

PREFACE

The Royal Government of the second mandate had declared and has been implementing a comprehensive reform program on the interconnected pillars: Economic and Financial, public administrations, military and Juridical systems. At the end of 1999, under the framework of public finance reform introduced by the Ministry of Economy and Finance, the Customs and Excise Department (CED) has prepared a paper on "Action Plan and Reform Program of the CED of Cambodia"¹, which is a baseline initiative and starting point of the reform and modernization of the Cambodia CED.

The period of three years has passed, and the result of implementation of the above action plan was considerably fruitful. At the same time, some of the action plans were not completely implemented on schedules because of some objective difficulties.

The year 2002 was the significant one, which was an anticipation of achievements on pushing forward the reform and modernization program for future implementation as the head of the Royal Government gave approval to "invest" in reform of the CED in order to modernize this organization, both in term of human and material resources for delivering high quality service to the Royal Government and public clients, as other Customs Organizations in the region. These were sound reasons under which the CED decided to review and revise the "Reform Strategy and Work Plans of the CED" to a paper on "Strategy and Work Programs of Reform and Modernization of the CED of Cambodia for the period 2003-2008" in which development, recent requirements and some experiences resulting from the implementation of the previous three years reform program were included. Moreover, long term vision until 2008 was included in this revised strategy and work program. Therefore, further detail work programs may be developed within the period of each two years. This process will be carried out as "Two Year Rolling Work Program" in which new strategies and work programs will be included in accordance with new developments and requirements, including funding availability for their implementation.

¹ Annual Report 1999, Customs and Excise Department

The constant support and attention to this reform initiative, especially the marvelous recommendations and guidance of *Samdech Hun Sen*, Prime Minister of the Royal Government of Cambodia, and of the Senior Minister, Minister of Economy and Finance are the warmly encouraged factors for the CED which is continuing to consolidate its best efforts and resource both human and material to overcome difficulties and obstacles in order to achieve the successful implementation of the Reform Strategy and Work Programs of Cambodia CED.

***DELEGATE OF THE ROYAL GOVERNMENT
IN CHARGE OF THE DIRECTOR OF THE CUSTOMS
AND EXCISE DEPARTMENT***

Introduction

This paper represents the second Reform Strategy and Work Programs which was prepared and published by the CED. In general the core objective of the Reform is to create a modern customs administration with international standard and practices for effective performance of its functions and responsibilities. As complement to the first document on Reform, this paper is the framework paper on Reform of Customs Administration for the period of 2003-2008.

The structure of this paper comprises of Strategic Objectives on key customs areas and Work Programs which describe detail tasks for implementation to achieve the objectives. There are 13 Strategic Objectives which contain more than 70 Work Programs. It is important to note that most of the Strategic Objectives are the continuity of the Key Objective set forth in the first Reform Paper mentioned above. However, in this paper under those 13 Strategic Objectives there are detailed Work Programs the implementation of which is key steps toward the set objectives. In general, the successful implementation of Work Programs under certain Strategic Objective is the achievement of that particular Objective, and subsequently is step toward overall or core reform objective mentioned above.

The preparation and implementation methodology of the Reform Strategy and Work Programs includes its break down into three stages each of which consists of a two-year period (2003-2004; 2005-2006 and 2007-2008). Therefore, in accordance with specific needs, under each of the Strategy additional Work Programs definitely will be identified and included. This paper also includes annexes which form an integral part of the reform document. Some of the annexes are the results of the implementation of the first Reform Strategy and Work Plan mentioned above. For the purpose of reducing the volume of this paper contents of some annexes have been cut off while keeping only their substantial parts. Some of the annexes are excerpts from the reports made by national and international experts, in particular, parts relevant to recommendations. Due to time constraint some parts of the reports have been cut and attached as annexes without changes and translation into Khmer. For ease of reading and reference, a summary of this paper in the form of a table has been prepared and attached as Annex 1.

1. Strengthening Revenue Collection

Revenue collected by the CED is an important source of national budget. It is amounted nearly 80% compared to the total tax revenue. The integration of Cambodia economy into the regional and world economy in particular, liberalization of Cambodia trade under ASEAN and WTO, the customs duties will steadily decrease. The import duty compared to the total revenue collected by customs was approximately 47% and 42% in 1999 and 2000 respectively. For comparison, these figures were 38% and 30% in 2001 and 2002. Based on the above trend, the Royal Government of Cambodia and Ministry of Economy and Finance have taken measures to strengthen and extend the local tax bases to compensate customs revenue that will gradually decrease and also to develop the tax revenue not depending on the customs revenue. However, the figure of economic development in Cambodia at present shows that the tax base is still weak, therefore the national budget still strongly depends on revenue generated from international trade.

Consequently, to effectively handle the role of collecting revenue, the Customs and Excise Department has taken several crucial measures as follows:

- a).** *To implement the government's orders to prevent and combat smuggling by closely cooperating with military, police and local authorities.*

Smuggling has been negatively affecting the legitimate trade, the local production and national revenue. So far, the Royal Government has issued several orders and regulations for the purpose to enhance the effectiveness of the anti-smuggling operations. Although the operation to combat smuggling was slightly successful, the routes and causes of smugglings are extremely complicated, therefore the measures to prevent and combat smuggling have met many obstacles.

Referring to the framework of Memorandum of Economic and Financial Policies - MEFP, the prevention and suppression of smugglings have been considered as a priority. In this context the Head of the Royal Government issued an order (Order No. 02 BB dated 19 December, 2001)² governing the establishment and function of a

² The Royal Government Order No 02 BB dated 19 December 2001 is attached as Annex 2

mixed committee to prevent and suppress smuggling efficiently and effectively in the whole country.

The Customs and Excise Department (CED) is the key organization in prevention and suppression of smuggling in the Committee which has been trying its best in terms of ability and capacity including human, material resources, and has got close cooperation with institutions concerned. Those are important factors and conditions in successfully implementing the government's order of prevention and suppression of smugglings.

- b).** *To Cooperate with the Tax Department in Disseminating and Exchanging Information of the Enterprises for the Purpose of Strengthening their tax Discipline and Obligation.*

The exchange of information between fiscal agencies is an important task, particularly in the target of establishing an integrated tax system. This task is not only to enable us in audit implementation on importation and exportation companies and enterprises, in addition it is also the reliable and coherent business information systems which are important factors in managing and strengthening tax discipline and obligations of the business companies.

The CED will continue to cooperate with the Tax Department in exchanging information of big enterprises' activities, especially concerning legal persons, which are the target of investigating or auditing. The procedures and framework on exchanging information are spelt out in the Prakas of the Ministry of Economy and Finance.

Exchanging information for long-term targets will be implemented by using electronic means through installing computer network between the Customs and Excise Department and the Tax Department.

- c).** *To Implement the Precise and Flexible Measures on Several Sensitive Goods to Ensure the Revenue Source.*

At least, nearly one third (1/3) of revenue collected by the CED is based on several sensitive goods. Therefore, revenue collection strategy at this stage should be based on careful and well-balanced approach. The adoption of the administrative measures, fiscal and tax policy reform, and local production development are influential to the variability of trade patterns, in particular, the importation for both domestic consumption and re-exportation.

Additionally, in the near future the customs duties will continue to steadily reduce compared to the total tax revenue in the framework of tariff restructuring reform and integration into AFTA and WTO.

Based on this situation, the CED shall analyze and raise several recommendations to the Ministry of Economy and Finance to consider and decide on several policy measures to maintain revenue sources to be equally compensated with the reduced trend of import duty.

2. Enhancing Legal Framework

The very important task for this point is to focus on development and implementation of a modern Law on Customs and concerned regulations that are the foundation for customs operations to meet the international standard and practices.

In the framework of integration of Cambodia economy into the regional and world economy, Cambodia must amend its legal system to meet international standard. This is to ensure that the participation and implementation of international agreements and conventions to which Cambodia became the contracting party, several laws of Cambodia must be amended and developed.

The draft Law on Customs was sent to the Council of Ministers in 1998 and then sent back for review and improvement. With technical support from the IMF, the new draft Law on Customs has been developed, while several regulations will be prepared to support the implementation of the new Law. This task is considered as a key priority among others, which must proceed in accordance with the set timeframe. In this aspect, the CED has set the work programs as follows:

a). *To develop a new Draft Law on Customs*

The CED in close cooperation with the IMF experts has drafted the new Law on Customs. With further participation from resident customs advisor and national experts under TCAP project, the first draft of Law on Customs has been drawn up and submitted to the Law on Customs Committee for review and comments before sending its to Minister of Economy and Finance for approval. As a result, the draft Law on Customs was sent to the Council of Ministers and after several inter-ministerial meetings got approval on 27 December 2002. The

Council of Ministers has further forwarded the Draft Law to the National Assembly on 15 January 2003.

In Drafting the New Law on Customs three principles and guidelines have been maintained as follows:

- The new Law on Customs has to be simple, precise and easy to enforce.
- The new Law on Customs has to meet international standards (to include provisions and agreements concerning Customs matters).
- The new Law on Customs has to reflect the development patterns in Cambodia.

b). *To Draft Sub-decrees and Prakas for the Purpose of Law Implementation.*

Referring to the provisions of new Law on Customs, several Sub-decrees and Prakas will be prepared to implement the new Law.

After the draft Law on Customs was sent to the Council of Ministers, the draft Sub-decree and Prakas concerned will be drawn up. In this case, the CED has created a Working Group on Drafting Relevant Regulations for the Law on Customs³. This WG works in close cooperation with IMF experts, national experts and Law Committee to draft the relevant Sub-decrees, Prakas and Circulars (total number is 51 regulations). The Law on Customs including Sub-decrees, Prakas and Circulars concerned will be compiled into a set of documents to enable their easy, smooth and effective implementation.

c). *To Organize Training Courses on New Law on Customs to Customs Officers.*

The new Law on Customs would bring the new operations under which several procedures will need to be amended. Therefore, this task needs to train customs officers and also business clients. In general, the training has to be under the package of preparation to implementation the new Law. In this context the CED has included the training courses of new Law on Customs including Sub-decrees and Prakas concerned into its annual training program and has considered them as priority training courses.

d). *To Translate and Publish Law on Customs*

The new Law on Customs including Sub-decrees, Prakas and Circulars concerned will be translated and published into English to enable the comprehensive

³ Composition and responsibilities of the Working Group have been stipulated in Customs Order No. 1064 CE dated December 16, 2002. See Annex 3 of this document.

awareness and understanding by the public, both national and international level, and government officials.

The CED has to endeavor seeking budget for implementing this task efficiently and effectively. The documents compiled as mentioned in **(b)** above can be used as a guidebook or Manual of implementation of Law on Customs. The contents and structure of the Manual on Law on Customs and its related Regulations could be prepared as outlined in the attached Annex 4 of this paper.

3. Improvement of Trade Statistic System and Revenue Analysis

Trade statistics is very important for analyzing and setting up economic policy including fiscal, investment, industrial, agricultural and trade policies. The information and commercial data are also the important elements for companies and businessmen to formulate their business strategy and targets. Recognizing the importance of trade statistics, the CED has introduced the program to improve statistic system and has achieved good results. The discrepancies and weaknesses of statistic compilation have been reduced. The statistic formats and reports in English have been timely produced. On the other hand, since 1999 the CED has issued Annual Reports which also contain necessary statistics data as well.

However, the statistic data system needs to be further improved as in term of data speed input and security system, and more importantly the establishment of an automated data collection system.

Referring to this objective the CED has set work programs as follows:

a). To Evaluate the Current Data Collection System

The current system of data collection was established just two years ago. During this period changes and improvement have been made, and now it is time that the CED should carry out significant upgrading this system. To make known its strengths and weaknesses, it should be studied and evaluated to introduce changes and improvement. The good alternative for this task is to create a working group whose responsibilities are to study and evaluate and to raise recommendations for the purpose of data collection system improvement. In cases of necessity, assistance by experts from overseas is needed, and to regularly consult with the two experts from the Economic and Finance Institute of the

Ministry of Economy and Finance who were the founders of data collection system. In general, the assessment and recommendations may be carried out in the following aspects:

- Reporting formats
- Security and accuracy of data inputs
- Basic automation
- Networking
- Data transfer and processing
- CED's ownership of the system
- Others

The working group and experts have to further consider other necessary points and options to improve statistic collection system.

b). *Installing Computers and Program for the Modern Statistic Works:*

To strengthen and improve this statistic system, it is required to further equip with more computers. Under the TCAP project, there is element on the installation of computers and programs to improve the statistic system. But there is a delay to carry out this project. In case of this delay the CED has been able to find other sources to partially upgrade and improve statistic collection system, however, this work needs further support so that the statistic system and data collection will reach perfection form and stage.

c) *To implement Recommendations of Study and Assessment of the Statistic System*

Referring to the recommendations of the study and assessment mentioned above, the CED has to seek budget sources including the commitment under the TCAP or technical assistance under PSI contract to implement recommendations.

This work includes the hiring of experts to improve the software, connecting network, train and transfer knowledge to customs officers who would manage this work.

d) *To Provide the Training Courses to the Officials of Trade Statistic and Revenue Analysis.*

Previously, the CED has organized training courses for its customs officers in the areas of data inputs and retrieving reports of international trade statistics. The IMF Customs Advisor to the CED has provided training courses to officials on revenue analysis. When the strengthening and improving this system has been

implemented following recommendations of the study and assessment as mentioned in (a), (b), (c) above the CED should organize new training courses on data inputs, data transfer and processing, data reporting and retrieving and system maintenance to customs officers.

The revenue analysis is very important to reveal the reasons and causes of issues as well as the strengths and weaknesses of the customs duty and tax collection. The revenue analysis should include also recommendations and measures to enhance duty and tax collection.

e). *To Regularly Produce Trade Statistics and Revenue Analysis.*

Previously, the publication and dissemination of trade statistics were not produced in the timely basis. Therefore, in accordance with objective and outcomes of work programs in this area publication of trade statistics would be improved both in term of data quality and timeliness. With assistance and support of the IMF customs advisor, the monthly revenue analysis is prepared and produced in both Khmer and English, and the CED has took full ownership of this initiative. The CED should publish regularly the quarterly and annually trade statistics in the timely manner for dissemination to concerned institutions.

4. **Implementation of Tariff Restructuring and ASEAN Harmonized Tariff Nomenclature**

With the objective to facilitate trade, the Ministry of Economy and Finance has decided to reform tariff restructure as recommended by the IMF. The purpose of restructuring is to simplify customs duties from 12 tariff bands to 4 tariff bands, to reduce the maximum duty rates from 120% to 35% and the un-weighted average rate to below 15%.

The first phase of tariff restructuring was completed, and new simplified customs tariff book was put in place since July, 1st 2001. The simple average rate has been reduced then from 17.4 % to 16.4%.

The second phase of tariff restructuring is to reduce the average rate to be under 15%, but the 35% maximum rate should be maintained. Options and method to implement the second phase of restructuring are taken into account within the context of revenue neutrality as recommended by the IMF to increase excise rates to compensate reduced customs duties could not apply to all commodities concerned.. However, it is important to note that the IMF experts'

recommendations and options are considered and used by the Tariff Working Group as the basis for implementation of tariff restructuring in the second phase.

It should be noted that another important work to be carried out in parallel with the second phase of tariff restructuring is to harmonize Cambodia tariff nomenclature with ASEAN Harmonized Tariff Nomenclature (AHTN), which was developed through the integration and incorporation of national tariff nomenclatures of ASEAN members and adoption of the WCO's HS-2002.

In the process of these two works mentioned above (tariff restructuring and adoption of AHTN), the CED has to use this opportunity to conduct a comprehensive review and suggest recommendations to revise the tariff policy on several goods or categories of goods the duty and tax rates of which were set since 1993.

To achieve the above stated objective, generally, the CED has identified its work programs as follows:

a). To Study on Impact of Tariff Restructuring on revenue

The tariff restructuring will have important impacts on revenue. Therefore, in carrying out this work program, following scenarios and issues need to be considered:

1. Based on trade point of view, the simplification of duty rates from 12 to 4 tariff bands makes the tariff structure simple and easy to apply, and the reduction of tariff rates means to reduce the trade barrier as well.
However, as compensation measures, the increase of specific tax (or excise tax) from 4 to 12 bands is making the tariff and tax structure equally complicated.
2. From the point of views of the industry and investment, the reduction of customs duties may put the protection of local production and investment in the margin. The customs duty rate at 35% maximum and 16.4% average rate at present, and with further objective to reduce this average rate under 15% in the near future, is very low duty rate for Cambodia as a least developed country. In addition, the increase of special tax (excise) is the additional burden to the local (domestic) production, particularly to the small and medium enterprises, which are in the infancy stage of development. Low import duties and high special tax are not favorable conditions to protect local industry. The customs

duties are the only legal instrument for effective protection of local production and investment. Nowadays, although traditional protectionism has been reduced, some countries which used to maintain and benefit the protectionism policy in the past, have now modified or transferred this policy from tariff policy to subsidy policy.

3. Based on the concept of fiscal, the reduction of customs duties would decrease revenue, but to increase special tax would also increase revenue as well.

In general, this is a triangle of issues regarding the reform of duty and tax. The first and second points are subjected to more detail study to look for the medium and long-term impacts. Besides, although the third point will have immediately impacts, study and analyses in term of balancing revenue and trade trend⁴, particularly the option and extend to raise special tax to compensate the decreased customs duties. This point is very important to formulate the objective and methodology in the second phase of tariff restructuring.

b). To Harmonize Cambodia Tariff with AHTN:

To harmonize Cambodia tariff nomenclature with AHTN is an important work to be accomplished at the same time with the tariff restructuring. This work is a good progress for Cambodia as the AHTN includes the amendments of the WCO's HS 2002. On the other hand, this is also an accomplishment of the obligation of Cambodia as an ASEAN member as well as a contracting party of the International Convention on the Harmonization of Commodity Description and Coding System known as the Harmonized System or HS, which Cambodia became a contracting party in 2002. Currently, Cambodia tariff consists of 6823 tariff lines and AHTN consists of 10689 tariff lines. The harmonization of the national tariff nomenclature with AHTN includes the correct transposition of duty and tax rates, translation into Khmer, change the computer statistic system etc. The new AHTN consistent tariff nomenclature was planned to introduce from July 1st, 2003. However, due to the scope of works, including some technical issues, and the delay of signing the

⁴ Some people express views that reduction of customs duties may lead to trade increase, and as a result, it might cause revenue increase, too. Therefore, study and analysis should focus on changing pattern of demand and supply as well as the absorptive capacity and extend of Cambodian market.

Protocol Governing the Implementation of the AHTN by ASEAN Finance Ministers, the application of the AHTN has been re-scheduled to January 1st 2004.

c). *Reduction of un-weighted average rate to below 15%*

This Work Program is to be implemented in the 2nd phase of tariff restructuring. To achieve the set objective (by keeping maximum tariff rate at 35%, but reducing simple average to below 15%), the method used in the first stage could not be or could be only partially used in this stage. To maintain revenue neutrality while reducing the un-weighted average rate below 15%, duty rates of commodities which are not in trade or from which little revenue is generated, and are of those related to raw materials for local industry could be reduced. Commonly speaking, this is an opportunity to accomplish a comprehensive rationalization of the duty and tax rates on commodities adopted since 1993.

d). *The Publication of New Customs Tariff Nomenclature*

The new Customs tariff nomenclature which incorporates changes of the 2nd phase of tariff restructuring and the AHTN should be published in November 2003 to enable its implementation from January 1st 2004. The CED will have to decide on formats of the new customs tariff book whether it is in hard copy and/or CD-ROM for facilitating the users.

e). *To Organize the HS and AHTN Training Courses*

To ensure the smooth implementation of new customs tariff, the CED should provide training courses to customs officers and traders in second semester of 2003. As mentioned above, the CED has already included the training courses on HS and AHTN in its Annual Training Plan. At least, this training project can absorb numbers of government officials from concerned institutions such as customs, Camcontrol, Ministry of Industry, Mines and Energy and CDC (up to 300-400 officers). In addition to the above numbers, customs brokers and trade representatives (about 120 to 150 persons) would be able to attend the training courses. Training on HS and AHTN will be continuing in accordance with new changes and development in agriculture, industry, technology and trade, and also with experiences in their implementation which requires improvement and justifications.

5. Simplification and Modernization of Customs Procedures

Membership of Cambodia in ASEAN, WCO and, eventually in WTO, will require to reform the current customs procedures in order to promote trade facilitation and improve work efficiency and effectiveness of CED. This task could be started with review and simplification of customs procedure, and to introduce standards of best practices stipulated in the Revised Kyoto Convention on the Harmonization and Simplification of Customs Procedures to which Cambodia will become a contracting party in the near future. Meanwhile, the simplification and standardization of customs procedures is also part of Cambodia's obligation and commitments under regional and international agreements, such as the ASEAN Framework Agreement on the Facilitation of Goods in Transit, International Convention on Temporary Admission, and the commitments of Cambodia to WTO etc.

The simplification is the first step of modernization of customs procedure. It is impossible to implement the automation of customs procedures without reducing and standardizing customs processes. Therefore, this task is very important in the reform and modernization program of Cambodia CED. To handle this strategy, the CED will implement Work Programs as follows:

a). *To Review and Simplify the Current Customs Procedures*

In order to simplify customs procedures, the CED initially has to review and evaluate the procedures currently in place, and raise recommendations for improvement, including the introduction of best practices. In this case, the CED should conduct the process review in collaboration with the IMF customs advisor and national experts under TCAP project. This task, which should cover major customs offices and branches, has to be accomplished by the end of the third quarter of 2003. The report and recommendations of this review have to be submitted to the Director General of the CED for approval. A draft sample process review report for Sihanouk Ville and Tumnop Rolork is attached as Annex 5.

b) *To Implement the New Simplified Customs Procedures*

The implementation of the new customs procedures should start with the preparation of legal basis including Ministerial Prakas and Government Sub-Decrees. This task will also require reform of administrative procedures and

structure of the CED and its customs offices, branches and sub-branches. The scope and coverage of new customs procedures will also cover the work of the other Government institutions involved which in turn will require to adjust and conform with the new procedures and processes.

Subject to the decision of Ministry of Economy and Finance on recommendations of the review and the need to implement new customs procedure, the CED will need to prepare the necessary regulations and conduct an awareness and training program, including the publication and seminar etc.

c). *Review, Assessment and Recommendation on PSI*

The PSI contract which was concluded by the Royal Government and SGS on August 14, 2000 will expire in October 2003. Many experiences and lessons have been learnt during its three years implementation. In accordance with development in the region and the world, and in the context of Cambodia membership in the WTO, the CED should review and assess the PSI mechanism, and make recommendations on steps to be followed in the future which should be in conformity with the WTO Agreements and Cambodia commitments in this respect. In the case there is a need to retain and continue the PSI mechanism, assessment and recommendations mentioned above may focus on scope, mechanism, fee structure and technical assistance to the CED.

D). *Enhancing and Expanding the Green Lane System*

The CED will clearly specify the criteria of green, yellow and red lanes for the purpose of management and control of exports and imports as this system applied in several countries in the region. Currently, there are 8 green lanes put in place since January 1st 2000 for clearance of CEPT goods from customs. For the purpose of trade facilitation and based on the risk management system, the CED should review the expansion of the green lanes to cover other goods.

6. Post Clearance Audit (PCA)

With the expansion of trade liberalization, the customs administration is facing challenges and difficulties because on one side it should facilitate legitimate cross border trade, but on the other hand, it has to maintain appropriate control to ensure the compliance with the import and export laws and regulations, and to prevent and suppress customs offences. To maintain the balance of control and trade

facilitation, the introduction and implementation of post clearance audit (PCA) mechanism is a crucial element. This mechanism is not only ensuring the proper application of customs rules and procedures, but it is an effective instrument forcing the business clients to comply with laws and regulations concerning exportation and importation. This work is very important, particularly in the framework of Cambodia membership in the WTO whereby Cambodia will need to implement the WTO Customs Valuation Agreement.

In this section, the CED has identified the following Work Programs:

a). *To Prepare Legal Basis for the Introduction of PCA System*

It will have to start from the preparation of laws and necessary regulations to support that PCA mechanism will be implemented smoothly and effectively. The rights and power of customs auditors and the obligations of traders to cooperate with customs should be precisely stipulated in the laws. In this context, the provisions on PCA should be included in the new draft of Law on Customs. The CED should activate the newly established Audit office to start its operations gradually as needed.

b). *To Compile the Manual on PCA*

The implementation of PCA mechanism is one of components stipulated in the Policy Implementation and Work Programs (PIWP) of the ASEAN customs cooperation. Japan has generously provided technical assistance for ASEAN to prepare for PCA mechanism. The technical assistance covers training of customs officers and trainers of PCA, including the preparation of PCA Manual which contains, among others, technical procedures, experiences and examples of case study. The PCA expert working at the ASEAN secretariat has drafted PCA Manual and its blueprint for implementation by the first quarter of 2003. The content of Draft PCA Manual is enclosed herewith as Annex 6 of this document.

The PCA Manual will be officially adopted by ASEAN Customs Directors General in their Annual Meeting in July 2003 to be held in Bangkok, Thailand. After the official adoption, the CED will translate and publish this important document into Khmer.

c). *To Train Customs Officers on Principles and PCA Techniques*

The CED has conducted some training courses under the technical assistance as mentioned in the point (b) above. A number of customs officers have also

participated in the PCA training courses provided by the donor countries and organizations. In the preparation of PCA mechanism, the CED will further organize training courses, especially on the topics and themes concerning laws and regulations on PCA implementation in Cambodia which could include, but not limited to, accounting principles, Law on Customs, Accounting Law and the WTO Valuation Agreement. The training of trainers on PCA should be continuously organized by collaborating with the donors' countries, especially Japanese Customs and the ASEAN Secretariat.

d). *Seminars/Workshop On PCA for the Business clients*

The cooperation and understanding the benefits of PCA by traders are important factor to ensure successful implementation of PCA mechanism. Therefore, the explanation about the benefits of collaboration and implementation of PCA and possible negative consequences which could happen by non-collaboration and non-compliance with the laws are very crucial task to prepare the private sector to participate in PCA mechanism. This means that CED should organize seminars to disseminate, explain and instruct all levels of business clients about their benefits and obligations in implementing PCA.

e). *The Team of Customs Auditors to Be Assigned to Implement PCA Program.*

As preparation step to implement the PCA mechanism, the Ministry of Economy and Finance has issued Prakas establishing the Audit Office within the CED (Prakas No1212 SHV dated 30 December 1999). Due to lack of human resource and legal basis, the appointment of customs auditors to perform their functions in this newly established office has been delayed. According to the progress of preparation including technical assistance provided, the CED has proposed to the Ministry of Economy and Finance to initially appoint five (05) customs auditors to lay down basic foundation for PCA mechanism. In the first stage, this task could be started by strengthening post importation control/verification and internal audit which both of those tasks will need to transfer to be under the Audit Office.

7. Strengthening Enforcement Capacity

By virtue of its functions and responsibilities, the CED is an important law enforcement agency. The protection of economic and social interests as well as prevention and suppression of smugglings are very important role of the CED.

The fact that the CED is considered as a semi-armed agency and has been authorized to equip with arms, confirms the importance and nature of its function. The Heads of the Royal Government and of the Ministry of Economy and Finance always pay very close attention and give guidance to the CED for strengthening the anti-smuggling activities.

Referring to the current situation and challenges, including the future perspective, the CED should develop and implement strategy and work programs on law enforcement based on principles of risk management for trade facilitation and reduction of smugglings and customs offences. The decision on strengthening enforcement made by the Leader of the Royal Government has been included in the first strategic objective of the CED reform program. Moreover, with the IMF technical assistance under TCAP program, the CED has prepared work programs aiming at strengthening the enforcement capacity through improving the anti-smuggling office. In this respect, the IMF expert has conducted a study in which important recommendations have been made. The summary report of the expert is herewith enclosed as Annex. 7.

a). *The Anti-smuggling Office has to be Reformed and Strengthened.*

To respond to the current situation, and to meet the future requirement, the reform of work flows and structure of Anti-smuggling Office is mandatory. The IMF experts have provided some recommendations to strengthen the Anti-smuggling Office. In addition, there is a national expert assigned to be responsible in this area. Based on recommendations made by the IMF experts, the CED has put plans to gradually reform the Anti-smuggling and Investigation Office as follows:

- At customs headquarters, the Anti-smuggling and Investigation Office should establish a section to be responsible for formulation of enforcement policy and strategy, compiling and analyzing information and monitoring their implementation. The Anti-smuggling and Investigation Office has to play a leading role in the development and implementation of the Risk Management System, which is an important element for modern customs operation. The Risk Management System has been instrumental in many countries and proved an effective mechanism to balance the customs control and international trade facilitation. The setting up policy, strategy and collection, analyzing and management of information are the necessary basis to implement the Risk

Management System. Therefore, there should be a core team within the Anti-smuggling and Investigation Office. This team is under the responsibility of Chief or Deputy Chief of the said Office, and should work as counterpart with short-term IMF expert and national expert in charge of enforcement.

Based on the above mentioned, and as the starting point toward the setting up of the Risk Management System under the Anti-smuggling and Investigation Office, an Intelligent Unit would be established which has the following tasks:

- To collect the concerned information related to export/import activities as a basis for the Risk Management System.
- To analyze the information based on the pre-set criteria for the purpose of identifying the levels of risk and selecting the targets for appropriate controls.
- Based on compliance records, classify companies and geographical customs territories to high, medium and low risk targets. The levels or types of risks may also be specified to the supplying sources (exporting countries) based on the frequencies and magnitudes of customs offences detected.
- To dispatch information mentioned above to customs branches or customs checkpoints for undertaking appropriate measures including application of different treatments during customs inspection.
- To cooperate and provide concerning information for post clearance audit.
- To manage information/intelligence in the computer system and maintain strict professional confidentiality on information gathered.

- The mobile operation teams to investigate and suppress smuggling in the area of their responsibility:

In parallel with the creation of the core team mentioned above, the CED should strengthen mobile operation teams to investigate and suppress smuggling in the area of their responsibility. This task includes provision of enforcement equipment and communication tools, strengthening mobile anti-smuggling teams by ensuring proper rotation in accordance with rules and principles set forth by CED. The anti-smuggling mobile teams should actively and effectively implement Royal Government Order No

02 BB dated December 19, 2001 as mentioned in Work Program (a) of Strategic Objective 1.

b). *To Establish and Strengthen Customs Marine Team.*

Anti-smuggling activities in the open sea are almost impossible due to lack of human resource and appropriate equipment. There are three customs branches (Koh Kong, Sihanouk Ville and Kampot), which have 12 sub-branches (except two teams at Ream and Stung Hav managed by the Excise Office) to control the coastal areas of more than 400 km including some islands. In these areas, there is only one old boat with 400HP capacity. The Sihanouk Ville customs branch including its subordinate customs sub-branches, which collect up to 35% to 40% of the total revenue collected by the CED, have no maritime enforcement tools. This situation shows that collection of duties and taxes is primarily relied on faithful and voluntary compliance by traders. In the meantime, combating against smuggling in the open sea is unmanageable, although it is known that this illegal activity is serious and dramatic, especially petroleum smuggling which leads to a huge loss for national revenue.

Given the above stated situation and referring to the set objective, the CED should propose to establish a customs maritime team, which is under a direct guidance from central headquarters. At the first step, the team should have 30 to 40 customs officers who should be equipped with appropriate maritime means and tools. At the second step, the CED should strengthen and expand customs maritime team based on work requirement and departmental needs.

c). *To Strengthen the Mobile anti-smuggling Teams of the Customs Offices, Provincial and Municipal Customs Branches.*

In parallel with the restructuring and enhancement of the Anti-smuggling and Investigation Office and creation of the Customs Maritime Team, the CED has to explore efforts to strengthen the anti-smuggling and investigation teams at provincial and municipal customs branches. At present, the basis form and structure of such anti-smuggling teams at provincial and municipal levels are already in place. However, additional efforts are needed as to set clear mandate, responsibility, zones of operation and reporting system etc. The next step is to provide training, equip with land and water enforcement tools and telecommunication means.

d). *To build up the Capacity in Preventing and Suppressing Drug Trafficking Through Trainings, Installing Equipments and Establishing Airports Contact Points.*

Protection of social security and national economic interest are crucial obligations of CED. As Government agency stationed at the forefront of the borders, the CED should play its role to prevent and suppress drug trafficking and smuggling of other articles which are prohibited by laws. In the recent past, the detection and seizure of marijuana, opium and amphetamines are evidence of efforts and achievement by the CED.

In 2001 the CED has obtained full membership in RILO⁵ of WCO and has actively participating in the works of this organization. However, the capacity of Cambodia customs in term of technical knowledge and enforcement facilities for the prevention and suppression of drug trafficking is still limited.

Based on this situation, the CED should undertake to strengthen its capacity to prevent and suppress drug trafficking through technical trainings, provision of detection equipment and tools, establishment of contact points at the airports. Cooperation and coordination with other concerned government agencies are important factor for effective performance of this vital function.

8. To Expand International Relations

As mentioned in previous section, the process of integration of Cambodia economy into the regional and world economy, Cambodia CED plays an important role to link Cambodia trade to the international trade. To ensure the effective performance of this important mission, the CED should implement reform and modernization program with the objective to put in place internationally accepted standard of customs procedures for implementing its obligations and commitments under the framework of ASEAN, WCO and, eventually in the near future, WTO. Therefore, the strengthening of multilateral and bilateral relationships and cooperation with other customs administrations and international organizations is the crucial task to gain experiences and support for CED in implementing its reform agenda.

In addition to maximizing the benefits from membership in international organizations and the bilateral and multilateral relationships and cooperation, the CED should actively participate in regional and world customs fora to regain its reputation in the international arena. On the other hand, the active participation in

⁵ Regional Intelligent Liaison Office (RILO) is an international network of customs, which is under the World Customs Organization (WCO), and there are six regional offices around the world. The main tasks of RILO are to exchange intelligence, to prevent and suppress drug trafficking, and other customs offences.

regional and world forums and strengthening bilateral and multilateral ties will also contribute to the negotiation process of Cambodia's membership in the WTO.

In the framework of strengthening and expanding international cooperation, the CED has raised the following important Work Programs:

a). *To Prepare the Department to Implement WTO Agreement on Customs Valuation.*

In the context of Cambodia membership in the WTO, preparation for the implementation of the WTO Valuation Agreement is one of the prioritized tasks. This preparatory work should be carried out in parallel with the process of negotiations. This is to demonstrate seriousness of Cambodia's commitment to implement the WTO Valuation Agreement. It is important to note that application of the WTO Valuation Agreement is also one of the obligations under ASEAN Agreements (Article 5 of the ASEAN Agreement on Customs, 1997).

Although Cambodia has requested for a transitional provision⁶ (as permitted under Article 20 of the WTO Valuation Agreement), Cambodia should justify the reasons and needs for a transitional period. In addition, the CED should develop an action plan on how to gradually transfer from the current customs valuation system to the WTO valuation system. In general, the CED has to include in its preparatory work the following tasks:

- To include the provisions of the Agreement on Customs valuation to the draft Law on Customs.
- To incorporate the explanatory notes of the WTO Customs Valuation Agreement in the handbook on customs valuation.
- To prepare a Transitional Action Plan on steps toward phasing out the current customs valuation system and to put in place the WTO Customs Valuation system.
- To study on impacts, especially on revenue collected by customs because of implementation of the WTO Valuation Agreement.
- To train customs officers on the WTO valuation system.

⁶ For Cambodia as a least developed country (LDC), application of the WTO Agreement can be delayed to a five years period after such Agreement comes into force for this country (Article 20 of the Agreement). A member requesting such transitional period should present a precise action plan on preparation to implement the Agreement.

- To organize seminars and workshops for business community concerning WTO valuation.
- To establish a professional working group to handle routine works concerning customs valuation including monitoring, implementing and solving disputes.
- To translate and publish the ASEAN Customs Valuation Guide (ACVG)⁷ in Khmer.
- To attain and coordinate technical assistance for the preparation and implementation of the WTO Valuation Agreement.

b). To Participate in the Tariff Negotiations.

The negotiation on tariff is a key task in the negotiation process under the WTO. For Cambodia, the commitment on bound rates should be based on three important scenario: (1) trade, (2) investment and local production and (3) fiscal. If those three aspects, especially the second and third aspects are not appropriately considered, the proposed bound rate based on trade concept might give short and medium term impacts for the country.

After tariff restructuring, our applied rates are substantially low compared with applied rates being adopted by LDCs. Therefore, the bound rates must be higher than applied rates and should be in a specific margin which in case of necessity could effectively protect local production and national revenue.

The analysis of tariff structure has been raised in Work Program a) under Strategic Objective 4. The CED should actively participate in negotiations on tariff both under the framework of ASEAN, regional cooperation and the WTO.

c). To Accede to the International Conventions on Harmonized System, Kyoto, ATA Carnet and Others.

Cambodia membership in ASEAN, WCO and eventually WTO has required for acceptance of and accession to the international conventions and agreements which are legal instruments supporting multilateral trading system. After becoming 155th member of the WCO on 03 April 2001, the CED has set the objective to becoming contracting party to the international conventions and agreements, which could promote and accelerate the integration process of Cambodia in the international

⁷ ACVG was prepared with the TA provided by Japan Customs and Tariff Bureau and JICA. The Contents of this Valuation Guide are attached as Annex 8 of this paper.

community. During the period of 2001-2008, Cambodia should accede to at least six international conventions and agreements related to customs matters. This may include:

- Convention Establishing the Customs Cooperation Council.
- International Convention on the Harmonization of Commodity Description and Coding System.
- International Convention on the Simplification and Harmonization of Customs Procedures (as amended and known as the Revised Kyoto Convention)
- Container Convention
- Convention on Temporary Admission
- International Convention on Mutual administrative Assistance in Customs Matters.

This task has achieved notably good progress as the Royal Government approved in principle on two Conventions (Convention Establishing the Customs Cooperation Council) and International Convention on the Harmonization of Commodity Description and Coding System), and the legislation bodies have already enacted the Law on Cambodia's accession to these Conventions.

d) *To Take part in fulfilling Obligations under ASEAN and the Greater Mekong Sub-Region Economic Cooperation Program.*

The CED is responsible to fulfilling Cambodia obligations under ASEAN and Greater Mekong Sub-region. There are some ASEAN Agreements directly related customs matters. Besides, there is also a mechanism of customs cooperation in ASEAN in which Cambodia Customs should participate in order to fully utilize benefits and interest from this cooperation mechanism. So far, the CED has fulfilled its obligations effectively and should continue such momentum in the years to come.

On the relevant matter, Cambodia has recently acceded to the Trilateral Agreement on the Facilitation of Movement of Goods and People in the Greater Mekong Sub-Region. Immediately after the accession date, several customs related activities have begun. It should be noted that there are approximately 20 Annexes and Protocols that should be drafted to support the implementation of the provisions of the Trilateral Agreements, and among those, at least 5 annexes related to customs

matters. The CED has sent professional officers to participate in negotiations and discussions to prepare Annexes and Protocols mentioned above. In particular, active discussions were conducted with respect to the formulation and implementation of *Single Stop Customs Inspection* mechanism with Thailand and Viet Nam.

In general, for Cambodia the activities under ASEAN and the GMS are of the same importance as they are inter-related and complementary, and more importantly, vital factors to diversify economic, trade and other sector development in the region.

e) *Participation in the Regional Cooperation in Combating Against Smuggling, Commercial Fraud (IPR) and Cross Border Criminals (Smugglings of Drugs, Arms and Explosive... etc.)*

As previously mentioned, the CED plays a key role in protecting and maintaining safety and economic interest of the society by preventing and suppressing border crossing frauds and crimes such as the smugglings of drugs, arms, explosives and counterfeit goods (for example, border measures relating to the implementation of IPR). In addition to the ASEAN customs cooperation, the CED has become 25th member of RILO Asian Pacific Region Office of WCO, and actively implementing the mechanism of exchanging information concerning the prevention and suppression of border crossing frauds and crimes. To further enhance this activity, the CED should establish the RILO contact point with appropriate facility and tools.

f) *To Seek Technical Assistance and Training Programs From Multilateral and Bilateral Counterparts.*

From 1999 to 2002, the CED has established and improved the bilateral and multilateral relations with the customs administrations in the region and other international organizations. As a result, the CED has received supports and technical assistance, including training courses, dispatching of experts and provision of equipments. Recognizing the technical assistance and human resource training are the main factors to achieve success of the reform program, the CED has to further strengthen and take maximum opportunities to absorb assistance from donors and its partners in the region and the world through the development of Customs Cooperation Strategy 2003/2008. The prioritized work for this objective, the CED should emphasize and focus on the cooperation with ASEAN countries and others ASEAN dialogue partners in the region.

g) *To Conclude Memorandum Of Understanding On Cooperation And Mutual Assistance With Thai, Lao, and Vietnam Customs Administrations*

The cooperation with customs institutions of neighboring countries is a prioritized work for Cambodia Customs. Geographical proximity, trade volume, customs frauds and smugglings are factors requiring close cooperation for the purpose of facilitating the legitimate trade, and at the same time prevention and suppression of customs offenses. Recognizing the importance of cooperation with customs institutions of neighboring countries, the CED initiated to conclude the Memorandum of Understanding on Cooperation and Mutual Assistance in Customs Matters with Thailand Customs, which was signed on 18 October 1999 in Phnom Penh.

Currently, according to the Agreed Minutes between Cambodia Customs and Vietnam Customs signed on 18 December 2001 in Hanoi, the two administrations are working on preparation the draft Memorandum of Understanding on Cooperation between Cambodia and Vietnam Customs, which will be submitted to the Heads of both customs administrations for their consideration and approval.

The contents of these two Memoranda of Understanding cover comprehensive cooperation and mutual assistance at competence and levels of customs administration including the exchange of information, human resource development, exchange of delegations to share experiences and best practices, consultations and coordination on matters related to international customs cooperation. Depending on necessity and requirements, the CED should initiate to establish cooperation arrangement with Lao customs.

9. Information Technology and Customs Automation

In response to the circumstances and requirements by the internal and external factors, the CED has prepared strategy to utilize Information Technology (IT) in customs operations. IT strategy is divided into short, medium and long terms, which are part of customs administration reform and modernization.

In March 2001, with the TCAP and PSI Company's support, the CED has implemented a project on IT Initial Assessment for the CED⁸. In general, the objective strategy on information technology for CED consists of:

⁸ Please see Annex 9 of this document.

- Introduce changes to patterns and ways of customs operations in accordance with requirement of IT era, i.e. toward customs automation (long term objective).
- Provide an expeditious, modern service to facilitate international trade.
- Improve the effectiveness of customs control and clearance, and suppression/prevention of customs frauds by applying Risk Management System.
- Enhance transparency and effectiveness of duty and tax collection.
- Upgrade the effectiveness and reliability of preparation, production and management of data and statistic system.
- Enhance transparency and effectiveness for Post Importation Audit.

Given the nature and characteristic functions of customs administration involved with other government institutions (Ministry of Commerce, Bank, Treasury, Tax Department and CDC etc), the strategy to develop IT infrastructure should include standard, uniform platform and same pace of implementing arrangement to meet the needs of institutions concerned. Besides, this work should also be started in the private sector as well. The lack of funding, human resource and technical skills require that IT solution should be based on modular approach.

In general, the process or means leading to reach the objective raised above should be realistic according to our ability and capacity and tangible needs upon each phase of implementation, which form the foundation to achieve long term vision.

In case of big project like customs automation, which may use ASYCUDA or similar system, funding from overseas needs to be sought.

To realize the IT objective as set forth in this section, in particular to achieve long term vision i.e. customs automation, the CED has raised several work programs as follows:

a) *To Prepare IT Framework for Customs.*

As mentioned in previous section, this document has been prepared under technical assistance of SGS and TCAP program (please see Annex 10 of this document).

b) *To Study and Evaluate Automation in Customs:*

Currently, there are several computer systems which have been developed to support customs automation. Some countries use computer systems in their customs

administrations developed and implemented by their own experts and budget. In some developing countries, the implementation of automation in customs mostly depends on external assistance due to lack of human resources and available budget. The computer systems for automation in customs operations being used in developing countries include ASYCUDA, SOFIX, TIMS, UNISYS etc. In the process of preparation for automation, the CED should conduct assessment study on strengths and weaknesses of each system in term of its flexibility and functionality, which meet development requirements of Cambodia at his stage. One of important factors to be properly addressed is the estimation of funding availability for the selected system. In general, the preliminary study and evaluation of customs automation system should come up with suggestions and recommendations to be used in the process of selection of the system, which should be open and transparent. In cooperation with IT expert of the IMF under TCAP project, the CED has prepared documents called *Request for Offers – RFO*, and issued it to IT companies and international organizations to express their interests in supplying this extremely important system.

c) *To Prepare Regulations for the Implementation of IT.*

To shift from manual paper processing to the IT-based customs automated system could be considered as revolution. Therefore, the policy framework and supported regulations should be developed to serve as legal ground for implementation. The CED should prepare necessary Sub-Decrees and/or Prakas for each step of automation process in customs. This task should be carried out in close coordination and cooperation with NiDA, too.

d) *To Conduct Training Course on Automation for Customs.*

In ensure the success implementation of customs automation, the CED should prepare human force which is an important factor. Therefore, in the package of automation project, the training program should be comprehensively developed for customs officers, for both technical and management levels in order to maintain and gain ownership of automation program in the years to come.

e) *To Implement the Pilot Projects at Customs Headquarters, Sihanouk Ville Port and Dry Ports:*

As earlier mentioned, step by step or phasing approach is the more realistic way in implementing customs automation. It is suggested that after successful development

and testing of the prototype, depending on budget availability, the implementation of customs automation project can be conducted in a pilot-testing basis. For the first track this project could be started at customs headquarters and some major international checkpoints such as Sihanouk Ville Port, Dry Ports and Phnom Penh International Airport.

The implementation of pilot-testing stage would provide customs administration knowledge, experiences and feedbacks, and more importantly to evaluate the system's functionality under which adjustments may be required in order to improve it to meet Cambodia needs. In addition, the automation's testing stage is also to enable the customs administration and private sector to prepare and establish proper mechanism for implementation.

f) *To Roll out Customs Automation Project to Customs Export Office and Excise Office:*

Given the importance of trade volume and collection of revenue, the Customs Export Office and Excise Office could be considered as potential targets for roll out of customs automation project. If the customs offices mentioned here and point (f) above are engaged in automation project, it means that the system covers approximately 90% of international trade in Cambodia.

g) *To Install Information Technology Instrument:*

The application of information technology tools in customs operation is encouraged by the WCO, because it can expedite clearance and ensure work efficiency and effectiveness in control of imports and exports, and more importantly to facilitate international trade which has been significantly increasing from year to year.

Nevertheless, the use of information technology instrument in developing countries is limited, due to human resource and financial constraints. However, to respond to the actual circumstances and requirements, the CED has raised a project to install the information technology tools as follows:

- ***TC Scan Machine at Sihanouk Ville Port:*** After 11 September 2001 attack in the US, the international trade system has been put in a fragile situation. The safety and security issues of international trade became a crucial topic for both international organizations and customs administrations, which are the frontline institutions dealing with customs controls and international trade facilitation. In this context, some initiatives and recommendations have been raised for the purpose of strengthening the safety and security of cargos, particularly containerized through

the use of X-ray scanning machines. However, concerns have been raised that the additional measures of the customs inspection should not mean to add more time and additional costs to the existing customs clearance procedures.

At this stage, the MEF and CED have no financial ability to purchase and install the costly container X-ray scanning machine, therefore the use of such machine could be the medium term objective. If there is necessity, the Royal Government may use joint venture option with the private sector which should be engaged through public bidding and transparent sharing of profits.

- X-Ray Machines for Phnom Penh, Siem Reap Airports and Poy Pet Check Points:

At present, the CED doesn't have any X-Ray machine, while the number of passengers entering and leaving Cambodia has been increasing from year to year. In this case, the customs control of passengers, imports/exports and postal cargo is not effective enough to timely prevent and suppress customs offences.

In order to solve issues mentioned above, initially the CED should install X-Ray machines at Phnom Penh International Airport (two units) and at Siem Reap Airport (one unit).

- To Install Drug and Explosive detection tools: The drug trafficking and abuse becomes a worrying issue in Cambodia because, according to report, the activity of illicit drug trading and using have been increased. In performing their function, customs officers have achieved significant results in preventing and suppressing the drug trafficking such as the seizures of 71 Kg of heroin at Sre Ambel customs checkpoint in August 1995, thousands of amphetamine tablets and few kilograms of heroin at Phnom Penh International Airport etc.

To ensure work effectiveness and efficiency on combating against drug trafficking and other cross border crimes, the CED needs to install modern IT instruments for the purpose of searching drugs and explosives at the key customs checkpoints such as Phnom Penh and Siem Reap International Airports.

Computer Installation: In the electronic era, everyday tasks are based on computer systems. Those tasks include administrative, operational and documentation management. In the long term perspective, CED functions and operations will be based on automation in accordance with its "e-customs" vision, which is part of "e-Government" policy. As foundation and preparation to meet the long term vision, the CED should encourage customs officers to learn and use computers. Therefore, the CED should equip with computers at the headquarters, offices, branches, and

other customs checkpoints. In addition, in order to encourage the use of computers among customs management and staff officers, the CED should develop and implement computer training courses at the Customs Training Center.

10. Organizational Reform and Human Resource Development

In response to the current requirements and in accordance with the results of the reform, the CED should implement new organizational structure, prepare and implement a comprehensive human resource development plan including recruitment and training for both customs management and staff, and strengthen management and good governance. The reform in this area is very crucial because it responds and supports fostering reform initiatives in other areas.

In general, the CED has raised three major Work Programs as follows:

a) *New Organizational Structure and Procedures.*

Reform of technical and professional aspects, and particularly -- customs procedures, will require to change management style and decision-making flow.

Control, examination and decision making steps of customs clearance procedures should be streamlined and simplified as much as possible. Therefore, rights and power in decision-making on technical procedures should be gradually decentralized to customs branches or checkpoints to ensure quick and responsive customs clearance procedures. These tasks will need to carry out on the step by step basis. A reporting system or mechanism should be established to inform the headquarters about simplicity and difficulties or challenges faced by frontline customs branches and sub-branches. Lessons and experiences will be learnt and used for deepening and widening the decentralized system.

The organization reform will also require to set up some new customs offices, branches and checkpoints to respond to changing requirements of customs functions at this stage. Moreover, the economic and trade developments as well as the construction of physical infrastructure in the country will also bring changes to pattern of trade flows. Therefore, according to the changing environment, the previous classification of entry posts based on then existing trade volumes and activities will be reviewed.

Referring to the document on Action Plan and Reform Program of the Customs and Excise Department, which was published by the CED in 1999, the CED has raised

proposal to the Royal Government to upgrade the CED's administrative rank to the General Department with official title as "Royal Customs and Excise of Cambodia". This rank and official title is consistent with practice being used in countries of constitutional monarchy.

In the reform of its organizational structure, the CED should continue to request the Government to approve the proposed status change. However, the important aspect of organizational structure reform is to clearly and precisely define customs functions and mandates, including the rights and power of customs offices, branches and checkpoints to ensure work efficiency and effectiveness. A new organizational structure chart will be produced in accordance with proposed reform.

b) Human Resource Development.

Human resource is the key factor in job performance. Quality and competency of human resource should be regularly improved through providing variety of training courses. In the context of strengthening and expanding the role and responsibilities of the CED, improvement of human resource should cover all levels, including management and field staff officers. Therefore, the CED should consider its policy toward human resource development as a high priority. Under the TCAP project, an expert on HRD has produced a paper on *Training Need Assessment* for the CED. This important document is attached as Annex 10 of the document. At the same time, the CED has identified the following tasks for implementation:

- To prepare and implement training plan both at home and overseas:

Policy reform and trade liberalization require changes in customs management and administrative processes which should conform to international standard and practices. Consequently, the delivery of customs service in such new changing environment requires appropriate management skills and technical knowledge. Therefore, in this context, the CED should develop and implement a comprehensive human resource development plan, including training courses to improve management and technical skills of customs officers and staff. The training courses could be organized both on-the-job, in-country and overseas.

The CED should mobilize and utilize technical assistance to implement its annual training plan. In addition, in order to disseminate and explain new developments and trends, especially distribute newly issued regulations, norms and orders concerning customs matters among its senior officers, the CED should on the

regular basis, organize skill improvement courses. For management officers, seminars and workshops should be conducted to discuss and exchange views, and find ways to improve job performance.

- To set up a customs training center and to implement its training programs, including English and computer training courses:

According to its specific professional requirement and regular needs of human resource development, the CED has set up its own Customs Training Center (CTC). In the beginning phase, the Center has started its function with only a classroom, although it has quite good facility and equipment.

For the second phase, the CED should seek foreign assistances through bilateral and multilateral relations in order to strengthen and enlarge the training center, and in the future it may become the Customs Training Institute. It is important to note that the establishment of the CTC is very important for attracting foreign technical assistance to develop human resources as training courses or workshops/seminars could be organized locally by invitation of foreign trainers from abroad.

In the process of application of IT in customs matters, particularly in the context of preparation and implementation of customs automation, the CED should provide training courses on computer and English language. Therefore, there is a need for the CTC to set up a computer classroom. The CED should seek financial support and contract local institutions to provide above mentioned training courses.

- To set up a documentary library with computer equipments and internet access:

For the purposes of research as well as collection and keeping documents concerning customs matters, the CED should set up a documentary library under the CTC. In the library, the computers with internet access will be installed for general use by customs management and staff officers. The research, translation and publication of documents concerning customs fields should be broadly encouraged.

- To recruit new competent customs officers and staff (from 30 to 50 persons per year, from 2003 to 2008 through examination competition):

Economic and trade growth is a factor leading to the increasing role and responsibilities of the CED. In addition to improvement of management and technical skills, the CED should also consider to enlarge the number of customs officers through recruitment of new capable manpower for effective handling of its expanded role and functions mentioned above. A short review of personnel

management revealed that annually the number of customs officers and staff has steadily decreased (an average of 1.6 to 2 percent because of retirement and death). If the situation continues without taking any serious adjustment action or strategy in the period from 5 to 10 years ahead, the CED will face the shortage of human power, and this is a formidable challenge when the CED needs to respond to rapidly changing economic and trade environment. Therefore, the new manpower should be recruited from now on because new recruits need to be trained and put in practical works to gain appropriate knowledge and technical skills before they could carry out their tasks successfully. It is suggested that the CED may recruit from 30 to 50 persons per year during the period 2003 to 2008. The recruitment may be done among either officials inside the Ministry of Economy and Finance and/or other Government institutions. If the circumstance allows, in particular the development in public administrative reform, the recruitment may be open for general public or through quota allocation.

c) Implementation of Good Governance Program.

The Royal Government has prepared the Governance Action Plan for improving the public management and service by eliminating malfeasances, particularly negative practice such as corruption. In fact, governance issue and integrity in Customs administrations has become the topic of discussions in the World Customs Organization in order to seek means and to provide recommendations for eliminating corrupt practice, and to build up good reputation and respectful image of the customs administrations.

As evidence, the World Customs Organization has adopted the revised "Arusha Declaration"⁹ which outlines measures and guidelines for customs administrations to formulate and implement their integration programs. At present, many customs administrations quite successfully implement their integrity programs.

In order to participate in government policy on good governance, the CED should develop and implement the following activities:

- To set up the Internal Audit Unit, which is under the direct purview of the Director General of the department:

⁹Arusha Declaration was adopted by Customs Cooperation Council on 7 July 1998. The text of the revised Declaration is attached as Annex 11 of this paper.

Post Clearance Audit office of the CED has been set up since 1999, but putting this new office in operation is delayed due to some reasons. The CED should use this office as instrumental to strengthen its internal governance issue. In this context, the internal audit as mentioned above is to focus on "self audit", which is a mechanism or a tool for reducing and eliminating malfeasances, which may take place at both the management and operational levels. In order to ensure maximal neutrality and independency, the Internal Audit Unit might be under the PCA Office, which should not involve in daily customs operations.

- To impose strict discipline measures for any wrong doing, but to appropriately honor incentives and encouragements for outstanding performances:

As semi-armed government authority, the CED has to constantly maintain high discipline among management and staff officers. Disciplinary Committee (or Disciplinary Board) to be led by the Director General of the CED will be established to implement and monitor discipline issue.

In case of committing any wrong doing, proper and transparent investigation and fair judgment should be conducted under the direct guidance of the Director General.¹⁰ This applies only to wrong doings at administrative level. At the same time, the CED should develop incentive bonus and encouragement scheme to officers with outstanding performance. The encouragement or incentive program should base on clear and precise criteria and principles in order to avoid any unfair or injustice judgments and decisions. Any punishment imposed or any encouragement provided should be recorded in a *Personal Assessment Book* of customs officers. In the future, recording the performance profiles of customs officers will be made by using computer system as part of reform in personnel management.

-To prepare a code of Conducts and Ethics: In the past, the CED has issued Orders and Guidelines concerning discipline and morality of customs officers. But implementation, follow up and evaluation of those Orders and Guideline are still limited. Therefore, the CED should develop/revise the Code of Conducts and Ethics based on the existing Orders and Guidelines, and experiences of other customs

¹⁰ Depending on gravity and seriousness of administrative malfeasance or irregularities, the Director General may impose administrative punishment (internal administrative punishment) or, if it deems necessary, submit the case to the Ministry of Economy and Finance for decision.

administrations in this area, and also the model Code of Conducts developed by the WCO.

- To comply with rules, principles and transparent of rotation and promotion system for customs officers: Appointment and promotion of customs officers are a sensitive issue. Therefore, the CED should carefully implement this system with established rules and principles. Promotion should also be carried out in a transparent manner in order to avoid injustices.
- To encourage and boost physical education and to promote healthy lifestyle: In the past, physical education of the department was not appropriately addressed. The CED should establish necessary infrastructure for this purpose, and encourage customs officers and staff to practice physical education (sport), which is an indispensable factor of good health, honorable lifestyle and also promote solidarity and unity among officers and staff.

11. Modernization of Physical Infrastructure and Tools

The purpose of this section is to outline CED's strategy and work programs on development and implementation of a comprehensive infrastructure plan in order to provide appropriate working space and facilities, including adequate materials, equipment and tools for effective and smooth delivery of daily services. The CED should formulate relevant projects based on priority and urgency for implementation by taking into account financial aspect (budget availability), including possible supports by bilateral and multilateral sources.

a) Infrastructure Need Assessment and Project Formulation:

In the strengthening of its physical infrastructure, the CED should assess the needs and requirements and formulate relevant projects for implementation in an identified prioritized order. The needs assessment should cover the needs in buildings, including warehouses and appropriate inspection areas, materials and equipments, including lands and waterways patrol means, and telecommunication tools. Based on the results of the Assessment, detail annual prioritized projects will be developed for implementation. With technical assistance under the TCAP, the CED has produced the Infrastructure Assessment, which covers the period until 2008. An excerpt of the Report of the Assessment is appeared as Annex 12.

In the meantime, the CED has raised several projects which could not be in the scope of the above mentioned assessment.

b) *Construction/Expansion of Buildings of Customs Headquarters, Offices, Branches, and Some of Customs Checkpoints.*

Projects on construction and expansion of working premises should focus firstly on headquarters, offices, branches and checkpoints with substantial trade activities. Those offices, branches and customs checkpoints should be equipped with necessary tools, such as scanning machines (at the required places), computers, printers, copying machines, telephones and faxes and other necessary office accessories and materials (including furniture). The project formulation for each of customs office and branch should be based on the recommendations of the Infrastructure Assessment Report mentioned above.

c) *To Expand and Construct Posts, Examination Yards and Warehouses:*

Trade volume has gradually increased from years to years while infrastructure to handle clearance procedures remains insufficient. This gap has become impediment for trade facilitation. Moreover, prevention and suppression of smugglings and other types of customs frauds also require safe place/warehouse for inspection and temporary detention of smuggled goods, especially of dangerous and perishable nature. Therefore, the requirements to have appropriate inspection areas and storage facilities should be well addressed.

d) *To Set up a small Customs Gallery in the Headquarters:*

The CED of Cambodia has been operating more than half a century. (since 29 June 1951). From the date of its existence, the department has gone through many historical stages, including memorable achievements and extreme hardship and darkness. But what have been passed should be considered as the historical events, which shall to be recorded, remembered, and kept forever. For this purpose as well as for research and study by the students, the CED should set up a gallery or a museum in the headquarters for keeping documents, materials, and other equipments and articles of historical value for the CED.

e) *To Set up a Small Laboratory in the headquarters:*

For the purpose of strengthening effectiveness and efficiency of its tasks, especially concerning the determination of nature, quality, characteristic of goods for proper classification in accordance with HS codes of the tariff nomenclature, the CED

should establish a small laboratory in the headquarters. This is very important for timely solving problems regarding determination and classification of goods. Moreover, the laboratory will serve the purpose of protection and suppression of illegal importation of hazardous or prohibited goods. It is important to mention here that most of customs administrations in the world have their own laboratories for the reasons and purposes mentioned above.

f) *To Establish a Customs Printing House:*

In the process of implementing the reform program, especially in the increased and expanded responsibilities to manage and control imports and exports, and preventing-suppressing smugglings, a lot of documents and papers will be required to be confidentially and timely printed. Moreover, some of the customs forms or documents need to have specific characteristics to ensure their integrity and security (such as customs stamps and seals). Given this specific requirement, the CED needs to periodically change some features and characteristics of its documents in order to avoid any eventual counterfeit. In addition, noticing that the CED also needs to produce its annual reports, trade statistics and other documents and papers concerned, and moreover, in order to ensure the sustainability and professional confidentiality, the establishment of a small printing house is urgently needed.

g) *To Improve Telecommunication and Enforcement Tools for Provincial Customs Branches and Check Points:*

Although human resource is important factor for successful job performance, but in fact, its efficiency very much depends on supporting means and tools. Experiences have shown that excellent and well-prepared strategies and action plans on prevention and suppression of smugglings remain inactive and ineffective simply because of lack of enforcement means and tools. Therefore, equipping customs with appropriate means such as patrolling, telecommunication and other necessary tools should be equally considered as equipping soldiers in the battlefield with weapons and munitions.

The CED should focus its main enforcement (anti-smuggling) efforts on areas along borders because frequent post clearance physical checking, verification of imported goods at final destination such as warehouses and distribution outlets may create disturbance and unnecessary inconvenience for business. It is the fact that mobile enforcement teams of the provincial Customs and Excise branches are the frontline

guards, and play very important role in prevention and suppression of smuggling and customs frauds. Therefore, they should be equipped with those necessary means and equipment for effective fulfillment of their mission.

12. To Improve Quality of Services and Trade Facilitation

For the purpose of improving quality services for business community and enhancing trade facilitation through providing accelerated professional services to legitimate businessmen, the CED should implement the following work programs:

a) *To Implement Public Relationship Program by Assigning Customs Officers as contact point of the department:*

The public relations of any organization may be considered as a window or a bridge connecting to the external environment. Setting up the public relation point is also a demonstration of the openness of the department toward cooperative and care taking approach to clients. The public relation point in which customs officers are responsible for may be set up under the Administrative and Personnel Office or under the International Affairs Office.

b) *Development of Strategy to Provide Information to Clients about the Reform Program in the CED:*

Reform work programs constitute changes not only from within the CED but it is also required changes in the business community. New rules and regulations developed as results of reform activities need to be well understood and interpreted by all stakeholders. Therefore, public information strategy should be designed to meet this requirement. On the other hand, disseminating information on reform strategy and work programs to the private sector is very important for demonstrating willingness and commitments of the CED for improving its performance quality, which is responding to the needs of the private sector and clients in fulfilling their business effectively and efficiently. The dissemination of information may be done through conducting seminars, workshops, publications and dissemination through electronic means such as homepage... etc.

c) *To Set up a Trade Consultative Committee for consulting and Exchanging Policy and Strategy to Improve Operational Procedures:*

Consultative or dialogue committee with the private sector may be set up to serve as mechanism of partnership between the CED and all involved stakeholders.

Setting up the committee or the working group is in line with the consultative mechanism, which has been established by the Royal Government, i.e. *Government-Private-Sector-Public Forum*. Moreover, the consultative or dialogue committee might be considered as a sub-committee or sub-working group of the existing Working Group on Legislation, Governance and Taxation known as Working Group "D", which has been set up to be under a mechanism of *Government-Private-Sector-Public Forum*. Framework of the working group will be designed by the CED with participation of representatives of the private sector, who are involved or intended to be members of the consultative working group or committee.

d) *Establishment of Formal Relationship with Chamber of Commerce, Transport/Freight Forwarder Association and Association of Customs Broker Through Conclusion of Memorandum of Understandings:*

In addition to the task mentioned in section (c) above, the CED should establish the official relationship and raise initiative to conclude the memorandum of understanding with Phnom Penh Chamber of Commerce, transport/freight forwarder association, and in the future with association of customs brokers when such body established. The framework of the memorandum may cover modalities and scope of cooperation and mutual assistance between the CED and associations concerned. It is noticed that this work program is in line with the provisions stipulated in the International Convention on Simplification and Harmonization of Customs Procedures known as the Kyoto Convention and also consistent with area 15 of the Policy Implementation and Work Programs -- PIWP (Partnership with the Business Community) of the ASEAN Customs Cooperation.

e) *To Set up a Dispute Settlement Mechanism with Clear Responsibility and Competency:*

In order to ensure transparency and timeliness in reviewing and settling disputes, the CED should establish a clear mechanism for dispute settlement through strengthening and assigning relevant mandate to its Legal and Dispute Settlement Office. Moreover, procedures and stages of lodgment and examining and settling disputes should be clearly stipulated, and announced to relevant stakeholders. Strengthening the mechanism of dispute settlement may be done in line with preparation of relevant regulations for the Draft Law on Customs, in particular Chapter 3, Article 24. It is important to note that the dispute settlement mechanism

is also a necessary tool, by which all legal issues are to be settled in a transparent manner and in accordance with provisions of the law¹¹.

f) *To Install "Complaint or Suggestion Boxes" in the Headquarters, Offices, Branches and to draft Procedures and Rules for Examining and Settling the Complaints.*

In order to improve its operation procedures and to strengthen good governance including discipline, behavior, and morality of customs management and staff, the CED should identify and implement improvement measures. This task can be started with simple and basic initiative such as placing the complaint/suggestion boxes in the headquarters, offices, branches and some of the customs checkpoints. The significant point in this initiative is that the CED should assign an independent group of customs officers (may be under the Disciplinary Council) to be responsible for gathering, examining, and evaluating complaints including making recommendations for the management of the CED for consideration and decision.

g) *To Publish Customs Bulletin and Annual Customs Reports for Disseminating Information to the Public:*

This is a part of strengthening public relations, which is focused on building a reputation of the CED by providing the public information of activities and achievements accomplished by the CED. This public information awareness will also promote better understanding among public the roles, functions and responsibilities of the CED. In addition, the publication and dissemination of Customs Bulletin, including the use of electronic means for circulation, also could be a good tool for keeping customs management and field staff around the country informed about CED's activities and planned perspectives and programs.

h) *To Improve and to Expand Homepage of the CED:*

Homepage of the CED, which has been designed and put into public use since 2001, is a very simple one which covers basic information concerning customs procedures and other relevant information. The establishment of a homepage was an intention to show the starting point of using information technology for information dissemination by the CED. So far, the reform program has achieved considerable progress. It should be considered that any positive change is the fruitful result of the

¹¹ Recommendations and provisions on dispute settlement mechanism are stipulated in (1) Article 11 of the Agreement on Customs Valuation of the World Trade Organization; (2) Chapter 10, General Annex of the International Convention on the Simplification and Harmonization of Customs Procedures; (3) Article 2, Paragraph b, and Article 8 of the ASEAN Agreement on Customs.

reform, which should be openly disseminated to the public including the use of electronic means. Therefore, the CED should improve and appropriately expand the homepage of the CED of Cambodia in line with progress and paces of the reform programs. It is noticed that the CED's homepage address is linked with the homepages of the ASEAN Secretariat and the World Customs Organization. From those websites the users can directly connect to the homepage of the CED. A hyperlink to the CED's homepage could also be found in some of the national websites.

13. Management of the Reform Programs

The reform program of the CED is a part of the reform programs of Ministry of Economy and Finance. Therefore, Ministry of Economy and Finance and the CED should establish a management structure of the reform program in order to ensure the success including the necessary adjustments of Strategy and Work Programs. This management mechanism is needed not only for monitoring and strategy adjustment requirements of the reform, but also a structure whereby a reporting system be established, including the report to the Royal Government on progress of the reform initiatives. In order to successfully implement the strategy, some action plans should be raised and implemented as follows:

a) *To Set up a Reform Working Group in the CED:*

In the CED, a Reform Working Group (RWG) has been formed, which has a core role and responsibilities in implementing and monitoring including evaluation of the reform strategy and work programs outlined in this paper. In the course of implementation, the RWG may raise recommendations to the management of the CED to create relevant subgroups as required to smoothly and successfully implement specific work programs. The composition and responsibilities of the RWG are stipulated in the Ministerial Prakas No. 141 MEF-PK dated February 2nd, 2001, which is attached as Annex 13 of this document.

b) *Establishment of the Reform Steering Committee:*

As mentioned above, the RWG under the CED is a technical group, which is responsible for routine implementation of the reform program. In order to provide strategy and policy guidance, a Reform Steering Committee (RSC) should be established. The competency and composition (members) of the Committee will be

assigned by the Ministry of Economy and Finance. In general, the RSC is a policy segment level of the management mechanism in implementation of the reform strategy and work programs. The reporting system will be arranged in line with the levels of the reform management and implementation restructure. A brief flowchart of the management and implementation mechanism is attached as Annex 14 of this document.

c) *To Undertake Periodic Evaluation on Progress of Implementation and Development of Adjustments to Reform Strategy and Work Programs:*

In accordance with development and progress of the reform programs, the RWG of the CED should evaluate and make recommendations to the management of the CED and RSC on required changes and adjustments to the Reform Strategy and Work Programs. This kind of periodical review and evaluation is important and consistent with conceptual approach of the reform strategy and work programs development and implementation which are constructed for the period 2003-2008 with three two-year rolling cycles. In general, it is expected that there will not be substantial change in the strategic objectives of the reform. On the other hand, detailed work programs or action plans to be additionally developed for the "incoming" two-year rolling program should be based on recommendations and experiences of previous implementation (of the "outgoing" two-year program). In pursuing this methodology, the CED should ensure logical steps and, more importantly, consistency and sustainability of the reform program.

Based on this scenario, it is concluded that, under the general reform framework for 2003-2008, the CED should formulate Customs Reform Work Program in three sequential phases as follows:

- Customs Reform Work Program for 2003-2004
- Customs Reform Work Program for 2005-2006; and
- Customs Reform Work Program for 2007-2008.

d) *To Mobilize and Coordinate Technical Assistances for Implementation of the Reform Strategy and Work Programs:*

It is very true that reform strategy contains ambitious work programs, the implementation of which will require strong supports in both spiritual and material resources. The supports should come from both national and international sources. As stated in the previous section, the reform strategy and work programs outlined in

this paper are parts of the overall reform program of the Royal Government and of the Ministry of Economy and Finance. Therefore, the success or failure of the reform in the CED will have impacts on the overall reform framework. It is the fact that reform policy and strategy of the Royal Government are being supported by international donor community. This creates excellent opportunity for the CED to mobilize technical assistances to implement its reform and modernization programs. Given the above mentioned situation, the CED should, to the maximum possible, try its best efforts to mobilize, utilize and coordinate technical assistances from bilateral and multilateral sources to effectively implement the reform strategy and work programs. The main issue to be well addressed in utilizing technical assistances is to transfer know-how, skills and experiences, and more importantly, to attain ownership of the reform activities. It is envisaged that the ownership is a vital condition to ensure sustainability and momentum of the reform process.

e) *Preparation and Publication of the Report on the Reform Strategy and Work Programs:*

The RWG of the CED should prepare report on progress and outcomes of the implementation of relevant work programs, including the outlines of next steps of action plans to be implemented. The report should address favorable conditions and formidable issues and challenges, which have been faced in the course of implementing the reform work programs. The report may be produced quarterly and distributed to the public. At the end of each year, the four quarterly reports should be compiled into an annual report, which should contain a precise executive summary.