Consumer laws should promote the provision of information to consumers about products and substances which may adversely affect them, by:</i>			
1	requiring therapeutic goods to carry information about safety, efficacy, and side effects; and	✓	



2	requiring any products containing hazardous substances to clearly list all its ingredients and to display appropriate warnings.	✓	
3	protect consumers from unethical, unconscionable, and illegal practices especially in the supply or provision of: health care; housing and accommodation; education; water; energy; financial services; employment; retirement services; children's services; insurance; investment services; and food.		✓
<i>Protect the privacy of consumers, by:</i>			
4	ensuring telecommunications and other communications are secure from unauthorised interference and are not used to provide or promote unsolicited commercial communications;		✓
5	ensuring personal information about consumers is used only for the purposes for which it is collected and with their knowledge and approval; and		✓
6	ensuring that consumers have the right to access, amend and correct their personal information held by government or non-government entities.		✓

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