

KINGDOM OF CAMBODIA
NATION RELIGION KING

ROYAL GOVERNMENT OF CAMBODIA

No: 79 Or Nor Krar. Bor Kar

SUB-DECREE
ON
COMMUNITY FORESTRY MANAGEMENT

The Royal Government of Cambodia

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Royal Decree on Formation of the Royal Government of Cambodia, promulgated by Kram NS/RKT/1198/72 dated 30 Nov. 1998;
- Having seen the Law on Organization and Functioning of the Council of Ministers, promulgated by Kram 02/NS/94 dated 20 July 1994;
- Having seen the Law on Establishment of the Ministry of Agriculture, Forestry and Fisheries, promulgated by Kram NS/RKM/0196/13 dated 24 Jan. 1996;
- Having seen the Royal Decree on the Establishment and Demarcation of Protected Area, dated 01 November, 1993;
- Having seen the Law on Environment Protection and Natural Resources Management, promulgated by Kram NS/KRM/1296/36 dated 24 December 1996;
- Having seen the Land Law, promulgated by Kram NS/RKM/0801/14 dated 30 August 2001;
- Having seen the Forestry Law, promulgated by Kram NS/RKM/0802/016 dated 31 August, 2002;
- Pursuant to the approval of the Council of Ministers at its plenary session on 17/10/2003

Hereby Decides

CHAPTER 1
GENERAL PROVISIONS

Article 1:

This Sub-Decree aims at determining rules for the establishment, management and use of community forests throughout the Kingdom of Cambodia.

Article 2:

The objectives of this Sub-Decree include the following:

- To implement the Forestry Law and other legislation regarding Local Community management of forest resources;

- To define the rights, roles and duties of the Forestry Administration Responsible Authorities, CF Communities (Editors note: see Article 5, definition #11) and other stakeholders involved in Community Forestry management;
- To establish procedures to enable Communities to manage, use and benefit from forest resources, to preserve their culture, tradition and improve their livelihoods;
- To ensure user rights for a CF Community under a Community Forest Agreement;
- To support the Royal Government of Cambodia's policies of poverty alleviation and decentralization;
- To provide an effective means for a CF Community to participate in the reforestation, rehabilitation and conservation of natural resources, forest and wildlife.
- To enable citizens to understand clearly and recognize the benefit and importance of forest resources through the direct involvement in forest resources management and protection; and
- To provide a legal framework to assist Cambodian citizens, living in rural areas, in establishing CF Communities to contribute in the sustainable management of forest resources.

Article 3:

Community Forest is state public property.

Forestry Administration has the rights to give official recognition of the demarcation of each community forest boundary.

Article 4:

Power in leading and managing a CF Community is gained through the election of community members.

Article 5:

Useful terminologies that are legally binding within this Sub-Decree are defined as follows:

1. **Sustainable Use** is the use of forest resources in a way that will ensure the availability of that resource for future generations.
2. **Customary Use** is the use of forest resources by local communities in a sustainable manner for subsistence purposes as described in Article 40 of the Forestry Law.
3. **Community Forest Agreement** is a written agreement between a CF Community and Forestry Administration Cantonment Chief that grants and protects the CF Community's rights within any specific area to access, use, manage, protect and benefit from forest resources in a sustainable manner.
4. **Community Forestry Management Committee By-Laws** are rules passed by the Community Forestry Management Committee on the internal operation of the Community Forestry Management Committee, including such things as quorum requirements, term and number of committee members and method for electing the Community Forestry Management Committee, etc.

5. **Community Forest Management Plan** is a document prepared by a CF Community with approval by Forestry Administration following the Environmental and Social Impact Assessment and detailing the procedure, regulation and measure related to sustainable use and management of the Community Forest.
6. **Community Forest** is the forest plantation of a Community or State forest, where the right is granted to a local Community living in or near the forest to manage and utilize the forest in a sustainable manner between the Forestry Administration and a local Community.
7. **Forestry Administration** is the Government Authority of all levels with the competence to manage forest consistent with the National Forest Policy and implement in accordance with the Forestry Law.
8. **Community Forestry Regulations** are rules passed by the Community Forestry Management Committee on the use and management of the Community Forest, consistent with the Community Forest Management Plan, including such things as rights of access and duties for Community members and secondary users, user fees, benefit sharing, reporting requirements, fines for violations, etc.
9. **Community** is a group of residents in one or more villages in the Kingdom of Cambodia who share a common social, cultural, traditional and economic interest and use the natural resources in an area, where they live in or near, in a sustainable way for subsistence and livelihood improvement purposes.
10. **Local Community** is the minority ethnic community or a group of local residents with original settlement in one or more villages, where they live in or near state forest with their tradition, custom, religious belief, culture and subsistence depending on the harvest of forest and non-forest products and the basic use of those forest resources.
11. **Community Forestry Community (CF Community)** is a Community that voluntarily initiates to form a group under a Community Forest Agreement in order to conduct development activities and use forest resources in a sustainable manner within a Community Forest in compliance with the provisions of the Forestry Law.
12. **Relevant Institution** is the government entity that supports and facilitates or gives contributions, but has no duty to make decisions on Community Forest Agreements or Community Forest Management Plans with a CF Community, and has no duty to carry out monitoring and evaluation activities.
13. **Sustainable Harvest Rates** are the amount of forest resources to be harvested by a Community within a specified period, set by the Community Forestry Management Committee and approved by the Forestry Administration, which are based on the concept of sustainable use.
14. **Secondary Users** are individuals who are not party to a Community Forest Agreement, but can access and use the Community Forest consistent with the Community Forest Management Plan and the Community Forestry Regulations.

CHAPTER 2

ESTABLISHMENT OF COMMUNITY FORESTRY

Article 6:

A CF Community can be initiated and established by local communities or the Forestry Administration. In order to establish a CF Community, the local communities shall submit a written request to the Forestry Administration.

Article 7:

The local Forestry Administration shall assess and analyze the requirements and problems faced by the Local Communities that requested to establish a CF Community with the involvement of local authorities or Commune Councils.

Article 8:

After the requirement and problem faced assessment and analysis and with the approval from the Forestry Administration, the local communities in the area shall be involved in the formation of the Community Forestry Management Committee, with the facilitation by local authorities or the Commune Councils.

CHAPTER 3

ROLES, DUTIES AND RIGHTS OF CF COMMUNITY

Article 9:

Khmer citizens of either sex, who wants to be member of a CF Community, shall meet the following conditions:

- Living within the community as defined in point 9 in Article 5 of this sub-decree; and
- The Khmer nationality with the age of 18 years up. An individual may only be a member of one CF Community.

Article 10:

Roles and duties of CF Community members are as follows:

- Follow the instruction of the Forestry Administration and MAFF;
- Participate in developing and implementing Community Forestry Regulations, Community Forest Agreement and Community Forest Management Plan in compliance with Prakas of MAFF;
- Participate in forest resources management in compliance with Community Forestry Regulation, Community Forest Management Plan and other legislation related to forestry sector;
- Participate in sharing benefits from the community forest;
- Participate in monitoring the use of community forest resources by secondary users; and

- Participate in conserving, protecting and planting the forest to ensure the sustainability of forest resources and environment.

Article 11:

The User Rights of CF Community members include:

- Customary User Rights prescribed in Article 40 of the Forestry Law.
- The rights to barter, process, transport and sell NTFPs as described in Article 40(B) in point 5 of the Forestry Law.
- CF Community may continue to practice traditional swidden agriculture during specific periods of time as determined in the Community Forest Management Plan, as authorized in Article 37 of the Forestry Law.
- The right to appeal decisions which impact CF Community rights.
- The rights granted under a Community Forest Agreement within a specific area that shall ensure the sustainable use of forest resources.

Article 12:

Communities under a Community Forest Agreement may harvest, process, transport and sell forest products and NTFPs in accordance with the following conditions:

- Harvest of forest products for selling or bartering shall not be allowed within the first 5 years of approval of the Community Forest Management Plan. If the Community Forestry has been operating with a Community Forest Management Plan prior to the passage of this Sub-Decree, then the moratorium on harvesting forest products shall be considered from the date of approval on that Community Forest Management Plan;
- Payment of any required royalties or premiums on forest products and NTFPs as prescribed in Article 55 of Forestry Law; and
- Terms and conditions in an approved Community Forest Management Plan.

Based on the Community Forest Agreement, a CF Community has the rights to plant, manage, harvest forest products and NTFPs and sell tree species as approved in a Community Forest Management Plan.

Article 13:

No permits shall be required for any activities of a CF Community within a Community Forest area under the terms and conditions of approved Community Forest Management Plan and Community Forest Agreement;

No royalties or premiums shall be required for any customary user rights of a CF Community under the terms and conditions of an approved Community Forest Management Plan and Community Forest Agreement.

Royalties and Premiums should be set after consultation with a CF Community in order to support Community development, equitable benefit sharing, and poverty alleviation.

Article 14:

Secondary users may have the rights to access and use a Community Forest consistent with Community Forest Management Plans and Community Forestry Regulations.

Article 15:

Communities may not:

- Use the Community Forest in the form of a concession;
- Sell and transfer their rights granted in a Community Forest Agreement to a third party; and
- Harvest forest products and NTFPs greater than the terms and conditions of the Community Forest Management Plan.

CHAPTER 4**COMMUNITY FORESTRY MANAGEMENT COMMITTEE****Article 16:**

Each CF Community shall be led by a committee called the “Community Forestry Management Committee”.

Article 17:

The Community Forestry Management Committee's members shall be selected from the CF Community's Members through secret ballot during a free, fair and just election by at least 2/3 of the members of the CF Community during a public meeting.

A candidate who has won the most ballots shall be nominated as head of the Community Forestry Management Committee and the candidate who won the second most ballots shall be nominated as deputy head of the Community Forestry Management Committee.

The local authority or commune councils and Forestry Administration Cantonment shall be invited to observe the election. If the local authority, commune councils and/or Forestry Administration Cantonment are absent, the results of the election shall be officially recognized.

Article 18:

The Community Forestry Management Committee's members shall be made up of an odd number from five (05) to eleven (11) consistent with the advice of the Forestry Administration and shall encourage the participation of women in the Community Forestry Management Committee.

Article 19:

Khmer citizens of either sex who have the rights and intention to be a member of a Community Forestry Management Committee, shall meet the following conditions:

- Member of the CF Community of his/her own; and
- The Khmer nationality from birth.
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Article 20:

The Community Forestry Management Committee has a term of five(05)years and the expiration

is considered when the newly elected Community Forestry Management Committee comes into the office.

Article 21:

The Community Forestry Management Committee shall have the following roles and duties:

- Prepare and adopt Community Forestry Regulation with the involvement of the CF Community's members and facilitation from local authorities and the Commune Councils;
- Prepare and adopt Community Forestry Management Committee by-laws with the involvement of the CF Community's members and facilitation from local authorities or the Commune Councils;
- Prepare a draft of the Community Forest Agreement with the involvement of the CF Community's members and with technical assistance from the Forestry Administration Cantonment upon request;
- Operate in accordance with the terms and conditions in the Community Forestry Regulation, Community Forestry Management Committee by-laws and other relevant legislation;
- Seek financial and technical support from Forestry Administration, relevant institutions and other donors to implement the CF Community's operation;
- Represent the CF Community in any negotiations and resolution of disputes that may arise;
- Open a bank account and manage CF Community finances in a transparent manner and with responsibility;
- Make decisions on Community Forestry development with the participation of the majority of CF Community members in compliance with the Community Forestry Regulations, Community Forest Agreement and the Community Forest Management Plan;
- Participate in the consultation to prepare regulations related to or benefiting CF Community members;
- Report and inform immediately about any forestry offense occurring within a Community Forest area to the nearest Forestry Administration official;
- Conserve and protect wildlife within the Community Forest; and
- Perform other functions as necessary consistent with the advice of the Forestry Administration.

Article 22:

An application to the Forestry Administration Cantonment to approve a Community Forest Agreement shall only be submitted by a Community Forestry Management Committee.

A Community Forestry Management Committee may request technical assistance to prepare the draft Community Forest Agreement from the Forestry Administration Cantonment, or individuals with skill in Community Forestry management.

CHAPTER 5 INSTITUTIONS AND RESPONSIBLE AUTHORITIES

Article 23:

The Ministry of Agriculture, Forestry and Fisheries shall have general jurisdiction over

Community Forestry Management and the roles and duties as follows:

- Act as the lead authority over Community Forestry;
- Issue Prakas to recognize and terminate the area requested for establishing Community Forest by the Forestry Administration;
- Issue Prakas on the guidelines for Community Forestry, the format of Community Forestry Regulations, Community Forestry Management Committee By-laws, Community Forest Agreements and Community Forest Management Plans through the consultation process;
- Coordinate with government institutions and relevant parties on the implementation and development of Community Forestry management; and
- Facilitate CF Community's conflict resolution;

Article 24:

The Forestry Administration shall have the following roles and duties:

- Assess and demarcate forest area for establishing Community Forest;
- Make decision to recognize, reject and terminate CF Communities;
- Revise and approve Community Forest Agreement with a CF Community through the Forestry Administration Cantonment Chief;
- Review and approve Community Forest Management Plans;
- Develop guidelines related to Community Forestry management that are required by Prakas of MAFF;
- Monitor and evaluate the Community Forestry process;
- Assist CF Communities in conserving spirit forest and religious forest;
- Coordinate with government institutions and stakeholders on the establishment and implementation of Community Forest Agreements;
- Facilitate the resolution of conflict upon request by a CF Community;
- Establish and manage Community Forestry Central Registry and map of Community Forest;
- Provide technical support to CF Communities;
- Promote training to local Forestry Administration and CF Communities to effectively implement Community Forestry activity and enforce this Sub-Decree;
- Provide any information and documentation related to Community Forestry activity at the request of a CF Community; and
- Enforce the implementation of legislation, including Community Forestry regulations, Community Forestry Management Committee by-laws, Community Forest Agreement and Community Forest Management Plan.

CHAPTER 6 COMMUNITY FOREST AGREEMENT

Article 25:

Community Forest Agreement shall be attached with:

- A scale map of 1:50.000 outlining the area for establishment of the community forest in compliance with the Community Forest Agreement, which has specific coordinates;
- A list of CF Community members and Community Forestry Management Committee members;

- The Community Forestry Management Committee By-Laws and Community Forestry Regulations;
- Statement on the objective of establishment and the objective of management of forest resources with the certification of the sustainable management of forest resources;
- Inventory list of important forest resources in the area, outlined in Community Forest Agreement; and
- Other relevant documents if necessary.

Article 26:

Draft Community Forest Agreement shall be announced at least 30 days in public places, at the offices of commune councils, district governors and provincial governors before submitting the draft Community Forest Agreement to Forestry Administration Cantonment for review and approval.

If a conflict is discovered during the announcement period, the commune councils, district governors and provincial governors shall help facilitate the Community Forestry Management Committee to resolve the conflict or modify the draft Community Forest Agreement at the request of the CF Community Management Committee.

Preparation procedures for Community Forest Agreements shall be determined by Prakas on guidelines for Community Forestry of Minister of MAFF

Article 27:

Community Forest Agreements shall be in effect not more than a period of fifteen (15) years from the date of approval by the Forestry Administration Cantonment Chief.

One year prior to the expiration of the Community Forest Agreement, the Community Forestry Management Committee shall submit a written request to the Forestry Administration Cantonment Chief to renew the Community Forest Agreement for an additional fifteen (15) year term.

The request for renewal shall be approved through the notice of the Forestry Administration Cantonment within 30 days prior to the expiration date of the Community Forest Agreement. The Forestry Administration Cantonment may terminate the Community Forest Agreement or reject the request for renewal when the Cantonment Chief of Forestry Administration sends a written finding to the Community Forestry Management Committee, based on monitoring and evaluation reports, with participation of the Community Forestry Management Committee, certifying the reasons and evidence that the previous community forest management process is not in compliance with the Community Forest Agreement and Community Forest Management Plan.

If the Forestry Administration Cantonment does not give the notice on the request to renew the Community Forest Agreement within thirty (30) days prior to the expiration date, the Community Forest Agreement shall be renewed automatically.

Article 28:

The Community Forest Agreements may be terminated prior to the expiration date based on one or more conditions as follows:

1. Written agreement between all parties;
2. Agreement among Community Forestry Management Committee and at least 2/3 of the CF Community members;
3. Noncompliance with, or serious violation of, the terms and conditions in the Community Forest Agreement and other provisions that causes the non-sustainable use of forest resources.
4. An understanding of the Royal Government of Cambodia that there is another purpose which provides a higher social and public benefit to the Kingdom of Cambodia.

If the Royal Government of Cambodia terminates a Community Forest Agreement for another purpose that provides a higher social and public benefit to the Kingdom of Cambodia, then the Forestry Administration Cantonment shall give the Community Forestry Management Committee a written notice six (06) months prior to termination by certifying the reasons of termination. Within this period, the Forestry Administration Cantonment Chief shall discuss and negotiate with the Community Forestry Management Committee to determine the fair policy for the Community's loss.

CHAPTER 7 COMMUNITY FOREST MANAGEMENT PLAN

Article 29:

After the approval of the Community Forest Agreement, the Community Forestry Management Committee shall prepare a Community Forest Management Plan with participation of the CF Community members in compliance with procedures in the Community Forestry Management Committee By-laws;

A Community Forestry Management Committee may request technical assistance to develop the Community Forest Management Plan from the Forestry Administration, institutions or individuals with skill in Community Forest management.

The Community Forestry Management Committee shall submit the Community Forest Management Plan to the Forestry Administration Chief for review and approval through the Forestry Administration Cantonment.

Preparation procedures for Community Forest Management Plans shall be determined by Prakas on guidelines for Community Forestry of Minister of MAFF

Article 30:

Community Forest Management Plan shall be in effect throughout the duration of the Community Forest Agreement.

The Community Forest Management Plan shall be reviewed by the Forestry Administration every 5 years or earlier if necessary; monitoring and evaluation of the Community Forest

Management Plan shall include participation of representatives from the Community Forestry Management Committee.

The Forestry Administration may require the Community Forestry Management Committee to modify the Community Forest Management Plan consistent with the provisions of the law and forest management code of practice of Cambodia to ensure the sustainability of Community Forest.

CHAPTER 8

FINANCIAL SOURCES FOR COMMUNITY FORESTRY

Article 31:

The Forestry Administration may use the national forest development budget to support the development process of Community Forestry consistent with provision prescribed in Article 62, 63 and 64 of the Forestry Law.

Community Forestry Management Committee can seek direct financial sources to support the development process of Community Forestry from charity people, national and international organizations.

CHAPTER 9 OFFENSE

Article 32:

Anyone who acts contrary to the provisions of this Sub-Decree shall be prosecuted according to the law in effect.

CHAPTER 10 FINAL PROVISIONS

Article 33:

Any provisions that contradict this Sub-decree shall be considered as null and void.

Article 34:

The Minister in charge of the Council of Ministers, the Minister of Ministry of Agriculture, Forestry and Fisheries, the Minister of Ministry of Economy and Finance, the Minister of Ministry of Interior, all Ministers and State Secretaries of Ministries and institutions concerned and Governors of provincial cities shall be responsible for the implementation of this Sub-Decree respectively from the date of signature.

Phnom Penh, 2nd December, 2003
Signed and sealed
Prime Minister

Hun Sen
CC.

- Ministry of Royal Palace;
- Secretariat of the Constitution Councils
- General Secretary of Senate;
- General Secretary of National Assembly;
- General Secretary of Royal Government;
- Cabinet of Prime Minister;
- As prescribed in Article 48;
- Reach Kech; and
- Filing and date

This unofficial translation was completed with assistance from GTZ's Cambodian-German Forestry Project.