

**Sub-decree
on Freezing of Property of Designated Terrorists and Organizations**

The Royal Government of Cambodia

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen Royal Decree NS/RKT/0913/903 dated 24 September 2013 on appointment of the Government of the Kingdom of Cambodia
- Having seen Royal Decree NS/RKT/1213/1393 dated 21 December 2013 on reshuffling and complementing members of the Government of the Kingdom of Cambodia
- Having seen Royal Code No 02/NS/94 dated 20 July 1994 promulgating Law on the Organization and Functioning of the Council of Ministers
- Having seen Royal Code NS/RKT/0607/024 dated 24 June 2007 promulgating Law on Anti Money Laundering and Combating Financing of Terrorism
- Having seen Royal Code NS/RKT/0707/018 dated 20 July 2007 promulgating Law on Counter Terrorism
- Having seen Royal Code NS/RKT/0807/024 dated 10 August 2007 promulgating Code of Criminal Procedures
- Having seen Royal Code NS/RKT/1109/022 dated 30 November 2009 promulgating Criminal Code
- Having seen Royal Code NS/RKT/0613/006 dated 3 June 2013 promulgating Law on Amendment of article 3, article 29 and article 30 of Law on AML/CFT
- Having seen Sub decree 56 ANK.BK dated 11 April 2013 on the establishment of National Coordination Committee on Anti Money Laundering and Combating Financing of Terrorism
- Receiving consensus reached at the meeting of the Cabinet of the Council of Ministers on 21 February 2014.

DECIDES

Chapter 1

General provisions

Article 1

The present Sub-decree has the objective of preventing and suppressing terrorist activities and the financing of terrorism.

Article 2

The present Sub-decree is targeted to establishing mechanisms and procedures for freezing properties and funds of terrorists and organizations according to the UN Security Council Resolutions (UNSCR) 1267 and 1373, and their Successor Resolutions.

Article 3

The present Sub-decree set forth for its implementation is used for the implementation of mechanisms and procedures for freezing properties and funds of terrorists and organizations according to Law on the Amendment of article 3, article 29 and article 30 of law on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) and according to section 2, chapter 11 of law on Counter Terrorism and the provisions as stipulated in the present Sub decree.

Chapter 2

Measures Taken for United Nations Terrorist List

Article 4

The Ministry of Foreign Affairs and International Cooperation (MOFA) shall, without delay, forward to the Ministry of Justice (MOJ) and the Cambodia Financial Intelligence Unit (CAFIU) the listing or de-listing of any terrorist, or organization pursuant to UNSCR 1267 and Successor Resolutions, as subject to financial sanctions or other restriction.

Upon United Nation (UN) notifying designation, MOJ shall immediately disseminate listing or de-listing of designated terrorists or organizations to the Court to issue freezing or unfreezing order respectively, without delay and shall publish them in the publicly available MOJ website. The Court shall act immediately to issue freezing order following the contents of the UNSCR 1267. Freezing properties and funds by the Court order shall be for an indeterminate duration unless the Court order is revoked in accordance with Article 7 of the present Sub decree.

CAFIU shall, without delay, disseminate listing or de-listing of terrorists or organizations to reporting entities (REs) subject to law on AML/CFT, by publishing the list on the publicly available CAFIU website.

REs and other persons or entities holding targeted properties and funds shall freeze such properties and funds without delay after receiving Court order.

Freezing of properties and funds by the Court is for an indefinite period and shall extend to:

- (a) properties and funds wholly or jointly owned or controlled, directly or indirectly, by the designated persons, those who finance terrorism or terrorist organizations.
- (b) properties and funds derived or generated from funds or properties owned or controlled directly or indirectly by the designated persons, those who finance terrorists or terrorist organizations.

Any RE shall without delay review its records to determine whether the properties and funds of a designated person are frozen without delay or are being maintained.

Article 5

After receiving notice from MOJ, MOFA shall submit a report to relevant UN Sanctions Committee on the freezing of properties and funds of a designated person by Court order.

Article 6

After receiving notice from MOJ, MOFA shall be responsible for initiating proposals to the UN Sanction Committee for designation of persons, individual or organization, targeted by UNSCR 1267 and Successor Resolutions.

Article 7

A person or organization aggrieved by a freezing order may submit petition for removal from the UNSCR 1267 List, to the relevant UN Sanctions Committee or the focal point or Office of the Ombudsperson of the UN for review of the decision.

On removal by the UN of the name of a designated person or organization from the UNSCR 1267 Lists, the Court shall revoke freezing order without delay.

Article 8

Freezing orders issued by the Court do not apply to any portion of frozen properties and funds that the UN Sanctions Committee determines necessary for:

- (a) basic expenses, including payments for foodstuffs, rent or mortgage, medical treatment and medicines, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources, after MOFA has given notice to the UN Sanctions Committee of the intention to authorize access to those funds, assets or resources and in the absence of feedback by the UN Sanctions Committee within forty-eight hours of the notice; or
- (b) extraordinary expenses, unless the Sanctions Committee has approved the expenses after the MOFA has given notice to the UN Sanctions Committee of the intention to authorize access to those funds, assets or resources and in the absence of feedback by the UN Sanctions Committee within forty-eight hours of the notice.

Chapter 3

Measures Taken for Domestic List of Terrorists

Article 9

After receiving third party request through MOFA, or on the basis of information held by Cambodia, Minister of Justice may order the General Prosecutor of the Appeal Court or the Prosecutor of the First Instance Court to identify and assess persons to be listed or delisted.

Such list shall be established if the Court has reasonable grounds that:

- (a) The person or entity has carried out, attempted to carry out, participated in or facilitated a terrorist activity; or
- (b) Such entity is owned or controlled, directly or indirectly, by any designated terrorist, individual or organization;
- (c) The person or entity is acting on behalf of, at the direction of or in association with an entity referred to in this paragraph.

When any person is listed, the Court will issue an order to freeze the properties and funds without delay.

De-listing shall be made when the Court has determined that reasonable grounds for listing are no longer met.

After receiving notice from MOJ, MOFA shall, without delay, inform the competent authority of the third parties on the designation of persons and entities as designated persons and the freezing of properties and funds of designated persons.

Article 10

MOJ shall publish and update on its publicly available website, the listing and de-listing after receiving binding judgment.

Article 11

Freezing properties and funds by the Court order shall be for an indeterminate duration unless:

- (a) the person who has been determined to be a designated person successfully challenges the designation in the Court, or
- (b) third party requests that the name of the designated person be removed from the list.

Chapter 4

Administrative Measures

Article 12

No Cambodian national nor any person nor entity in Cambodia shall make available any frozen properties or funds, directly or indirectly, to or for the benefit of or any entity owned or controlled, directly or indirectly by the designated persons or organizations.

Article 13

Identification of frozen properties and funds shall be made by the Court.

Article 14

RE shall communicate to CAFIU about frozen properties and funds pursuant to the Court order. CAFIU shall forward this information to MOJ.

Person or entity other than RE shall communicate to their supervisory authorities about frozen properties and funds pursuant to the Court order. Their respective supervisory authorities shall forward this information to MOJ.

The information shall be kept professionally confidential.

Article 15

The supervisory authorities shall cooperate with CAFIU to impose administrative measures to any RE or other person, which is not in compliance with the provisions of the present Sub decree.

Administrative measures should be taken in the following aspects:

- Warning;
- Reprimand;

- Prohibition or limitation to conduct any transactions for a period of time as indicated by the supervisory authorities;
- Revocation of the business license;
- Proposal to a demotion of relevant officials or directors of the REs and other persons and
- Pecuniary measures from 20,000,000 (twenty million) Riels to 200,000,000 (two hundred million) Riels.

Chapter 5

Final Provisions

Article 16

Any provision contrary to the provisions of the present Sub-decree shall be repealed.

Article 17

The Minister in charge of the Council of Ministers, the Chairman of Economic and Financial Policy Committee, the Chairman of National AML/CFT Coordination Committee, the Governor General of the National Bank of Cambodia, the Minister of Foreign Affairs and International Cooperation, the Minister of Economy and Finance, the Minister of Interior, the Minister of Justice, the Head of the Anti-Corruption Unit, the Chairman of the National Counter Terrorism Committee, Ministers of all Ministries and Chairmen of all relevant institutions shall be responsible within their respective roles for implementing the present Sub-decree from this signing date.

Phnom Penh, 10 March 2014

The Prime Minister

Samdech Akak Moha Senapadey Decho HUN SEN

CC:

- Ministry of the Royal Palace
- Secretariat General of the Senate
- Secretariat General of the National Assembly
- Secretariat General of the Royal Government
- Cabinet of Prime Minister
- Cabinet of Deputy Prime Ministers
- As in Article 17 for implementation
- Royal Gazette
- Archives-records