
Kingdom of Cambodia

Nation Religion King

Draft Law

on

Counter Terrorism

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Chapter 1 General provisions

Article 1.- Purpose

- (1) The purpose of this Law is to criminalise certain conduct, as required by:
 - (a) the 13 United Nations counter-terrorism conventions and protocols listed in Annex 1 to this Law;
 - (b) United Nations Security Council Resolutions dealing with terrorism, such as Resolutions 1267, 1373 and 1540; and
 - (c) the 40 Recommendations, and the 9 Special Recommendations, of the Financial Action Task Force on Money Laundering.
- (2) To the extent that this Law does not address other matters that are necessary for combating terrorism, other laws, including the Law on Anti-Money Laundering and Financing of Terrorism, shall apply.
- (3) In addition, this Law provides mechanisms, as required by those conventions, protocols, resolutions and recommendations, for:
 - (a) international legal cooperation in counter-terrorism, such as extradition and mutual assistance; and
 - (b) the freezing of property of organisations and natural persons listed by the committee established under United Nations Security Council Resolution 1267; and
 - (c) the confiscation of tainted property and property of terrorists and of legal entities owned or controlled by terrorists.

Article 2.- Interpretation

Any ambiguity in the interpretation of this Law shall be resolved by reference to the conventions, protocols and resolutions that are attached at Annex 1 as mentioned in paragraph (1) of Article 1.

Article 3.- Definitions

Terminology in this Law:

1. competent authority, in relation to a function, means a person or body that can lawfully perform that function in the State.
2. corresponding offence under the law of a foreign State, in relation to an offence under this Law, means an offence under the law of a foreign State that is constituted by acts or omissions some or all of which, if committed in the Kingdom of Cambodia, would constitute an offence under this Law.
3. person includes a natural person and a legal entity that is not the State.
4. property means:
 - (a) assets and economic resources of every kind, whether tangible or intangible, movable or immovable, however acquired; and
 - (b) legal documents and instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including bank

credits, travellers cheques, money orders, shares, securities, bonds, drafts and letters of credit.

5. ship means a vessel of any type not permanently attached to the sea bed and includes:
 - (a) dynamically supported craft; and
 - (b) a submersible craft; and
 - (c) any other floating craft.
6. state or government facility includes any permanent or temporary facility or conveyance that is used or occupied for their official duties by:
 - (a) representatives of a State; or
 - (b) members of the Government, the legislature or the judiciary; or
 - (c) officials or employees of the Government, or any other public authority or entity; or
 - (d) employees or officials of an international intergovernmental organisation.
7. tainted property means property that:
 - (a) has been or is being used, or is intended for use, in the commission of an offence under this Law; or a corresponding offence under a law of a foreign State;
 - (b) is the subject of such an offence; or
 - (c) is derived from or obtained, directly or indirectly, through the commission of such an offence.

Article 4.- Attempts to commit offences and criminal responsibility

- (1) A person who attempts to commit an offence under this Law is
 - (a) guilty of that offence; and
 - (b) subject to the penalty for that offence.
- (2) An attempt to commit an offence under this Law may be punishable when the following conditions are satisfied:
 - (a) the perpetrator has begun to commit an offence, i.e., the perpetrator has committed an act with a purpose to directly commit the offence;
 - (b) the perpetrator did not end his/her acts voluntarily, but was interrupted by circumstances beyond his/her control.
- (3) An act that is only a preparatory act in relation to an offence is not the beginning of the commission of the offence.

Article 5.- Instigators and criminal responsibility

- (1) A person who organises, orders, or incites another person to commit or attempt to commit an offence under this Law is considered an instigator.
- (2) The instigator is guilty of an offence for organising, ordering, or inciting another person to commit an offence although the offence was or was not committed, or attempted to be committed.

Article 6.- Accomplices and criminal responsibility

- (1) An accomplice is a person who renders their deliberate assistance or support and thereby facilitates an attempt to commit or the commission of an offence under this Law.
- (2) An accomplice shall be punished the same way as the perpetrator.

Article 7.- Offences committed by legal entities

- (1) This Law applies to a legal entity in the same way as it applies to a natural person.
- (2) A legal entity may be found guilty of any offence against this Law, including an offence punishable by imprisonment.
- (3) If an employee, agent or officer of a legal entity, acting within the scope of his or her employment, or with the authority of the legal entity engages in conduct constituting an offence against this Law, the conduct must also be attributed to the legal entity.
- (4) A legal entity will have committed an offence against this Law intentionally or knowingly, if it expressly or impliedly authorised or permitted the commission of the offence.
- (5) If a legal entity is convicted of an offence against this Law, the court may impose a pecuniary penalty instead of a period of imprisonment in accordance with paragraph (6).
- (6) The pecuniary penalty for a legal entity is 2.0 million Riels for every 12 months of imprisonment that the court would impose on the legal entity if the legal entity were a natural person.
- (7) A court may, in addition to a pecuniary penalty, impose any of the following penalties:
 - (a) dissolution;
 - (b) judicial or other supervision;
 - (c) a prohibition on:
 - (i) trading in shares in the legal entity or any other form of fund raising;
or
 - (ii) issuing negotiable instruments through a bank; or
 - (iii) any other specified activities;
 - (d) the closure of premises used:
 - (i) to prepare to commit the offence; or
 - (ii) to attempt to commit the offence; or
 - (iii) to commit the offence;
 - (e) the publication of the court's decision by any or all of the following means:
 - (i) newspapers;
 - (ii) television;
 - (iii) radio;

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- (iv) Internet.
 - (f) The criminal liability incurred by a legal entity does not exclude the criminal liability of a natural person in the same act.

Article 8.- Justification

- (1) A person does not commit an offence under this Law if the carrying out of the acts constituting the offence was justified or authorised under a law.
- (2) The carrying out of acts constituting an offence under this Law is not, in any circumstances, justified by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 9.- Life span of an offence

Liability for an offence under this Law does not expire.

Chapter 2 Jurisdiction

Article 10.- Cambodian jurisdiction under this Law

This Law shall apply in any of the following cases:

- (a) the conduct constituting the offence occurs:
 - (i) in the territory of Cambodia, including its territorial sea and its airspace, which are linked to the territory of the Kingdom of Cambodia; or
 - (ii) on board a ship or aircraft registered in the Kingdom of Cambodia, no matter where they are located; or
 - (iii) on board a ship or aircraft operated by the Royal Government of Cambodia; or
 - (iv) on board a foreign ship, if the ship enters Cambodia's territorial waters with the alleged offender on board the ship; or
 - (v) on board a foreign ship whereby the Cambodian authority is authorised to inspect or restrain in response to a request from a foreign State; or
 - (vi) on board a foreign aircraft if the aircraft lands in the Kingdom of Cambodia with the alleged offender on board the aircraft; or
 - (vii) on board an aircraft that is leased without crew to a person who has his or her principal place of business in the Kingdom of Cambodia, or has his or her permanent residence in the Kingdom of Cambodia;
 - (viii) against an embassy, diplomatic or consular premises or any other property of the Royal Government of Cambodia in any other State.
- (b) the alleged offence is committed:
 - (i) by a Cambodian national, whether the act constituting the alleged offence is committed within or outside Cambodia; or
 - (ii) against a national of Cambodia, whether the act constituting the alleged offence is committed within or outside Cambodia; or

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- (iii) against an internationally protected person who has that status because he or she exercises functions on behalf of Cambodia; or
 - (iv) by a stateless person whose habitual residence is in the Kingdom of Cambodia, whether the act constituting the alleged offence is committed within or outside Cambodia; or
 - (v) in an attempt to compel the Government of Cambodia to do, or abstain from doing any act, whether the act constituting the alleged offence is committed within or outside Cambodia or in a foreign State.

Article 11.- Enforcement of this Law over a terrorist act which involved person(s) present in the Kingdom of Cambodia

- (1) This Law applies to any person present in the Kingdom of Cambodia if the following two conditions are satisfied:
 - (a) the person has engaged in conduct in a foreign State; and
 - (b) the conduct, if it occurred in the Kingdom of Cambodia, would constitute an offence under this Law.
- (2) The person mentioned in Paragraph (1) above must either be:
 - (a) extradited to a State which has jurisdiction in relation to the offence; or
 - (b) prosecuted for the offence by the Cambodian jurisdiction.
- (3) Conduct committed in a foreign State that constitutes an offence under the law of the requesting State that corresponds to an offence under this Law shall be considered an extraditable offence. Where extradition does not occur, the person shall be prosecuted in Kingdom of Cambodia as if the offence were committed not only in the place in which it was committed but also in the Kingdom of Cambodia.

Chapter 3 Acts Committed on Board Aircraft or at Airports

Part 1 Interpretation

Article 12.- When an aircraft is in flight

- (1) For this Law, an aircraft is taken to be in flight from the start of its flight to the end of its flight
- (2) An aircraft is taken to start to be in flight when the last external door is closed in preparation for the first movement of the aircraft for the purpose of taking off on the flight.
- (3) If the aircraft moves before all the external doors are closed for the purpose of taking off on the flight, the aircraft is taken to have started to be in flight when the aircraft so moves.
- (4) Subject to paragraphs (5), (6) and (7) of this Article, the flight of an aircraft is taken to end when the first external door is opened after the aircraft comes to rest on the next landing it makes after starting the flight.
- (5) If an aircraft makes a forced landing, its flight is taken to end when the competent authority takes over responsibility for the aircraft and for the persons and property on board.
- (6) If, after an aircraft starts a flight, the aircraft is destroyed before the flight is taken to have ended under paragraph (4) or (5) the flight is taken to end when the aircraft is destroyed.
- (7) If, after an aircraft starts a flight, the flight is abandoned before the flight is taken to have ended under paragraph (4) or (5), the flight is taken to end when the flight is abandoned.

Article 13.- When an aircraft is in service

- (1) An aircraft is taken to be in service for the period beginning at the beginning of the preparation of the aircraft by ground personnel or the crew before a flight, and ending 24 hours after any landing of the aircraft.
- (2) The period in which an aircraft is taken to be in service extends through the period in which the aircraft is in flight.

Article 14.- Exception of application of this Chapter

Chapter 3 of this Law does not apply to aircraft used in military, customs or police services.

Part 2 Offences and Penalty

Article 15.- Seizure of aircraft (hijacking)

- (1) A person on board an aircraft in flight who seizes or exercises control of the aircraft by force or by threat, or by threat of use of force, or by any other measure shall be punished to imprisonment for a period of between 15 years and 30 years.
- (2) A life imprisonment shall be applied if the seizure of an aircraft is committed, and at the same time, or after the use of force, this causes deaths or injuries to other people.

Article 16.- Performing an act of violence against a person on board an aircraft in flight

A person who intentionally commits an act of violence against another person on board an aircraft in flight; and the act is likely to endanger the safety of the aircraft shall be punished to imprisonment for a period of between 10 years and 20 years.

Article 17.- Destroying or damaging an aircraft in service

A person who intentionally destroys or damages an aircraft in service if the damage makes the aircraft incapable of flight, or is likely to endanger the safety of the aircraft in flight shall be punished to imprisonment for a period of between 10 years and 20 years.

Article 18.- Placing or causing to be placed a device or substance on an aircraft in service

A person who intentionally places, or causes to be placed, a device or substance on an aircraft in service, knowing that the device or substance can destroy the aircraft or cause damage that will make the aircraft incapable of flight, or causes damage to the aircraft that is likely to endanger the safety of the aircraft in flight shall be punished to imprisonment for a period of between 5 years and 15 years

Article 19.- Destroying or damaging air navigation facilities

- (1) A person who intentionally destroys air navigation facilities serving air navigation shall be punished to imprisonment for a period of between 20 years and 30 years, or life imprisonment.
- (2) Imprisonment for a period of between 10 years and 20 years shall be applied if a person who intentionally damages air navigation facilities or interferes with the operation of air navigation facilities serving air navigation if the act is likely to endanger the safety of the aircraft in flight.

Article 20.- Communicating false information thereby endangering the safety of an aircraft in flight

A person who intentionally communicates information that he or she knows to be false, and the communication of the information endangers the safety of an aircraft in flight, shall be punished to imprisonment for a period of between 10 years and 20 years.

Article 21.- Performing an act of violence at an airport

- (1) A person who intentionally uses a substance or thing to commit an act of violence against a person at an airport serving civil aviation shall be punished to imprisonment for a period of between 10 years and 20 years if that act:
 - (a) can cause serious injury or death; and
 - (b) can endanger the safe operation of the airport or the safety of anyone at the airport.
- (2) Imprisonment for a period of between 20 years and 30 years shall be applied if that act:
 - (a) causes serious injury; and
 - (b) endangers the safe operation of the airport or the safety of anyone at the airport.
- (3) A life imprisonment shall be applied if that act:
 - (a) causes deaths to victims; and
 - (b) endangers the safe operation of the airport or the safety of anyone at the airport.

Article 22.- Destroying facilities at an airport, damaging aircraft not in service and disrupting services

Imprisonment for a period of between 10 years and 20 years shall be applied to a person who intentionally commits any of the following acts:

- (a) destroy or seriously damage the facilities of an airport serving civil aviation or an aircraft that is not in service and that is at an airport serving civil aviation;
 - (b) disrupts the services of an airport serving civil aviation;
- if commission of any acts above endangers, or is likely to endanger the safe operation of the airport or the safety of anyone at the airport.

Article 23.- Offences against other Cambodian laws committed on aircraft

Any person on board an aircraft who commits or omits to commit an act, and that act or omission is deemed as an offence under other Cambodian laws shall be guilty of that offence and is subject to the penalty for that offence.

Part 3 Powers of an aircraft commander

Article 24.- Measures to protect safety on an aircraft

- (1) This article applies if an aircraft commander has reasonable grounds to believe that a person has committed, is committing, or is about to commit, on board the aircraft:
 - (a) an offence against a Cambodian law; or
 - (b) an act that jeopardises, or might jeopardise:
 - (i) the safety of the aircraft; or
 - (ii) the safety of persons on the aircraft; or
 - (iii) the safety of property on the aircraft; or
 - (iv) order and discipline on the aircraft.
- (2) The aircraft commander may impose upon the person mentioned under Paragraph (1), any reasonable measures that are necessary:
 - (a) to protect the safety of the aircraft or persons or property on the aircraft; or
 - (b) to maintain order and discipline on the aircraft; or
 - (c) to enable the aircraft commander to deliver the person to the competent authority or to disembark the person in accordance with this Part.
- (3) The aircraft commander who is authorised under this article to restrain a person may:
 - (a) require or authorise the assistance of other crew members to restrain the person; or
 - (b) request or authorise the assistance of passengers to restrain the person.
- (4) A crew member or passenger may take reasonable preventive measures without authorisation, if he or she has reasonable grounds to believe that the measures are immediately necessary:
 - (a) to protect the safety of the aircraft; or
 - (b) to protect the safety of persons or property on the aircraft.

Article 25.- Persons restrained

- (1) This article applies if a person is restrained in accordance with Article 24 above.
- (2) The aircraft commander must, as soon as practicable and, if possible before landing, notify authorities at the place in which the aircraft is to land that a person is restrained on the aircraft, and the reasons for that restraint.
- (3) The person may only remain under restraint on the aircraft that has landed in the following circumstances:
 - (a) the person has been restrained in order to enable the commander to deliver the person to the competent authority; or
 - (b) authorities at the place where the aircraft lands refuse to permit the person to disembark; or

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- (c) the aircraft makes a forced landing and the aircraft commander is unable to deliver the person to the competent authority; or
 - (d) the person consents to continue to be carried on the aircraft under restraint.

Article 26.- Disembarking a person from an aircraft

- (1) This article applies if an aircraft commander has reasonable grounds to believe that a person has committed or is about to commit on board the aircraft an act that jeopardises, or might jeopardise:
 - (a) the safety of the aircraft; or
 - (b) the safety of persons on the aircraft; or
 - (c) the safety of property on the aircraft; or
 - (d) order and discipline on the aircraft.
- (2) The aircraft commander may disembark the person in the territory of a State in which the aircraft lands.
- (3) The aircraft commander must report to authorities in the State in which he or she disembarks the person that the person has been or will be disembarked and the reasons for the disembarkation.

Article 27.- Offenders aboard an aircraft

- (1) This article applies if the aircraft commander has reasonable grounds to believe that a person has committed, on board the aircraft, an act which, in the opinion of the aircraft commander, is a serious offence against Cambodian law.
- (2) The aircraft commander may deliver the person to the competent authority of a Convention State when the aircraft lands.
- (3) The aircraft commander must, as soon as practicable and, if possible before landing, notify authorities in that State his or her intentions to deliver the person and the reasons for that delivery.
- (4) The aircraft commander must give to authorities in that State any evidence or information that is lawfully in his or her possession.
- (5) In this article, Convention State means a State that is a party to the Convention on Offences and Certain Other Acts Committed on Board Aircraft made in Tokyo on 14 September 1963.

Article 28.- No liability for lawful restraint etc

- (1) This article applies if a person on board an aircraft is restrained, held in custody or disembarked from an aircraft in accordance with this Chapter.
- (2) A person cannot bring a civil or criminal suit in relation to the restraint, custody or disembarkation against:
 - (a) the owner of the aircraft; or
 - (b) the aircraft commander; or

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- (c) any other member of the crew of the aircraft; or
 - (d) any passenger of the aircraft; or
 - (e) any other person responsible for that flight of the aircraft.

Chapter 4 Crimes Against Internationally Protected Persons

Part 1 Interpretation

Article 29.- Definition

Terminology in this Law:

An internationally protected person means as follows:

- (a) Head of State;
- (b) a member of an institution who implements the function of the Head of State in accordance with the Constitution of the State;
- (c) a Head of Government or a Minister for Foreign Affairs whenever the Head of Government or Minister is in a foreign State;
- (d) members of the family of the Head of Government or the Minister for Foreign Affairs that accompany him or her to the foreign State;
- (e) a representative or official of a State if, at the time when, and in the place where, an offence is committed in relation to the representative or official under this Chapter, he or she is entitled under international law to special protection from an attack on his or her person, freedom or dignity;
- (f) members of the family of a representative or official mentioned in subparagraph (e) forming part of his or her household.

Part 2 Offences

Article 30.- Murder of an internationally protected person or other attack on an internationally protected person

- (1) A person who intentionally kills an internationally protected person shall be punished to imprisonment for a period of between 20 years and 30 years, or life imprisonment.
- (2) A person who intentionally commits any other attack upon an internationally protected person shall be punished as follows:
 - (a) imprisonment for a period of between 15 years and 30 years if the attack causes death to the victim unintentionally;
 - (b) in any other case — imprisonment for a period of between 7 years and 15 years.

Article 31.- Kidnapping, detaining, or attacking the liberty of an internationally protected person

- (1) A person who intentionally kidnaps an internationally protected person shall be punished to imprisonment for a period of between 10 years and 20 years.
- (2) A person who intentionally commits any other attack on the liberty of an internationally protected person shall be punished to imprisonment for a period of between 5 years and 10 years

Article 32.- Attacks on the official premises, private accommodation or means of transport of internationally protected persons

A person who intentionally attacks on any official premises, private accommodation or means of transport of an internationally protected person, or any other premises or property in or upon which an internationally protected person is present that is likely to endanger the person or liberty of the internationally protected person shall be punished to imprisonment for a period of between 5 years and 10 years.

Article 33.- Threats to commit offences against internationally protected persons

A person who threatens to commit an offence under this Chapter shall be punished to imprisonment for a period of between 5 years and 10 years.

Chapter 5 Taking of Hostages

Article 34.- Taking a hostage

- (1) Hostage taking is constituted by seizing or detaining a person with the threat to kill or to injure, or to continue to detain a hostage with the intention of compelling a legislative, executive or judicial institution in the Kingdom of Cambodia or in a foreign State, or an international intergovernmental organisation, or any other person or group of persons, to do or to refrain from doing any act as an explicit or implicit condition for the release of the hostage.
- (2) Acts of taking a hostage shall be punished to imprisonment for a period of between 20 years and 30 years or life imprisonment.

Chapter 6 Physical Protection of Nuclear Material and Suppression of Acts of Nuclear Terrorism

Part 1 Preliminary

Article 35.- Definitions

Terminology in this Chapter:

- (1) international nuclear transport means the carriage of a consignment of nuclear material:
 - (a) by any means of transport intended to go beyond the territory of the State where the shipment originates; and
 - (b) beginning with the departure from a facility of the shipper in that State and ending with the arrival at a facility within the State that is the ultimate destination.
- (2) nuclear device means:
 - (a) any nuclear explosive device; and
 - (b) a device for the dispersal of radioactive material or a device that emits radiation that may, because of its radiological properties, cause death, serious bodily injury or substantial damage to property or to the environment
- (3) nuclear facility means:
 - (a) any nuclear reactor, including a nuclear reactor installed in a vessel, vehicle, aircraft or space object for use as an energy source for the purpose of propulsion or any other purpose; and
 - (b) any plant or conveyance in use for the production, storage, processing or transport of radioactive material.
- (4) nuclear material means any of the following:
 - (a) plutonium, except that with isotopic concentration exceeding 80% in plutonium-238;
 - (b) uranium-233;
 - (c) uranium enriched in the isotope 235 or 233 being uranium containing the isotope 235 or 233, or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;
 - (d) uranium containing the mixture of isotopes occurring in nature, except in the form of ore or ore residue;
 - (e) any material containing material mentioned in one or more of this paragraph 4, subparagraphs (a) to (d).
- (5) radioactive material means:
 - (a) nuclear material; and
 - (b) any other radioactive substance containing nuclides that:

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- (i) undergo spontaneous disintegration (a process accompanied by emissions of one or more types of ionising radiation, such as alpha-, beta-) or neutron particles and gamma rays; and
 - (ii) may, because of the radiological or fissile properties of that material or substance, cause death, serious bodily injury or substantial damage to property or to the environment.

Article 36.- Application of Parts 2 and 3 of this Chapter

Parts 2 and 3 of this Chapter apply to nuclear material used for peaceful purposes:

- (a) while in international nuclear transport; and
- (b) while in domestic use, storage and transport.

Part 2 Physical protection required for nuclear material

Article 37.- Categorisation of nuclear material

Nuclear material in this Chapter is categorised in accordance with the table in Annex 2 of this Law.

Article 38.- Levels of physical protection to be applied in international transport of nuclear material

- (1) The levels of physical protection for nuclear material during storage incidental to international nuclear transport include the following measures:
 - (a) for Category III material — storage within an area to which access is controlled;
 - (b) for Category II material — either storage within:
 - (i) an area that:
 - (A) is under constant surveillance by guards or electronic devices; and
 - (B) is surrounded by a physical barrier; and
 - (C) has a limited number of points of entry under appropriate control; or
 - (ii) an area with an equivalent level of physical protection;
 - (c) for Category I material — storage within a protected area as defined for Category II above:
 - (i) to which access is restricted to persons whose trustworthiness has been determined; and
 - (ii) which is under surveillance by guards who are in close communication with appropriate response forces.
- (2) The agency responsible for storage of the material must also take specific measures to detect and prevent any assault, unauthorized access or unauthorized removal of material.

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- (3) The levels of physical protection for nuclear material during international transport include the following measures:
- (a) for Category II and III materials, transportation must take place under special precautions including:
 - (i) prior arrangement among sender, receiver, and carrier; and
 - (ii) prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;
 - (b) for Category I materials transportation must take place:
 - (i) under special precautions identified above for transportation of Category II and III materials; and
 - (ii) under constant surveillance by escorts; and
 - (iii) under conditions which assure close communication with appropriate response forces;
 - (c) for natural uranium (other than in the form of ore or ore-residue) transportation protection for quantities exceeding 500 kilograms U must include advance notification of shipment specifying:
 - (i) mode of transport; and
 - (ii) expected time of arrival; and
 - (iii) confirmation of receipt of shipment.

Part 3 Offences relating to the physical protection of nuclear material

Article 39.- Protection of nuclear material during international nuclear transport

A person who commits an offence under Article 38 above with respect to transport of nuclear material within the Kingdom of Cambodia, or imports nuclear material into the Kingdom of Cambodia, or exports nuclear material from the Kingdom of Cambodia shall be punished to imprisonment for a period between 5 years and 10 years.

Article 40.- Receipt, possession, use, transfer, etc of nuclear material

A person who intentionally receives, possesses, uses, transfers, alters, disposes of or disperses nuclear material, which causes or is likely to cause death or serious injury to a person or substantial damage to property shall be punished to imprisonment for a period between 20 years and 30 years, or life imprisonment.

Article 41.- Theft of nuclear material

- (1) A person who steals nuclear material shall be punished to imprisonment for a period between 5 years and 10 years.

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- (2) A penalty of imprisonment for a period between 10 years and 20 years shall be applied on any of the following cases:
 - (a) the theft is committed by use of force or after use of force; or
 - (b) the theft is committed directly by several persons or by breaking and entering.

Article 42.- Fraudulently obtaining nuclear material

A person who intentionally embezzles or fraudulently appropriates nuclear material shall be punished to imprisonment for a period between 5 years and 10 years.

Article 43.- Demanding nuclear material by threat

- (1) Demanding means use of force, threat to use force, forcing, or other form of intimidation in order to obtain nuclear material:
- (2) Demanding shall be punished to imprisonment for a period between 10 years and 20 years.

Article 44.- Threats to use nuclear material

- (1) A person who intentionally threatens to use nuclear material to cause death or serious injury to a person, or substantial damage to property or to the environment shall be punished to imprisonment for a period between 10 years and 20 years.
- (2) A penalty of imprisonment for a period between 20 years and 30 years shall be applied on a person who threatens to commit the offence under Article 41 (theft of nuclear material) above in order to force:
 - (a) a legislative, executive or judicial institution in the Kingdom of Cambodia; or
 - (b) an international intergovernmental organisation; or
 - (c) any other person or group of persons;
to do or to refrain from doing any act.

Part 4 Control of nuclear, chemical and biological weapons

Article 45.- Manufacture, use, etc of nuclear, chemical and biological weapons

- (1) A person who intentionally manufactures, sell, possesses, develops, transports, transfers or uses a nuclear, chemical or biological weapon, or the means of delivery of such a weapon shall be punished to imprisonment for a period between 20 years and 30 years, or life imprisonment.
- (2) Means of delivery of the weapons under Paragraph (1) above means missiles, rockets and other unmanned systems that are capable of delivering nuclear,

chemical or biological weapons to a target and are specially designed for that use.

Part 5 Suppression of acts of nuclear terrorism

Article 46.- Possession etc. of nuclear materials

A person who intentionally possesses radioactive material or makes or possesses a nuclear device with the intent to cause death or serious bodily injury, or with the intent to cause substantial damage to property or to the environment shall be punished to imprisonment for a period between 20 years and 30 years, or life imprisonment.

Article 47.- Acts involving radioactive material, nuclear devices and nuclear facilities

A penalty of imprisonment for a period between 20 years and 30 years, or life imprisonment shall be applied to a person who:

- (a) intentionally, in any way, uses radioactive material or a nuclear device, or uses or damages a nuclear facility in a manner that releases, or risks the release of, radioactive material; and
- (b) has the intent to cause death or serious bodily injury, or substantial damage to property or to the environment; or
- (c) has the intent to compel:
 - (i) a legislative, executive or judicial institution in the Kingdom of Cambodia or in a foreign State; or
 - (ii) an international intergovernmental organisation; or
 - (iii) any other person or group of persons;to do or to refrain from doing any act.

Article 48.- Threats and demands

A penalty of imprisonment for a period between 10 years and 20 years shall be applied to a person who:

- (a) threatens, in circumstances that indicate that the threat is credible, to commit an offence under Article 47 above; or
- (b) demands radioactive material, a nuclear device or a nuclear facility by threat, in circumstances that indicate that the threat is credible, or by force.

Chapter 7 Acts Against the Safety of Maritime Navigation

Part 1 Application

Article 49.- Non-application of this Chapter

This Chapter does not apply in relation to:

- (a) a warship; or
- (b) a ship owned or operated by a State, or owned or operated by the Kingdom of Cambodia, when it is being operated for naval, military, assistance, customs or police purposes; or
- (c) a ship that has been withdrawn from navigation or laid up.

Part 2 Offences

Article 50.- Seizing or exercising control over a ship

A person who seizes or exercises control over a ship by force, or by threat; or, by any other form of intimidation shall be punished to imprisonment for a period between 15 years and 30 years, or life imprisonment.

Article 51.- Performing an act of violence against a person on board a ship

A penalty of imprisonment for a period between 10 years and 20 years shall be applied to a person who intentionally commits an act of violence against a person on board the ship, if the act is likely to endanger the safe navigation of the ship.

Article 52.- Destroying or damaging a ship

A penalty of imprisonment for a period between 10 years and 20 years shall be applied to a person who destroys or causes damage to a ship or its cargo, if that damage is likely to endanger the safe navigation of the ship.

Article 53.- Placing a device or substance on a ship

A person who intentionally places, or causes to be placed, a device or substance on a ship, which is likely to destroy or damage the ship or its cargo, and which endangers or is likely to endanger the safe navigation of the ship shall be punished to imprisonment for a period between 5 years and 15 years.

Article 54.- Destroying or damaging maritime navigation facilities

A person who intentionally destroys or damages maritime navigation facilities or interferes with the operation of maritime navigation facilities shall be punished to imprisonment for a period between 10 years and 20 years, if the act is likely to endanger the safe navigation of the ship.

Article 55.- Communicating false information thereby endangering the safe navigation of a ship

A person who intentionally communicates information that he or she knows to be false, and the information endangers the safe navigation of a ship shall be punished to imprisonment for a period between 10 years and 20 years.

Article 56.- Causing death in relation to the offences in this Chapter

A person who intentionally causes the death of another person in connection with an offence against any of articles 50 to 55 of this Law shall be punished to imprisonment for a period between 15 years and 25 years.

Article 57.- Causing injury in relations to offences under this Chapter

A person who intentionally causes injury of another person in connection with an offence against any of articles 50 to 55 of this Law shall be punished to imprisonment for a period between 15 years and 25 years.

Article 58.- Threatening to endanger the safe navigation of a ship

A penalty of imprisonment for a period between 20 years and 30 years or life imprisonment shall be applied to a person who:

- (a) threatens to do an act that would constitute an offence under article 51, 52 or 54 of this Law; and
- (b) the threat is likely to endanger the safe navigation of the ship; and
- (c) the threat is made with the intention of compelling:
 - (i) a legislative, executive or judicial institution in the Kingdom of Cambodia or in a foreign State; or
 - (ii) an international intergovernmental organisation; or
 - (iii) any other person or group of persons;to do or to refrain from doing any act.

Part 3 Powers of a ship's master

Article 59.- Power to deliver a person to the competent authority

- (1) This article applies if a ship's master has reasonable grounds to believe that a person has committed, or is about to commit, an offence mentioned in Part 2, this Chapter of this Law.
- (2) The ship's master may hold the person in custody to deliver the person to:
 - (a) the competent authority of a Convention State; or
 - (b) another competent authority.
- (3) A ship's master who intends to deliver a person under Paragraph (2) above must notify the competent authority of the Convention State:
 - (a) of his or her intention to deliver the person to the competent authority; and

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- (b) of his or her reasons for intending to do so.
 - (4) The ship's master must give a notification under paragraph (3) above:
 - (a) if possible, before the ship has entered the territorial sea of the Convention State; or
 - (b) in any other case — as soon as is reasonably practicable.
 - (5) When the ship's master delivers a person under paragraph (2), he or she must give to the competent authority all evidence in the master's possession that relates to the alleged offence.
 - (6) In this article, Convention State means a State that is a party to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation made in Rome on 10 March 1988).

Article 60.- No liability for lawful restraint etc.

- (1) This article applies if a person on board a ship is restrained or held in custody, or delivered to a competent authority, in accordance with this Chapter.
- (2) A person cannot bring a civil or criminal suit in relation to the custody or delivery against:
 - (a) the owner or operator of the ship; or
 - (b) the master of the ship; or
 - (c) any other member of the crew of the ship who receives an order from the ship's master; or
 - (d) any passenger of the ship who receives an order from the ship's master; or
 - (e) any other person responsible for that voyage of the ship.

Chapter 8 Acts Against the Safety of Fixed Platforms Located on the Continental Shelf

Part 1 Interpretation

Article 61.- Definitions

Fixed platform means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

Part 2 Offences

Article 62.- Seizing control over a fixed platform

A person who intentionally seizes or exercises control over a fixed platform by force or by threat or by any other form of intimidation shall be punished to imprisonment for a period between 15 years and 30 years.

Article 63.- Performing an act of violence against a person on board a fixed platform

A penalty of imprisonment for a period between 10 years and 20 years shall be applied to a person who commits an act of violence against a person on board the fixed platform if the act is likely to endanger the safety of the fixed platform.

Article 64.- Destroying or damaging a fixed platform

A penalty of imprisonment for a period between 10 years and 20 years shall be applied to a person who destroys a fixed platform or causes damage to a fixed platform if that damage is likely to endanger the safety of the fixed platform.

Article 65.- Placing a device or substance on a fixed platform

A person who intentionally places, or causes to be placed, a device or substance on a fixed platform, which is likely to destroy the fixed platform, or to endanger the safety of the fixed platform shall be punished to imprisonment for a period between 5 years and 10 years.

Article 66.- Causing death in relations to offences in this Chapter

A person who kills another person and the conduct is related to an offence against any of articles 62 to 65 of this Law shall be punished to imprisonment for a period between 20 years and 30 years, or life imprisonment.

Article 67.- Causing injury in relations to offences in this Chapter

A person who causes injury to another person and the conduct is related to an offence against any of articles 62 to 65 shall be punished to imprisonment for a period between 15 years and 25 years.

Article 68.- Threatening to endanger the safety of a fixed platform

A penalty of imprisonment for a period between 10 years and 20 years, or life imprisonment shall be applied to a person who:

- (a) threatens to do an act that would constitute an offence under article 62 or 65 of this Law; and
- (b) the threat is made with the intention of compelling:
 - (i) a legislative, executive or judicial institution in the Kingdom of Cambodia or in a foreign State; or
 - (ii) an international intergovernmental organisation; or
 - (iii) any other person or group of persons;to do or to refrain from doing any act.

Chapter 9 Marking of Plastic Explosives for the Purpose of Detection

Part 1 Interpretation

Article 69.- Definitions

In this Chapter:

- (1) detection agent means a substance, as described in article 71, which is introduced into an explosive to make it detectable.
- (2) duly authorised military devices are tools manufactured exclusively for military or police purposes according to the law of the State in which they are manufactured, which are not restricted only to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades and perforators.
- (3) explosives means explosive products, commonly known as 'plastic explosives' including explosives in flexible or elastic sheet form as described in article 70.
- (4) manufacture means any process including reprocessing that produces explosives.
- (5) marking means introducing a detection agent into an explosive in accordance with Article 70 of this Law.
- (6) producer State means a State in whose territory a manufacturer manufactures explosives.
- (7) unmarked explosives means explosives that are not marked with a detection agent in accordance with article 71.

Article 70.- Description of explosives

- (1) This Chapter applies to explosives that:
 - (a) are formulated with 1 or more high explosives that, in their pure form, have a vapour pressure less than 10^{-4} Pa at a temperature of 25°C; and
 - (b) are formulated with a binder material; and
 - (c) are, as a mixture, malleable or flexible at normal room temperature.
- (2) For the purposes of this Chapter, the following explosives are not considered to be explosives for as long as they continue to be held or used for the purposes specified, or incorporated as specified:
 - (a) explosives that are manufactured or held in limited quantities solely for use in duly authorised research, development or testing of new or modified explosives;
 - (b) explosives that are manufactured or held in limited quantities solely for use in duly authorised training in explosives detection and/or development or testing of explosives detection equipment;
 - (c) explosives that are manufactured or held in limited quantities solely for duly authorised forensic science purposes;

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- (d) explosives that are destined to be, and are, incorporated as an integral part of duly authorised military devices in the territory of the producer State, within 3 years after the Convention on the Marking of Plastic Explosives for the Purpose of Detection signed at Montreal on 1 March 1991 came into force in respect of that State.
- (3) In this article:
duly authorised means permitted according to the Laws and regulations of the relevant State.
high explosives include the explosives that are specified in Annex 4, or any other high explosives.

Article 71.- Detection agents

- (1) The substance specified in the table in Annex 3 of this Law is a detection agent and is intended to be used to make explosives more able to be detected by means of vapour detection.
- (2) A detection agent must be introduced into an explosive:
- (a) in a manner that achieves a homogeneous distribution in the finished product; and
 - (b) at the minimum concentration set out in the relevant item of the table in Annex 3 in the finished product at the time of manufacture.

Part 2 Offences

Article 72.- Manufacture of unmarked explosives

A person who manufactures unmarked explosives in the Kingdom of Cambodia shall be punished to imprisonment for a period between 7 years and 15 years.

Article 73.- Possession, transportation, importation or exportation of unmarked explosives

- (1) A penalty of imprisonment for a period between 7 years and 15 years shall be applied to a person who possesses or transports unmarked explosives, or imports unmarked explosives into the Kingdom of Cambodia, or exports unmarked explosives from the Kingdom of Cambodia.
- (2) Paragraph (1) above does not apply to the unmarked explosives that are possessed, transported, imported or exported by the Royal Government of the Kingdom of Cambodia for the purpose of performing a military or police function, and for the purpose consistent with the objectives of the Convention on the Marking of Plastic Explosives for the Purpose of Detection done at Montreal in 1991.

Chapter 10 Terrorist Bombing

Article 74.- Definition

Terminology in this Chapter:

- (1) explosive or other lethal device means:
 - (a) an explosive or incendiary weapon or device that is designed, or has the capability, to cause death, or, serious bodily injury, or substantial material damage; or
 - (b) a weapon or device that is designed, or has the capability, to cause death, or, serious bodily injury, or substantial material damage through the release, dissemination or impact of:
 - (i) toxic chemicals; or
 - (ii) biological agents; or
 - (iii) toxins or similar substances; or
 - (iv) radiation; or
 - (v) radioactive material.
- (2) infrastructure facility means any publicly or privately owned facility providing or distributing services, such as water, sewage, energy, fuel or communications, for the benefit of the public.
- (3) public place means:
 - (a) a part of any building, land, street, waterway or other location; and
 - (b) a commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place; that is accessible or open to members of the public, whether continually, periodically or occasionally.
- (4) public transportation system means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 75.- Delivering, placing discharging or detonating an explosive or lethal device in a public place etc

A penalty of imprisonment for a period between 20 years and 30 years, or life imprisonment shall be applied to a person who intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a public place, or a State or government facility, or a public transportation system, or an infrastructure facility with the intent to cause:

- (a) death or serious bodily injury; or
- (b) extensive destruction of the place, facility or system, if such destruction results in, or is likely to result in, serious economic loss.

Chapter 11 Financing of, and Material Assistance for, Terrorism

Part 1 Offences

Article 76.- Providing or collecting property for use in terrorist acts or in aid of terrorists

- (1) A penalty of imprisonment for a period between 10 years and 20 years shall be applied to a person who intentionally provides or collects property, intending or knowing that it is to be used wholly or partly in order to carry out:
 - (a) an act which constitutes an offence under this Law, or under the law of a foreign State, that is within the scope of any of the treaties listed in the annex to the International Convention for the Suppression of the Financing of Terrorism done at New York, 2000; or
 - (b) an act intended to cause death or serious bodily injury to a person other than a person taking an active part in armed hostilities in a situation of armed conflict if the purpose of the act, by its nature or context, is to intimidate a population, or to compel:
 - (i) a legislative, executive or judicial institution in the Kingdom of Cambodia or in a foreign State; or
 - (ii) an international intergovernmental organisation; or
 - (iii) any other person or group of persons; to do or to refrain from doing any act.
- (2) For an act to constitute an offence under paragraph (1) is an offence although the property that was given or collected was not used to commit the offence under this Law or an corresponding offence a law of a foreign State.

Article 77.- Making property, resources or services available to terrorists and persons and entities connected with terrorists

- (1) A penalty of imprisonment for a period between 10 years and 20 years shall be applied to a person who intentionally makes any property, resources or services available, directly or indirectly, for the benefit of:
 - (a) a person who commits an offence under this Law or a corresponding offence under a law of a foreign State; or
 - (b) an entity owned or controlled, directly or indirectly, by the person mentioned in subparagraph (1)(a); or
 - (c) a person or entity acting on behalf of, or at the direction of, the person mentioned in subparagraph (1)(a).
- (2) An act mentioned under Paragraph (1) above constitutes an offence although the property, resources or services have not been used to carry out an offence mentioned in this Law or a corresponding offence under a law of a foreign State.

Article 78.- Recruitment and training of terrorists

- (1) A penalty of imprisonment for a period between 10 years and 20 years shall be applied to a person who intentionally takes any part in:
 - (a) the recruitment of persons to organisations formed, or to be formed, for terrorist purposes; or
 - (b) the training of persons for terrorist purposes.
- (2) For subparagraphs (1) (a) and (b), a terrorist purpose is:
 - (a) to commit an offence under this Law or a corresponding offence under a law of a foreign State; or
 - (b) to carry out an act intended to cause death or serious bodily injury to a person other than a person taking an active part in armed hostilities in a situation of armed conflict if the purpose of the act, by its nature or context, is to intimidate a population, or to compel:
 - (i) a legislative, executive or judicial institution in the Kingdom of Cambodia or in a foreign State; or
 - (ii) an international intergovernmental organisation; or
 - (iii) any other person or group of persons;
to do or to refrain from doing any act.

Part 2 Freezing, seizure and forfeiture of terrorist property

Article 79.- Freezing of property of certain persons

- (1) The Minister of Justice may order the General Prosecutor of the court of appeals or the Prosecutor of the first-instance court to freeze of property of a person if:
 - (a) the name of the person is included in the list of natural persons and entities belonging to or associated with the Taliban and Al-Qaida organisation maintained by the committee established under Resolution 1267 of the United Nations Security Council; or
 - (b) the person is:
 - (i) a person who has committed an offence under this Law or a corresponding offence under the law of a foreign State; or
 - (ii) an entity owned or controlled, directly or indirectly, by such a person; or
 - (iii) a person or entity acting or behalf of, or at the direction of, such a person.
- (2) The reference in paragraph (1) to property of a person includes funds derived or generated from property owned or controlled, directly or indirectly, by the person or entity mentioned above.
- (3) If any property of a person has been frozen under paragraph (1) above, the person may request the Minister for Justice through the General Prosecutor of

the court of appeals or the Prosecutor of the first-instance court to seek the unfreezing of that property on the ground either that:

- (a) the name of that person was included in error in the list referred to in subparagraph (1) (a) above; or
- (b) while the name of that person is the same as a name in that list, the person is not the person to whom the list refers; or
- (c) the person is not a person of the kind referred to in subparagraph (1) (b) above; or
- (d) the name of the person has been removed from the list.

Article 80.- Freezing of tainted property

- (1) A court may order the freezing of property if the court is satisfied that there are reasonable grounds to suspect that the property is tainted property.
- (2) The court shall revoke an order made under paragraph (1) if the court is satisfied the property is not tainted property.

Article 81.- Seizure of property

The law enforcement authorities, upon becoming aware of the existence of any tainted property, must seize that property without delay and, as soon as practicable, seek an order in relation to that property under article 80.

Article 82.- Forfeiture of property

A court may order the forfeiture to the State of property frozen under article 79 or 80 if the court is satisfied that it is more probable than not that the property is tainted property.

Article 83.- Charge or conviction not necessary

A decision to freeze property under article 79, article 80, or a seizure under article 81, or forfeiture under article 82 may be made even if:

- (a) no person has been charged with, or convicted of an offence under this Law, or a corresponding offence under the law of a foreign State; or
- (b) a person has been so charged and has been acquitted under this Law or a corresponding offence under the law of a foreign State.

Article 84.- Mingled property

Where property that is, or is reasonably suspected of being, tainted property is mingled with other property that is not tainted property, the value of the property to which an order under article 80 or 82 applies must not exceed the value of the property that is, or is reasonably suspected of being, tainted property.

Article 85.- Onus on person opposing order

A person opposing the making of an order under articles 80 or 82 above, seeking to exclude property from such an order or seeking to overturn such an order must satisfy the court the property is not tainted property.

Article 86.- Setting aside of all acts that attempt to create obstacles to forfeiture, etc.

- (1) The court can set aside or render void any dealing or act, either charged or free that was intended to divert the property from the freezing or forfeiture.
- (2) If the court sets aside or renders void a dealing as mentioned in paragraph (1) above, the court may order the repayment by the original owner to the buyer of the purchase price if the recipient is innocent and the payment has been made.

Article 87.- Dealing by State with forfeited property

- (1) The Ministry of Economy and Finance must sell any forfeited property that is not in the form of money in accordance with the procedure for the sale of State property.
- (2) The proceeds of any sale under paragraph (1), together with all other forfeited property in the form of money, must be paid into a national trust fund to be used:
 - (a) to pay all lawful debts and expenses arising out of the forfeiture of tainted property, including expenses of seizure, transport, storage and preservation; and
 - (b) to compensate victims of terrorist acts; and
 - (c) to finance action taken to combat terrorism.
- (3) The administration of the trust fund shall be in accordance with rules made by a sub-decree.

Article 88.- Surveillance

- (1) The prosecutor or investigating judge appointed to investigate an alleged offence under this Law may authorise an investigator to:
 - (a) examine and put under surveillance of bank accounts or any other accounts that are regarded as bank accounts; and
 - (b) require the provision for inspection of legal documents and other papers, and all banking, financial and commercial documents;
 - (c) monitor telephone lines; and
 - (d) access computer systems

If there are reasonable grounds to suspect that those accounts, telephone lines or computer systems are being, or may be, used by persons under suspicion of committing, or planning the commission of, an offence under this Law, or those documents or papers are, or may be, connected to the commission or planned commission of an offence under this Law.

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- (2) The measures mentioned above shall not be taken to be in violation of any professional confidentiality.
 - (3) The monitoring of a telephone line must not be for more than 2 months. The continuation of the measure and duration shall be authorised only by the investigative judge who investigates this matter.
 - (4) A penalty for a period between 1 year to 5 years shall be applied to a person who:
 - (a) by reason of his or her profession, has knowledge of the carrying out of any of the actions mentioned in paragraph (1), and voluntarily informs a person under suspicion of the taking of those actions; or
 - (b) provides a document or a paper which he or she knows to be false or incomplete, or mistaken document, but does not inform the authorities of these facts.

Article 89.- Bank secrecy

Bank secrecy is not justification for refusing to provide evidence in relation to an offence against this Law.

Article 90.- Suppressing barriers to frozen or seized property

A penalty of imprisonment for a period between 5 years and 10 years shall be applied to a person who is a party to, or intentionally facilitates, any dealing with property that is frozen or seized in accordance with this Part unless that dealing was for the purpose of giving effect to the requirements of this Part or authorised by a court.

Chapter 12 Extradition and Mutual Assistance in relation to Terrorist Offences

Part 1 Preliminary

Article 91.- Interpretation

Terminology in this Chapter:

- (1) *mutual assistance* means assistance requested by the Royal Government of Cambodia or by the Government of a foreign State in relation to:
 - (a) the investigation of, or court proceedings for, an offence under this Law or an offence under the law of a foreign State that corresponds to an offence under this Law; or
 - (b) investigations or proceedings relating to tainted property.
- (2) *requesting State* means a State that requests the extradition of a person or makes a request for mutual assistance.

Article 92.- When a foreign offence corresponds to an offence under this Law

- (1) An offence under the law of a foreign State corresponds to an offence under this Law if some or all of the acts or omissions constituting that offence would, if committed in the Kingdom of Cambodia, constitute an offence under this Law.
- (2) The requirements of paragraph (1) above are satisfied in relation to a request from a foreign State although:
 - (a) the acts or omissions constitute the offence within a different category of offences; or
 - (b) denomination, use of terminology or definition or characterisation of the offence are different; and
 - (c) the constituent elements of the offence under the law of the requesting State are different from the constituent elements of the offence under this Law if, having regard to the totality of the acts or omissions presented by the requesting State, an offence under this Law would have been committed.

Article 93.- Political and fiscal offences

An offence under this Law and a corresponding offence under the law of a foreign State are each not to be treated as a political offence, an offence connected with a political offence or an offence inspired by political motives, or as a fiscal offence for the purposes of extradition or mutual assistance.

Part 2 Extradition

Article 94.- Extradition to or from a State with which Cambodia has an extradition treaty

An offence under this Law and a corresponding offence under a law of a foreign State are each to be treated as an extradition offence under any extradition treaty between Cambodia and that foreign State.

Article 95.- Extradition to or from a State with which Cambodia does not have an extradition treaty that is a party to a relevant convention or protocol

A convention or a protocol may form the legal basis for the extradition of the person from Cambodia to that foreign State, or for the making by Cambodia of a request to that foreign State, in relation to conduct to which that convention or protocol relates if:

- (a) the Kingdom of Cambodia does not have an extradition treaty with a foreign State; and
- (b) both the Kingdom of Cambodia and that State are parties to a convention or protocol listed in Annex to this Law; and
- (c) that convention or protocol states that it may provide the legal basis for extradition;

Article 96.- Extradition to a State with which Cambodia does not have an extradition treaty

Cambodia may, in accordance with the law relating to extradition, extradite the person to the requesting State if:

- (a) the Royal Government of Cambodia receives a request from a foreign State for the extradition of a person who is present in the Kingdom of Cambodia for an offence under a law of that foreign State that corresponds to an offence under this Law; and
- (b) Cambodia does not have an extradition treaty with the requesting State; and
- (c) the requesting State gives an undertaking that it would comply with a similar request from Cambodia,

Article 97.- Documentation for requests for extradition

- (1) A request for extradition of a person to a foreign State must be in writing, accompanied:
 - (a) in all cases, by:
 - (i) a document sufficient to describe the identity and probable location of the person sought; and
 - (ii) a statement of the facts of the case; and
 - (iii) the text of the relevant provisions of the law creating the offence; and
 - (iv) the text of the relevant provisions of the law specifying the penalty; and
 - (v) the text of the relevant provisions of the law specifying any relevant time limits; and
 - (vi) any other information required to be given under a treaty to which Cambodia and the foreign State are parties; and
 - (b) in a case where the person is sought for prosecution, by:
 - (i) a copy or a photostated copy of the judgment of the court; and
 - (ii) a statement of the extent to which the sentence has been carried out.
- (2) All documents must be signed and sealed and, if not in either the Khmer or English language, must also be accompanied by a translation in one of those languages.

Article 98.- Mandatory grounds for refusal of a request for extradition

- (1) The Royal Government of Cambodia must not grant a request for the extradition of a person for an offence under the law of a foreign State that corresponds to an offence under this Law if it is satisfied that:
 - (a) the request has been made for the purpose prosecuting or punishing the person because of his or her race, religion, nationality, ethnic origin or political opinion; or
 - (b) the person's position may be prejudiced because of his or her race, religion, nationality, ethnic origin or political opinion; or

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- (c) the person has been prosecuted in the Kingdom of Cambodia or another State for the offence and a final judgement has been made and enforced against the person; or
 - (d) the person has been convicted of that offence in absentia and:
 - (i) has not had sufficient notice of the trial or the opportunity to arrange for his or her defence; and
 - (ii) has not had, or will not have, the opportunity to have the case retried in his or her presence.
- (2) The Royal Government of Cambodia must not grant a request for the extradition of a person for an offence under the law of a foreign State that corresponds to an offence under this Law unless it is satisfied that, on surrender to the requesting State, the person will not be subjected to torture.

Article 99.- Consequence of refusal to extradite

If, after appropriate consideration of an extradition request, the Royal Government of Cambodia for any reason refuses to extradite the person to the requesting State:

- (a) the Royal Government of Cambodia must refer the matter to the prosecuting authorities for the purpose of prosecution; and
- (b) the prosecuting authorities must make a decision on the matter in the same manner as in the case of any offence against this Law.

Article 100.- Voluntary extradition

- (1) The Royal Government of Cambodia may agree, without the necessity to conduct a formal extradition proceeding, to extradite a person for an offence under the law of a foreign State that corresponds to an offence under this Law if that person consents, in writing, in the presence of a responsible representative of the prosecuting authorities, to be extradited to the requesting State for that offence.
- (2) The Royal Government of Cambodia must not agree to an extradition under paragraph (1) unless:
 - (a) the requesting State has made a formal request for the extradition of the person; and
 - (b) before the consent is given, the person has been fully informed of the consequences of consenting to the extradition.

Article 101.- Provisional arrest and detention

- (1) This article applies if:
 - (a) the prosecuting authorities receive a request from a foreign State, either directly or through the facilities of the International Criminal Police Organisation (INTERPOL), for the provisional arrest of a person for an offence under a law of that State that corresponds to an offence under this Law; and one of the following applies
 - (i) the Kingdom of Cambodia is a party to an extradition treaty with the requesting State; or

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- (ii) both the Kingdom of Cambodia and that State are parties to a convention or protocol listed in Annex 1 to this Law; and that convention or protocol states that it may provide the legal basis for extradition; or
 - (iii) the requesting State gives an undertaking that it would comply with a similar request from Cambodia; and
 - (b) the requesting State has undertaken to send to Cambodia a request for the extradition of the person.
 - (2) The prosecuting authorities may issue a warrant for the arrest of the person if they are satisfied that:
 - (a) the person is in the Kingdom of Cambodia; and
 - (b) either:
 - (i) a court or authority in the requesting State has issued a warrant or an order of a similar nature for the arrest of the person for the offence in relation to which the warrant for provisional arrest is sought; or
 - (ii) the person has been convicted of the offence in the requesting State.
 - (3) Subject to paragraph (4) below, a person who is arrested and detained under a warrant may be detained according to law until the requesting State makes a request to the Royal Government of Cambodia for the extradition of the person.
 - (4) If the Royal Government of Cambodia has not received a request for extradition from the requesting State within 60 days after the person was detained under the warrant, the prosecuting authorities must order the release of the person.
 - (5) A person who is released in accordance with paragraph (4) above may be arrested again if the requesting State sends an extradition request after his or her release.

Article 102.- Extradition from a State with which Cambodia does not have an extradition treaty

- (1) The Royal Government of Cambodia may make a request to a State for the extradition of a person to Cambodia if:
 - (a) the person has committed an offence against this Law:
 - (i) in the Kingdom of Cambodia; or
 - (ii) outside the Kingdom of Cambodia but within the jurisdiction of Cambodia under this Law; and
 - (b) Cambodia does not have an extradition treaty with the State where the person is present;
- (2) The request may be made on the basis of the giving by the Royal Government of Cambodia of an undertaking that it would comply with a similar request from the State where the person is present.

Part 3 Mutual assistance

Article 103.- Requests of a foreign State to Cambodia for assistance in investigations or court proceedings in a foreign State

- (1) This article applies if the Royal Government of Cambodia receives a request from a foreign State for assistance in relation to:
 - (a) an investigation into an offence under a law of that State that corresponds to an offence under this Law; or
 - (b) court proceedings for such an offence; or
 - (c) investigations relating to tainted property; or
 - (d) proceedings for the freezing or forfeiture of tainted property in the requesting State; or
 - (e) the freezing or forfeiture of tainted property in the Kingdom of Cambodia.
- (2) The Royal Government of Cambodia, through the courts or other relevant competent authorities, may provide assistance in any of the following ways:
 - (a) taking statements or evidence in written or oral form from persons;
 - (b) assisting in making persons including persons held in detention available, with their consent, to give evidence or to assist in investigations;
 - (c) serving judicial documents;
 - (d) executing searches;
 - (e) assisting in tracing tainted property;
 - (f) investigating financial dealings;
 - (g) obtaining information or evidence which may assist in the recovery of tainted property for forfeiture;
 - (h) freezing of tainted property so as to prevent any dealing in, or transfer or disposal of, the property pending a determination on forfeiture;
 - (i) seizing tainted property, including documents;
 - (j) implementing a final decision of the foreign State to forfeit tainted property;
 - (k) examining objects and sites;
 - (l) providing information and evidentiary items to the foreign State;
 - (m) providing the originals, or certified copies, of relevant documents or records including bank, financial, corporate or business records to the foreign State.
- (3) Information and evidentiary items that may be provided to the foreign State in accordance with subparagraph (2) (1) include all lawfully obtained material including material obtained by the interception of telecommunications or by the use of listening devices.
- (4) For the purposes of executing a request for assistance from a foreign State, the procedures and processes in the Kingdom of Cambodia for the investigation or prosecution of an offence against the laws of Cambodia may be used for the provision of assistance to the foreign State.

Article 104.- Assistance may be provided subject to conditions

The Royal Government of Cambodia may provide assistance to a foreign State under this Chapter, subject to conditions.

Article 105.- Mandatory grounds for refusal of a request for assistance

The Royal Government of Cambodia must not grant a request for assistance under this Part if it is satisfied that:

- (a) the request has been made for the purpose of prosecuting or punishing the person because of his or her race, religion, nationality, ethnic origin or political opinion; or
- (b) the person's position may be prejudiced because of his or her race, religion, nationality, ethnic origin or political opinion; or
- (c) the request relates to the prosecution of a person for an offence, and:
 - (i) the person has been acquitted or pardoned by a competent tribunal or authority in the foreign State; or
 - (ii) the person has undergone the punishment provided by the law of that State, for that offence or for another offence constituted by the same conduct as that offence.

Article 106.- Bank secrecy rules do not affect mutual assistance

A request for assistance under this Part must not be refused for reasons of bank secrecy.

Article 107.- Requests for giving of evidence at hearings in foreign States

- (1) This article applies if:
 - (a) a proceeding relating to:
 - (i) an offence under the law of a foreign State that corresponds to an offence under this Law; or
 - (ii) freezing or forfeiture of tainted property has commenced in a foreign State; and
 - (b) the foreign State requests the attendance of a person who is in the Kingdom of Cambodia at a hearing in connection with the proceeding; and
 - (c) there are reasonable grounds to believe that the person is capable of giving evidence relevant to the proceeding; and
 - (d) the person has consented to giving evidence in the foreign State.
- (2) The foreign State must give the following undertakings:
 - (a) that the person will not:
 - (i) be detained, prosecuted or punished for any offence against the law of the foreign State that is alleged to have been committed, or that was committed, before the person's departure from the Kingdom of Cambodia; or
 - (ii) be subjected to any civil suit in respect of any act or omission of the person that is alleged to have occurred, or that occurred, before the

person's departure from the Kingdom of Cambodia, if the person could not be subjected to the civil suit if the person were not in the foreign State; or

- (iii) be required to give evidence in any proceeding in the foreign State other than the proceeding to which the request relates;

unless the person has left the foreign State or the person has had the opportunity of leaving the foreign State and has remained in that State otherwise than for the purpose of giving evidence in the proceeding to which the request relates;

- (b) that any evidence given by the person in the proceeding to which the request relates will be inadmissible or otherwise disqualified from use in the prosecution of the person for an offence against a law of the foreign State other than the offence of perjury in relation to the giving of that evidence;
- (c) that the person will be returned to Cambodia in accordance with arrangements agreed by the Royal Government of Cambodia;
- (d) if the person is being held in custody in Cambodia and the Royal Government of Cambodia requests the foreign State to make arrangements for the keeping of the person in custody while the person is in the foreign State:
 - (i) that the State will make appropriate arrangements for that purpose; and
 - (ii) that the person will not be released from custody in the foreign State unless the Royal Government of Cambodia notifies an appropriate authority of the foreign State that the person is entitled to be released from custody under Cambodian law; and
 - (iii) if the person is released in the foreign State as mentioned in sub-paragraph (ii), that the foreign State will pay the costs of the person's accommodation and expenses until the proceeding to which the request relates is completed.

Article 108.- Request by Cambodia to a foreign State for assistance in investigations or court proceedings

- (1) The Royal Government of Cambodia may request a foreign State to provide assistance in relation to:
 - (a) an investigation into an offence under this Law; or
 - (b) court proceedings for such an offence; or
 - (c) investigations relating to tainted property; or
 - (d) proceedings for the freezing or forfeiture of tainted property in the Kingdom of Cambodia; or
 - (e) the freezing or forfeiture of tainted property in the requested State.
- (2) The request may be for assistance in any matter listed in paragraph 2 of article 103 of this Law.
- (3) Evidence lawfully obtained in the foreign State may be used in evidence in proceedings in the Kingdom of Cambodia.

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- (4) If a person who was being held in custody in the foreign State is made available to give evidence in the Kingdom of Cambodia and the foreign State requests the Royal Government of Cambodia to make arrangements for the keeping of the person in custody while the person is in the Kingdom of Cambodia, the Royal Government of Cambodia:
- (a) must make appropriate arrangements for that purpose; and
 - (b) must not release the person from custody in the Kingdom of Cambodia unless the foreign State notifies an appropriate authority of the Royal Government of Cambodia that the person is entitled to be released from custody under the law of the foreign State; and
 - (c) must, if the person is released in the Kingdom of Cambodia as mentioned in subparagraph (b), pay the costs of the person's accommodation and expenses until the proceeding to which the request relates is completed.
- (5) A person made available by a foreign State to give evidence in the Kingdom of Cambodia must be returned to that foreign State, without the need for extradition proceedings, in accordance with arrangements agreed with that foreign State.

Article 109.- International Cooperation

The provisions of Part 3 of this law do not limit or prevent the giving or receiving of information or international cooperation in relation to an offence under this Law, or a corresponding offence under the law of a foreign State, by any other means.

Chapter 13 Conclusion

Article 110.- Relationship with other laws

This Law shall prevail if other laws are not consistent with this Law.

Article 111.- Implementation

This Law must be promulgated promptly.

List of UN International Conventions and Protocols

1. The Convention on Offences and Certain Other Acts Committed on Board Aircraft. (Tokyo, 14 September 1963);
2. Convention for the Suppression of Unlawful Seizure of Aircraft (Hague, 16 December 1970)
3. The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 23 September 1971);
4. The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1971) — Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 23 September 1971);
5. The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including diplomatic agents (New York, 14 December 1973);
6. The International Convention Against the Taking of Hostages (New York, 17 December 1979);
7. The Convention on the Physical Protection of Nuclear Material (New York and Vienna, 3 March 1980);
8. The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (Rome, 10 March 1988);
9. The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988);
10. The Convention on the Marking of Plastic Explosives for the Purposes of Detection (Montreal, 1 March 1991);
11. The International Convention for the Suppression of Terrorist Bombing (New York, 12 January 1998);
12. The International Convention for the Suppression of the Financing of Terrorism (New York, 10 January 2000).
13. International Convention for the Suppression of Acts of Nuclear Terrorism (New York, April 2005)

ANNEX 2

Appendix to the Law on Counter Terrorism

Categorisation of Nuclear Material

Item	Material	Form	Category I	Category II	Category III ³
1	Plutonium ¹	Unirradiated ²	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
2	Uranium-235	Unirradiated ²			
		—uranium enriched to 20% ²³⁵ U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less but more than 15 g
		—uranium enriched to 10% ²³⁵ U but less than 20%		10 kg or more	Less than 10 kg but more than 1 kg
		—uranium enriched above natural, but less than 10% ²³⁵ U			10 kg or more
3	Uranium-233	Unirradiated ²	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
4	Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10% fissile content) ⁴	

Footnotes:

- 1 All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.
- 2 Material not irradiated in a reactor, or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.
- 3 Quantities not falling into Category I, II or III, and natural uranium, must be protected in accordance with prudent management practice.
- 4 Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

ANNEX 3

Appendix to the Law on Counter Terrorism

Detection Agents

Item	Name of detection agent	Molecular formula	Molecular weight	Minimum concentration
1	Ethylene glycol dinitrate (EGDN)	$C_2H_4(NO_3)_2$	152	0.2% by mass
2	2,3-Dimethyl-2,3-dinitro butane (DMDB)	$C_6H_{12}(NO_2)_2$	176	1.0% by mass
3	para-Mononitrotoluene (p-MNT)	$C_7H_7NO_2$	137	0.5% by mass

High Explosives

High explosives include:

- cyclotetramethylenetetranitramine (HMX)
- pentaerythritol tetranitrate (PETN)
- cyclotrimethylenetrinitramine (RDX)