

Kingdom of Cambodia
Nation Religion and King

Ministry of Industry and Handicraft
General Department of Industry
Department of Industrial Property

PRAKAS
ON
REGISTRATION OF PATENT OF PEOPLE'S REPUBLIC OF CHINA IN CAMBODIA

SENIOR MINISTER, MINISTER OF MINISTRY OF INDUSTRY AND HANDICRAFT

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Royal Decree No. NS/RKT/0913 /903 dated September 24, 2013 on the appointment of the Royal Government of the Kingdom of Cambodia;
- Having seen the Royal Degree N° NS/RKT/1213/1393 dated December 21, 2013 on the revision and add compounding of the Royal Government of Cambodia;
- Having seen the Royal Kram N° 02/NS/94 dated July 20, 1994 promulgating the Law on organization and functioning of the Council of Ministers;
- Having seen the Royal Kram N° NS/RKM/018 dated December 09, 2013 promulgating the Law on the establishment of the Ministry of Industry and Handicraft;
- Having seen the Royal Kram N° NS/RKM/0103/005 dated January 22, 2003 promulgating the Law on the Patent and Utility Model Certificates and Industrial Designs;
- The Royal Kram N° NS/RKM/1117/016 dated November 22, 2017 promulgating the Amended Law on Patent and Utility Model Certificates and Industrial Designs;
- Having seen the Sub-Degree N° 575 ANKR.BK dated December 24, 2013 on Organization and Functioning of the Ministry of Industry and Handicraft;
- Having seen the Memorandum of Understanding on Bilateral Cooperation on Intellectual Property between the Ministry of Industry & Handicraft of the Kingdom of Cambodia (MIH) and the State Intellectual Property Office of the People's Republic of China (SIPO) dated September 21, 2017.
- Having seen the Prakas No. 451 MIH/2014 dated May 28, 2014 on the Organization and Functioning of the Department of the Industrial Property;
- Pursuant to the necessary of the Ministry

DECIDE
SECTION 1
GENERAL PROVISION

Rule 1.- Object

This Prakas aims to implement the Recognition of the Chinese patent entering Cambodia in accordance with the Patent Law and the Memorandum of Understanding between Ministry of Industry and Handicraft (MIH) of the Kingdom of Cambodia and State Intellectual Property Office (SIPO) of the People's Republic of China.

Rule 2.- Goal

The goal of this Prakas is:

- To determine the procedure for Recognition of the Chinese patent in Cambodia;
- Determine the procedure for maintaining the validation of Chinese patent in Cambodia;
- Identifies the mechanism for the processing of Chinese patents that have been recognized in Cambodia.

Rule 3.- Scope

This Prakas covers the application for Recognition of the Chinese Patent in Cambodia.

Rule 4.- Interpretation

In this Terminology use in this Prakas shall be interpreted:

- **Patent Law** means the Law on Patent, Utility Model Certificates and Industrial Designs, promulgated by the Royal Degree NS/RKM/0103/005, dated January 22, 2003 and the amendment patent law article 37 new article 38 new article 109 new and article 136 new promulgated by the Royal Degree NS/RKM/1117/16, dated 22 November 2017.
- **Chinese Patent Entering Cambodia** means the patent of the People's Republic of China that has been granted by SIPO and has been requested for registration in Cambodia.
- **Minister** means the Minister of the Ministry of Industry and Handicraft.
- **Registrar** means the Director of Department of Industrial Property.
- **Registration Department** means Department of Industrial Property.

SECTION 2
REGISTRATION OF CHINESE PATENT IN CAMBODIA

Rule 5.- Filing and Registration of Chinese Patent in Cambodia

The filing and registration of Chinese patent in Cambodia shall be done at the Department of Industry and Handicraft

Rule 6.- Request for Registration of Chinese Patent in Cambodia

The request for registration of a Chinese patent shall be made on the Form as attached in Annex 1 (N° RRP.CN) and the applicant shall fulfill the following requirements:

- a. Name, address, nationality and residence of Applicant and shall be signed by each applicant or representative.
- b. If the applicant is represented by an agent, the registration request form shall indicate and state the agent's name and address and shall be enclosed with Power of Attorney.
- c. The registration request form shall be accompanied by the following documents:
 1. A duplicated copy of patent register of the Chinese patent to be registered in Cambodia.
 2. A certified copy of the specifications of the granted Chinese patent, including:
 - i. Description;
 - ii. Claims;
 - iii. Abstract;
 - iv. Drawings (if any).
 3. Certified Khmer translations of the documents referred to in paragraphs C(2)(i), C(2)(ii), C(2)(iii) and C(2)(iv) of this Rule shall be submitted to the Registrar within six (6) months from the date that the registration request form was submitted to the Registrar.
- d. The registration request form shall be accompanied by the required fees comply with the joint Prakas on the provision of public services between the Ministry of Industry and Handicraft and Ministry of Economy and Finance.

Rule 7.- Criteria for Registration of Chinese Patent in Cambodia

The request for registration of a Chinese patent referred to in Rule [6] of this Prakas must fulfil the following requirements:

- 1- Shall be valid during the period of request for registration in Cambodia.
- 2- Shall have filing date after January 22, 2003 and shall follow Articles 4 and Articles 9 of the Patent Law.

Rule 8.-Numbering and Marking Application for Registration of Chinese Patent in Cambodia

The Registrar shall mark, on each document making up the application, the actual date of receipt and the application number consisting of the letters "KH", slant "/", the letter "RRP.CN", slant "/", the four numbers of the year in which the initial papers were received, slant "/", and a five-digit number allotted in the sequential order in which applications are received.

Rule 9.- Examination as to Form for Registration of Chinese Patent in Cambodia

The examination shall be executed as follows:

- 1- The Registrar shall examine whether the request for registration of a Chinese patent fulfills all the requirements.
- 2- If required, the Registrar may invite the applicant to file all required corrections in writing within two (2) months from the date of the invitation.
- 3- Where the Registrar is of the opinion that request for registration of a Chinese patent in Cambodia fulfills all the requirements, the Registrar shall proceed to register the Chinese patent and issue a certificate of registration.

- 4- The registration number for a registered Chinese patent number consisting of the letters “KH”, slant “/”, the letter “GRRP.CN”, slant “/”, and a five-digit number allotted in the sequential order in which registration are made.

Rule 10.- Receiving Date of the Request for Registration of Chinese Patent in Cambodia

The receiving date of the request for Chinese patent in Cambodia and the filing date of the request for Chinese patent in Cambodia shall be executed as follows:

- 1- The receiving date of the request for Chinese patent in Cambodia shall be the date of receiving all the documents as referred to in paragraphs C(1) and C(2) of Rule [6] of this Prakas and pay the prescribed fee as mentioned in paragraph D of Rule [6] of this Prakas.
- 2- The filing date of the request for Chinese patent in Cambodia shall be the same date as the filing date in China.
- 3- The registration date of the Chinese patent in Cambodia shall be the date of issuing the certificate of registration in Cambodia.

Rule 11.- Recognition of Chinese Patent in Cambodia

Chinese patent registered in Cambodia shall be treated as a patent granted by the Registrar under Article 38 (new) of the Patent Law.

Rule 12.- Registration Fee and Annual Fee

The payment of registration fee and annual fee for Chinese patent in Cambodia shall be executed as follows:

- 1- The registration of Chinese patent in Cambodia shall be paid fee as shall be accompanied by the required fees shall comply with the joint Prakas on the provision of public services between the Ministry of Industry and Handicraft and Ministry of Economy and Finance.
- 2- The annual fee for Chinese patent registered in Cambodia shall be payable based on the filing date of the registered patent.
- 3- The registration fee and the annual fee for Chinese patent in Cambodia shall be paid within 3 (three) months from the date of invitation to pay.

Rule 13.- Prior user rights in relation to Chinese patents registered in Cambodia

Prior user rights in relation to Chinese patent registered in Cambodia shall be executed as follows:

- 1- Notwithstanding Article 44(d) of the Patent Law, the rights under a Chinese patent registered in Cambodia shall not extend to acts performed by any person who in good faith, before the date of registration of the Chinese patent in the Kingdom of Cambodia, was using the invention or was making effective and serious preparations for such use.
- 2- Notwithstanding Article 44(d) of the Patent Law, a person who is in the Kingdom of Cambodia before the date of registration of a Chinese patent, was in good faith, using the invention or making effective and serious preparations for such use, has the right to continue to do the act or, as the case may be, to do the act, notwithstanding the registration of the patent.

- 3- The right of the prior user referred to in this rule may be transferred or develop only together with the enterprise or business, or with that part of the enterprise or business, in which the use or preparations for use have been made.

Rule 14.- Termination

- 1- In case of the right termination due to untimely fee payment, the registered Chinese patent in Cambodia will not be influenced.
- 2- In case of invalidation of the Chinese patent, after receiving notice from SIPO to MIH on the invalidation status to terminate the right of relevant registered Chinese patent in Cambodia upon the conclusion of the whole proceedings for the legal remedy.
- 3- In case of any change on the granting text (description, Claims and abstract) of the Chinese patent, SIPO shall inform the MIH.
- 4- In case of legal dispute, the legal status of the registered Chinese patent in Cambodia should be the same as the final legal status of the relevant Chinese patent after the conclusion of all legal remedial procedures.

SECTION 3

Conflict Resolution and Cooperation

Rule 15.- Conflict Resolution

The Department of Industrial Property, General Department of Industry of the Ministry of Industry and Handicraft has authority to facilitate and resolve the conflict related to registration of Chinese patent in Cambodia. In case the conflict cannot be solved, the involved parties may seek for settlement from the competent court.

Rule 16.- Cooperation

The Department of Industrial Property, General Department of Industry of the Ministry of Industry and Handicraft shall cooperate with the State Intellectual Property Office of China and other related stakeholders to promote the protection of Chinese Patent registered in Cambodia.

SECTION 4

FINAL PROVISION

Rule 17.- Null and Void.

Any provision contrary to this Prakas shall be considered as null and void.

Rule 18.- Authorities

General Inspector of General Inspection, Director General of Directorate General of Industry, Chief of Cabinet, Director of Department of Administration Department, Director of Department of Personal, Director of Accounting and Finance and Director of Department of Industrial Property shall have duty to implement this Declaration according to their competence.

Rule 19.- Entering into force

This Declaration enters into force from the date of signing.

Phnom Penh,.....2018
Senior Minister
Minister of Industry and Handicraft

Cham Prasidh

CC:

- Cabinet of Samdach Techo Prime Minister
- Council Minister
- Ministry of Economic and finance
- Ministry of Commerce
- Ministries Institutions concerned
- Municipality Provinces Authorities
- As mentioned Rule 20
- Documentation