



**OFFICE OF THE COUNCIL OF MINISTERS
ECONOMIC, SOCIAL AND CULTURAL COUNCIL**

**CAMBODIA
REGULATORY IMPACT ASSESSMENT
STRATEGIC PLAN**

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CAMBODIA RIA STRATEGIC PLAN

1. Background

The Royal Government of Cambodia has established the Economic, Social and Cultural Council (ECOSOCC) as a mechanism of the Office of the Council of Ministers to:

- (i) examine and monitor the development of economic, social and cultural situation
- (ii) study challenges facing the government, and
- (ii) Review laws and regulations, assess their economic, social and cultural impacts, report the findings and make recommendations to the government.

ECOSOCC, previously known as an Economic, Social and Cultural Observation Group (OBSES), was formed in 1996 by the Royal Government during the 1st Legislature of National Assembly. During the past 13 years, OBSES had actively and effectively fulfilled the above tasks assigned by the Royal Government.

Due to the attained achievements and significant duties to be completed, the Royal Government has upgraded **OBSES** to **ECOSOCC** by the Royal Decree No. 02/09/173, dated February 17, 2009. To further enhance ECOSOCC's role in doing regulatory impact assessment in line with the Government's agenda to improve the regulatory environment for business set by the Second Phase Rectangular Strategy of the Royal Government in the 4th Legislature of National Assembly **under the leadership of Samdech Akka Moha Sena Padei Techo HUN SEN, Prime Minister of the Kingdom of Cambodia**, ECOSOCC has developed Cambodia RIA strategic plan to institutionalize the good practices of regulatory impact assessments (RIA) in Cambodia by promoting, with ADB technical support, the RIA mechanism in regulation making herein.

2. Mission

The mission of the RIA institutionalization is to improve the regulation making process with objective of making laws and regulations effective and efficient in order to increase country's competitiveness for boosting economic growth and to successfully achieve the long term vision of the Royal Government's Rectangular Strategy Phase II- *economic growth, employment and efficiency*.

3. What is Regulatory Impact Assessment (RIA)?

Laws and regulations are needed to regulate the country, economy and human behavior. However, laws and regulations must be carefully designed so as not to have unintended or distortionary effects, such as restricting competition or imposing unnecessarily onerous cost on those affected by such laws and regulations. The government should carefully assess the cost



and benefit of introducing a new regulation to avoid any unnecessary red-tape on business and society and ensure that regulation is effectively and efficiently implemented by all stakeholders.

According to the survey conducted in OECD countries, RIA was identified as the important tool to the regulatory reform¹.

RIA is the process of assessing the impact of regulation with a proper methodology, including cost-benefit analysis, and consultation with all stakeholders to ensure that the regulation can effectively and efficiently deliver its objectives without unduly causing adverse effects.

It requires a proper structured approach to regulation development process that systematically evaluates costs and benefits to ensure the regulation can achieve dual goals of effectiveness and efficiency. The problem to be addressed and the related regulation objective should be identified as first steps in the regulation development process. This should be followed by consideration of a range of options for achieving the objective and an analysis of the likely economic, social and environmental consequences. The regulation development process should at least ensure that the benefits to the community of any regulation actually outweigh the costs, and give some assurance that the option chosen will yield the greatest net benefits.

In this way, a RIA is both a process and a document. It is a process as it provides a structured and systematic approach to regulation making and review. It involves assessment of the impacts and consultations with stakeholders. It is also a document, as the RIA requires the completion of an impact report documenting the evaluation of the regulatory proposal.

4. What is the Initial Assessment (IA)?

Governments around the world that have adopted a RIA requirement typically follow a two-step documentary process. The first step is to undergo an Initial Assessment (IA). This assessment will provide information on the problem to be addressed, objective of the proposal, impact of the proposed regulation and alternative options on the community, it documents the views of stakeholders on the options, and recommends whether further analysis on the proposed regulation is necessary or not. If based on the IA that further analysis is required then the second step is to undergo a Regulatory Impact Statement (RIS) elaborating on the options. The IA will be self-conducted by the regulation maker in the line ministries and these regulatory maker can contact the Office of Regulatory Impact Assessment (ORIA) of ECOSOCC if they are not confident on their assessment whether further analysis should be required or not. The Australian experiences, for example, showed that among around 2,000 regulations issued by

¹ OECD 2002, *Regulatory Policies in OECD countries: From Intervention to Regulatory Governance*, OECD Reviews of Regulatory Reform, OECD, Paris.



Australian government per year, only 40% of them were conducted Initial Impact Assessment and only of around 5% of that 40% were required to conduct Regulatory Impact Assessment. This shows that not all regulations are required to conduct IA or RIA. It depends on how the proposed regulation has impact on business, individual and community. The Guideline for IA and check list will be developed by the ORIA.

5. What is Regulatory Impact Statement (RIS)?

To assess the impact of the regulation, regulation makers must prepare the RIS. To ensure the effectiveness and efficiency of regulation to be proposed, they must prepare RIS properly and make sure all the following criteria² will be met in each RIS:

5.1 Problem

The RIS should clearly identify the fundamental problems that need to be addressed. This part of the analysis must:

- present evidence on the magnitude (scale and scope) of the problem;
- document relevant existing regulation at all levels of government, and demonstrate that it is not adequately addressing the problem;
- if the problem involves risk, identify the relevant risks and explain why it may be appropriate for government to act to reduce them; and
- present a clear case for considering that additional government action may be warranted, taking into account existing regulation and any risk issues.

5.2 Objectives

The RIS should explain the objectives, outcomes, goals or targets of government action.

5.3 Options

The RIS should identify a range of viable options including, as appropriate, non-regulatory, self-regulatory and co-regulatory options. If only one option (apart from the status quo) is considered feasible, the RIS should provide sound justification for considering only two options.

5.4 Impact Analysis

The RIS should provide an adequate analysis of the cost and benefits of the feasible options and:

² OBPR August 2007, Best Practice Regulation Handbook: *RIS Outline and Adequacy Criteria*, p. 54-55



- identify the groups in the community likely to be affected by each option and specify significant economic, social and environmental impacts on them;
- assess the costs and benefits of all options, supported by an acceptable level of evidence, where appropriate through a formal cost-benefit analysis;
- assess the impact on business, particularly small business, and quantify (using the standard cost model) the effect of each option on business compliance costs;
- quantify other significant cost and benefits to an appropriate extent, taking into account the significance of the proposal and its impact on stakeholders;
- if an objective of regulation is to reduce risk, analyze the extent to which each option would reduce the relevant risk, and cost and benefits involved;
- recognize the effect of the options on individuals and the cumulative burden on business;
- document any relevant international standards, and if the proposed regulation differs from them, identify the implications and justify the variations;
- if the proposed regulation would maintain or establish restrictions on competition, demonstrate that the government's objective can be achieved only restricting competition; and
- provide evidence to support key assumptions and clearly identify any gaps in data.

5.5 Consultation

The RIS should:

- outline the consultation objective;
- describe how consultation was conducted (including the stage of policy development process at which consultation was undertaken, the timeframes given, and the methods of consultation);
- articulate the views of those consulted, including substantial disagreements;
- outline how those views were taken into consideration; and
- if full consultation was not undertaken, provide a reasonable explanation.

5.6 Conclusion and Recommended Option

The RIS should provide a clear statement as to which is the preferred option and why.

The RIS should demonstrate that:

- the benefits of the proposal to the community outweigh the costs; and



- the preferred option has the greatest net benefit for the community, taking into account all the impacts.

5.7 Implementation and Review

The RIS should provide information on how the preferred option would be implemented, monitored and reviewed. Interactions between the preferred option and existing regulation of the sector should be clearly identified.

The above 7 criteria of RIS should be adequately checked and prepared by the line ministries or agency who is responsible for making any regulation. The Guideline for RIS, guiding questions and check list will be developed by Office of Regulatory Impact Assessment (ORIA) of ECOSOCC.

6. The Introduction of RIA Methodology in Cambodia

The RIA concept is new to Cambodia and it will take time to raise awareness of all stakeholders the importance of RIA. To achieve the successful introduction of RIA in Cambodia, the government is required to institutionalize RIA mechanism including establishing the ORIA for implementing RIA, awareness raising of RIA, training line ministries on RIA and monitoring compliance with it over time. Hence, the first step is to prepare for the establishment of ORIA at ECOSOCC. In this regard, the Government has to make sure all the following necessary tools must be well prepared:

- Training ECOSOCC's staffs to fully understand the RIA concept and process including training the trainers in ECOSOCC
- Establishing ORIA at ECOSOCC
- Holding the RIA seminars by inviting line ministries and concerned organizations / agencies to disseminate the RIA concept
- Training regulatory makers in line ministries/ agencies
- Equipping ECOSOCC with necessary facilities to stocktaking the existing regulations and to disseminate the information on regulations
- Institutionalizing RIA by issuing government decision/sub-decree to implement RIA in Cambodia by starting with key pilot line ministries, then rolling out to other line ministries according to the success of pilot line ministries

7. Institutionalization of RIA in Cambodia

7.1 International Best Practices

Best international practice strongly recommends the establishment of ORIA which is responsible for overseeing the institutionalization and rollout of the RIA to line ministries and agencies within the national government. The ORIA should be housed in an agency that has a coordinating role across line ministries, is not a regulation maker in a sector, and has capacity



and experience with reviewing legislation. The work of the ORIA is more related to the economic aspect, assessing the impact on business and community, rather than the legal aspect, assessing the format and legality of the regulation. In addition, staffing of the ORIA, according to the international practices, is more economic, accountant and finance background than legal background.

7.2 ECOSOCC is the only Natural Institution in charge of RIA

ECOSOCC is the mechanism under the office of the Council of Ministers and was tasked by the Royal Decree No. 02/09/173, dated February 17, 2009 to do the impact assessment of newly proposed laws and regulations, among other important duties assigned by the government. According to the international practices mentioned above, ECOSOCC fits very well to be the institution responsible for ORIA. It is the only institution at the national level to examine and assess the impact of regulation before it is submitted to the Cabinet meeting for final decision. Though ECOSOCC is already the natural institution should be responsible for ORIA, additional requirement such as legal bases, decision to establish ORIA and decision/sub-decree mandating line ministries to implement RIA, and political commitment to support its implementation is also needed. The success of the RIA implementation can only be achieved only if the strong supports from all stakeholders, especially regulatory maker and top leaders' political commitment, can be gathered.

7.3 Legal Procedure for RIA Implementation in Cambodia

For the implementation of RIA in Cambodia to be successful, the government must issue:

⊕ A decision to establish the ORIA in ECOSOCC. This decision will mention the mandate, organizational structure and job description of staffs of ORIA and

⊗ A decision/sub-decree to mandate all line ministries to apply RIA in their early stage of regulation making and policy development process. Regulation herein refers to law, royal kret, sub-decree, decision by the government and prakas of the line ministry. The decision/sub-decree will be issued by the end of 2011 with the following items:

- Reiterate ECOSOCC's in assessing the impact of laws and regulations
- Set the timeframe for obligatory implementation of RIS in Cambodia
- RIA Handbook
 - Guideline for implementation of RIA
 - Criteria for preparation of RIS
 - Check list of documents required

7.4 The Introduction of RIA Project in the Key Pilot Line Ministries



Due to the new concept and process of RIA, the government anticipates that raising awareness among regulatory makers and the public and capacity development of staffs are very important for the RIA project to be successful. This process will take longer time to reach full scale of implementation. Due to the limited human resources and fund for the project implementation, RIA project will be starting with key pilot line ministries with a voluntary basis and then rolling out to the other line ministries according to the success of pilot line ministries. Presently, Ministry of Industry, Mine and Energy and Ministry of Environment are starting as pilot ministries. The government expects to rollout up to 6 line ministries such as Ministry of Commerce, Ministry of Health, Ministry of Agriculture, Forestry and Fishery and Ministry of Tourism for next two years. We expect to reach a full scale of RIA project implementation nation-wide by the end of 2013 by mandating all line ministries to incorporate RIA in their regulation making process.

7.5 Present ECOSOCC's Performance on Regulation Impact Assessment

ECOSOCC has been, though, performing well in examining and assessing regulations since its establishment in 1996, there is still some limitation on the quality of assessing the economic and social impact of regulations due to the lack of proper methodology and professional experiences including cost-benefit or standard cost model analysis. As a result, all regulations which have been approved so far ended up with the inappropriate impact assessment and too much administrative burden on regulatory users and implementers.

In practice, sub-decrees and legislation is drafted by line ministry and then sent to the General Secretariat of RGC (GS) for the arrangement of Technical Meeting (TM), Inter-ministerial Meeting (IM), Final Checking Meeting (FCM) and Full Cabinet Meeting (CM) for discussion and approval³. The screening process of the draft regulation is as follows:

1. GS convenes the Technical Meeting which is chaired by ECOSOCC and Council of Jurist and participated by the Deputy Secretary General [DSG] of the RGC, Representative of Deputy Prime Minister and Minister in charge of the OCM's Cabinet, proposed line ministry and Secretary of State of OCM in charge as a honorary chairman. The Technical Meeting discusses and assesses the draft with a focus on the policy, legal, economic, social and cultural aspect. The meeting also evaluates the impact assessment in regard with other existing regulations as well as correction of the form, content, technical term of the draft. If required, the narrower TM will be set up to further discuss and help rewrite the draft. The record of the TM will be a recommendation and reference for IM.
2. GS convenes the IM for further discussion of the draft with the participation of the same parties above plus other concerned line ministries. IM is broader than TM. IM

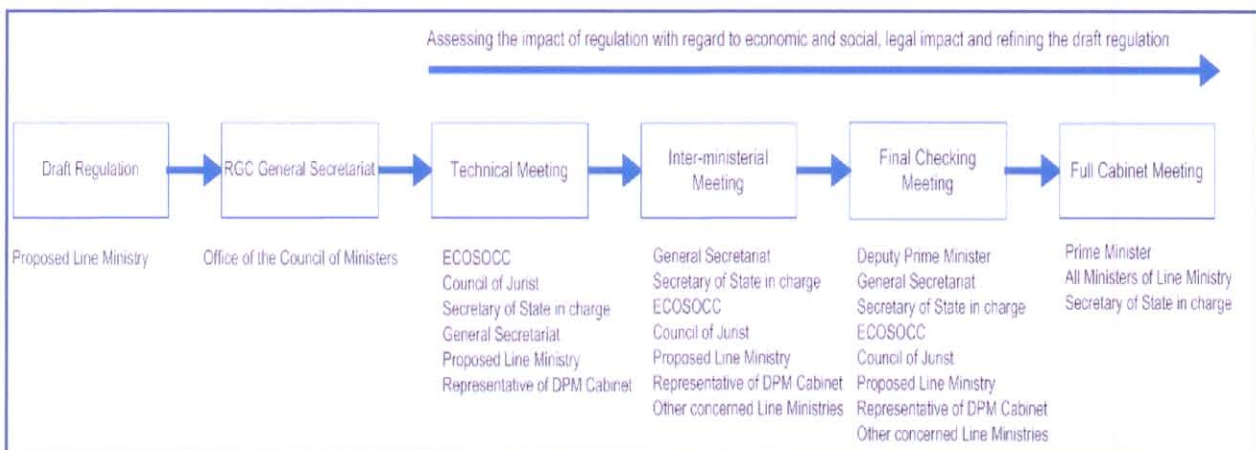
³ The Office of the Council of Ministers No. 01 SR, May 24, 2010: Circular on the Procedure of Checking Regulations and other Legal Documents at the Office of the Council of Ministers.



usually is co-chaired by the Secretary General or First Deputy Secretary General of GS and Secretary of State in charge of the OCM and another Secretary of State in charge as a honorary chairman. Most of the issues are solved in IM except a very sensitive, critical and difficult to decide one. The record of the IM will be a recommendation and reference for the Final Checking Meeting.

3. SG convenes the Final Checking Meeting (FCM) which will be presided over by the Deputy Prime Minister and Minister in charge of the OCM to discuss and solve the undecided issues left over from the IM. The FCM will be joined by the same representative of the IM.
4. Finally, GS convene the CM which is chaired by the Prime Minister and participated by all ministers and Secretary of State in charge of line ministry. The CM finally approves the draft regulation⁴. In practice, there is not much discussion on the draft during the CM except the undecided issues because the draft was already carefully screened and discussed in the above TM, IM and FCM.

Approval Process of Regulation Making in Cambodia



7.6 New Regulatory Impact Assessment Process in the RIA System

In practice so far, there is no proper economic and social impact assessment methodology of the draft regulation including the cost-benefit analysis and standard cost model analysis. The discussion in the meeting itself does not focus much on the economic impact of the draft such as burden on the business community and red tape but more on the legal aspect, refinement of the draft and the overlapping of responsibility among the line ministries. The current impact assessment results in not so effective and efficient regulation.

⁴ PM approve on government decision and sub-decree. For Royal Decree, after the CM approval, it will be sent to the King for promulgation. For Law and International agreement will be sent to National Assembly, Senate for approval and finally to the King for promulgation.

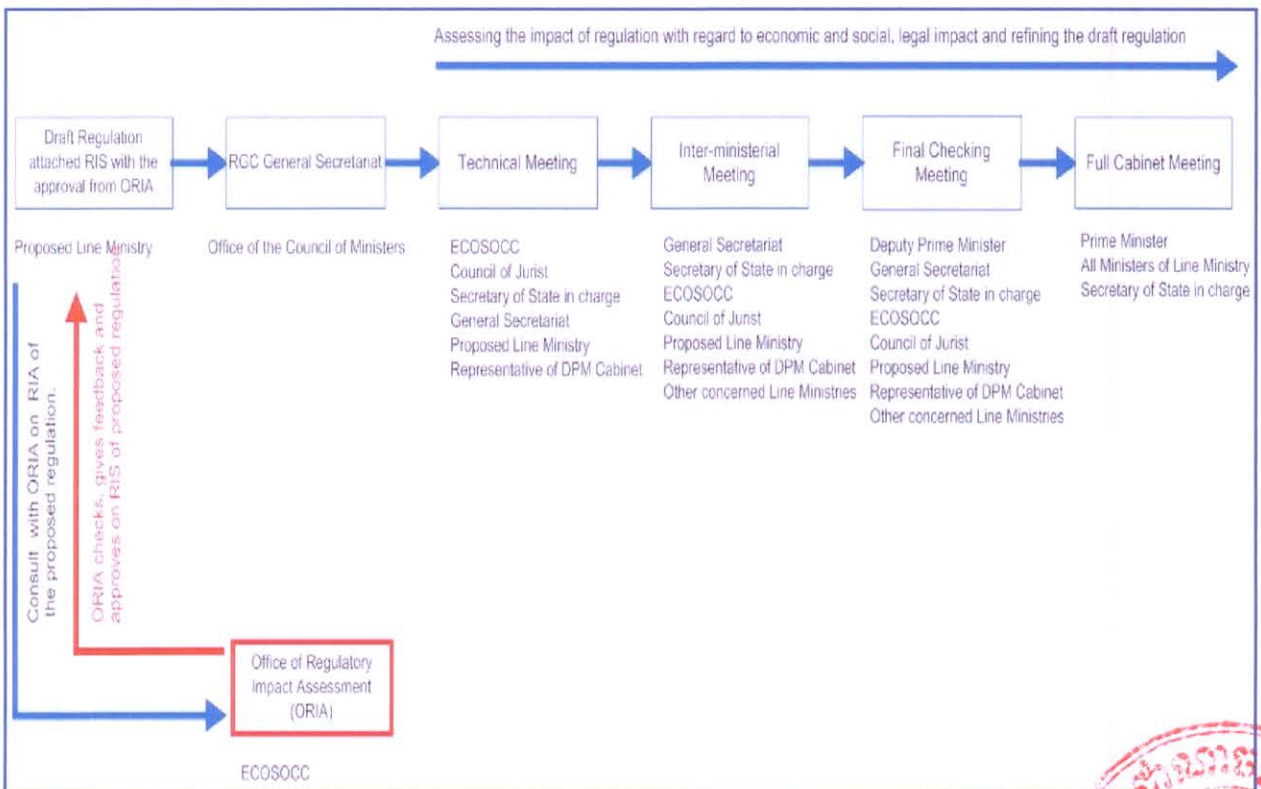


The world is moving toward globalization in which human resource, capital and services are moving freely. However, to survive the wave of globalization, Cambodia must be competitive enough to attract more investment and resources. The country's competitiveness can be strengthened through hard infrastructure such as road, bridge and electricity; natural resources; services; and soft infrastructure such as laws and regulations. To have effective and efficient regulations, we must carefully consider the cost and benefit of the proposed regulation with a proper methodology and process. That is, the proposed regulation should not put burden and red tape on business community and society.

This RIA strategic plan is designed to improve our regulatory making process and make our regulations more effective and efficient. RIA system requires some changes in the process of regulation making. The regulation maker has to apply RIA at the early stage of regulation making process and policy development. Regulatory maker has to make sure that proper assessment such as initial assessment and impact assessment as well as public consultation is made with proper methodology including cost-benefit calculation.

The line ministry should consult with ORIA at early stage as soon as possible on the impact of the proposed regulation. ORIA will check, give feedback and approve the RIA statements (IA and RIS) submitted by line ministry. All draft regulation to be sent to GS must be attached with RIS approved by ORIA. GS will not accept the draft unless it has approval letter from ORIA. GS can proceed to the normal regulatory making process only for a draft which is attached with IA/RIS approved by ORIA.

New Approval Process of Regulation Making in Cambodia



7.7 Function of the Office of Regulatory Impact Assessment

Office of Regulatory Impact Assessment (ORIA) will be established in ECOSOCC to implement RIA in Cambodia. ORIA is divided into four units as follows:

- RIA Unit
- CBA/SCM Unit
- Information Center Unit
- Project Implementation Unit (PIU)

The ORIA has the following functions:

- **Coaching / training**
 - Create RIA training manuals and check list
 - Provide training to build RIA capacity in line ministries/agencies
 - Provide guidance to the agencies to help them to prepare Initial Assessments (IAs) and Regulatory Impact Statements (RISs)
- **Assessor**
 - Assess IA & RIS prepared by line ministries/agencies
 - Provide the line ministries with constructive feedback.
- **Reporter / publisher**
 - Publish all regulatory proposals along with IA & RISs on the website (include final regulations after they are made)
 - Maintain a data base of all proposals and RIA undertaken, and generate reports when required.
- **Liaison and coordination**
 - Liaise with the business associations such as Chamber of Commerce, keep in touch with businesses to assess regulatory imposts
 - Liaise with line ministries continually regarding RIA
 - Liaise with international organizations to learn the best practices.
 - Liaise with ADB regarding RIA implementation

7.8 Staffing ORIA

ORIA will be led by one Director of ORIA, Deputy Director and Manager with operating staffs of around 15 persons. ORIA has four units and each unit will be headed by Head of Unit. ORIA staffs will be recruited from ECOSOCC except senior project administrator to be



independently recruited by ADB. Two International consultants and 6 national consultants will be hired to support the operation of ORIA. Staffs will be recruited by the Board of Management of ECOSOCC based on the qualification and experiences specified in Memorandum of Understanding signed on June 01, 2010 between Asian Development Bank and the Office of the Council of Ministers. It is strongly preferred that ORIA's staff must have the following qualifications:

- Economic, business administration, public policy, Accounting, quantitative and qualitative analysis background
- Fluent in English
- Dynamic and active performance
- Computer/IT knowledge
- Full time staff

7.9 Structure of the Office of Regulatory Impact Assessment

The Office of Regulatory Impact Assessment will be governed by one Director, one Deputy Director and one Senior Manager and 13 staffs with the following responsibilities and duties:

- Director:
 - General management of ORIA
 - Approving Annual work plan and budget
 - Approving on progress and final report
- Deputy Director is responsible for the following duties:
 - Assisting Director
 - Reviewing annual work plan and budget
 - Reviewing progress reports and financial reports
 - Reviewing RIA report
 - Acting Director when Director 's absent
- Manager is responsible for the following duties:
 - Coordinating and monitoring all activities of ORIA
 - Coordinating with international and local consultants and senior project administrator
 - Coordinating with MEF, IAs and ADB



- Making progress reports and financial reports with a support from consultants
 - Preparing annual work plan and budget (AWPB)
 - Managing daily activities of ORIA
- RIA Unit has one head and 5 staffs. Head of RIA Unit is responsible for the following duties:
- Reviewing and analyzing Initial assessment/RIS submitted by IAs
 - Developing RIA guideline, Handbook, checklist, training manual and template
 - Training EA/IAs' staffs on RIA
 - Supporting IAs on RIA advocacy
 - Reporting on RIA compliance
- CBA/SCM Unit has one head and one staff. Head of CBA/SCM Unit is responsible for the following duties:
- Reviewing CBA/SCM of proposed regulation by IAs
 - Developing CBA/SCM model
 - Training EA/IAs' staffs on CBA/SCM
- Information Center unit has one Head and 2 staffs. Head of Information Center is responsible for the following duties:
- Management of ECOSOCC's website
 - Maintenance of IT equipment and system
 - Collecting data and other regulations
 - Database Management
- Project Implementing Unit (PIU) has one Head and 2 staffs. Head of PIU is responsible for the following duties:
- Administration and procurement
 - Accounting and finance
 - Inventory management
 - Organizing seminars, workshops, missions and business trips
 - Coordinating with MEF, ADB, IAs and others
 - Publications



8. Cooperation with Asian Development Bank

RIA project will be supported and funded by Asian Development Bank (ADB) under Subprogram 2 of Promoting Economic Diversification Program (PED). The PED Program is to support the Government's private sector development agenda, including institutional capacity development. This agenda includes (i) macroeconomic stability for private sector development and growth; (ii) investment climate, competition policy, and innovation policy; and (iii) trade policy and trade facilitation. The PED Program has the following three subprograms:

Subprogram 1 lays out the regulatory and strategic frameworks for priority private sector areas and will also focus on maintaining macroeconomic stability through prudent fiscal policy. **Subprogram 2** of the Program cluster builds on the reforms under Subprogram 1 for investment climate, trade policy and trade facilitation. In response to stress to the economy arising from the GFC, Subprogram 2 increases the focus on competition policy and regulatory reform. These reforms are designed to promote economic diversification by (i) enhancing competition in domestic markets and regulatory efficiency; (ii) strengthening investor confidence in the regulatory environment and promoting market based innovation; and (iii) enhancing trade policy capacity and strengthening trade facilitation measures along the entire supply chain. **Subprogram 3** will increase focus on capacity development of the private sector to improve competitiveness of Cambodian economy.

To start implementing RIA project in Cambodia, ADB agreed to support and finance the operation of ORIA by providing necessary infrastructure and means to set up ORIA at ECOSOCC, including establishing Information Center, developing website and database for legal documents. This will be done under TA Grant leftover under subprogram 1 with the amount of 108,000 USD starting from June 2010 to December 2010. The first MoU between ECOSOCC and ADB was signed on May 18, 2010 to kick off the project implementation. The second MoU to support the full scale operation of ORIA will was signed on June 1, 2010 between Office of the Council of Ministers and ADB with TA Grant under subprogram 2 of 2,400,000 USD will start from first quarter of 2011 to first quarter of 2013.

9. The Way Ahead

RIA project starts with the financial support from ADB under its PED program and it expects to last up to first quarter of 2013. We also expect that ADB will extend their support to the RIA project to Subprogram 3 in the later stage. The RGC, however, has to make sure that, through whatever mean, this project is long-term sustainability for Cambodia because RIA will make Cambodian legal framework more effective, efficient and competitive.



10. Conclusion

RIA project is very important tools to achieve the government reform agenda of Good Governance set in the Rectangular Strategy phase II and to move Cambodia toward a country with the effective and efficient regulations. RIA is new to Cambodia and it can't be successfully implemented without fully participation from all stakeholders, especially top leaders' political commitment, regulation making line ministries and the public. The key success to RIA implementation is to change the habit and process of regulation making and policy development. Making effective and efficient regulations require full consultation with stakeholders at early stage and with the right process.

ORIA, which responsible for the RIA implementation in Cambodia, must have its clear long term vision, mission and objectives to be achieved. ORIA has to work with full responsibility and sustainability to achieve its set objective, mission and vision. This strategic plan is very important and will be a roadmap for RIA implementation in Cambodia.

