

Law on Foreign Exchange

CS/RKM/0897/03

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 Kret His Royal Highness Norodom Sihanouk Varmann, King of the Kingdom of Cambodia of November 1, 1993 on the formation of the Royal Government of Cambodia;
- Referring to Kram O2/NS/94 of July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Referring to Reach Kret No. NS/RKT/1094/90 of October 31, 1994 on the Reorganization of the Composition of the Royal Government of Cambodia;
- Referring to Reach Kret No. CS/RKT/0897/147 of August 7, 1997 on the Reorganization of the Composition of the Royal Government of Cambodia;
- Referring to Kram No. NS/RKM/0196/27 of January 26, 1996 promulgating the Law on the Organization and Functioning of the National Bank of Cambodia;
- Referring to Reach Kret of September 3, 1993 on the appointment of H.E. Thor Peng Leath as the Governor of the National Bank of Cambodia;
- Referring to the Financial Law of December 28, 1993;
- Pursuant to the request by the First Prime Minister and the Second Prime Minister and the Governor of the National Bank of Cambodia.

HEREBY PROMULGATE

The Law on Foreign Exchange as ratified by the National Assembly on August 5, 1997 during the eight session of the first legislature and whose entire meaning are as follow:

Law on Foreign Exchange

Chapter 1: General Provisions

Article 1: Any foreign exchange operations and, in general, any operations carried out between residents and nonresidents are subject to the present law when they relate to:

- payments for commercial transactions;
- transfer; or
- capital flows, including investment.
- payment instruments or securities denominated in foreign currency;

- raw gold, raw precious metals, uncut precious stones.
- individuals, regardless of their nationality, who have had their main professional activity or their main residence in the Kingdom of Cambodia for a period of and over one hundred and eighty two days (182 days), with the exception of foreign civil servants on diplomatic or similar assignments;

Article 2: For the enforcement of this law, the following shall be considered as foreign exchange:

Article 3: The following shall be considered as residents:

- legal entities incorporated under local law and branches of legal entities incorporated under foreign law that are established in the Kingdom of Cambodia;
- any Cambodian civil servants on foreign assignments, regardless of the length of their stay.

Article 4: The following shall be considered as nonresidents:

- individuals of Cambodian nationality, who have had their main professional activity or their main residence abroad for a period of and over one hundred and eighty two days (82 days);
- foreign individuals, who have had their main professional activity or their main residence in the Kingdom of Cambodia for less than one hundred and eighty two days (182 days);
- legal entities, incorporated under local law, established abroad and overseas branches of legal entities incorporated under local law;
- foreign civil servants on diplomatic or similar assignments in the Kingdom of Cambodia.

Chapter 2: Bank Intermediation

Article 5:

1. . There shall be no restrictions on foreign exchange operations through book entry including purchases and sales of foreign exchange on the foreign exchange market, transfers, all kinds of international settlements, and capital flows in foreign or domestic currency, between Cambodia and the rest of the world or between residents and nonresidents. However, such operations shall be undertaken solely through authorized intermediaries.
1. Only banks permanently established in the Kingdom of Cambodia shall be considered as authorized intermediaries.
3. Authorized intermediaries shall be required, under conditions established by regulations, to provide the Central Bank on a regular basis with periodic statements, by type of transfers or settlement and of outflows and inflows of capital carried out between the Kingdom of Cambodia and the rest of the world, according to the time set by the Central Bank.
4. Any export of cash in foreign currency by authorized intermediaries shall be subject to prior declaration to the Central Bank.
5. The manual money changers who have fixed or moving counter may exercise their exchange transaction with the prior authorization of the Central Bank.

Article 6: In case of foreign exchange crisis, the Central Bank may issue regulations to be implemented for a maximum period of 3 months, imposing certain temporary restrictions on the activity of authorized intermediaries, particularly on the transactions stated in Article 5 of the present law, or their foreign exchange position, or any loans in domestic currency extended to nonresidents. In case of having to prolong the scheme, the Central Bank together with the Ministry of Economy and Finance shall submit a request to the Head of the Royal Government for approval.

Article 7: Residents may hold foreign currencies freely, both in form and location of such holdings inside the country. Nevertheless, in case of foreign exchange crisis, the Central Bank may issue regulations to be implemented for a maximum period of 3 months, suspending temporarily the enforcement of this provisions. In case of having to prolong the scheme, the Central Bank together with the Ministry of Economy and Finance shall submit a request to the Head of the Royal Government for approval.

Chapter 3: Current Operations

Article 8: Exporters or importers of goods and services shall make payments for their commercial transactions with the rest of the world through authorized intermediaries.

Article 9: Authorized intermediaries may be required by the Central Bank to submit proof of payment for imports by banker's order in support of their applications to purchase foreign exchange, and later be also required to provide various administrative evidence confirming the entry of goods into the country.

Article 10: Since the collection is made, the proceeds from export of goods or services shall be credited to the exporter's account with the domiciled bank in accordance with Article 8 of the present law.

Article 11: Counterpart funds in domestic currency from the local marketing of products imported on the basis of external borrowings or grants must be credited to the National Treasury's account with the Central Bank, in accordance with procedures to be defined by mutual agreement between the National Treasury and the Central Bank.

Article 12: The import or export of raw gold, uncut precious stones or other raw precious metals shall be free, in accordance with point 1 of Article 5 of the present law, however, shall be subject to prior declaration to the Central Bank if the value of each transaction equals or exceeds ten thousand US dollars (USD 10,000).

Article 13: The export or import of the means of payment equaling or exceeding ten thousand US dollars (USD 10,000) in foreign exchange or the equivalent amount in domestic currency by a traveler shall be declared to the customs officers at border crossings of the Kingdom of Cambodia.

The export of cash in excess of the limit set by the regulation of the Central Bank shall be subject to prior examination by the Central Bank.

The Customs House shall transmit a copy of each such declaration to the Central Bank on a monthly basis.

Chapter 4:

Investments Capital Flows

Article 14: The capital flows related to foreign investment in the Kingdom of Cambodia shall be governed by the Investment Law of the Kingdom of Cambodia.

Article 15: In so far as liquidation of foreign investment takes place in accordance with the provisions of the Investment Law of the Kingdom of Cambodia, proceeds from said liquidation may be transferred freely.

Article 16: Investment made abroad by resident for an amount equaling or exceeding one hundred thousand US dollars (USD 100,000) shall be subject to prior declaration to the Central Bank.

Article 17: Transfers relating to investment or liquidation of investment shall be made through authorized intermediaries as stated in Article 5 of the present law.

Subsequently, the authorized intermediaries shall report to the Central Bank the amount of each transfer equaling or exceeding one hundred thousand US dollars (USD 100,000).

Chapter 5: Other Capital Flows

Article 18: Loans and borrowings, including trade credits may be freely contracted between residents and nonresidents, provided that the loans disbursements and repayments thereof are made through authorized intermediary.

Article 19: The capital flows resulted from those operations (settlements of import and export of goods or services, transfers, investment, loans and borrowings) shall include in the bank periodic statements in accordance with the provisions as stated in point 3 of Article 5 of the present law. Such capital flows shall be classified by category of each operation and the professional secrecy shall be respected.

Chapter 6: Penalties

Article 20: Authorized intermediaries shall be responsible, with caution, for ensuring compliance with the provisions set forth in the present law or in regulations of the Central Bank concerning the operations undertaken by themselves or placed under their control.

Any authorized intermediary who fails to comply with the provisions of the above paragraph shall be punished in accordance with the existing laws.

Article 21: Any person who violates points 3, 4, or 5 of Article 5 or violates Article 17 of the present law shall be liable for imprisonment from one year to five years and for a fine from one million Riels (1,000,000) to ten million Riels (10,000,000), or any one of these two punishments.

Article 22: Any person who violates Article 11 or paragraph 1 of Article 13 of the present law shall be liable for a fine of ten per cent (10%) of the amount involved.

Article 23: Any person who violates Article 12 or Article 16 of the present law shall be liable for a fine of twenty per cent (20%) of the amount involved.

Article 24: Any person who violates paragraph 2 of Article 13 of the present law shall be liable for a fine from one million Riels (1,000,000) to ten million Riels (10.000.000). Equipments used in the perpetration of the violation shall be confiscated and retained as state property.

Article 25: Any person who violates point 1 of Article 5 or Article 8 or Article 18 of the present law shall be liable for a fine of fifty per cent (50%) of the amount involved.

Chapter 7: Final Provisions

Article 26: All provisions contrary to this law are hereby repealed.

Made in Phnom Penh, 22 August 1997

In the name and on behalf of the King

Acting Chief of State

Signature

CHEA SIM

Submitted for the signature of the king

First Prime Minister

Second Prime Minister

Signature

Signature

Ung Huot

Hun Sen

Has informed to

First Prime Minister and Samdech Second Prime Minister

The Governor of the National Bank of Cambodia

Signature

Thor Peng Leath

No. 192 C.L.

For copy

Phnom Penh, September 1, 1997

General Secretary of the Royal Government

Nady Tan