

**Kingdom of Cambodia**  
**Nation Religion King**

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Ministry of Industry and Handicraft

No.203 MIH / 2019

**PRAKAS (DECLARATION)**

**ON THE MANAGEMENT AND PROCEDURES FOR THE GRANT PATENTS AND  
UTILITY MODEL CERTIFICATES**

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**Senior Minister, Minister of Industry and Handicraft**

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/0918/925 dated 06 September 2018 on the Appointment of the Royal Government of the Kingdom of Cambodia,
- Having seen Royal Kram No. NS/RKM/0618/012 dated 28 June 2018 promulgating the Law on the Organization and Functioning of the Council of the Ministers;
- Having seen Royal Kram No. NS/RKM/1213/018 dated 09 December 2013 promulgating the Law on Establishment of the Ministry of Industry and Handicraft;
- Having seen Royal Kram No. NS/RKM/0103/005 dated 22 January 2003 promulgating the Law on Patents, Utility Model Certificates and Industrial Designs;
- Having seen Royal Kram No. NS/RKM/1117/016 dated 22 November 2017 promulgating the Law Amendment of the Articles 37, 38, 109 and 136 of the Law on Patents, Utility Model Certificates and Industrial Designs;
- Having seen the Sub-Decree No. 575 ANKR.BK dated 24 December 2013 on the Organization and Functioning of the Ministry of Industry and Handicraft;
- Having seen the Prakas No. 451 MIH/2014 dated 28 May 2014 on the Organization and Functioning of the Department of Industry Property;
- Referring to the necessity of the Ministry of Industry and Handicraft.

**HEREBY DECIDES**  
**SECTION 1**  
**GENERAL PROVISIONS**

**Article 1.\_ Purpose**

The purpose of this declaration is to manage and protect patents and utility model certificates in order to implement the law.

**Article 2.\_ Objective**

The objective of this declaration is:

- to determine the procedures for grant of patents and utility model certificates;
- to determine the formality for maintenance the validity of patent and utility model certificates;
- to determine the management of patents and utility model certificates.

**Article 3.\_ Scope**

This Prakas covers the implementation for patent and utility model certificate applications and patent and utility model certificate in accordance with the law.

**Article 4.\_The Characteristics of the Prakas**

This Prakas (Declaration) may be cited as Regulation for implementation of the Article 130 of the Law on Patents and Utility Model Certificates and Industrial Designs.

**Article 5.\_ Duty of Registration Department**

The Registration Department shall, in accordance with the Law, receive, examine the Patents and Utility Model Certificates applications and grant the Patents and Utility Model Certificates in order to protect the intellectual property of inventors and innovators.

**Article 6.\_ Definition**

The terms in the declaration shall be interpreted are follows:

- **Law** means the Law on Patents, Utility Model Certificates and Industrial Designs, promulgated by the Royal Decree NS/RKM/0103/005, dated January 22, 2003 and Law on Amendment on the Law on Patents, Utility Model Certificates and Industrial Designs by Royal Decree NS/RKM/1117/016, dated January 22, 2017;
- **Minister** means the Minister of the Ministry of Industry and Handicraft;
- **Registrar** means the Director of Department of Industrial Property;
- **Registration Department** means Department of Industrial Property;
- **Paris Convention** means the convention was signed in Paris on Protection of Industrial Property on March 20, 1883 and last revised;
- **Invention** means an idea of inventor, which permits in practice the solution to a specific problem in the field of technology;
- **Earlier application** means an application which has been earlier filed or earlier registered;

- **Patent Classification** means international classification established by the Strasbourg Agreement in 1971 provides for a hierarchical system of independent symbols for the classification of patents and utility models according to the different areas of technology to which they pertain.
- **Patent Cooperation Treaty (PCT)** means an international patent law treaty established in Washington in 1970 provides a unified procedure for filing patent applications to protect inventions in each of its contracting states.

## SECTION 2

### PROCEDURES AND OBLIGATIONS FOR GRANT AND MANAGEMENT OF PATENTS AND UTILITY MODEL CERTIFICATES

#### **Article 7.\_ Classification of Patents and Utility Model Certificates**

The Registrar shall follow the international classification adopted by the Strasbourg Agreement dated 24 March 1971 and subsequently revised for grant and publication of patent and utility model certificate in order to facilitate the search.

#### **Article 8.\_ Application for Patents and Utility Model Certificates**

The application for Patent and Utility Model Certificate in accordance with Article 16 of the Law shall contain a request, descriptions, claims, drawings where required, and abstracts and shall be filed with the Registration Department and shall be subject to the payment of prescribed fee.

#### **Article 9.\_ Requests**

The request shall be characterized as following:

1. Request for the grant of Patents and Utility Model Certificates shall be made on Form N° 1 P/UM as attached in Annex A of this Declaration.
2. The request shall indicate each applicant's name, address, nationality and residence and shall be signed by each applicant.
3. Where applicant is the inventor, the request shall contain a statement to that effect, and, where he is not, it shall indicate each inventor's name and address and be accompanied by the statement justifying the applicant's right to the Patents and Utility Model Certificates.
4. If the applicant is represented by an agent, the request shall so indicate and state the agent's name and address.
5. The title of the invention shall be short and precise.

#### **Article 10.\_ Descriptions**

Description shall be characterized as following:

1. The description shall first state the title of the invention as appearing in the request and shall:
  - a. specify the technical field to which the invention relates;
  - b. indicate the background art which, as far as known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention, and, preferably, cite the documents reflecting such art;

- c. disclose the invention in such terms that it can be understood and state its advantageous effects, if any, with reference to the background art;
  - d. briefly describe the figures in the drawings, if any;
  - e. set forth at least one best mode contemplated by the applicant for carrying out the invention; this shall be done in terms of examples, where appropriate, and with reference to the drawings, if any;
  - f. indicate explicitly, when it is not obvious from the description or nature of the invention, the way in which the invention is industrially applicable and the way in which it can be made and used, or, if it can only be used, the way in which it can be used.
2. The manner and order specified in paragraph (1) of this Article shall be followed except when, because of the nature of the invention, a different manner or a different order would result in a better understanding and a more concise presentation.

### Article 11.\_ Claims

Claim shall be characterized as following:

1. The number of the claims shall be reasonable taking into account the nature of the invention; if there are several claims, they shall be numbered consecutively in Khmer numerals.
2. The claims shall define the invention in terms of the technical features of the invention.
3. Whenever appropriate, claims shall contain:
  - a. statement indicating those technical features of the invention which are necessary for the definition of the latter but which, in combination, are part of the prior art;
  - b. characterising portion--preceded by the words **“characterized in that”**, **“characterized by”**, **“wherein the improvement comprises”**, or any other words to the same effect--stating concisely the technical features which, in combination with the features stated under Paragraph (a), it is desired to protect.
4. Claims shall not, except where absolutely necessary, rely in respect of the technical features of the invention on references to the description or drawings; in particular, they shall not rely on such references as **“as described in part ... of the description”**, or **“as illustrated in figure ... of the drawings”**.
5. Where the application contains drawings, the technical features mentioned in the claims shall preferably be followed by the reference signs relating to such features; when used, the reference signs shall preferably be placed between parentheses; if inclusion of reference signs does not particularly facilitate quicker understanding of a claim, it should not be made.
6. Any claims submitted after the filing date of the application and which is not identified with the claims previously appearing in the application shall, at the choice of the applicant, be submitted either as an amended claim or as a new claim.
7. The deletion of any claim previously appearing in the application shall be made by indicating the number of the previous claim followed by the word **“cancelled”**.

### Article 12.\_ Drawing

Drawing shall be characterized as following:

1. Drawings forming part of an application for a patent and utility model certificate shall be on sheets the usable surface area of which shall not exceed 26.2 cm by 17 cm. The sheets shall not contain frames round the usable or used surface.

The minimum margins shall be as following:

- a. top 2.5 cm

- b. left side            2.5 cm
  - c. right side           1.5 cm
  - d. bottom              1.0 cm
2. Drawings shall be executed as following:
- a. Without colouring in durable, black sufficiently dense and dark, uniformly thick and well-defined lines and strokes to permit satisfactory reproduction;
  - b. Cross-sections shall be indicated by hatching, which does not impede the clear reading of the reference signs and leading lines;
  - c. The scale of the drawings and the distinctness of their graphical execution shall be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty. If, as an exception, the scale is given on a drawing it shall be represented graphically;
  - d. All numbers, letters and reference signs appearing in the drawings shall be simple and clear and brackets, circles and inverted commas shall not be used in association with numbers and letters;
  - e. Elements of the same figure shall be in proportion to each other, unless a difference in proportion is indispensable for the clarity of the figure;
  - f. The height of the numbers and letters shall not be less than 0.32 cm and for the lettering of drawings, the Latin and, where customary, the Greek alphabet shall be used;
  - g. The same sheet of drawings may contain several figures. Where figures drawn on two or more sheets are intended to form one whole figure, the figures on the several sheets shall be so arranged that the whole figure can be assembled without concealing any part of the partial figures. The different figures shall be arranged without wasting space, clearly separated from one another. The different figures shall be numbered consecutively, independently of the numbering of the sheets;
  - h. Reference signs not mentioned in the description or claims shall not appear in the drawings, and vice versa. The same features, when denoted by reference signs, shall, throughout the application, be denoted by the same signs;
  - i. The drawings shall not contain textual matter, except, when required for the understanding of the drawings, a single word or words such as “water”, “steam”, “open”, “closed”, “section on AA” and in the case of electric circuits and block schematic or flow sheet diagrams, a few short catchwords;
  - j. The sheets of the drawings shall be numbered in accordance with Article 19 of this Declaration.
3. Flow sheets and diagrams are considered drawings.

### **Article 13.\_ Abstract**

Abstract shall be characterized as following:

1. The abstract shall be so drafted that it can efficiently serve as a scanning tool for purposes of searching in the particular art.
2. The abstract shall consist of the following:
  - a. Summary of the disclosure as contained in the description, the claims, and any drawings, indicating the technical field to which the invention pertains and drafted in a way which allows the clear understanding of the technical problem, the gist of the solution of that problem through the invention and the principal use or uses of the invention;
  - b. where applicable, the chemical formula which, among all the formulae contained in the application, best characterizes the invention.

3. The abstract shall be as concise as the disclosure permits (not exceed 150 words).
4. The abstract shall not contain statements on the alleged merits or value of the invention or on its speculative application.
5. Each main technical feature mentioned in the abstract and illustrated by a drawing in the application shall be followed by a reference sign, placed between parentheses.
6. The abstract shall be accompanied by the most illustrative of any drawings furnished by the applicant.

#### **Article 14.\_ Language of Documents and Translations**

Language of documents and translations shall be executed as following:

1. Applications and any document forming part of an application or any documents submitted to the Registration Department or the Registrar pursuant to the Law, this Declaration and Regulations concerned shall be in Khmer.
2. Where the applications and documents mentioned in the paragraph 1 of this Article writing in Khmer language or in Languages other than English shall translate in to English, for the purpose of searching and examination, and shall submit to the Registrar within six (6) moths from the filling date.
3. Where the applications and documents mentioned in the paragraph 1 of this Article writing in Languages other than Khmer language shall translate in to Khmer, for the purpose of judging, protection and law enforcement and shall submit to the Registrar within six (6) moths from the filling date.

#### **Article 15.\_ Indication of Name, Address, Nationality and Residence**

Indication of name, address, nationality and residence shall be indicated as following:

1. Names of natural persons shall be indicated by the person's family name, given name(s) and address. The names of legal entities shall be indicated by their full, official designations.
2. Nationality shall be indicated by the name of the State of which a person is a national. Legal entities shall indicate the name of the State under whose laws they are constituted and their Registered Office.
3. Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units, including the house number, if any. Addresses shall also indicate telephone numbers, facsimile number and E-mail address.
4. Residence shall be indicated by the name of the State of which a person is a resident.
5. Applicants for Patent and Utility Model Certificates shall provide address for contacting in the Kingdom of Cambodia to Registrar for the purpose of their applications.

#### **Article 16.\_ Change of Name, Nationality and Address**

Change of name, nationality and address shall be executed as following:

1. A request by the owner of, or applicant for, a patent, utility model certificate for the alteration of a name, nationality, address or address for service on record in respect of his patent, utility model certificate or application shall be made in writing.
2. Before acting on a request to alter a name or nationality, the Registrar may require such proof of the alteration as he thinks fit.
3. If the Registrar is satisfied that the request should be allowed, he shall cause the patent, the utility model certificate or application therefore and, where the name, nationality or address has been recorded in the register, the register to be altered accordingly.

## **Article 17.\_ Signature**

Signature shall be executed as follow:

1. A document purporting to be signed for or on behalf of a partnership shall contain the names of all Companies and the partners in full and shall be signed by all the or by any partner qualified to sign, stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorized to sign the document; a document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorized to sign the document and shall bear the seal of the body corporate; a document purporting to be signed for or on behalf of an association of persons may be signed by any person who satisfies the Registrar that he is duly authorized.
2. The Registrar may, whenever he deems it necessary, request evidence of authorization to sign.

## **Article 18.\_ Measures, Terminology and Signs**

Measures, terminology and signs shall be characterized as following:

1. Units of weights and measures shall be expressed in terms of the metric system.
2. Temperatures shall be expressed in degrees centigrade (Celsius).
3. Density shall be expressed in metric units.
4. For indications of heat, energy, light, sound, and magnetism, as well as for mathematical formulae and electrical units, rules in general use shall be observed; for chemical formulae, the symbols, atomic weights, and molecular formulae, in general use, shall be employed.
5. In general, only such technical terms, signs and symbols should be used as are generally accepted in the art.
6. The terminology and the signs shall be consistent throughout the application.

## **Article 19.\_ Number of Documents and Physical Requirements**

Subject to Article 23(7) of this Declaration, number of documents and physical requirements shall be characterized as following:

1. The application and any accompanying statements or documents shall be submitted to the Registrar and filed in two (2) copies. But the Registrar may require the applicant to supply additional copies as it is necessary.
2. All elements of the application shall be so presented as to admit direct reproduction by photography, electrostatic processes, photo offset and microfilming.
3. Only one side of each sheet contained in the application shall be used.
4. All elements of the application shall be on paper which is flexible, strong, white, smooth, non-shiny and durable.
5. The size of the sheets shall be A4 (29.7cm x 21cm), although the Registrar may accept sheets of other sizes.
6. The minimum margins of sheets shall be as following:
  - a. upper margin of each page, except the first page: 2 cm
  - b. b- upper margin of the first page: 3 cm
  - c. side margin adjacent to the binding: 2.5 cm
  - d. e- other side margin: 2 cm
  - e. bottom margin: 2 cm
7. Others requirement for paper sheets shall be executed as following:
  - a. All sheets shall be numbered at the top of the sheet, in the middle, in consecutive numerals.
  - b. In effecting the sequential numbering of the sheets, the elements of the application shall be placed in the following order: the request, the description, the claims, the abstract, the drawings.

- c. The sequential numbering of the sheets shall be effected by using three separate series of numbering, the first series applying to the request only and commencing with the first sheet of the request, the second series commencing with the first sheet of the description and continuing through the claims until the last sheet of the abstract, and the third series being applicable to the sheets of the drawings only and commencing with the first sheet of the drawings.
8. The text matter of the application shall be typed; graphic symbols, chemical or mathematical formula and certain characters, if necessary, may be handwritten or drawn.
9. Drawings shall be executed in durable, black, sufficiently dense and dark, uniformly thick and well-defined lines and strokes without colourings.

#### **Article 20.\_ Unity of Invention**

Pursuant to Article 23 of the Law shall be:

1. Construed as permitting, in particular, one of the following three possibilities:
  - a. in addition to an independent claim for a given product, the inclusion in the same application of an independent claim for a process specially adapted for the manufacture of the said product, and the inclusion in the same application of an independent claim for a use of the said product; or
  - b. in addition to an independent claim for a given process, the inclusion in the same application of an independent claim for an apparatus or means specifically designed for carrying out the said process; or
  - c. in addition to an independent claim for a given product, the inclusion in the same application of an independent claim for a process specially adapted for the manufacture of the product, and the inclusion in the same application of an independent claim for an apparatus or means specifically designed for carrying out the process.
2. Permitted to include in the same application two or more independent claims of the same category which cannot readily be covered by a single generic claim.
3. Permitted to include in the same application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim.

#### **Article 21.\_ Division of Application**

Division of Application shall be executed as following:

1. Pursuant to Article 25 of the Law, a divisional application shall contain a reference to the initial application.
2. If the applicant wishes a divisional application to benefit from any priority claimed for the initial application, the divisional application must contain a request to that effect; in such a case, the declaration of priority and the documents furnished in accordance with Article 23 of this Declaration for the initial application shall be deemed to relate also to the divisional application.
3. Where the priorities of two or more earlier applications were claimed for the initial application, a divisional application may benefit only from the priority or priorities that are applicable to it.

#### **Article 22.\_ Disclosures to be Disregarded for Prior Art Purpose**

Disclosures to be disregarded for prior art purpose shall be characterized as following:

1. In accordance with Article 6 of the Law for prior art purposes, an applicant who wishes a disclosure of the invention to be disregarded, shall so indicate on the application and shall furnish, in writing, with the application or within one (1) month of filing the application, full particulars of the disclosure. Where the disclosure was made at an exhibition, the applicant shall file, within the same period, a duly authenticated certificate issued by the authority responsible for the exhibition containing particulars of

the exhibition and stating that the invention was in fact exhibited there.

2. For the purpose of the paragraph 6 (b) of the Article 6 of the Law, disclosure to the public of the invention shall not be considered to be disclosure, if it occurred within twelve (12) months preceding the filing date or, where applicable, the priority date of the application; if it was by reason or consequence of acts committed by the applicant or his predecessor in title or of an abuse committed by third party with regard to the applicant or his predecessor in title.

### **Article 23.\_ Declaration of Priority**

Declaration of priority shall be executed as following:

1. The declaration of priority referred to in Article 27 of the Law shall be made at the time of filing the application for the patent and utility model certificate and shall indicate:
  - a. the date of filing of the earlier application;
  - b. the number of the earlier application, subject to paragraph 2 of this article
  - c. the symbol of the International Patent Classification which has been allocated to the earlier application, subject to paragraph 3 of this article;
  - d. the State in which the earlier application was filed or, where the earlier application is a regional or an international application, the State or States for which it was filed;
  - e. where the earlier application is a regional or an international application, the Office which it was filed.
2. Where at the time of filing the declaration referred to in paragraph 1 of this Article, the number of the earlier application is not known, that number shall be furnished within the period of sixteen (16) months after the priority date.
3. Where a symbol of the International Patent Classification has not been allocated to the earlier application, or had not yet been allocated at the time of filing the declaration referred to in paragraph 1 of this Article, the applicant shall state this fact in the said declaration and shall communicate such symbol as soon as it has been allocated.
4. The applicant may, at any time before the grant of the patent and utility model certificate, amend the contents of the declaration referred to in paragraph 1 of this Article.
5. The period for furnishing the certified copy of the earlier application, referred to in Article 28 of the Law, shall be three (3) months from the date of the request by the Registrar; where a copy has already been furnished for another application, the applicant may respond by making a reference to that other application.
6. Where the earlier application is in a language other than Khmer, the applicant shall, within six (6) months from the date of the aforementioned request, furnish translation in Khmer of the earlier application.
7. Unless the Registrar requests otherwise, the earlier application and any translation thereof shall be filed in one (1) copy.

### **Article 24.\_ Time for Furnishing Information**

Time for furnishing information concerning corresponding of foreign application shall be indicated as following:

1. The time limits to be specified for furnishing the information requested under Articles 30 and 31 of the Law, shall not be more than six (6) months from the date such a request is made; upon a reasoned request by the applicant, the Registrar may extend such time limit.
2. If the applicant replies that the documents requested under Articles 30 and 31 of the Law are not yet available, the Registrar may suspend the procedure for the examination of the application until such time as the documents are furnished.

### **Article 25.\_ Withdrawal and Amendment of Application**

Withdrawal and amendment of application shall be executed as following:

1. The application shall be withdrawn by written declaration submitted to the Registrar and signed by each applicant.
2. The fee related to the application shall not be refunded if the application is withdrawn.
3. Any amendment pursuant to Article 24 of the Law, shall be made together with the payment of the prescribed fee.
4. A patent and utility model certificates application has been withdraw, abandoned or refused shall be subjected to the provisions of Article 4 (c) (4) on the rights of priority of Paris Convention where appropriate.

### **Article 26.\_ Numbering and Making Application**

Numbering and making application for granting of patent and utility model certificate shall be executed as following:

1. Upon receipt of the application for patent, the Registrar shall mark, on each document making up the application, the actual date of receipt and the application number consisting of the letters "KH", slant "/", the letter "P", slant "/", the last two numbers of the year in which the initial papers were received, slant "/", and a five-digit number allotted in the sequential order in which applications are received; where any corrections or other later filed documents are received on different dates, the Registrar shall also mark their actual date of receipt in the appropriate place of the request for grant of the patent (Form No. 1 P/UM).
2. Up on receipt of the application for utility model, the Registrar shall mark, on each document making up the application, the actual date of receipt and the application number consisting of the letters "KH", slant "/", the letter "UM", slant "/", the last two numbers of the year in which the initial papers were received, slant "/", and a five-digit number allotted in the sequential order in which applications are received; where any corrections or other later filed documents are received on different dates, the Registrar shall also mark their actual date of receipt in the appropriate place of the request for grant of the patent (Form No. 1 P/UM).
3. The application number allotted under paragraph 1 and 2 of this Declaration shall be quoted in all subsequent communications concerning the application.

### **Article 27.\_ Examination as to Form**

Examination as to Form for patent and utility model shall be executed as following:

1. The Registrar shall examine whether the application fulfills the requirements of the paragraph 1 of Article 33 of the law.
2. The invitation to file any correction, under Article 34 of the law, shall be in writing and shall specify the correction or corrections required and request that these be filed within two (2) months from the date of the invitation.
3. Once the Registrar accords a filing date, he shall notify the applicant in writing; if the application is treated as if it had not been filed, under Article 34, the Registrar shall notify the applicant in writing, specifying the reasons.
4. In addition to the requirements of Article 16 and 17 of the Law and the Declaration pertaining thereto, the requirements of Articles 30, 31 and 116 of the Law and Articles 14, 15, 17, 18, 18 and 36 of this Declaration and related provisions which was issued by Ministry of Industry and Handicraft and by Registration Department, to the extent applicable, shall be considered formal requirements for the purpose of the Law.

5. Where the Registrar finds that the conditions referred to in Article 36 of the Law are not fulfilled, he shall invite the applicant, in writing, to file the required correction within two (2) months from the date of the invitation; where no abstract is provided, the Registrar shall invite the application to correct the deficiency either by providing an abstract; if the applicant does not comply with the invitation to correct a deficiency, or where, despite to corrections submitted by the applicant, the Registrar is of the opinion that the conditions referred to in Article 36 are not fulfilled, he shall reject the application and notify the applicant, in writing, stating the reasons.
6. Refusal of the application shall not affect its filing date. This filing date shall remain valid.
7. For all the applications submitted, the applicant may request for search and examination to the Ministry of Industry and Handicraft before or after the publication of patent and utility model certificate application and select any search and examination authorities amongst the search authorities selected by the Ministry.
8. The publication shall be done after eighteen (18) months from the filing date and contain as following:
  - a. title of invention
  - b. name and address of the applicant
  - c. name and address of the inventor
  - d. international classification
  - e. application number
  - f. registration date
  - g. priority application number, priority date and name of the country, if any
  - h. abstract
  - i. drawing, if any

Where necessary, the applicant may request in writing to the Registrar for publication of patent and utility model certificate before eighteen (18) months and also may request to postpone the publication. The Registrar shall check the requests and respond in writing and state the reason in case refusal.

With reference to the Article 27 (8) of this Declaration, third party shall be entitled to file the opposition against any published patent and utility model certificate application within three (3) months from the date of publication.

#### **Article 28.\_ Examination as to Substance**

Examination as to substance shall be executed as following:

1. The Registrar shall communicate the decision to the applicant in writing.
2. Refer to Article 37 of the Law, the Registrar shall take into account of search and examination reports which was carried out by searching authority and other as requested himself.
3. Where, taking due account of the conclusions of the search and examination report referred to in paragraph 2 of this Article, if any, the Registrar is of the opinion, that the conditions referred to in Articles 23 of the Law are not fulfilled, he shall notify the applicant, in writing, inviting him, to submit his observations and, where applicable, to amend or divide his application, within a period not more than five (5) months from the date of the invitation. The invitation shall be made on Form prescribing by Ministry of Industry and Handicraft; it may be made several times, if necessary.
4. Where the applicant does not comply with the said invitation or where, despite any observation, amendments or division submitted by the applicant, the Registrar is of the opinion that the conditions referred to in Articles 35 and 36 of the Law are not fulfilled, he shall refuse to grant the patent and utility model certificate.
5. Where the Registrar is of the opinion that the conditions referred to Article 38 new of the Law and this Declaration are fulfilled, he shall grant the patent and utility model certificate in accordance with Article 39 of the Law and Article 30 of this Declaration.
6. The Registrar shall notify the applicant, in writing, of his decision to grant or to refuse to grant a patent and utility model certificate, attaching a copy of the search and examination report, if any,

upon which the decision is based and, in the case of a decision to grant a patent, requesting the applicant to pay the grant fee within three (3) months from the date of the notification.

#### **Article 29.\_ Decision to Grant or Refuse to Grant of Patent and Utility Model Certificate**

Decision to grant or refuse to grant of patent and utility model certificate shall be executed as following:

1. Where two or more applications for grant of a patent and utility model certificate for the same invention are filed by different applicants and where the applications have earlier filing or priority date, where the application have not been withdrawn, the Registrar shall grant the patent to the application claiming the characteristics of the invention that was first filed or that claims the earlier priority date.
2. The Registrar shall notify the applicant, in writing, of his decision to grant or to refuse to grant a patent and an utility model certificate; in the case of a refusal, the Register shall state the reasons therefore; in the case of a decision to grant, the Registrar shall request the applicant to pay the grant fee referred in paragraph 6 of Article 28 of this Declaration.

#### **Article 30.\_ Grant of Patent and Utility Model Certificate; Publication; Issuance of Certificate**

Grant of patent and utility model certificate, publication, issuance of certificate shall be executed as following:

1. Subject to the payment of the grant and the utility model certificate within the period prescribed in paragraph 6 of Article 28 of this Declaration, the Registrar shall proceed to grant the patent and the utility model certificate, in accordance with Article 39 of the Law and this Article.
2. The Registrar shall allot to each patent and utility model certificate he grants a number i.e., publication number of the patent and utility model certificate in the sequential order of grant.
3. The patent and utility model certificate shall be granted on Form prescribed by the Ministry of Industry and Handicraft and shall contain the date of publication of the patent and utility model certificate, the documents or references cited of the prior art, the description, the claims and the drawings if any and added to the information indicated in paragraph 5 of this Article.
4. The patent and utility model certificate shall be deemed to be granted on the date the Registrar publishes a reference to the grant in accordance with paragraph 1 of Article 39 the Law.
5. The publication of the reference to the grant of the patent and utility model certificate shall include:
  - a. the number of the patent and utility model certificate;
  - b. the name and address of the owner of the patent and utility model certificates;
  - c. the name and address of the inventor, except where he has asked not to be named in the patent and utility model certificates;
  - d. the name and address of the agent if any;
  - e. the filing date;
  - f. if priority has been claimed and the claim has been accepted, a statement of the priority, the priority date and the name of the country or countries in which or for which the earlier application was filed;
  - g. the effective date of grant of the patent and utility model certificate; h- the title of the invention;
  - h. the abstract;
  - i. the most illustrative of the drawings, if any;
  - j. the symbol of the International Patent Classification.
6. The certificate of granting of patent and utility model certificate shall be issued on Form prescribed by Ministry of Industry and Handicraft and shall contain:
  - a. the number of the patent and utility model certificate;
  - b. the title of invention;
  - c. the application number;
  - d. the filing date;
  - e. the priority dates;

- f. the name and address of the owner;
- g. the date of grant.

### **Article 31.\_ Annual Fees**

Annual fees shall be executed as following:

1. Upon payment of an annual fee in accordance with Article 46 of the Law, the Registrar shall, within three (3) weeks from the date payment is received, furnish or send to the applicant or to the owner of the patent and utility model certificate a receipt of payment.
2. The Registrar shall record and publish a notification of the lapse of a patent and utility model certificate.
3. Annual fees shall not be refundable.

### **Article 32.\_ Exploitation by Government or by Third Persons Authorized by Government**

In accordance with the article 47 of the law, Minister may decide and choose the state institutions or third person to exploit the patent even without permission from the patent owner in the following cases: Exploitation by Government or by third persons authorized by Government shall be executed as follows:

1. the necessity to serve the public interest especially national security, health nutrition or serve as the development of national economy or;
2. the competent court has ruled that the manner in which the business is conducted by the owner or licensee is against the unfair competition.

Such business shall be carried out for the purpose authorized and shall pay reasonable compensation to the owners in respect of the economic value as determined in the Minister's approval.

1. The Minister shall, before making a decision under Section 11 of Chapter 2 of the Law, at least twenty one days' (21) written notice of the date on which they may be heard; the owner of the patent and utility model certificate shall give all licensees written notice of the hearing and they shall have the right to participate therein.
2. The Minister shall make his decision after the hearing, in writing, stating the grounds upon which it is based, and, if he has decided that the invention shall be exploited under paragraph 1 of Article 47 of the Law, stating the terms of exploitation, and shall transmit the decision to the Registrar.
3. The Registrar shall record and publish the decision of the Minister and, in writing, notify the owner of the patent and the other participants in the hearing.
4. If the decision of the Minister is the subject of petition to the Competent Court, the Competent Court shall notify the Registrar of the court's decision once it becomes final, and the Registrar shall record the decision and publish it.

### **Article 33.\_ Non-Voluntary Licenses**

Non-voluntary licenses shall be fulfilled the condition as following:

1. An application for non-voluntary license under Section 12 of Chapter 2 of the Law, shall be made on prescribed Form prescribed shall be accompanied by a statement in duplicate of the facts upon which the applicant relies and evidence in duplicate verifying the statement.
2. The Minister shall, within three (3) months from the date of the request for grant of a non-voluntary license, examine whether the requirements of Articles 56 or 59 of the Law and paragraph 1 of this Article are, prima facie, satisfied; if he finds that the requirements are not satisfied, the Minister shall reject the request and, in writing, notify the person requesting the non-voluntary license, stating the grounds for the rejection; if he finds that the requirements are satisfied, the Minister shall forthwith send a copy of the request to the patent owner, to beneficiaries of non-voluntary licenses and to persons exploiting the patented invention under Article 59 of the Law and invite them to submit observations thereon, in writing, to the Minister within three (3) months of the date of the invitation.

3. The patent and utility model certificate owners shall forthwith, in writing, notify all licensees, of the request, and the licensees shall have the right to submit observations thereon, in writing, to the Minister within three (3) months of the date of the invitation issued under paragraph 2 of this Article.
4. The Minister shall forthwith notify the person requesting the non-voluntary license of any observations submitted under paragraphs 2 and 3 hereof.
5. The Minister shall then convene a hearing to which it shall invite the person requesting the non-voluntary license, the patent and utility model certificate owners and the persons who submitted observations under paragraphs 2 and 3 of this Article, giving them at least one-month's written notice of the date set for the hearing.
6. After the hearing, if the Minister finds that the conditions for the grant of a non-voluntary license are fulfilled, Minister shall grant the license; otherwise, Minister shall refuse it.
7. The decision to grant or to refuse a non-voluntary license shall be in writing and shall state the grounds upon which it is based; in the case of a decision to grant the non-voluntary license, shall specify, in particular:
  - a. the period of which the license is granted;
  - b. acts referred to in Article 42 of the Law the license extends;
  - c. the time limit within which the beneficiary of the non-voluntary license must commence exploiting the patented and utility model inventions;
  - d. the terms regarding payment of remuneration to the owner of patent and utility model certificates.
8. The Registrar shall record and publish the decision to grant or to refuse the non-voluntary license and transmit a copy thereof to the person requesting the non-voluntary license, the owner of the patent and utility model certificate and the persons who submitted observations under paragraphs 2 and 3 of this Article.

#### **Article 34.\_ Invalidation**

Invalidation shall be executed as following:

1. Where the provisions of Section 13 of Chapter 2 of the Law apply only to some of the claims or some parts of a claim, such claims or parts of a claim shall be invalidated.
2. The patent and utility model certificate owner shall, in writing, notify any licensee of any court proceeding instituted for the invalidation of the patent and utility model certificate; the person requesting invalidation shall so notify any beneficiaries of authorizations granted under Section 11 of Chapter 2 of the Law and, where the ground of invalidity invoked is that the patent owner is not the inventor or his successor in title, also the person alleged to have the right to the patent and utility model certificate.

#### **Article 35.\_ Change in Ownership, License Contracts**

Change in ownership, license contracts shall be executed as following:

1. The request, under Article 114 of the Law, for the recording of a change of ownership of a title granted under the Law or of an application there for shall be made to the Registrar on prescribed Form;
2. The publication of the change of ownership shall specify:
  - a. the title of protection concerned;
  - b. the filing date, the priority date, if any, and the date of registration or grant;
  - c. the owner and the new owner; and
  - d. the nature of the change of ownership.
3. A license contract submitted for recordal under Article 115 of the Law shall be subjected to the payment of prescribed fee.

### **Article 36.\_ Agents**

Agent shall be executed as following:

1. The appointment of an agent under Article 116 of the Law shall be appointed by a power of attorney which shall be signed by the applicant or, if there are more than one, by each applicant. The address of the agent shall, for all purposes connected with the Law and these Regulations, be treated as the address to which communications to the person or persons who appointed the agent shall be transmitted.
2. A power of attorney stating in paragraph 1 of this Article shall accompany with application or shall submit within two (2) months from the filing date.
3. If the appointment of power of attorney is not made in accordance with paragraph 2 of this Article and Article 116 of the Law, any procedural steps taken by the agent, other than the filling of application, shall be deemed not to have been taken.
4. Any requirement related to agent represented the applicant as provided for in, paragraph 1 of this Article shall be prescribed by Ministry of Industry and Handicraft.

### **Article 37.\_ Excluded Day**

When the last day for doing any act or taking any proceeding falls on Saturday, Sunday or a day when the Companies and the Registration Department is not open to the public for business, it shall be lawful to do the act or to take the proceeding on the day when the Office is next open for business.

### **Article 38.\_ Extracts the Information and Corrections of Errors**

Extracts the information and corrections of errors shall be executed as following:

1. Requests for certified copies of extracts from a Register or copies from documents shall be made to the Registrar in writing.
2. Corrections of errors, under Article 120 of the Law, may be made by the Registrar upon receipt of a request in writing and subject to such terms as he may consider appropriate, or on his own initiative. Corrections was made shall be communicated in writing to all interested persons, and, where considered necessary, shall be published by the Registrar.

### **Article 39.\_ Hearing**

Hearing shall be executed as following:

1. Before exercising adversely to any person any discretionary power given to the Registrar by the Law or this Declaration, the Registrar shall notify such person, in writing, of the opportunity to be heard thereon, and indicating a time limit, which shall not be less than one (1) month, for filing a request for a hearing.
2. The request for a hearing shall be in writing.
3. Upon receiving such request, the Registrar shall give the person applying, and any other interested persons, at least two (2) weeks before hearing, in writing, of the date and time of the hearing.

### **Article 40.\_ Service by Mail**

Service by mail shall be executed as following:

1. Any notice, application or other document sent to the Registrar by mail shall be deemed to have been given, made or filed at the time when it would be delivered in the ordinary course of the mail. In proving such sending, it shall be sufficient to prove that the letter containing such notice, application or other document was properly addressed and sent by registered mail.
2. Paragraph 1 of this Article does not apply to the accordance of the filing date.

#### **Article 41.\_ Evidence**

Evidence shall be executed as following:

1. Where under this Declaration, evidence may be filed; it shall be by statutory declaration or affidavit.
2. The Registrar may, if he thinks fit, in any particular case, take oral evidence in lieu of or in addition to such evidence and shall allow any witness to be cross-examined on his affidavit or declaration.

#### **Article 42.\_ Statutory Declarations**

Statutory declarations shall be executed as following:

1. Any statutory declaration or affidavit filed under the Law or this Declaration shall be made before any officer authorized by law in any part of Cambodia to administer an oath for the purpose of any legal proceedings.
2. Statutory declarations or affidavits made outside Cambodia shall be made before official of Consulate or official of the Embassy of the Kingdom of Cambodia to those countries.

#### **Article 43.\_ Official Gazette**

Particulars of patents, utility model certificates and other proceedings under the Law and any other information required to be published under the Law or this Declaration and related regulation shall be published, in accordance with the directions of the Registrar, in the Official Gazette.

#### **Article 44.\_ Fees**

The fees to be paid for granting of patent and utility model certificate under the Law or this Declaration shall be prescribed in inter-ministerial declaration of the Ministry of Economy and Finance and the Ministry of Industry and Handicraft.

#### **Article 45.\_ Settlement of Dispute**

The Department of Industrial Property shall have competent to establish mechanism for settlement of dispute related to the grant of patent, utility model certificates as necessary.

#### **Article 46.\_ Cooperation**

Department of Industrial Property shall cooperate with national, international organizations and concerning institutions for promoting the protection of industrial property and develop patent and utility model systems.

### **SECTION 3**

#### **INVENTION RELATED TO COMPUTER SOFTWARE**

#### **Article 47.\_ Invention Related to Computer Software be executed**

Invention related to computer software shall be executed as following:

1. Under paragraph 3 of Article 3 of the Law stating “an invention may be, or may relate to, a product or a process” shall include:
  - a. process inventions which, in whole or in part, consist of steps that are performed by computer and are directed by a computer; and
  - b. product inventions consisting of elements of a computer-implemented invention, including in particular:

- machine-readable computer program codes stored on a tangible medium such as a floppy disk, computer hard drive or computer memory; and
  - a general purpose computer whose novelty over the prior art arises primarily due to its combination with a specific computer program.
2. Applicants who have filed patent applications for computer programs and computer-related inventions listed in paragraph 1 shall be considered as having waived from their right of seeking copyright protection, if available, under article 10(1) of TRIPS Agreement.

## SECTION 4

### TRANSITIONAL PROVISION

#### **Article 48.\_ Invention Related to Pharmaceutical Products**

An invention related to pharmaceutical products shall be executed as following:

1. Application for patent claiming inventions of pharmaceutical products referred to in Article 136 new of the Law, may be filed to Registration Department, in accordance with Article 16 of the Law and concerned provisions concerned to the Law and this Declaration, from the date of signed this Declaration.
2. The applications mentioned in paragraph 1 of this Declaration shall examine in accordance with the provisions of Section 6 and 7 of Chapter 2 of the Law after the expiry of the transitional period established in Article 136 new of the Law.
3. As of the entry into force of the Law, the criteria of patent ability as laid down in Articles 4, 5, 6, 7, 8 and 9 shall applied to the applications mentioned in paragraph 1 and 2 of this Article, as if those criteria were being applied on the date of filing in the Kingdom of Cambodia or, where priority is available and claimed, the priority date of the application.
4. The applications referred to in paragraph 1 and 2 of this Declaration shall be granted patent protection in accordance with the Law as from the grant of the patent and for the remainder of the patent term, counted from the filing date in accordance with Article 45 of the Law, for those of these applications that meet the criteria for protection referred to in paragraph 3 of this Declaration.

## SECTION 5

### FINAL PROVISION

#### **Article 49.\_ abrogation**

Any provisions which is contrary to this Declaration shall be abrogated.

#### **Article 50.\_ Implementing Authorities**

Chief of cabinet, general director, general inspector, director of center, director of the department of industry property, director of department of accounting and finance and all units under the Ministry of Industry and Handicraft and legal and natural persons shall implement this Declaration.

#### **Article 51.\_ Entering into Force**

*Translation by Abacus IP*

This Declaration enters into force from the date of signing.

Phnom Penh, dated 01 October 2019

**Senior Minister**

**Minister of the Ministry of Industry and Handicraft**

[Seal and Signature]

**Cham Prasidh**

**CC:**

- Cabinet of Samdach DekCho, Prime Minister
- Cabinet of Samdech Kralahom, Deputy Prime Minister
- Council of Ministers
- Ministry of Economy and Finance
- Ministry of Commerce
- All ministries and concerned institutions
- Municipality- provincial
- As the Article 50
- Document - Achieve