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DRAFT OF
THE CODE OF CIVIL PROCEDURE OF CAMBODIA

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TITLE I. GENERAL PROVISIONS

CHAPTER I. TENOR OF CODE, PURPOSE OF CIVIL ACTIONS, OBLIGATIONS OF COURT AND PARTIES

1. (Tenor of Code)

Procedures relating to civil actions shall, except as otherwise provided by other laws, conform to the provisions of this Code.

2. (Purpose of civil actions, right to obtain trial)

1. The purpose of civil actions is to have courts resolve civil disputes in accordance with the law in order to protect the rights of private parties.
2. The right of all persons to obtain a court trial in a civil dispute shall be guaranteed.

3. (The principle of "La Contradiction")

1. No party shall be tried without being heard or summoned.
2. The court shall in all cases preserve the principle of "La Contradiction"¹. ~~[i.e., the principle of trial in which all opposing parties sit face to face and are provided an equal opportunity to present their legal or factual assertions.]~~

4. (Obligations of court and parties)

Courts shall make efforts to ensure that civil actions are conducted fairly and speedily, and parties shall pursue civil actions honestly and in good faith.

5. (Language used at court, right of party to request interpreter)

1. The Khmer language shall be used at court.
2. A party who cannot understand the Khmer language may hire request a qualified interpreter. Where a party cannot afford to hire a qualified interpreter, make this request [at their own expenses] ~~[THIS IS VAGUE — IF THE PARTY IS SUPPOSED TO PAY FOR THE INTERPRETER, THE STATUTE SHOULD SAY SO AT THE BEGINNING. THE SECOND SENTENCE SHOULD THEN SAY 'IF THE PARTY CANNOT AFFORD TO HIRE AN INTERPRETER', ...]~~, the state shall provide a qualified interpreter.

6. (Attendance of public prosecutors)

1. ~~Where the court deems it necessary for~~ required for the public welfare, the court shall notify public prosecutors of the receipt of a complaint on a case [that may possibly require the attendance of public prosecutors].
2. Regardless of whether public prosecutors have received a notice described in Paragraph 1, public prosecutors may, where they deems it necessary for the public welfare, attend t ~~may require public prosecutors to attend~~ the proceedings of a civil actions and ~~to~~ present opinions.

¹ "La Contradiction" is the principle of trial in which all opposing parties sit face to face and are provided an equal opportunity to present their legal or factual assertions.

CHAPTER II. COURT

Section I. Jurisdiction

7. (Meaning of court having jurisdiction)

A court having jurisdiction shall mean a court that has the right to receive a complaint, adjudicate an action, and render a judgment.

8. (Jurisdiction conferred by address, etc.)

Actions against the following types of persons ~~may~~shall be brought in the court of first instance that has jurisdiction over the location indicated below:

~~(1)~~(a) A natural person

- [1] his domicile, [2] the location of residence, where such natural person does not have a domicile within Cambodia, or where his domicile is unknown, or [3] his last known domicile, where such natural person does not have a location of residence within Cambodia, or where the location of his residence is unknown.

~~(2)~~(b) A Cambodian juridical person

- [1] The location of its administrative headquarters or business office, or [2] the location of the domicile of the entity's representative or other principal person in charge of the operations of the entity, where there is no ~~administrative headquarters~~ office or business office.

~~(3)~~(c) A foreign juridical person

- [1] The location of the entity's administrative headquarters or business office in Cambodia, or [2] the location of the domicile of the entity's representative or other principal person in charge of the operations of the entity in Cambodia, where there is no administrative headquarters or business office within Cambodia.

9. (Jurisdiction based on property, etc.)

In addition to the courts specified in Article 8, the following types of actions may also be brought in the court having jurisdiction over the location set forth below.

~~(1)~~(a) Actions demanding performance of obligations

- ~~The location where the obligations are to be performed~~

~~(2)~~(b) Actions demanding payment of money on bills or checks

- ~~The location where payment on the bill or check is to be made~~

~~(3)~~(c) Actions demanding performance of obligations against persons who have no domicile in Cambodia, or those whose domicile is unknown

- ~~The location of the defendant's property which is the subject of the claim or security interest, or which may be seized~~

~~(4)~~(d) Actions demanding performance of obligations against juridical persons that have no administrative headquarters or business office in Cambodia, or those whose administrative headquarters or business office is unknown

- ~~The location of the defendant's property which is the subject of the claim or security interest, or which may be seized~~

~~(5)~~(e) Actions against persons having an administrative headquarters or business office and pertaining to business

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~~transacted therein regarding operations in that administrative headquarters or business office~~

- The location of the administrative headquarters or business office
- ~~(6)~~ (f) Actions based in tort
 - The location where the alleged tort occurred
- ~~(7)~~ (g) Actions pertaining to immovable property
 - The location of the immovable property
- ~~(8)~~ (h) Action pertaining to registration
 - The location at which the registration is required
- ~~(9)~~ (i) Actions pertaining to deceased's estate
 - The location of the domicile of the deceased at the time the inheritance commences, or if such person does not have a domicile in Cambodia or ~~their~~his/her domicile is unknown, the location of ~~their~~his/her residence, or if such person does not have a location of residence in Cambodia or ~~their~~his/her location of residence is unknown, the location of ~~their~~his/her last known domicile.

10. (Special jurisdiction in cases involving divorce, parent-child relationships)

1. An action for divorce shall be heard exclusively by the court of first instance having jurisdiction over the location indicated below with regard to each of the following situations:

- ~~1.~~ (a) Where the husband and wife share a common address
- Their domicile

(b)
Where either the husband or the wife resides in the jurisdictional district of the court of first instance in which the last common address of the husband and wife is located

- ~~The last common domicile at district~~

(c)
Where neither the husband and wife resides in the jurisdictional district described in subparagraph (b2), or where there is no common address shared by the husband and wife

- The domicile of either the husband or wife, or the domicile of the husband or wife at the time of the husband's or wife's death ~~{DOES CAMBODIAN LAW PERMIT ONE TO DIVORCE A DEAD SPOUSE?}~~

2. An action to confirm the existence or nonexistence of a parent-child relationship shall be heard exclusively in the court of first instance having jurisdiction over the domicile of the child or the domicile at the time of the child's death. ~~location of the child's death.~~

3. Where the domicile described in Paragraph 1 is not within Cambodia, or where a domicile within Cambodia is not clear, the location of residence shall be used. Where there is no location of residence, or where such location of residence is unclear, the last known domicile shall be used.

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11. (Jurisdiction over joint claims)

Where one action encompasses multiple claims that are subject to the jurisdiction of different courts, all claims may be brought in the court having jurisdiction over one of the claims.

12. (Designation of court having jurisdiction)

Where the court having jurisdiction cannot exercise its jurisdiction for any reasons based in law or fact, or if the court having jurisdiction cannot be designated because the jurisdictional district is unclear, the Supreme Court shall, upon motion and by ruling, determine the court having jurisdiction.

13. (Jurisdiction by agreement)

1. An agreement that determines the court having jurisdiction shall be valid only where it is made between merchant(s) and/or juridical person(s) with regard to the court of first instance.
2. The agreement referred to in Paragraph 1 shall not be valid unless it pertains to an action based on a specific legal relationship and is made in writing.

14. (Jurisdiction as a result of failure to raise objection)

Where, at the court of first instance, the defendant makes statements on the merits at the court hearing dates of the preparatory procedure for oral argument or offers argument on the merits at the court hearing dates for oral argument without contesting jurisdiction, the court shall be deemed to have jurisdiction [over the case].

15. (Exception in case of statutory exclusive jurisdiction)

The provisions of Articles 13 and 14 ~~of this Chapter~~ shall not apply to actions regarding which exclusive jurisdiction is conferred by law.

16. (Examination of evidence on court's own authority)

The court may examine evidence on its own authority in regard to matters relating to its jurisdiction.

17. (Time of determination of jurisdiction)

The jurisdiction of the court shall be determined as at the time when a complaint is filed.

18. (Handling of situations where jurisdiction does not exist)

1. Where the court determines that it lacks jurisdiction over all or part of an action, it shall transfer such action or part thereof to a court having jurisdiction, upon motion or on its own authority.
2. The motion for transfer shall be made in writing, except where it is made at a court date hearing. Where such a motion is made, the reasons for the motion shall be clearly stated.

19. (Transfer to avoid delay, etc.)

1. A court of first instance may, even where an action falls under its jurisdiction, upon motion or on its own authority, transfer all or part of such action to another court having jurisdiction if it determines that such a transfer is necessary in order to avoid significant delay in the progress of the action, or in the interest of fairness to the parties. Such transfer shall take into account the location of the domiciles of the parties and the witnesses to

be examined, the location of the objects to be inspected, and any other relevant matters.

2. Where a motion is made by a party pursuant to Paragraph 1, the court shall consider the opinion of the other party when making its decision. When determining on its own authority to order a transfer pursuant to the provisions of Paragraph 1, the court may consider the opinions of the parties.

20. (Restriction on transfer in case of exclusive jurisdiction)

The provisions of Article 19 shall not apply where the action falls by law under the exclusive jurisdiction of the court before which the action is pending.

21. (~~Chomtoah Appeal on collateral/procedural issues~~)

~~An appeal on collateral/procedural issues~~A *Chomtoah* appeal may be made against a ruling ordering a transfer or ~~dismissal~~denying a motion to transfer.

22. (Binding effect, etc. of transfer ruling)

1. Where a ruling to transfer an action has become final and binding, the ruling shall be binding on the court to which the action has been transferred.
2. The court to which an action is transferred may not transfer the action to another court.
3. When a ruling to transfer an action has become final and binding, the action shall be deemed pending *ab initio* before the court to which it has been transferred.
4. When a ruling to transfer an action has become final and binding, the court issuing the ruling to transfer shall forward the record of the case to the court to which the action has been transferred.

Section II. Structure of Courts

23. (Individual and panel systems for trials of first instance)

1. Courts of first instance shall handle cases by a single judge, except for the cases described in Paragraph 2.
2. The following types of cases shall be handled by a panel of judges.
 - (a) Cases in which the value of the subject matter of the action equals or exceeds 5 million riels, and it is determined that adjudication of the case using a panel of judges is appropriate, taking into consideration the number of parties and any other relevant circumstances.
 - (b) Cases in which it is established by law that the case should be heard and adjudicated by a panel of judges.
3. A panel described in Paragraph 2 shall consist of three judges, one of which shall be the presiding judge.

24. (Deliberations of panel)

1. The deliberations of a panel in a case shall not be open to the public.
2. The deliberations shall be commenced and controlled by the presiding judge.
3. Each judge shall express his/her opinions during the deliberations.
4. The progress of the deliberations, as well as the opinions of the judges and the size of the majority, shall be maintained in strict secrecy.

25. (Decision by panel)

1. A case shall be decided in accordance with the opinions of the majority of the judges comprising the panel.
2. Each judge comprising the panel shall be given equal vote.

Section III. Distribution of Cases, and Exclusion ~~or~~ and Challenge of Judges, etc., ~~etc.~~

26. (Distribution of cases)

1. The distribution of cases within a court and the order of appointment of substitute judges where there is a problem in using a particular judge [in a case] shall be determined in advance for each year by the director of that court.
2. Cases shall be distributed automatically to each judge pursuant to Paragraph 1.
3. The distribution of cases within a court and the order of appointment of substitute judges where there is a problem in using a particular judge, as described in Paragraph 1, shall not be changed during the year except where one judge is deemed to have an excessive workload, or where a judge retires or is transferred, or where there is a continuing problem in using a particular judge due to the long-term absence of the judge or other reasons. Changes made for these reasons shall be decided on by the ~~director~~ president of that court.

27. (Exclusion of a judge)

1. A judge shall be excluded from performing his/her duties in any of the following situations.
 - (a) Where the judge or the judge's current or former spouse is a party;
 - (b) Where the judge is ~~or was~~ a relative of a party by blood within the sixth degree ~~{DEGREE?}~~ of relationship, or is or was a relative by affinity within the third degree ~~{DEGREE?}~~ of relationship;
 - (c) Where the judge is the guardian of a party;
 - (d) Where litigation is or was pending between the judge and a party;
 - (e) Where the judge has become a witness or an expert witness in the case;
 - (f) Where the judge is or was the attorney or assistant for a party in the case; or
 - (g) Where the judge has participated in arbitration in the case, has participated in a prior adjudication decision in the case regarding which an appeal was filed or in an adjudication decision of an inferior court, or has offered legal advice in the case.
2. Where any of the reasons for exclusion described in Paragraph 1 exists, the court shall render a decision to exclude the judge upon motion or on its own authority.

28. (Challenge of a judge)

1. Any party may challenge a judge where circumstances exist with respect to the judge that would hinder the impartiality of the judge's adjudication decision.
2. A party who has made oral argument or has made a statement during

the preparatory procedure for oral argument before a judge may not challenge that judge. However, this shall not apply where the existence of the ground for challenge was unknown to the party, or where the ground for challenge arose after the making of the argument or statement.

29. (Recusal)

A judge may recuse himself- or herself from a case with the permission of the ~~director of the court to which the judge belongs~~ *presiding judge for that court* where the provisions of Paragraph 1 of Article 27 (Exclusion of a Judge) or Paragraph 1 of Article 28 (Challenge of a Judge) ~~of this Chapter~~ apply.

30. (Ruling on exclusion or challenge)

1. The exclusion or challenge of a judge shall be determined through a ruling rendered by a panel of judges of the court to which the judge belongs.
2. A judge may not participate in *an adjudicationa decision* regarding his or her own exclusion or regarding a challenge submitted against him or her. However, the judge may offer an opinion with respect to the motion for exclusion or challenge.
3. A motion for exclusion or challenge shall be made in writing and *by establishing to a reasonable certainty preliminary showing the existence of shall clearly state* the grounds therefor.
4. Where a motion for exclusion or challenge is filed, the proceedings in the case shall be halted until the ruling on the motion becomes final and binding. - However, this shall not apply to the preservation of evidence or other urgently needed actions.
5. An appeal may not be filed against a ruling ordering exclusion or granting a challenge.
6. *An Chomtoah* ~~-(appeal on collateral/procedural issues)-~~ may be filed against a ruling denying exclusion or challenge.

31. (Mutatis mutandis application to court clerk)

The provisions of this section shall apply *mutatis mutandis* to court clerks. In such cases, the ruling on *a* ~~the~~ motion for exclusion or challenge shall be rendered by the court to which the clerk belongs.

CHAPTER III. PARTIES

Section I. Capacity to be Party and Capacity to Litigate

32. (Capacity to be party, capacity to litigate, representation of persons lacking capacity to litigate)

1. Persons who are entitled to exercise rights or assume obligations in their names pursuant to the provisions of the Civil Code or other laws may be a plaintiff or defendant in a *legal civil actionsuit*.
2. Persons who have the capacity to independently perform [legal acts] pursuant to the provisions of the Civil Code or other laws may file *an action suit* on their own as a plaintiff, answer an action as a defendant, or conduct any other necessary acts of litigation.

3. Minors and adults placed under guardianship may not conduct valid acts of litigation except through their ~~legal representative~~. However, this shall not apply where a minor is allowed to perform [legal acts] independently.
4. ~~[Any issues or questions] regarding legal representatives, and as well as their authority shall be governed by to act in such capacity~~ ~~{WHAT DOES THIS MEAN?}~~, shall conform to the provisions of the Civil Code and other laws.

33. (Special provisions regarding acts of litigation performed by person under partial guardianship or legal representative)

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1. ~~[A person under partial guardianship or] a legal representative need not obtain the approval of [the guardian or] his supervisor or acquire any other special authorization to conduct acts of litigation in an action or appeal filed by the other party.~~
2. ~~[A person under partial guardianship or] a legal representative must acquire special authorization to conduct either of the following acts of litigation:~~
 - ~~(a) Discontinuance of the suit, compromise, or abandonment or admission of the claim; or~~
 - ~~(b) Discontinuance of Uttor appeal or Satuk appeal.~~

~~33. (Special provisions regarding acts of litigation performed by person under partial guardianship or legal representative)~~

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~~1. [A person under partial guardianship {I DON'T KNOW THIS TERM, AND I AM ASSUMING IT IS CORRECT, THOUGH MY DICTIONARIES INDICATE THAT THE WRONG KANJI IS USED FOR 'HO' } or] a legal representative need not obtain the approval of the guardian or acquire any other special authorization to conduct acts of litigation in an action or JOSO appeal filed by the other party.~~

~~2. [A person under partial guardianship or] a legal representative must acquire special authorization to conduct acts of litigation in either of the following situations:~~

- ~~(a) Withdrawal of the suit, compromise, or abandonment or admission of the claim; or~~
- ~~(b) KOSO appeal or withdrawal of JOKOKU appeal.~~

33.34. (Special provision regarding capacity of foreign national to litigate)

A foreign national shall be deemed to possess the capacity to litigate if they would otherwise have such capacity under Cambodian law, even if the foreign national lacks the capacity to litigate under the laws of his or her own country.

34.35. (Measures in case of defect in capacity to litigate)

1. Where there is a defect in the capacity to litigate, in the authority necessary to act as legal representative, or in the authorization to conduct litigation, the court shall order that the defect be corrected within a period designated by the court. In such cases,

if there exists a danger that damage will be incurred due to delay, the court may permit the act of litigation to be conducted *pro tempore*.

2. An act of litigation carried out by a person that suffers from a defect in their capacity to litigate, in their authority as a legal representative, or in their authorization necessary to conduct litigation, shall have retroactive effect if such act is ratified by such person after the defect has ceased to exist, or by the legal representative.
3. The authority to act as legal representative, and the authorization necessary to conduct litigation, shall be established in writing.

35-36. (Special representative)

1. A person who intends to conduct litigation against a person lacking the capacity to litigate in cases where that person has no legal representative, or where the legal representative cannot represent that person, may apply to the court before which the action is pending for the appointment of a special representative upon establishing showing, to to a reasonable certainty preliminary showing, that there exists a danger of damage occurring due to delay.
2. The court may at any time replace the special representative.
3. A decision to appoint or replace a special representative shall also be communicat~~notified~~ to the special representative.
4. The special representative shall have the same authorization as a guardian to conduct litigation.

36-37. (Notice of termination of legal representative's authority)

1. A termination of authority to act as legal representative shall be ineffective unless the other party is notified of such termination by the party or the party's representative.
2. The person giving notification of termination of authority to act as legal representative shall also notify the court in writing of such termination.

37-38. (Mutatis mutandis application to representative of juridical person)

The provisions of this Code pertaining to legal representation and legal representatives shall apply *mutatis mutandis* to representatives of juridical persons.

Section II. Joint Litigation

38-39. (General requirements for joint litigation)

Where any of the following circumstances are shared among multiple persons, such persons may sue or be sued as joint litigants.

- (a) _____ Where such persons share common rights or obligations comprising with respect to ~~the~~ the subject-matter of the action.
- (b) _____ Where the rights or obligations comprising the subject-matter of the action arise out of the same grounds in fact and law.
- (c) _____ Where the rights or obligations comprising the subject-matter of the action are of the same type and are based on the same type of grounds in fact and law.

39.40. (Status of joint litigants in ordinary joint litigation)

Acts of litigation conducted by one joint litigant, acts of litigation conducted by the adversary party against a joint litigant, and events or matters arising with respect to one joint litigant shall have no effect on the other joint litigants.

40.41. (Rules regarding trial in compulsory joint litigation)

1. Acts of litigation conducted by one joint litigant shall inure to the benefit of all joint litigants, irrespective of the provisions of Article 40 ~~of this Chapter~~ (Status of joint litigants in ordinary joint litigation), where the rights or obligations comprising the subject-matter of the action shall be determined only jointly for all joint litigants.
2. In the circumstances described in Paragraph 1, an act of litigation conducted by the adversary party against one joint litigant shall be effective against all joint litigants.
3. In the circumstances described in Paragraph 1, where grounds for an interruption or suspension of proceedings against one joint litigant exists, such interruption or suspension shall be effective as to all joint litigants.

41.42. (Nomination of party)

1. Multiple persons having a common interest may nominate one or several among them to serve as plaintiff(s) or defendant(s) on their behalf.
 2. Where one or more ~~person(s) plaintiffs or defendants~~ are nominated pursuant to Paragraph 1 to serve as plaintiff(s) or defendant(s) while an action is pending, the other parties shall be ~~seceded~~ dismissed from the action.
 3. ~~Those who~~ ~~A person who is not~~ ~~as a~~ ~~a~~ plaintiff(s) or defendant(s) pursuant to Paragraph 1 may ~~revoke~~ ~~refuse~~ such nomination, or replace plaintiff(s) or defendant(s) serving on their behalf.
 4. ~~Where one of a group of nominated parties loses the capacity to serve in such capacity due to death or for any other reason, the other nominated parties may conduct acts of litigation on behalf of all.~~
- ~~3. [of the joint litigants].~~

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Section III. Intervention/Participation

42.43. (Assisting intervention)

A third party having a legal interest in the outcome of litigation may participate in the litigation in order to assist one of the parties.

43.44. (Application for assisting intervention)

1. An application for assisting intervention shall ~~be~~ state clearly the party on whose behalf the intervention is sought as well as the reasons for the intervention, and shall be made to the court in which acts of litigation based on intervention are to be conducted.
2. An application for assisting intervention may be made together with acts of litigation that can be conducted by an assisting intervenor.

44.45. (Objection to assisting intervention, etc.)

1. Where a party objects to an application for assisting intervention,

the court shall decide, by ruling, whether to grant or deny the application. In such cases, the prospective assisting intervenor shall show to a preliminary showing ~~make a showing of~~ the grounds for assisting intervention.

2. The objection referred to in Paragraph 1 may not be raised if such party has made statements during preparatory ~~eliminary~~ procedure for oral argument or has made argument during oral argument without raising the objection.
3. A ~~Chomtoahn immediate KOKOKU~~ appeal may be made against the ruling described in Paragraph 1.

45-46. (Acts of litigation by assisting intervenor)

1. An assisting intervenor may advance offensive or defensive measures, raise objections, file appeals, submit motions for retrial, or otherwise conduct any ~~action~~ of litigation in the action. However, this shall not apply to acts that cannot be conducted by the assisted party at the time intervention occurs.
2. An act of litigation conducted by an assisting intervenor shall be invalid if it is inconsistent with an act of litigation conducted by the assisted party.
3. An assisting intervenor may conduct acts of litigation, even where ~~the assisting party has raised~~ an objection has been raised to such intervention, until a decision denying intervention has become final and binding.
4. Where an act of litigation conducted by an assisting intervenor has been ratified invoked by a party, such act-it shall be valid even where a decision denying intervention has become final and binding.

46-47. (Effect of judgment against assisting intervenor)

In an action that has been entered by an assisting intervenor, where a decision adverse to the assisted party has become final and binding, the assisting intervenor is bound by such decision as between the assisted party and the assisting intervenor, ~~HI SANKANIN TO NO KANKEI NI OITE,~~ except in the following situations:

- (a) Where the assisting intervenor ~~ed party~~ could not conduct acts of litigation due to the provisions of the second sentence of Paragraph 1 of Article 46 ~~of this Chapter~~ (Acts of litigation by assisting intervenor).
- (b) Where the acts of litigation conducted by the assisting intervenor ~~party~~ were invalid due to the provisions of Paragraph 2 of Article 46 ~~of this Chapter~~.
- (c) Where the assisted party obstructed the acts of litigation conducted by the assisting intervenor.
- (d) Where the assisted party intentionally or negligently failed to conduct acts of litigation that could not be conducted by the assisting intervenor.

47-48. (Application of joint litigation principles to a special type of ~~e~~-assisting intervention)

1. Where the binding effect of a final judgment is to extend decision ~~has become final and binding~~ as between an assisting intervenor and the adversary party to the assisted party, the status of the assisting intervenor in the litigation shall be equivalent to that of a joint litigant under Article 41 (Rules regarding trial in compulsory joint litigation) ~~of this Chapter~~.

2. In cases described in Paragraph 1, the provisions of Paragraph 2 of Article 46 and of sub-paragraphs (b) and (c) of Article 46 ~~[47?] of this Chapter~~ shall not apply.

48-49. (Intervention as joint litigant)

1. Where the subject-matter of an action is to be determined only jointly between one of the parties and a third person, the third person may intervene in the action as a joint litigant.
2. The provisions of Article 44 ~~of this Chapter~~ (Application for assisting intervention) shall apply *mutatis mutandis* to applications for intervention under Paragraph 1.
3. Applications for intervention under Paragraph 1 shall be made in writing.
4. The written application described in Paragraph 3 shall be served on the other joint litigants and on the adversary party.

49-50. (Notice of action)

1. The parties to an action may at any time during the pendency of the action give notice of the action to third parties entitled to intervene.
2. Notice of an action shall be made by filing with the court a writing stating the grounds therefor and the current progress of the litigation. The court shall serve this writing on the persons who are to receive it and on the adversary party in the litigation.
3. Even where a person receiving notice of an action does not intervene therein, for purposes of the application of Article 47 ~~of this Chapter~~ (Effect of judgment against assisting intervenor), such person shall be deemed to have intervened at the time intervention became possible.

50-51. (Action against plaintiff and defendant as joint defendants)

1. A third person who alleges that all or part of the rights comprising the subject-matter of an action between other persons belong to such third person may at any time during the pendency of the action file a separate action against both parties to that action as joint defendants with the ~~in the~~ court of first instance ~~for the court~~ in which the underlying action was filed.
- ~~2-2.~~ Where a separate action is filed pursuant to Paragraph 1 while the underlying action is pending in the court of first instance, the court in which the action was filed may consolidate the two cases.

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Section IV. Appointed Representatives and Assistants

51-52. (Litigation by appointed representative)

1. A party may conduct all aspects of litigation on his or her own or by means of an appointed representative appointed by the party.
2. Even where a party has appointed an appointed representative, the party may sit in the court together with the representative and present oral argument.
3. Acts of litigation performed by an appointed representative shall have the same effect as if they were performed by the party. However, this shall not apply to an admission of fact or other statement relating to fact if the party immediately repudiates or revises the admission or statement.

52-53. (Qualification of appointed representative)

1. The appointed representative described in Article 52 shall be an attorney, except in the following situations:
 - (a) Where a third party who is not an attorney is permitted by this Code or other laws to conduct litigation.
 - (b) Where the state, the executive department or other state organ is a party, and that organ or the organ's representative designates an employee thereof to act as representative.
 - (c) Where the court approves a specific third party who is not an attorney to act as representative in cases where the value of the subject matter of the action is less than does not exceed one million riels.
2. The authority of an appointed representative shall be established in writing.
3. The court may at any time revoke the approval granted to a third party pursuant to subparagraph (c) of Paragraph 1.

53-54. (Authority of appointed representative)

1. An appointed representative shall have authority to conduct all aspects of litigation in the case for which the representative is appointed, including the filing of a complaint, answer, cross-action, intervention/participation in a litigation [pending between third parties], appeal, settlement, or abandonment or acknowledgment of claims.
2. The authority to act as [appointed] representative for purposes of litigation shall include the authority to carry out preservative measures or compulsory execution, appoint a secondary representative, or receive performance of an obligation.
3. Where an appointed representative is an attorney, the party may not limit the scope of the representative's authority, except as it pertains to the filing of a cross-action, withdrawaldiscontinuance of a suitecomplaint, settlement, abandonment or acknowledgement of claims, secession from the litigation, appeal and the withdrawaldiscontinuance thereof, or appointment of a secondary representative.
4. Where the appointed representative is not an attorney, the party may allow the representative to represent the party only in regard to specified acts of litigation.
5. The provisions of Paragraphs 1 through 4 shall not apply to a representative who is permitted by law to conduct acts of litigation in place of the party.

54-55. (Non-termination of authority of appointed representative)

The authority of an appointed representative shall not be terminated by the death of the party, the loss of the party's capacity to litigate or the substitution of the legal representative, etc.

55-56. (Grounds for termination of authority of appointed representative)

1. The authority of an appointed representative shall terminate on the representative's death or loss of qualification, or on the completion of the tasks for which the appointment was made, etc. ~~{THE TEXT OF A STATUTE SHOULD NEVER HAVE 'ETC.' IN IT}~~
2. A party may at any time dismiss an appointed representative, and an

appointed representative may at any time resign.

3. The termination of an appointed representative's authority shall be ineffective unless the other party is notified of such termination by the party or his/her representative.

56-57. (Measures where defect in authority exists)

1. Where there is a suspected defect in the authority of an appointed representative, the court shall investigate on its own authority the existence of such authority regardless of the stage of the proceedings.
2. Where a defect exists in the authority of an appointed representative, the court shall order that the defect be corrected within a specified period of time. In this case, the court may permit the representative to conduct the litigation *pro tempore*.
3. Acts of litigation conducted by a person lacking authority to act as appointed representative shall have retroactive effect if ratified by the party.

57-58. (Assistant²)

1. A party or appointed representative may, with the permission of the court, appear *before the court* with an assistant where necessary in order to clarify any factual or legal ambiguity in the case.
2. The permission described in Paragraph 1 may be revoked at any time.
3. Statements made by an assistant shall be deemed to be made by the party or the appointed representative unless they are immediately repudiated or revised by the party or the appointed representative.

CHAPTER IV. LITIGATION COSTS³

Section I. Definitions and Types of Litigation Costs

58-59. (Scope and amount of costs of civil action to be borne by parties or other persons)

The parties or other persons⁴ shall bear [1] the "court costs" set forth in Articles 61 and 62 and [2] the "party's costs" set forth in Article 63, in accordance with the provisions of Article 64.

59-60. (Computation of value of subject matter of action, computation of value of joint claims)

1. The value of the subject matter of an action shall be computed based on the value of the interest claimed in the action. ~~Where multiple claims are asserted in one action, the value of the subject matter of the action shall be computed by aggregating the values of the multiple claims; provided however that, where the interest asserted in the action is the same for each claim, this shall not apply with~~

² An "assistants" is a person who allowed to supplement arguments or statements presented by the party or representative or clarify the grounds of the assertion of the party, where the action requires highly specialized or technical knowledge to resolve the case (e.g., an intellectual property related case) or where the party suffers from a speech disorder, defect of hearing ability, etc.

³ "Litigation costs" as used in this translation include both (i) "court costs" which are comprised of "filing fee" (Art. 61) and "advance" (Art. 62) and (ii) "party's costs" (Art. 63).

⁴ Costs to be borne by "other persons" are only the ones set forth in ~~1-4-2, Article 1, Paragraph 4 of Article 64.~~

respect to these claims.

2. Where a claim for fruits [including any kinds of asset-derived income], damages, compensation for breach of contract or costs is an incidental object of the action, the value of such claim shall not be included in the computation of the value of the subject matter of the action.
3. Where it is difficult to determine the value of the action in accordance with Paragraph 1, the court shall determine the value of the action in its reasonable discretion. Where it is impossible to determine the value of the action, the value shall be deemed 5.5 million riels.

60-61. (Filing fee)

1. When a suit is filed, a fee determined by means of the following formulae in accordance with the value of the subject matter of the action shall be paid to the court.
 - (a) For the portion of the value of the subject matter of the action up to (A) riels, (a) riels for each (X) riels
 - (b) For the portion of the value of the subject matter of the action exceeding (A) riels and up to (B) riels, (b) riels for each (X) riels
 - (c) For the portion of the value of the subject matter of the action exceeding (B) riels and up to (C) riels, (c) riels for each (X) riels
 - (d) For the portion of the value of the subject matter of the action exceeding (C) riels, (d) riels for each (X) riels
2. The value of the subject matter of an action, on which the determination of the amount of the filing fee is based in Paragraph 1, shall be computed in accordance with the provisions of Article 60 ~~of this Chapter~~.
3. When ~~an Uttar~~ ~~an appeal to the Appellate Court~~ is filed, a fee equal to 1.5 times the fee computed in accordance with Paragraph 1 ~~and 2~~ shall be paid to the court. When ~~a Satuk~~ ~~an appeal to the court of last resort~~ is filed, a fee equal to twice the fee shall be paid to the court.
4. When a motion for retrial is filed, a fee equal to (Q) riels shall be paid to the court.
5. When a motion for a demand ruling ~~ordering payment~~ is filed [in accordance with the demand procedure set forth in TITLE V of this Code], a fee equal to (R) riels shall be paid to the court.
6. When a motion or request for the court's decision is filed over any matter other than those matters set forth in Paragraph 1 and Paragraphs 3 through 5, a fee equal to (S) riels shall be paid to the court.
7. Fees shall be paid by cash at the reception area of the court. A motion for which the required fee is not paid shall be deemed an unlawful motion.
8. In the following cases, the amount of fee set forth below shall be returned on the motion of the person who paid the fee.
 - (1) Where the fee was paid in excess
 - The portion of the fee paid in excess
 - (2) Where a settlement has been reached between the parties before the commencement of oral argument, where ~~an~~ ~~discontinued withdrawn~~ prior to the end of the first hearing date for oral argument, or where a decision ~~dismissing~~ ~~[without~~

prejudice]-~~[却下]~~the suit prior to oral argument has become final and binding.

- Half of the fee paid

61-62. (Court costs other than filing fees)

1. Amounts determined by the court as set forth below shall be paid as ~~the court's~~ costs by the parties or by persons interested in the case.
 - (a) An amount which is necessary for the court to investigate the evidence, deliver documents, or carry out any other procedural act during civil litigation.
 - (b) An amount equivalent to necessary travel and lodging costs for a judge and a court clerk, where investigation of the evidence, investigation of the facts, or other action is to be carried out outside the courtroom.
2. The party or the interested person who is required to make payment pursuant to Paragraph 1 shall be, [1] with regard to costs to be incurred in conducting acts initiated upon a motion, the moving party, and, [2] with regard to costs to be incurred in conducting acts initiated by the court's authority, the person designated by the court.
3. The court shall require that the costs to be paid by a party or interested person in connection with acts for which payment is required pursuant to Paragraph 1 be paid in advance.
4. Where advance payment is ordered in accordance with the provisions of Paragraph 3 but the party or interested person does not make the payment, the court may refrain from performing the acts requiring payment of such costs ~~until advance payment is made~~.
5. The amount of costs stipulated in Paragraph 1 and unpaid in advance may, upon the ruling of the court, be collected from the person who is to bear such costs pursuant to Article 64.

62-63. (Party's costs)

In addition to those costs set forth in Articles 61 and 62, the amount of costs set forth below which the court determines as reasonable by taking into account of the nature of the case, the financial ability of the parties, and other relevant factors, shall be deemed litigation costs:

- ~~(a) 1-~~ Costs incurred in producing documents such as complaints or other types of motions, preparatory documents for oral argument, etc. ~~[SPECIFY WHAT OTHER TYPES OF DOCUMENTS OR OMIT THE 'ETC.']~~ and costs incurred in submitting such documents to the court;
- ~~(b) 2-~~ Travel costs, per diem allowances and lodging costs incurred in connection with the appearance of the party and his or her representative at court; and
- ~~(c) 3-~~ Other costs approved by the court as necessary for carrying out the litigation.

Section II. Imposition of Litigation Costs

63-64. (Apportionment of litigation costs and compensation for costs)

1. Litigation costs shall be borne by the losing party. The apportionment of litigation costs between the parties in case of a partial defeat shall be left to the discretion of the court.
2. Notwithstanding the provisions of Paragraph 1, the court may, in

accordance with the circumstances, impose all or part of the litigation costs on a prevailing party who has performed acts of litigation unnecessary to assert or defend their case or who has delayed the proceedings.

3. Joint parties shall bear an equal share of the litigation costs. However, the court may, in accordance with the circumstances, impose litigation costs on the joint parties jointly and severally, or may impose a greater share of litigation costs on a party who has performed acts of litigation unnecessary to assert or defend their case ~~or who has delayed the proceedings~~.
4. Where a legal representative, appointed representative or court clerk intentionally or through gross negligence causes unnecessary costs to be incurred, the court in which the action is pending may upon motion or on its own authority order [via ruling] that such person pay compensation for such costs.
5. A Chamtoah ~~An~~ ~~appeal on collateral/procedural issues~~ may be filed against the ruling ~~order~~ referred to in Paragraph 4.

64-65. (Decision regarding imposition of litigation costs)

1. When issuing a decision that terminates a case, the court shall on its own authority decide ~~rule~~ on the imposition of all litigation costs incurred in that court.
2. Where a decision on the merits is changed by a higher court, it shall issue a decision ~~shall be issued~~ regarding the imposition of all litigation costs incurred so far. This shall also apply where a court to which a case has been remanded or transferred issues a decision that terminates the case.
3. Where the case is terminated other than through a judicial decision, the court of first instance shall upon motion issue a ruling ~~a order~~ imposing litigation costs. However, where the case is settled, litigation costs shall be imposed in accordance with those set forth in the settlement. If the settlement does not address the imposition of litigation costs, each party shall bear those costs that they have incurred.

65-66. (Procedures to fix amount of litigation costs)

1. The court clerk for the court of first instance shall fix the amount of litigation costs upon motion after the decision imposing litigation costs has become enforceable.
2. In cases referred to in Paragraph 1, where both parties are to bear the litigation costs, the amount of costs to be borne by each party shall be deemed set off to the extent that they are equal.
3. A disposition [by the court clerk] relating to the motion referred to in Paragraph 1 shall take effect when notice thereof is given in a manner deemed proper.
4. A motion raising an objection to the disposition referred to in Paragraph 3 must be raised within one week from the date on which the notice of the disposition ~~motion~~ is received. Where the court determines that there are sufficient grounds for the motion, it shall fix the amount of litigation costs on its own.
5. The period described in Paragraph 4 may not be extended.

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Section III. Security for Litigation Costs

66-67. (Order to provide security)

1. Where a plaintiff does not have a domicile, office or place of business in Cambodia, the court shall, on the defendant's motion, issue a ruling ordering the plaintiff to furnish security for litigation costs. This shall also apply where the amount of security ~~becomes~~ is insufficient.
2. Where a defendant has presented oral argument ~~proceeded orally~~ or made statements during the preparatory procedure for oral argument on the merits of the action while knowing of the existence of grounds for the furnishing of security, such defendant may not make the motion described in Paragraph 1.
3. A defendant who makes the motion described in Paragraph 1 may refuse to respond until the plaintiff furnishes security.
4. In its ruling described in Paragraph 1, the court shall establish the amount of security and the time period within which it must be furnished.
5. The amount of security shall be fixed based on the total amount of costs that the defendant may ~~incur~~ in the trials of all instances under any set of circumstances.
6. A Chamtoah appeal ~~An immediate KOKOKU appeal~~ may be made against the ruling described in Paragraph 1.

67-68. (Effect of failure to provide security)

Where a plaintiff fails to furnish security within the specified time period, the court may issue a judgment ruling ~~dismissing~~ [without prejudice] the action without oral argument. However, this shall not apply where security is furnished before such judgment ruling.

Section IV. Litigation Assistance ~~In Forma Pauperis~~ (Aid in litigation)

68-69. (Provision of litigation assistance ~~In Forma Pauperis~~)

1. The court may upon motion order via ruling to provide in forma pauperis (aid in litigation) ~~the provision of litigation assistance~~ ~~for~~ a person who lacks the means to pay costs necessary for the preparation and maintenance of an action, or for a person who will ~~face~~ incur extreme hardship in their life by paying such costs. However, this shall not apply where it is clear that the person has no prospect of prevailing in the action.
2. A ruling on whether or not to render in forma pauperis (aid in litigation) ~~litigation assistance~~ shall be made in each court before which the case is pending.
3. The [existence of] grounds for in forma pauperis (aid in litigation) ~~litigation assistance~~ shall be established to a ~~reasonable certainty~~ preliminary showing with reasonable certainty.

69-70. (Nature of In forma Pauperis ~~litigation assistance~~)

1. A ruling ordering the provision of in forma pauperis (aid in litigation) ~~litigation assistance~~ may include the following elements ~~[THE PREVIOUS TRANSLATION WAS LITERALLY ACCURATE, BUT WAS VAGUE AND CONFUSING IN CONTENT. I THINK THIS IS MORE ACCURATE CONTENT-WISE:~~
 - (a) Deferment of payment of litigation costs; or
 - (b) Exemption from the payment of litigation costs. However, this shall be limited to cases where, after the deferment of payment has ended, the court determines such exemption

- to be proper by taking into account the party's financial state and other circumstances.
2. A ruling for the provision of ~~litigation assistance in forma pauperis~~ (aid in litigation) shall inure only to the benefit of the person on whose behalf the ruling is made.
 3. Where it ~~is determined~~ is discovered that the beneficiary of a ruling for the ~~in forma pauperis (aid in litigation) provision of litigation assistance did not meet~~ (aid in litigation) provision of litigation assistance ~~did not meet~~ the necessary requirements set forth in Article 69 of this Chapter, or where he/she has become where the necessary requirements fail not to be meet while the action is pending such requirements, the court in which the case record resides may at any time, upon motion of an interested person or on its own authority, revoke its ruling to provide ~~in forma pauperis (aid in litigation) litigation assistance~~ in forma pauperis (aid in litigation) litigation assistance and order the payment of costs that had been subject to deferral or exemption via ruling.
 4. A Chamtoah appeal ~~n [appeal on collateral/procedural issues]~~ may be made against the rulings described in Article 69 and in this Article.

CHAPTER V. SECURITY UNDER LITIGATION

~~70-71.~~ (Method of providing security and change in security)

1. Security shall be provided based on [a method in which cash or negotiable securities deemed appropriate by the court are deposited with a deposit office] [a method in which cash or negotiable securities deemed appropriate by the court are deposited with the court] [another method established be law].
 2. The court may, upon motion of the person who furnished security, issue a ruling ordering that the security be changed. However, this shall not prevent the security from being changed to a different security based on a contractual agreement.
- ~~1. Security shall be provided based on [a method in which cash or negotiable securities deemed appropriate by the court are deposited with a deposit office] [a method in which cash or negotiable securities deemed appropriate by the court are deposited with the court] [another method established be law]. [IN ENGLISH, THERE IS NO DIFFERENCE BETWEEN KYOTAKU AND KITAKU BOTH ARE 'DEPOSIT'.]~~
2. The court may, upon motion of the person who furnished security, issue a ruling ordering that the security be changed. However, this shall not prevent the security from being changed to a different security based on a contractual agreement.

~~71-72.~~ (Rights of person receiving provision of security)

~~In order to ensure payment of the obligation deposited as security, The~~ person receiving a provision of security in order to secure such person's rights is entitled to receive payment from the cash or negotiable securities deposited in accordance with the provisions of Article 71 ~~of this Chapter~~ (Method of providing security and change in security) in preference to other creditors.

~~72-73.~~ (Cancellation of security)

1. A 'person entitled to security' as used in this Article means a person who receives a provision of security for the benefit of such person.
2. Where a person who has furnished security has established that the grounds for the provision of security have disappeared, the court

shall upon motion issue a ruling ordering that such security be cancelled.

3. The provisions of Paragraph ~~2-1~~ ~~[SHOULD BE PARAGRAPH 2?]~~ shall also apply where it is established that the person who furnished the security has obtained the consent of the person entitled to security to cancellation of the security.
4. Where the court, after the occurrence of grounds for the exercise of the rights conferred on the person entitled to security, ~~demanders~~ upon motion of the person who furnished the security that the person entitled to security exercise such rights within two weeks and the person entitled to security fails to exercise such right within such time period, the person entitled to security shall be deemed to have consented to the cancellation of the security.
5. A ~~Chamtoah~~ ~~KOKOKU~~ appeal may be filed against the rulings described in Paragraphs ~~1 and 2~~ ~~[2 and 3?]~~.

TITLE II. PROCEEDINGS AT THE COURT OF FIRST INSTANCE

CHAPTER I. SUIT

~~73-74.~~ (Benefit of suit)

A suit may be filed where the claim to be adjudicated by the court is based on a specific legal dispute, and where such dispute can be resolved by means of a judicial judgment.

~~74-75.~~ (Method of filing suit; Matters to be included in complaint)

1. A suit shall be filed through the filing of a written complaint with a court.
2. A complaint shall include the following matters:
 - (a) the names and addresses of the parties, and the names and addresses of their legal representatives; and
 - (b) ~~[the contents of the main text of] the judgment sought, [the nature of the claim with reference to a specific type of remedy sought through a judgment],~~ and the facts necessary to specify ~~the claims~~ ~~such [claim]~~.
3. In addition to the matters set forth in ~~s~~Subparagraph (b) of Paragraph 2, the plaintiff shall make efforts to describe concretely in the complaint the facts necessary to support the claims contained therein, and shall set forth, for each matter requiring proof, important facts and evidence relating to such facts.
4. A complaint that advances ~~offensive or defensive measures~~ shall also serve as a preparatory document for oral argument.

~~75-76.~~ (Suit for future performance)

A suit demanding future performance may be filed only where the nature of the claim requires that it be filed prior to the time of performance.

~~76-77.~~ (Consolidation of claims)

Several claims may be consolidated in one suit to the extent that the same litigation procedures apply thereto.

77-78. (Court's right to investigate of complaint)

1. Where a complaint violates the provisions of Paragraph 2 of Article 75, the court shall order that the defects giving rise to said violation be cured within a reasonable period of time set by the court. This shall also apply where the filing fee set forth in Article 61 is not paid.
2. In the cases set forth in Paragraph 1, if the plaintiff fails to cure the defect, the court shall dismiss [without prejudice] the complaint via ruling.
3. A Chamtoah ~~n~~ [appeal ~~on collateral/procedural issues~~] may be made against a ruling issued pursuant to Paragraph 2.

78-79. (Service of complaint)

1. The complaint shall be served on the defendant(s).
2. The provisions of Article 78 shall apply *mutatis mutandis* to cases in which the complaint cannot be served. The same shall apply to cases in which any fees necessary to effect service have not been paid by the plaintiff.

79-80. (Designation of date of initial preparatory proceedings for oral argument)

1. When a complaint is filed, the court shall promptly set a court date for preparatory proceedings for oral argument and summon the parties to appear.
2. The date set pursuant to Paragraph 1 shall fall within 30 days of the date of filing of the complaint, except where there is special justification for setting a later date.

80-81. (Dismissal of suit without oral argument)

Where a suit is legally defective and such defect cannot be cured, the court may issue a ~~judgement~~ judgment dismissing [without prejudice] the suit without hearing oral argument.

81-82. (Dismissal of suit for failure to prepay summons fee)

1. Where the court has ordered the plaintiff to prepay the fee necessary for the summons on a party to appear on a ~~court~~ hearing date as required by the provisions of this Code within an appropriate period designated by the court, ~~and in the event~~ such prepayment is not timely made, the court may dismiss [without prejudice] the suit via ruling unless the defendant objects.
2. ~~{A Chamtoah n~~ [appeal ~~on collateral/procedural issues~~] may be ~~taken from~~ made ~~against~~ a ruling of dismissal ~~made~~ issued pursuant to Paragraph 1.

82-83. (Prohibition of duplicative suits)

A party may not file suit regarding a case that is already before the court.

83-84. (Amendment of claim)

1. So long as the basis for the claims stated in the complaint is not changed, the plaintiff may amend such claims until the conclusion of oral argument. However, this shall not apply where such amendment would result in a substantial delay in the proceedings.
2. Claims must be amended in writing.
3. The writing referred to in Paragraph 2 must be served on the other

party.

4. If the court determines the amendment of a claim to be improper, it shall upon motion or on its own authority issue a ruling stating that such amendment will not be permitted.

84-85. (Action for interlocutory confirmation of legal relationship)

1. Where a ~~decision~~ decision [decision on the merits] in a case depends on the existence or nonexistence of a legal relationship, and the issue of such existence or nonexistence becomes a matter of dispute during the case, the party may broaden the claims and seek a ~~judgement~~ judgment to confirm whether such legal relationship exists. However, this shall not apply where such a claim seeking such confirmation falls by law under the exclusive jurisdiction of a different court.
2. The provisions of paragraphs 2 and 3 of Article 84 shall apply *mutatis mutandis* to the broadening of claims referred to in Paragraph 1.

85-86. (Cross-complaint)

1. The defendant may file, at any time prior to the conclusion of oral argument, a cross-complaint in the court in which the main action is pending, where the claims forming the basis for the cross-complaint are related to the claims forming the basis of the original complaint or to defenses thereto. However, this shall not apply where the claims forming the basis of the cross-complaint fall by law under the exclusive jurisdiction of a different court, or where a substantial delay in the proceedings would result.
2. The provisions relating to suits in general shall apply to cross-complaints.

86-87. (Time of effecting interruption of prescription, etc.)

A judicial claim [-seeking performance by an obligor] that is necessary for interruption of a period for [extinctive] prescription [set forth in the Civil Code or other laws] or for compliance with a period established by law shall take effect from the date on which the suit is filed or on the date of submission of the documents specified in Paragraph 2 of Article 84 or in Paragraph 2 of Article 85 that refers to Paragraph 2 of Article 84.

87-88. (Transfer of disputed thing, etc.)

1. —While an action is pending, a party is not prohibited from may not assigning or transferring the thing in dispute or the right or obligation comprising the subject-matter of the action.
2. An assignment or transfer described in Paragraph 1 shall have no effect on the action. A party who has made such assignment or transfer shall not lose the status as the party to the action.
3. Where a person who receives an assignment or transfer described in Paragraph 1 ~~becomes~~ is an assisting intervenor, the provisions of Article 48 (Application of joint litigation principles to assisting intervention) ~~of this Chapter~~ shall apply.

CHAPTER II. ORAL ARGUMENT AND PREPARATION THEREFOR

Section I. General Rules

88-89. (Control of litigation by presiding judge)

1. The presiding judge shall control preparatory proceedings for oral argument and oral argument.
2. The presiding judge may allow statements or prohibit persons failing to follow orders from making statements.

89-90. (Authority to request explanation, etc.)

1. In order to clarify any factual or legal ambiguity in the case, the court may, on the date set for preparatory proceedings for oral argument or on the date set for oral argument, question the parties or suggest that they present arguments or evidence on such matter. ~~THE WORDING OF THIS SENTENCE IS VAGUE REGARDING WHETHER IT IS THE QUESTIONING OR THE PRESENTING THAT IS TO BE PERFORMED ON THE INDICATED DATE.~~
2. The parties may ask the court to present any necessary questions to the other party on the date set for preparatory proceedings for oral argument or on the date set for oral argument. ~~[SAME HERE]~~
3. The court may on any date other than court dates ~~on any other date~~ issue a finding that an explanation is required and order the parties to prepare to provide such an explanation at the next scheduled court date.

90-91. (Objection to control of action, etc.)

Where a party raises an objection to the control of preparatory proceedings for oral argument or oral argument or to measures taken by the court pursuant to the provisions of Paragraph 1 of Article 90, the court shall render a decision on the objection via ruling.

91-92. (Duty of party to investigate)

Parties shall thoroughly investigate in advance the factual relevance of witnesses and other evidence in a case so that they can fully present and prove their allegations.

92-93. (Time for advancing offensive or defensive measures)

Offensive and defensive measures shall be advanced at the appropriate time in accordance with the progress of the litigation.

93-94. (Dismissal of offensive or defensive measures for late submission)

1. Where an offensive or defensive measure is advanced by a party after the proper time through willful intent or gross negligence, the court may dismiss such measure upon motion or on its own authority if it determines that the measure would delay the conclusion of the litigation.
2. Paragraph 1 shall also apply even where the purpose or effect of the offensive or defensive measure is unclear, in the event the party fails to provide a necessary explanation or fails to appear on the date on which such explanation is to be provided.

94-95. (Facts on which court may base judgement ~~judgment~~)

The court may not base its judgement ~~judgment~~ on any fact that has not been alleged by either party.

95-96. (Admission)

1. Where a party does not make clear that such party contests a fact asserted by the adversary party at oral argument or at preparatory proceedings for oral argument, the party shall be deemed to have admitted such fact. However, this shall not apply where the court determines, based on all of the circumstances surrounding the progress of and what has been presented at ~~and nature of~~ the trial, that the party contested the fact.
2. Where a party states that he or she is ignorant of a fact alleged by the adversary party, such party shall be presumed to have contested the alleged fact.

96-97. (Attempt to compromise)

The court may attempt to effect a compromise settlement at any stage of the litigation.

97-98. (Loss of right to raise objection regarding proceedings)

1. Where the ~~adversary~~other party or the court conducts ~~an act of litigation~~ in violation of provisions of procedural law, a party may raise an objection thereto with the court and challenge its validity.
2. Where a party knows of or reasonably could have known of the violation described in Paragraph 1 and fails to object without delay, the party loses the right to object. However, this shall not apply in cases where such right cannot be waived.

98-99. (Severance ~~[Bifurcation]~~ and consolidation of cases)

1. The court may order the severance ~~bifurcation~~ ~~[Should be "severance" in this context?]~~ ~~[THEY MEAN THE SAME THING, THOUGH "SEVERANCE" SEEMS TO BE THE MORE COMMONLY USED TERM]~~ or consolidation of cases via ruling, and may also rescind such a ruling.
2. Where the court orders, at oral argument, consolidation of cases in which the parties are different, if a party who has had no opportunity to examine a witness that has already been examined makes a motion to examine such witness, the court shall re-examine such witness.

99-100. (Presence of interpreter, etc.)

1. Where a person who participates in the proceedings of a civil litigation ~~proceeding~~ does not speak Khmer, or cannot hear or speak, the court shall ensure that a qualified interpreter is present. However, the court may question in writing ~~persons who cannot hear or speak~~ ~~may ask questions or~~ allow them to make statements in writing.
2. The provisions regarding expert witnesses shall apply *mutatis mutandis* to interpreters so long as they are not inconsistent with the nature of the activities performed thereby.

Section II. Preparatory Documents

100-101. (Preparatory documents)

1. The court may require parties to submit preparatory documents in

connection with preparatory proceedings for oral argument or oral argument.

2. Preparatory documents shall set forth offensive or defensive measures as well as statements in opposition to the offensive or defensive measures of the other party.
3. The preparatory document initially submitted by the defendant shall set forth responses to the claims contained in the complaint, as well as an admission or denial of the facts alleged therein, facts that ~~rebut or refute the legal effect sought by the claims constitute affirmative defense or offensive or defensive measures,~~ and ~~any~~ other statements~~facts~~.

101-102. (Period for submission of preparatory documents)

The court may designate the period within which a defendant's initial preparatory document or a preparatory document containing allegations regarding a particular matter shall be submitted, or within which evidence regarding a particular matter must be offered.

Section III. Preparatory Proceedings for Oral Arguments

102-103. (Purpose of preparatory proceedings for oral argument)

At preparatory proceedings for oral argument, the court shall arrange and organize the allegations and arguments of the parties, clarify the points at issue in the case, and organize the evidence pertaining to points at issue, in order to and seek to make sure ensure that a ~~focused concentrated~~ hearing ~~may should~~ take place at oral argument.

103-104. (Attempt to compromise at preparatory proceedings for oral argument)

At preparatory proceedings for oral argument, the court shall first seek to effect a compromise settlement, unless the court determines that such an attempt would be improper or inadvisable.

104-105. (Date for preparatory proceedings for oral argument)

1. Preparatory proceedings for oral argument shall be conducted on a date on which both parties can appear.
2. Preparatory proceedings for oral argument need not be open to the public. However, the court may permit the attendance of persons determined to have good cause to be present as an observer.

105-106. (Acts of litigation, etc. during preparatory proceedings for oral argument)

On the court date of preparatory proceedings for oral argument, the court may issue a ruling regarding the offering of evidence or any other ruling that may be issued on a date other than the court date for oral argument, and may examine documentary evidence to the extent necessary to arrange or simplify disputed issues ~~and/or~~ evidence.

106-107. (Confirmation of facts to be proven)

When the arrangement of disputed issues and evidence is completed and preparatory proceedings for oral argument have been concluded, the court shall confirm with the parties the facts to be proven through a subsequent examination of the evidence.

107-108. (Effect of conclusion of preparatory proceedings for oral

argument)

New offensive or defensive measures cannot be advanced after the conclusion of preparatory proceedings for oral argument. However, this shall not apply where such measures relate to matters to be examined on the court's own authority, where allowing such measures would not result in a considerable delay in the proceedings, or where the party has established to a ~~reasonable certainty~~ preliminary showing that he was unable to advance such measures prior to the conclusion of the proceedings, and such inability was not the result of his own gross negligence.

108-109. (Record Protocol of preparatory proceedings for oral argument)
The court shall require the court clerk to prepare a ~~record protocol~~ of preparatory proceedings for oral argument for each day it is held.

109-110. (Matters to be formally recorded in ~~record protocol~~ of preparatory proceedings for oral argument)

1. The ~~record protocol~~ of preparatory proceedings for oral argument shall contain the following matters:
 - (a) the indication of the case;
 - (b) the names of the judge(s) and the court clerk;
 - (c) the names of the parties, representatives, assistants, and interpreters who have appeared; and
 - (d) the date, time and location of the proceedings.
2. The presiding judge and the court clerk shall sign the ~~record protocol~~ described in Paragraph 1.

110-111. (Substantive matters to be entered in ~~record protocol~~ of preparatory proceedings for oral argument)

The ~~record protocol~~ of preparatory proceedings for oral argument shall include a summary of the arguments or any other acts of litigation conducted on that date. In particular, the following matters shall be clearly indicated therein:

- (a) the nature of the plaintiff's claims and the defendant's answers thereto;
- (b) the essence of the ~~ultimate~~ ~~{why do you put 'ultimate' in front? Are ultimate facts the English equivalent of 主要事実?}[I DID NOT USE 'ULTIMATE' - IT WAS APPARENTLY INSERTED BY SOMEONE ELSE]}~~ facts alleged and the offering of evidence;
- (c) admission or denial of the factual allegations of the other party and of the authenticity of documents;
- (d) ~~withdrawal~~ discontinuance of the suit, compromise, or abandonment or admission of the claim;
- (e) matters included by order of the court, and matters permitted to be included at the request of a party; and
- (f) decisions rendered on that date without being recorded in writing.

111-112. (Objections to ~~record protocol~~ of preparatory proceedings for oral argument, proof of matters in ~~record~~ etc.)

1. Where a party or other interested person objects to a matter contained in the ~~record protocol~~ of preparatory proceedings for oral argument, that objection shall be noted in the ~~record protocol~~.
2. Compliance with provisions pertaining to the conduct of

preparatory proceedings for oral argument may be proven only by means of the ~~record~~protocol. However, this shall not apply where the ~~record~~protocol has been lost or destroyed.

Section IV. Oral Argument

~~112-113.~~ (Designation of date for oral argument)

When preparatory proceedings for oral argument are concluded, the court shall designate a court date for oral argument and summon the parties to appear on such date.

~~113-114.~~ (Need for oral argument)

1. The court must hold oral argument ~~proceedings-proceedings~~ before rendering a ~~judgement-judgment~~ on the claims. However, with regard to cases or issues to be decided via ruling, the court shall determine whether or not to hold oral argument proceedings.
2. Where oral argument proceedings are not held pursuant to the provisions of the second sentence of Paragraph 1, the court may inquire of question the parties.
2. The provisions of Paragraphs 1 and 2 shall not apply where it is superseded by a particular provision of law.

~~114-115.~~ (Oral argument)

1. Oral argument shall be held on a date on which both parties are able to appear.
2. Oral argument shall be held in open court. However, this shall not apply in cases where opening oral argument to the public would present a threat to public order or where it is superseded by a particular provision of law.

~~115-116.~~ (Presentation of results of preparatory proceedings for oral argument)

1. The parties shall present at oral argument the results of the preparatory proceedings for oral argument.
2. The presentation referred to in ~~Pthe preceding paragraph 1~~ shall clarify the facts to be proven (the points at issue) by the subsequent examination of evidence at oral argument.
3. The parties may further allege facts and offer evidence at oral argument. However, this shall not apply where a violation of Article 108 ~~of this Chapter~~ would result.
4. Where the court deems it necessary after examination of evidence at oral argument, the court may decide to resume preparatory proceedings for oral argument.
5. The court may allow the parties to present final argument before the conclusion of oral argument.

~~116-117.~~ (~~Record~~Protocol of oral argument)

1. The court shall require the court clerk to prepare a ~~record~~protocol of oral argument for each day it is held.
2. The provisions of Article 112 ~~of this Chapter~~ shall apply *mutatis mutandis* to the ~~record~~protocol of oral argument.

~~117-118.~~ (Matters to be formally entered in ~~record~~protocol of oral argument)

1. The following matters shall be entered in the ~~record~~protocol of

oral argument:

- (a) the indication of the case;
- (b) the names of the judge(s) and the court clerk;
- (c) the name of the public prosecutor appearing in the case;
- (d) the names of the parties, representatives, assistants, and interpreters who have appeared;
- (e) the date, time and location of the oral argument; and
- (f) a statement indicating whether or not the hearing is open to the public and, if it is not open to the public, stating the reasons therefor.

- 2. The presiding judge and the court clerk shall sign the ~~record~~protocol described in Paragraph 1.

119-119. (Substantive matters to be entered in ~~record~~protocol of oral argument)

- 1. The ~~record~~protocol of oral argument shall include a summary of the arguments. In particular, the following matters shall be clearly indicated therein:

- (a) ~~withdrawal~~discontinuance of the suit, compromise, abandonment or admission of the claim, and admission of facts;
- (b) statements of witnesses, the parties and expert witnesses;
- (c) whether witnesses, parties and expert witnesses were placed under oath, and if not, the reason therefor;
- (d) the results of inspection;
- (e) matters included by order of the court, and matters permitted to be included at the request of a party;
- (f) decisions rendered without being recorded in writing; and
- (g) pronouncements of decisions.

- 2. Notwithstanding the provisions of Paragraph 1, where a suit has concluded other than by a decision, the testimony of witnesses, parties and expert witnesses, and the results of inspection, may be omitted from the record with the permission of the court. However, this shall not apply where a party requests, within one week of the date the party learns of the conclusion of the litigation, that such testimony or results be entered in the record.

119-120. (Recording on tape, etc., in lieu of entry in ~~record~~protocol)

- 1. Notwithstanding the provisions of Paragraph 1 of Article 119, where the court so permits, the court clerk may record the statements of witnesses, parties or expert witnesses on audio or video tape and substitute such taped statements for entry in the ~~record~~protocol. In such a case, the parties may state their opinions when the court permits such method of recording.
- 2. In cases referred to in Paragraph 1, if a party so requests prior to the conclusion of the litigation, a document setting forth the statements of witnesses, parties or expert witnesses shall be prepared. Such document shall also be prepared in cases in which the suit is pending before a higher court and the higher court has determined the preparation of the document to be necessary.

120-121. (Reference to and attachment of documents, etc.)

Documents, photographs, audio and video tapes, and any other articles which the court deems appropriate may be made a part of the ~~record~~protocol of oral argument by being referred to in the

~~record~~ protocol and attached thereto.

121-122. (Restrictions on taking photographs, etc. in the courtroom)

The taking of photographs, the making of a stenographic, audio or video record of the proceedings, or broadcasting within the courtroom shall be prohibited without the permission of the court.

CHAPTER III. EVIDENCE

Section I. General Rules

122-123. (Principle of ~~adjudication~~ decision based on evidence)

1. The court shall recognize facts based on evidence. However, the court may consider all matters and circumstances that are revealed at oral argument.
2. Facts admitted to by a party in court and facts the existence of which is obvious to the court need not be proven by evidence.
3. A party may retract an admission in the following circumstances:
 - (a) where the adversary party does not object;
 - (b) where the admission is false ~~and made based on a mistake or mistaken~~; or
 - (c) where the admission was made due to ~~a~~the criminal act of another.

123-124. (Examination of evidence)

1. Examination of evidence shall be carried out upon the offering of evidence by the parties.
2. The court may examine evidence on its own authority where it finds that it cannot reach a conclusion on whether to recognize the factual allegations of a party as true based on the evidence offered by the parties, or where such examination is otherwise necessary.

124-125. (Offering of evidence)

1. When evidence is offered, the offering party shall specify the fact to be proven thereby.
2. When evidence is offered, the offering party shall make efforts to concretely and clearly show the relevance of the evidence to the fact to be proven thereby.
3. Evidence may be offered before the date set for oral argument or before the date set for preparatory proceedings for oral argument.
4. Offers to examine witnesses or parties shall be submitted at the same time as far as possible.

125-126. (~~Examination~~ Admission of evidence)

The court shall examine the evidence offered by the parties. However, the court need not examine evidence that has no relevance to the facts to be proven, ~~or~~and evidence that the court otherwise finds unnecessary.

126-127. (Concentrated examination of evidence)

1. The court shall ensure that examination of evidence can occur on the first date for oral argument after the points at issue and the evidence have been arranged.
2. Examination of witnesses and of the parties shall take place in

a concentrated fashion as far as possible.

3. Documents scheduled to be used during examination of witnesses, etc. -shall be submitted to the court a reasonable period of time prior to the start of the such examination unless they are to be used as evidence to challenge the credibility of the statements of a witness, etc.-

127-128. (Right of parties to attend)

1. The court shall guarantee parties the opportunity to attend examination of evidence.
2. Examination of evidence can proceed even where a party fails to attend on the scheduled date for the examination.

128-129. (Examination of evidence in foreign country)

1. Examination of evidence in a foreign country shall be entrusted by the court to a proper government office in the country or to an ambassador, ministerial envoy or consul of the Kingdom of Cambodia stationed in the country.
2. Examination of evidence in a foreign country shall be valid if it conforms to the provisions of this Code, regardless of whether it conforms to the laws of the foreign country.

129-130. (Assignment of investigation)

The court may entrust a government agency or foreign government agency to perform any necessary investigation.

130-131. (Proof to a ~~reasonable certainty~~preliminary showing)

Proof to a degree of ~~reasonable certainty~~preliminary showing shall be made based on evidence that permits of immediate examination.

Section II. Examination of Witnesses

131-132. (Duty to serve as witness)

1. Except as otherwise provided in this Code or other laws, the court may examine any person as a witness.
2. The court may order that any person failing to appear as a witness without reasonable cause be taken into [protective] custody and brought before the court. ~~-(Although the physical effects are the same, the requirements for '勾引' is different from those for '逮捕'. Should avoid using 'arrested'??)~~

~~— [Should we say like this+~~

~~— "The court may issue a capias [which commands the court officer to take the person named, and keep him safely, so that he may have his body before the court on a certain day] against any person failing~~

3. Failure of a witness to appear without a reasonable cause may be punished by a maximum fine of __ ~~riels~~riels.

132-133. (Examination of public officials)

1. When a current or former public official is to be examined regarding official secrets, the court shall obtain the approval of the

- government agency that supervises the activities of that official.
2. The supervising government agency referred to in Paragraph 1 shall, with regard to a current or former member of the parliament, the parliament, and with regard to a current or former member of the ~~Cabinet~~government, the Cabinet.
 3. The approval referred to in Paragraph 1 shall not be denied, except in cases where granting such approval might harm the public interest or significantly hinder the exercise of public duties.

133-134. (Right to refuse to testify)

1. A witness may refuse to testify in cases where the witness or the spouse or other relative of the witness could be prosecuted for or found guilty of a crime as a result. This shall also apply where the testimony would bring humiliation or disgrace on such person or cause significant harm to their domestic relationships.
2. A witness may refuse to testify in the following cases:
 - (a) cases described in Paragraph 1 of Article 133;
 - (b) cases involving examination of a person who is or was a doctor, pharmacist, attorney or clergyman, regarding facts that such person learned in the course of his or her professional duties and that should remain confidential; or
 - (c) cases involving examination regarding technological or business secrets.
3. The provisions of Paragraph 2 shall not apply where the witness has been released or exempted from the duty to maintain confidentiality.

134-135. (Ruling regarding refusal to testify)

1. The grounds for a refusal to testify shall be established by proof to a ~~reasonable certainty~~preliminary showing.
2. Except for the cases described in Paragraph 2, subparagraph (a) of Article 134 ~~of this Chapter~~, the issue of whether to permit a refusal to testify shall be adjudicated via ruling issued by the court in which the suit is pending after inquiring examination of the parties.
3. Parties and witnesses may make a Chamtoah-appeal against the ruling referred to in Paragraph 2.
4. The provisions of ~~P~~paragraph 3 of Article 132 shall apply *mutatis mutandis* to the situation in which a witness refuses to testify without reasonable cause after the issuance of a ruling finding that no reasonable cause to refuse to testify exists.

135-136. (Examination of witnesses outside courtroom)

1. The court may examine witnesses outside the courtroom in any of the following cases:
 - (a) where the witness is under no duty to appear ~~before~~in the court hearing the case, or where the witness has reasonable cause not to appear;
 - (b) where having the witness appear ~~before~~in the court hearing the case would involve undue expense or time; or
 - (c) where the parties do not object.
2. In any of the cases referred to in Paragraph 1, the court may assign a member of the panel of judges or a non-member judge to conduct the examination of the witness outside the courtroom.
3. An assigned panel member judge or an assigned judge examining a

witness shall carry out the duties of the court and the presiding judge.

136-137. (Oath)

1. Except as otherwise provided, an oath shall be administered to a witness.
2. An oath shall not be administered where the witness to be examined is under sixteen years of age or does not understand the meaning of an oath.
3. An oath need not be administered where the witness to be examined falls under the provisions of Article 134 and does not exercise his or her right to refuse to testify.
4. The oath shall be administered prior to examination of the witness. However, the oath may be administered after examination where a particular reason exists.
5. The procedure for administration of the oath shall be provided for in the Annex to this Code.
6. Prior to administering the oath, the presiding judge shall explain the meaning of an oath and warn the witness of the penalty for perjury.

137-138. (Method of examination of witness)

1. An offer to examine a witness shall clearly identify the witness.
2. When an offer to examine a witness is made, a written description of the matters to be examined (~~hereinafter referred to as an~~ 'examination outline') shall be submitted together therewith.
3. A witness shall receive the summons to testify two weeks in advance of the scheduled date for the testimony.
4. The summons served on the witness, to which the examination outline shall be attached, shall include the following matters:
 - (a) the names and addresses of the parties;
 - (b) the date, time and location for the witness' appearance; and
 - (c) the legal sanctions imposed for failure to appear.
5. Witnesses shall be examined in the following order: by the presiding judge, by the party offering the witness for examination, and finally by the other party. An associate judge may examine a witness ~~upon~~~~after~~ notifying the presiding judge.
6. The court may, where the court deems it appropriate, change the order set forth in Paragraph 5.
7. Witnesses may not testify based on documents. However, this shall not apply where the court approves such testimony.
8. The court may, where the court deems it necessary, permit a witness who has already testified or a witness who is scheduled to testify to be in the courtroom.
9. Where the court determines that a witness feels intimidated by the presence of a particular person in the courtroom and is unable to give adequate testimony, the court may order that person to leave the courtroom during the testimony of the witness.
10. The court may, where the court deems it necessary, examine the witness at the same time as another witness regarding the same matter.

138-139. (Restrictions on questions)

1. Questions shall be as independent and specific as possible.
2. The following types of questions shall not be asked unless

reasonable cause exists:

- (a) questions that insult or embarrass the witness;
 - (b) leading questions;
 - (c) questions that repeat a previously asked question;
 - (d) questions that are irrelevant to the points at issue;
 - (e) questions that call for an opinion of the witness; and
 - (f) questions that call for testimony on a matter regarding which the witness has no direct experience.
3. Where the court determines that a party's question violates the provisions of Paragraph 2, the court may limit the question upon motion or on the court's own authority.
 4. Parties may state objections to any limitations made by the court pursuant to the provisions of Paragraph 3.

Section III. Examination of Parties

139-140. (Examination of party)

1. The court may examine a party. In such a case, the court may require the party to take an oath.
2. Where a party is to be examined, if the party does not appear, or refuses to take an oath or to testify without reasonable cause, the court may deem the allegations of the other party regarding the matters to be examined to be true.
3. Where a party to whom an oath has been administered makes a ~~[knowingly]~~ false statement, the court shall via ruling impose a fine of not more than ____ ~~rials~~riels. A ~~Chamtoah KOKOKU~~ appeal may be taken against such a ruling.

140-141. (Mutatis mutandis application of provisions regarding examination of witnesses, etc.)

1. The provisions of Articles 136, 137 (except for Paragraphs 1 and 3), 138 (except for Paragraphs 8 and 10) and 139 shall apply *mutatis mutandis* to the examination of a party.
2. The court may, where the court deems it necessary, examine a party together with another party or a witness at the same time regarding the same matter.

141-142. (Examination of legal representative)

The provisions of this Code regarding examination of a party shall apply *mutatis mutandis* to examination of the legal representative of the party in the case. However, such examination shall not hinder the examination of the party.

Section IV. Expert Testimony

142-143. (Offer and scope of expert testimony)

1. The court may order expert testimony based on an offer thereof from a party.
2. When expert testimony is offered, a document that includes the matters on which the expert testimony is sought shall be submitted at the same time. However, where an unavoidable reason exists, the document may be submitted within a time period set by the court.
3. The court shall hear the opinions of the other party regarding the offer described in Paragraph 2.
4. The court shall determine the subject matter and scope of the expert

testimony based on the document submitted pursuant to Paragraph 2 after hearing the opinions of the other party in accordance with Paragraph 3. In this case, the document containing the subject matter and scope of the expert testimony shall be provided to the expert witness.

143-144. (Designation of expert witness, duty to give expert testimony)

1. Expert witnesses shall be designated by the court.
2. Any person having the necessary education and experience to provide expert testimony has the duty to provide such testimony.
3. A person cannot serve as an expert witness in the following situations:
 - (a) The expert witness or the spouse or other relative of the expert witness could be prosecuted for or found guilty of a crime as a result. This shall also apply where the expert testimony would bring humiliation or disgrace on such person.
 - (b) The subject matter of the expert testimony involves official secrets held by a current or former public official. However, this shall not apply where the approval of the government agency supervising the activities of such official is obtained. Such supervising government agency may not refuse to give its approval, except in cases where granting such approval might harm the public interest or significantly hinder the exercise of public duties.
 - (c) The subject matter of the expert testimony involves facts that were learned by a current or former doctor, pharmacist, attorney or clergyman in the course of his or her professional duties, and that should remain confidential.
 - (d) The subject matter of the expert testimony involves technological or business secrets.
4. The supervising government agency referred to in subparagraph (b) of Paragraph 3 shall be, with regard to a current or former member of the parliament, the parliament, and with regard to a current or former member of the ~~Cabinet~~ government, the Cabinet.
5. The provisions of subparagraphs (b) through (d) of Paragraph 3 shall not apply where the expert witness has been released or exempted from the duty to maintain confidentiality.

144-145. (Challenge of expert witness)

1. Where circumstances exist that would hinder an expert witness from testifying in good faith, a party may challenge the expert witness before the expert witness makes any statement regarding the subject matter of the expert testimony. Such a challenge may be made even after the expert witness makes a statement, where the grounds for the challenge arise or the party learns of such grounds after the making of the statement.
2. A motion to challenge shall be made in writing, except in the case where it is made on a ~~court~~hearing date.
3. The grounds for challenge shall be proved to a ~~reasonable certainty~~preliminary showing.
4. No objection may be made to a ruling upholding a challenge.
5. A ~~Chamtoah~~ n appeal ~~on collateral/procedural issues~~ may be made from a ruling denying a challenge.

145-146. (Method of making expert witness statement, questioning by expert witness, etc.)

1. The court may allow an expert witness to present his or her opinions verbally or in writing.
2. Where necessary for the giving of expert testimony, an expert witness may attend the court hearing and ask the court to examine a party or a witness, or may, with the court's permission, question a party or witness directly.

146-147. (Mutatis mutandis application of provisions regarding examination of witnesses, method of administering oath)

Except as otherwise provided, the provisions of ~~TITLE title III~~, Chapter ~~III~~3, Section ~~II~~2 of this Code (Examination of witnesses) shall apply *mutatis mutandis* to the examination of an expert witness, except that the provisions of Article 132, Paragraph 2 shall not apply.

Section V. Documentary Evidence

147-148. (Offer of documentary evidence, etc.)

1. Documentary evidence shall be offered through the presentation of a document in the possession of a party or through a motion for an order requiring the holder of a document to produce the document.
2. Notwithstanding the provisions of Paragraph 1, documentary evidence may be offered through a motion filed with the court demanding that the court request the holder of a document to send the document to the court.
3. The court may, where the court deems it necessary, keep custody of any document that is presented or sent to the court.

148-149. (Attachment of translation, etc.)

1. When documentary evidence is offered through the presentation of a document written in a foreign language, a translation of the parts of the document with respect to which evidence is being offered shall be attached.
2. Where the adversary party has opinions regarding the accuracy of the translation referred to in Paragraph 1, such opinions shall be submitted in writing to the court.

149-150. (Duty to produce document)

1. Except as otherwise provided in this Code or other laws, production of a document may not be refused by the holder thereof.
2. The holder of a document may refuse the production thereof if the document falls under any of the following categories:
 - (a) a document that contains matters that would give rise to the possibility that the holder of the documents or the spouse or other relative thereof could be prosecuted for or found guilty of a crime, or that would bring humiliation or disgrace on such person or cause significant harm to their domestic relationships;
 - (b) a document that involves the official secrets of a public official, where production of such document would significantly hinder the exercise of public duties; or
 - (c) a document involving facts learned by a current or former doctor, pharmacist, attorney or clergyman in the course of his or her professional duties, or technological or business

secrets, and the holder of the facts or secrets has not been released or exempted from the duty to maintain confidentiality.

150-151. (Motion for order to produce documents)

1. A motion for an order to produce documents must specify the following matters in detail:
 - (a) the title of the document, and a basic description of its contents;
 - (b) the holder of the document; and
 - (c) the facts to be proven thereby.
2. A motion for an order to produce documents must be made in writing.
3. Where the adversary party has opinions regarding the motion described in Paragraph 2, such opinions shall be submitted in writing to the court.

151-152. (Order to produce documents, etc.)

1. Where the court determines that sufficient grounds for an order to produce documents exist, the court shall issue a ruling ordering the holder of the documents to produce such documents. In this case, where the documents contain parts that are deemed outside the scope of inquiry, or as to which no duty to produce is deemed to exist, the court may order that such parts be omitted from the documents produced.
2. Where the court intends to order a third party to produce documents, the court shall ~~inquire of [interrogate] [Is this the term used for criminal procedure??] [EXAMINE IS THE USUAL TERM, WHETHER IN CIVIL OR CRIMINAL LAW, (I.E., 'CROSS EXAMINATION'), BUT 'QUESTION' IS MORE GENERAL AND IS USED IN ONE LOCATION ABOVE. EITHER IS ACCEPTABLE. 'INTERROGATE' IS THE WRONG TERM, WHICH I COPIED FROM THE TRANSLATION OF JAPANESE CCP SEC. 223.]~~ the third party.
3. A ~~Chamtoah~~ ~~n~~ appeal ~~[on collateral/procedural issues]~~ may be made against a ruling on a motion to produce documents.

152-153. (Effect of party's failure to comply with order to produce documents, etc.)

1. When a party fails to comply with an order to produce documents, the court may deem the other party's allegations regarding the contents of such documents to be true.
2. The rule set forth in Paragraph 1 shall also apply to cases where, in order to prevent its use by the other party, a party causes a document that the party was required to produce to be lost, or otherwise makes it impossible for the other party to use the document.
3. In the cases described in Paragraphs 1 and 2, where the other party has substantial difficulty in making specific allegations regarding the contents of a document and in proving by other means a fact that was to be proven by such document, the court may deem the other party's allegations regarding such fact to be true.

153-154. (Civil fine for failure of third party to comply with order to produce documents)

1. Where a third party fails to comply with an order to produce documents, the court may issue a ruling imposing on the third party a civil fine of not more than ~~___ rialriels~~.

2. A *Chamtoah* ~~n~~-appeal ~~{on collateral/procedural issues}~~ may be made against a ruling issued pursuant to Paragraph 1.

~~154-155.~~ (Execution of document)

1. A party offering documentary evidence shall prove that the document was authentically executed.
2. A document that is determined, based on its form and content, to be created by a public official in the course of official business, shall be presumed to be an authentically executed official document.
3. Where doubt exists regarding the authenticity of an official document's execution, the court may on its own authority inquire of the relevant government ~~agency or official~~ ~~agency or official~~.
4. Unofficial documents signed by the principal or the principal's representative shall be presumed to have been authentically executed.
5. The provisions of Paragraphs 2 and 3 shall apply *mutatis mutandis* to documents deemed to have been created by a foreign government agency or official.

~~155-156.~~ (Proof by handwriting comparison, etc.)

1. The authenticity of a document's execution may be proven through handwriting comparison.
2. The provisions of Article 148, Article 152 and Paragraphs 1 and 2 of Article 153- ~~of~~ shall apply *mutatis mutandis* to the production or sending of documents and other items necessary in order to perform handwriting comparison.
3. If there is no suitable sample of the adversary party's handwriting for purposes of comparison, the court may order the adversary party to write text to be used for purposes of comparison.
4. If a party fails without reasonable cause to comply with a ruling issued pursuant to Paragraph 3, the court may deem to be true the allegations of the person offering the document in evidence as to the authenticity of the document's execution. This shall also apply where the writing has been altered or disguised.
5. If without reasonable cause a third party fails to comply with an order to produce documents issued pursuant to the provisions of Paragraph 1 of Article 153, which apply *mutatis mutandis* under Paragraph 2, the court may issue a ruling imposing on the third party a civil fine of not more than ~~___ rialriels~~.
6. A *Chamtoah* ~~n~~-appeal ~~{on collateral/procedural issues}~~ may be made against a ruling made pursuant to Paragraph 5.

~~156-157.~~ (Civil fine against person disputing authenticity of execution of document)

1. Where a party or the party's representative intentionally or through gross negligence falsely disputes the authenticity of a document's execution, the court may issue a ruling imposing a civil fine of not more than ~~___ rialriels~~ against the party or representative.
2. A *Chamtoah* ~~n~~-appeal ~~{on collateral/procedural issues}~~ may be made against a ruling made pursuant to Paragraph 1.
3. In cases referred to in Paragraph 1, where the party or representative that disputed the authenticity of execution of a document thereafter recognizes the document's authenticity while

the suit is still pending, the court may, depending on the circumstances, rescind its ruling referred to in that Paragraph.

~~157-158.~~ (Application of articles corresponding to documents)

The provisions of this Section shall apply *mutatis mutandis* to articles such as drawings, photographs, audio and video tapes, and other items that are not documents but were created in order to express information.

~~158-159.~~ (Offer of documentary evidence comprising transcription of audio tapes, etc.)

A party that offers documentary evidence comprising a transcription of an audio tape, video tape or other article on which certain matters can be recorded using corresponding methods shall, in cases where the other party has requested delivery of a copy of such article, deliver a copy thereof to the other party.

~~159-160.~~ (Submission of document explaining contents of recording tape, etc.)

1. A party offering examination of evidence on an audio tape or any other article described in Article 159 shall, when so requested by the court or the other party, submit a written transcription of those recorded in the article or a document that explains the contents thereof.
2. Where the adversary party has opinions regarding the contents of the explanation provided for in the document mentioned in Paragraph 1, such opinions shall be submitted in writing to the court.

Section VI. Inspection

~~160-161.~~ (Offer of inspection)

An offer of inspection shall indicate the object to be inspected.

~~161-162.~~ (~~{Production}~~ of object to be inspected, etc.)

1. The provisions of ~~Paragraph 5 of~~ Articles 148, ~~Article~~ 152 and ~~Article~~ 153 shall apply *mutatis mutandis* to the ~~{production}~~ or ~~sending~~ ~~delivery~~ of the object to be inspected.
~~— [In case of inspection, can we use "production" for the translation of "提示"? 提示 has the same meaning of 提出. The only difference is 提示 is used for presentation of object while 提出 is used for presentation of papers.] [YES, PRODUCTION IS BETTER]~~
2. If a third party fails without reasonable cause to comply with an order of ~~{production}~~ made pursuant to Paragraph 1 of Article 152, which applies *mutatis mutandis* under Paragraph 1, the court may issue a ruling imposing a civil fine on the third party of not more than ____ ~~rials~~ ~~riels~~.
3. A ~~Chamtoah~~ ~~n~~ appeal ~~[on collateral/procedural issues]~~ may be made against a ruling made pursuant to Paragraph 2.

Section VII. Preservation of Evidence

~~162-163.~~ (Preservation of evidence)

1. Where the court determines that circumstances exist that make it difficult to use evidence unless the evidence is examined

beforehand, the court may upon motion or application examine the evidence in accordance with the provisions of this Section.

2. The results of an examination of evidence made pursuant to Paragraph 1 shall have effect in an action for adjudication of the merits of a case.
3. The parties shall ~~state, indicate~~ at the oral argument ~~stage~~ of the action for adjudication of the merits of a case, lawsuit the results of the examination of evidence that took place pursuant to Paragraph 1.

163-164. (Court having jurisdiction)

1. A motion for preservation of evidence after suit has been filed shall be made to ~~the court~~ before which the evidence is to be used~~+~~.
2. An application for preservation of evidence before suit has been filed shall be made to the court of first instance having jurisdiction over either (i) the residence of the person to be examined or the holder of the documents to be examined, or (ii) the location of the object of inspection.
3. A motion for preservation of evidence may be made to the court of first instance referred to in Paragraph 2 even after suit has been filed where urgent circumstances exist.

164-165. (Method of making motion for preservation of evidence)

1. A motion or application for preservation of evidence shall be made in writing.
2. The writing referred to in Paragraph 1 shall include the following matters:
 - (a) the name and address of the adversary party;
 - (b) the facts to be proven;
 - (c) the evidence to be preserved; and
 - (d) the grounds for preservation of the evidence.
3. The existence of the grounds for preservation of the evidence shall be established to a ~~reasonable certainty~~ preliminary showing.

165-166. (Inability to specify adversary party)

An application ~~motion~~ for preservation of evidence may be made even if the adversary party cannot be specified. In this case, the court may appoint a special representative to represent the adversary party.

166-167. (Preservation of evidence on court's own authority)

The court may, where it is deemed necessary, issue a ruling ordering the preservation of evidence while a suit is pending.

167-168. (Appeal)

The moving party ~~may~~ bring a Chamtoah ~~n~~ appeal ~~for collateral/procedural issues~~ against a ruling dismissing a motion or application for preservation of evidence.

168-169. (Summons regarding date)

A summons shall be issued commanding ~~the moving party~~ and the adversary party to appear on the date for examination of evidence. However, this shall not apply where time is of the essence.

169-170. (Costs of preservation of evidence)

Costs incurred in connection with the preservation of evidence shall

be deemed a part of the litigation costs in the related action.

170-171. (Re-examination during oral argument)

Where a party during oral argument offers examination of a witness that was already examined at the proceedings for preservation of evidence, the court shall examine such witness.

171-172. (Delivery of record of preservation of evidence)

Where an examination of evidence for purposes of preservation thereof has been conducted, the ~~court clerk of the~~ court that conducted the examination shall deliver a record of such examination to ~~the court clerk of~~ the court in which the case record for the related action exists.

CHAPTER IV. INTERRUPTION AND SUSPENSION OF LITIGATION

~~{Please translate this Chapter.}~~

172-173. (Interruption of and succession to litigation)

1. Where any of the following grounds exist, the litigation shall be interrupted. In such a case, the person identified in the following subparagraphs shall succeed to the litigation.

—(a) The death of a party
— the heir of the decedent party, or the person bound by law to maintain the action

—(b) The termination of a party through the merger of juridical persons
— the juridical person that has succeeded to the rights and obligations of the merged entityies

—(c) Loss of a party's capacity to litigate, death of a ~~legal representative attorney~~ or termination of the ~~legal representative attorney's~~ authority~~right~~ to represent the party
— the legal representative or the party himself after obtaining the capacity to litigate

(d) Loss of qualification, which has enabled a person to carry out a litigation under his or her name on behalf of others, due to his or her death or any other reasons
— a person having the same qualifications

—(e) Loss of qualification ~~{to litigate}~~ due to the death of all ~~1~~ parties ~~nominated appointed~~ pursuant to the provisions of Article 42, or loss of qualification of such parties due to any other reason

— all of the appointors under such provisions ~~law~~ or persons newly a

— appointed pursuant to such provisions~~law~~

2. The provisions of Paragraph 1 shall not apply while an appointed representative is appointed for the litigation. However, the appointed representative shall inform the court occurrence of such events provided in the Paragraph 1. there is an advocate {THIS IS VAGUE "WHILE THERE IS AN ADVOCATE" SOMEWHERE IN THE COUNTRY? OR DOES THE ADVOCATE HAVE TO HAVE SOME RELATIONSHIP TO THE PARTIES OR

~~TO THE LITIGATION? IF SO, THIS RELATIONSHIP NEEDS TO BE MADE EXPLICIT].~~

3. Even in the event the ground specified in subparagraph (a) of Paragraph 1~~(a)~~ exists, an heir may not succeed to litigation during the period of time that such heir is entitled to renounce succession.

173-174. (Natural termination of litigation proceedings)

Where a party's existence is terminated through death or merger, if there is no person that succeeds to the right or obligation comprising the subject matter of the litigation, or if such right ~~and/or~~ obligation devolve to the same person, the litigation proceedings shall be terminated. In this case, the court shall issue a judgment ~~ruling~~ declaring that the litigation is terminated.

174-175. (Succession procedure)

1. A motion for succession to litigation proceedings may be made by the potential successor or by the adversary party.
2. Where a motion to succeed to litigation proceedings is filed, the court shall notify the adversary party to the motion for succession.
3. Where a motion to succeed to litigation proceedings is filed, if the court after conducting an investigation on its own authority determines that sufficient grounds for the motion do not exist, the court shall deny the motion via ruling on its own authority ~~if it determines that [sufficient] grounds for the motion do not exist~~. A Chamtoah KOKOKU-appeal may be made against such a ruling.
4. In the case described in Paragraph 3, if the court determines that ~~[sufficient]~~ grounds exist for the motion, the court shall permit such succession via ruling.
5. Where a motion to succeed to litigation proceedings is filed after such proceedings have been interrupted ~~suspended~~ following the service of judgment, the court that rendered the judgment shall rule on the motion.

175-176. (Order to prosecute or defend action on court's authority)

Even where neither party files a motion for succession to litigation proceedings, the court may, on its own authority, order that the litigation be continued.

176-177. (Suspension of litigation proceedings)

1. Where the court is unable to perform its functions due to natural disaster or any other reason, the litigation [before the court] shall be suspended until such reason ceases to exist.
2. Where a party is unable to continue a litigation proceeding due to an impediment of indefinite duration, the court may via ruling order the suspension of the proceeding. In this case, the court may rescind the ruling in the event the impediment ceases to exist.
3. The court may via ruling order the suspension of a civil litigation proceeding during the pendency of a criminal case that involves a fact on which one of the claims in the civil action is based. In this case, the court may rescind the ruling when the criminal case has ended.

177-178. (Effect of interruption and suspension)

1. Neither the parties nor the court may conduct an act of litigation

while a litigation proceeding is interrupted or suspended. However, judgment may be pronounced even while the litigation proceeding is interrupted.

2. Any and all terms cease to run while a litigation proceeding is interrupted or suspended ~~[THIS IS VAGUE - WHAT TERMS EXACTLY?]~~. In this case, all terms will begin anew upon the notice of the succession to litigation proceedings or ~~[the issuance of an order for]~~ continuation of a suspended ~~n-~~ action.

CHAPTER V. ~~JUDGEMENT~~ JUDGMENT ~~['JUDGEMENT' IS THE BRITISH SPELLING, WHILE 'JUDGMENT' IS THE AMERICAN SPELLING. WHATEVER SPELLING IS DECIDED ON, IT SHOULD BE CONSISTENT.]~~

Section I. General Provisions Regarding Decisions⁵

~~178-179.~~ (Types of ~~adjudication~~ decision)

1. Unless otherwise provided in this Code or by other provision of law, a judgment is an adjudicationa decision rendered by means of a written judgment issued by a court ~~in a judicial proceeding~~ based on oral argument and in compliance with the form/procedure provided by law, and shall have legal effect pursuant to a declaration based on such judgment.
2. A ruling is an adjudicationa decision that may be issued by a court or judge without oral argument, and is not a judgment.

Section II. General Provisions Regarding ~~Judgement~~ Judgment

~~179-180.~~ (Final judgment)

1. Courts shall conclude oral argument and issue a final judgment when it is deemed that no further trial is necessary based on the results of argument and evidentiary investigation.
- ~~180-181.~~ ~~2.~~ Where a trial as to one claim among several claims encompassed in an action is deemed to have reached an end, a final judgment on that claim may be issued.
3. Where it is deemed necessary for the issuance of a final judgment, the court may reopen oral argument that has already been concluded.

~~180-181.~~ (Interlocutory judgment)

In an action involving a dispute regarding any of the following matters, the court may end the trial and issue an ~~interlocuroty~~ interlocutory judgment as to only such matter:

- (a) the existence of a claim, when both the existence of a claim and the amount of such claim are in dispute;
- (b) offensive or defensive measures that can be independently adjudicated;

⁵ "Decision" as used in this translation originally means any forms of decision issued by a court and includes both "ruling" and "judgement," although it in many articles specifically means either "ruling" or "judgement" as the context requires.

- (c) the existence or absence of the prerequisites for an action;
or
- (d) matters pertaining to the conclusion of an action.

181-182. (Matters for adjudication judgment)

1. The court shall adjudicate all of the claims raised by the parties.
2. The court shall not adjudicate matters that were not raised by the parties.
3. The court shall adjudicate the apportionment of liability for litigation costs even in the absence of a request by either party that it do so.

182-183. (Omission in judgment decision)

Where the court does not adjudicate part of a claim, the action remains pending in that court with respect to the omitted part of the claim.

183-184. (Principle of free determination)

When issuing a ~~judgement~~ judgment, the court shall decide, after considering the results of the examination of evidence and the progress of and the presentations made at oral argument, and based on its freely determined conviction, whether or not the allegations of fact are true.

184-185. (Principle of direct trial)

1. A judgment shall be issued only by the judge or judges that have participated in the oral argument forming the basis for such judgment.
2. Where a judge has been changed before the conclusion of oral argument, the parties shall state [before the newly appointed judge] the results of the previous oral argument.
3. Where a single judge or a majority of judges on a panel of judges has been changed, if a party applies for reexamination of a witness who was previously examined, the court shall make such examination.

Section III. Transmittal of ~~Judgement~~ Judgment

185-186. (Effectiveness of judgment)

A judgment shall become effective when it is pronounced.

186-187. (Date of pronouncement of judgment)

A pronouncement of judgment shall be made within one month of the date on which oral argument is concluded. However, this shall not apply where the case is complex or where other special circumstances exist.

187-188. (Method of pronouncement of judgment)

1. A pronouncement of judgment shall be made in open court on the appointed date, based on the original of a written judgment, and the text of the judgment shall be read aloud by the presiding judge. However, if circumstances prevent the presiding judge from making a pronouncement by himself, an associate judge may do it on his behalf.
2. A pronouncement of judgment may be made even if the parties are not present in court.
3. Where deemed appropriate, the presiding judge may read the reasons for the judgment or verbally summarize it in court.

188-189. (Written judgment)

1. A written judgment shall include the following matters:
 - (a) ~~the court~~the main ~~[THIS HAS NO LEGAL MEANING IN ENGLISH]~~text of the judgment;
 - (b) the date on which oral argument was concluded~~the facts and the matters in dispute~~;
 - (c) the names and addresses of the parties and of their legal representatives~~the grounds for the decision~~;
 - (d) ~~the facts and the matters in dispute~~the date on which oral argument was concluded;
 - (e) the grounds for the decision~~the names and addresses of the parties and of their legal representatives~~; and
 - (f) ~~the main and conclusive text of the judgment~~the court.
2. The statement of the facts and the matters in dispute shall be based on and include a summary of the statements of the parties.
3. The written judgment shall be signed by the judge or judges that issued the ~~judgement~~judgment.
4. If circumstances prevent ~~or more~~ judges belonging to a panel of judges from signing the written judgment, ~~other the remaining~~ judge(s) shall sign the judgment and indicate the reason for the absence of each such judge's signature on the judgment.

189-190. (Service of written judgment)

1. The written judgment shall be served on the parties within two weeks of the date of pronouncement of judgment.
2. The service described in Paragraph 1 shall be carried out using an authenticated copy of the written judgment.

Section IV. Effectiveness of ~~Judgement~~Judgment

190-191. (Self-binding effect of judgment)

A court that hands down a judgment may not revoke or change the judgment, except in accordance with the provisions of Article 192 below.

191-192. (Ruling of correction)

1. Where a judgment is found to contain a miscalculation, clerical error or any other similar obvious error, the court may, upon motion or on its own authority, render a ruling of correction at any time.
2. A ~~Chamtoah~~ appeal ~~[on collateral/procedural issues]~~ may be made against a ruling of correction. However, this shall not apply where a ~~lawful Utto~~proper appeal ~~[on the merits]~~ has been filed against the judgment.
3. A ruling of correction shall be ~~affixed~~attached to the original and all authenticated copies of the written judgment. However, where it is deemed appropriate, the court may prepare a written ruling and serve authenticated copies thereof on the parties in lieu of ~~attach~~fixing the ruling to the original and all authenticated copies of the judgment.

192-193. (Date on which judgment becomes final)

1. A judgment shall not become final prior to the expiration of the period in which an appeal against the ~~judgement~~judgment or a petition to set aside such judgment may be filed.
2. The finality of a judgment is stayed by the filing of an appeal against the ~~judgement~~judgment or a petition to set it aside within

the period referred to in Paragraph 1.

193-194. (Finality of matters decided in judgment)

1. When a judgment is final, it shall have conclusive and binding effect.
2. The binding effect described in Paragraph 1 shall determine rights and legal relationships as of the date of conclusion of oral argument.
3. The scope of the binding effect referred to in Paragraph 1 shall be limited to the matters determined in the main text of the judgment with regard to claims raised in the original action or in any counter-action, and shall not apply to any finding contained in the grounds for the judgement judgment.
4. Notwithstanding the provisions of Paragraph 3, where the defendant makes a claim for offset based on a countervailing obligation, a finding in the final judgement judgment that a countervailing obligation was extinguished by the operation of the offset— is binding to the extent of the the offset.--

194-195. (Date on which judgment may be enforced)

A judgment may be enforced when it becomes final in accordance with the provisions of Article 194 ~~of this Chapter~~, except as otherwise provided by law.

195-196. (Declaration of provisional execution)

1. With regard to a judgment concerning an action involving economic interests, the court may, upon determining it necessary, on motion or on its own authority, declare that a provisional execution of judgment may be carried out with or without the provision of security.
2. The court may, upon motion or on its own authority, declare that a provisional execution of judgment may be avoided upon the provision of security.
3. A declaration of provisional execution shall be set forth in the main text of the judgment. This shall also apply to the declaration described in Paragraph 2.
4. Where a decision is not issued on a motion for declaration of provisional execution, or where the court fails to make such a declaration in circumstances where the declaration should be made on the court's own authority, the court may shall, upon motion or on its own authority, render a supplemental ruling. This shall also apply where a decision is not issued in response to the motion described in Paragraph 2.

196-197. (Loss of effect of declaration of provisional execution and restitution)

1. A declaration of provisional execution shall lose its effect upon the pronouncement of to the extent that it is changed by a higher court's judgment changing either such declaration or thea judgment on the merits of the action to the extent that it is changed by such higher court's judgment.
2. In a [higher court's] judgment that changes the a-judgment on the

merits of the action, the [higher] court shall, upon motion of the defendant, order the plaintiff to return the thing given by the defendant pursuant to the declaration of provisional execution and to make compensation for any damage sustained by the defendant either as a result of such execution or as a result of measures taken to avoid such execution.

3. Where only a declaration of provisional execution has been changed, the provisions of Paragraph 2 shall apply to the subsequent [higher court's] judgment changing the judgment on the merits of the action.

197-198. (Scope of persons bound by final judgment)

A final judgment is binding on the following persons:

- (a) the parties;
- (b) where a party became a plaintiff or defendant on behalf of another person, such another person;
- (c) persons succeeding to the rights or obligations held by the persons identified in the preceding two subparagraphs after the action became pending before the court; and
- (d) persons who possess the subject-matter of the action for the benefit of any of the persons identified in the preceding three subparagraphs.

198-199. (Effect of final judgment of foreign court)

A final judgment of a foreign court shall be valid only where ~~alleach~~ of the following conditions ~~is~~are fulfilled:

- (a) jurisdiction is properly conferred on the foreign court by law ~~or ex~~ by treaty;
- (b) the losing defendant received service of summons or any other order necessary to commence the action, or responded without receiving such summons or order;
- (c) the contents of the judgment and the procedures followed in the action do not violate the public order or morals of Cambodia; and
- (d) there is a guarantee of reciprocity between Cambodia and the foreign country in which the court is based.

Section V. Default ~~Judgement~~Judgment

199-200. (Default judgment against plaintiff)

1. Where the plaintiff fails to appear on the date set as the first day of preparatory proceedings for oral argument, the court shall dismiss [with prejudice] the claims of the plaintiff via default judgment.

~~[棄却 is an adjudication on the merit, therefore that bars the right to bring an action on the same merit. On the other hand, 却下 can be said a dismissal without prejudice. Are there any good terminologies to represent these differences?][NO WITH REGARD TO THE ACTION ITSELF, COMMON LAW USES 'DISMISSAL WITH PREJUDICE' AND 'DISMISSAL WITHOUT PREJUDICE' TO MAKE THE SAME DISTINCTION. OR, IT IS SOMETIMES SAID THAT THE SECOND TYPE OF DISMISSAL CONSTITUTES 'RES JUDICATA' WITH RESPECT TO THAT CLAIM]~~

2. Where the plaintiff fails to appear on a date set for the continuation of preparatory proceedings for oral argument, the

court may immediately terminate such proceedings and set another date as the first day of oral argument.

3. Where the plaintiff fails to appear on the date set for oral argument, the court shall dismiss [with prejudice] the claims of the plaintiff via default judgment.

200-201. (Default judgment against defendant)

1. Where the defendant fails to appear on the first date set for the preparatory proceedings for oral argument, the court ~~may~~shall immediately terminate such proceedings and set another date as the first day of oral argument.
2. Where the defendant fails to appear on the date set for oral argument, the court shall deem the defendant to have admitted the truth of the plaintiff's allegations of fact, and if grounds to support the plaintiff's claims exist, the court shall recognize the plaintiff's claims via the entry of default judgment, while if grounds to support the plaintiff's claims do not exist, the court shall dismiss [with prejudice] the plaintiff's claims.

201-202. (Where default judgment is not allowed)

The court may not enter a default judgment in any of the following circumstances:

- (a) where a party that failed to appear did not duly receive service of summons;
- (b) where there is sufficient evidence to conclude that a party that failed to appear did so due to natural disaster or other forces beyond their control; or
- (c) where the action itself is unlawful.

202-203. (Extension of date)

1. Where the court determines that the summons period is too short, or that a party was unable to appear through no fault of their own, it may extend the date set for preparatory proceedings for oral argument or for oral argument.
2. Where the court extends a date in accordance with ~~the preceding~~ Paragraph 1, the party who did not appear shall be served with summons to appear on the new date.

203-204. (Petition to set aside default judgment)

1. Where a party fails to make a timely appearance on the ~~court hearing~~ date due to an unforeseeable or unavoidable reason, and a default ~~judgement~~ judgment was rendered as a result, the party may file a petition to set aside the judgment.
2. The petition described in Paragraph 1 shall be made within two weeks from the date of receipt of service of the default judgment. This period may not be extended.
3. Where service of a default judgment is to be made by publication or in a foreign country, the court shall fix in the default judgment the period within which a petition for setting it aside may be filed.

204-205. (Method of filing petition to set aside default judgment)

1. A petition to set aside a default judgment shall be made by submitting a written petition to the court that issued the default judgment.
2. The written petition shall contain the following matters:

- (a) the names and addresses of the parties and of their legal representatives;
- (b) an indication of the default judgment comprising the subject-matter of the petition;
- (~~cb~~) an indication of the nature of the petition against the default judgment described in subparagraph (b); and
- (~~de~~) the reason that the party was unable to timely appear on the specified date.

205-206. (Examination and service of written petition)

- 1. Where a written petition fails to comply with the provisions of Article 205, the court shall order that any and all defects in the petition be remedied within a reasonable period of time specified by the court.
- 2. In the case described in Paragraph 1, if the party making the petition fails to remedy the defects, the court shall dismiss [without prejudice] the written petition via ruling.
- 3. A Chomtoah ~~a~~ appeal ~~{on collateral/procedural issues}~~ may be made against the ruling described in Paragraph 2.
- 4. Where there is no defect in a written petition, the court shall serve the written petition on the other party, set a new date for hearing on the petition, and summon the parties to appear on such date.

206-207. (Hearing and decision on petition)

- 1. The court shall, on its own authority, investigate whether the petition was made in ~~in~~ the manner provided by law and within the ~~appropriate~~ period of time provided by law, as well as whether reasonable grounds for the petition exist.
- 2. Where the court determines that the petition was made unlawfully, it shall dismiss [without prejudice] the petition via ruling~~t~~, and where the court determines that the petition lacks reasonable grounds, it shall deny the petition via ruling. ~~{YES, TO 'DENY' A MOTION MEANS ON THE MERITS}~~

207-208. (Effect of petition)

- 1. Where a petition is granted, the status of the action shall be returned to the status in effect at the point in time before the party's failure to appear.
- 2. In the case described in Paragraph 1, the court shall set a new date for the re-commencement of preparatory proceedings for oral argument or oral argument and notify the parties of such date.

208-209. (Judgment based on de novo review)

- 1. Where the judgment to be issued based on a *de novo* review of the case is identical to the default judgment, the court shall issue a judgment upholding the default judgment.
- 2. Where the judgment to be issued based on a *de novo* review of the case is not identical to the default judgment, the court shall reverse the default judgment in the newly issued judgment.

209-210. (Costs incurred from failure to appear)

Where a default judgment is lawfully issued, costs incurred as a result of the party's failure to appear shall be borne by the party failing to appear, even where the default judgment is subsequently reversed upon petition to set aside the judgement, unless such costs were incurred

due to the other party's improper conduct in the handling of the litigation.

210-211. (Issuance of second default judgment)

1. Where a party who files a petition to set aside a default ~~judgement~~ judgment fails to appear at the date [for the re-commencement of preparatory proceedings for oral argument or oral argument], the court shall dismiss [with prejudice] the petition by means of a second default judgment, except in the cases described in Article 202 and in Paragraph 2 of Article 203.
2. The second default judgment described in Paragraph 1 may not be challenged by a petition to set aside.

211-212. (~~M~~utatis mutandis application of provisions)

1. The provisions governing the ~~+~~discontinuance~~+~~ of an action shall apply *mutatis mutandis* to the ~~+~~discontinuance~~+~~ of a petition.
2. The provisions of this Section shall apply *mutatis mutandis* to cross-actions.

Section VI. Rulings

212-213. (Notice of rulings)

1. A ruling shall take effect when notice thereof is given in a manner deemed proper.
2. A written ruling shall be signed by the judge that issued it.
3. When notice of a ruling is given, the clerk of the court shall clearly indicate in the record of the case the giving of notice and the manner of notice employed.

213-214. (Cancellation of ruling relating to control of litigation)

A ruling relating to the control of litigation may be cancelled at any time.

214-215. (Objection to disposition taken by court clerk)

With regard to any objection against dispositions taken by the court clerk, the court to which such clerk belongs shall render a decision via ruling.

215-216. (Mutatis mutandis ~~a~~Application of provisions relating to judgments)

The provisions relating to judgments shall apply *mutatis mutandis* to rulings so long as such application is not inconsistent with the nature of the ruling.

CHAPTER VI. CONCLUSION OF ACTION NOT BASED ON ~~JUDGEMENT~~ JUDGMENT

216-217. (Discontinuance of action)

1. A plaintiff may discontinue all or part of an action until a final judgment is rendered. ~~—[I don't know the differences among discontinuance, dismissal and withdrawal. Anyway, 取下げ here is basically without prejudice, but if made after a final judgement is issued, it is with prejudice.] [DISCONTINUANCE AND WITHDRAWAL MEAN BASICALLY THE SAME THING. DISMISSAL IS THE ACTION TAKEN BY THE~~

~~JUDGE. IN U.S. PRACTICE, A PLAINTIFF DISCONTINUES AN ACTION BY FILING A 'MOTION TO DISMISS'. SUCH A DISMISSAL IS CALLED 'VOLUNTARY'. WE USE THE TERMS 'VOLUNTARY' AND 'INVOLUNTARY' DISMISSAL, AS WELL AS 'WITH PREJUDICE' AND 'WITHOUT PREJUDICE', SO IT IS ALWAYS CLEAR WHAT IS INVOLVED.~~

2. After the defendant has, on the merits of the action, submitted a preparatory ~~liminary~~ document, made statements in preparatory proceedings for argument, or presented oral argument, a plaintiff's attempt to discontinue the action shall be ineffective unless the defendant's agreement thereto is obtained. However, this shall not apply to the discontinuance of a cross-action where the principal action has been discontinued.
3. Discontinuance of an action shall be made in writing. However, this shall not preclude it from being effected orally on a date set for oral argument, preparatory proceedings for argument or compromise.
4. In the cases described in the ~~first sentence~~ main clause of Paragraph 2, if the discontinuance of the action is made in writing, such writing shall be served on the defendant, while if the discontinuance of the action is made orally on a date set for oral argument, preparatory proceedings for argument or compromise, a certified copy ~~transcript~~ of the ~~record~~ protocol for that date shall be served on the defendant. However, this shall not apply to cases where the discontinuance of the action is made orally on a date set for oral argument, preparatory proceedings for argument or compromise, and the defendant appeared before the court on such date.
5. Where the defendant does not make an objection within two weeks from the date of service of a written discontinuance of the action, the defendant shall be deemed to have consented thereto. The same shall apply to cases where the discontinuance of the action was made orally on a date set for oral argument, preparatory proceedings for argument or compromise, if the defendant does not make an objection within two ~~weekdays~~ from the date on which the action was discontinued if the defendant appeared on such date, or, if the defendant did not appear on such date, from the date on which the copy of the protocol ~~transcript~~ referred to in Paragraph 4 was served.

217-218. (Effect of discontinuance of action)

1. A discontinued action or part thereof is deemed to have never been pending before the court.
2. A party who discontinues an action after a final judgment is issued on the merits may not thereafter bring the same action.

218-219. (Construction of discontinuance of action)

Where both parties fail to appear on the date set for oral argument or for preparatory proceedings for oral argument, and do not within one month make a motion to set a subsequent date therefor, the action shall be deemed to have been discontinued. The same shall apply to cases where both parties, on two consecutive occasions, fail to appear on the dates set for oral argument or preparatory proceedings for argument.

219-220. (Compromise settlement of action)

1. The parties may effect a compromise settlement of the action on a date set for oral argument, preparatory proceedings for argument

or compromise.

2. The compromise settlement referred to in Paragraph 1 may be entered into outside the courtroom if such disposition is deemed proper by the court.

220-221. (Abandonment or acknowledgment of claim)

An abandonment or acknowledgment of a claim shall be made on a date set for oral argument, preparatory proceedings for argument or compromise.

221-222. (Effect of written compromise settlement, etc.)

Where a compromise settlement or an abandonment or acknowledgment of claim has been entered in the ~~record~~protocol of the case, such entry shall have the same effect as a final judgment.

CHAPTER VII. SPECIAL PROVISIONS REGARDING SMALL CLAIM MATTERS

222-223. (Characteristic of procedures)

Procedures for small claim actions are established with the aim of settling the dispute promptly via summary procedures.

223-224. (Conditions for small claims, etc.)

1. A plaintiff is entitled to seek ~~an adjudication~~a decision based on small claim procedures where the subject matter of the action is a demand for the payment of money in an amount no greater than 1 million riels.
2. An application for ~~an adjudication~~a decision based on small claim procedures shall be made when the action is filed.

224-225. (Oral institution of action; matters to be clarified when action instituted)

1. A small claim action may be instituted orally.
2. When a small claim action is instituted, it is sufficient to clearly indicate the points at issue, notwithstanding the provisions of Paragraph 2, subparagraph ~~(b)2~~ of Article 75 ~~of this Chapter~~subparagraph.
3. When a plaintiff institutes a small claim action orally, the court clerk shall ~~enter record~~the statement of the plaintiff in ~~the protocol~~writing. This ~~protocol~~writing shall be deemed the complaint.

225-226. (Instruction regarding procedures)

1. At the time of service of summons to appear on the initial date for oral argument in a small claim action, the court clerk shall deliver to the parties a document that explains the procedures regarding trial and decision in small claim actions.
2. On the date referred to in Paragraph 1, the judge shall first explain to the parties that:
 - (a) in the absence of special circumstances, the court must conclude the trial on the initial date set for oral argument;
 - (b) Except for petition to set aside default judgement, no objection or appeal may be made to a final ~~judgement~~judgment in a small claim action;
 - (c) the examination of evidence can be conducted only with regard

- to evidence that can be examined immediately; and
- (d) while the defendant may make a statement that the action is to be transferred to normal procedures, this shall not apply after the defendant has proceeded with argument on the initial date set for oral argument, nor after the conclusion of such date.

226-227. (Prohibition of cross-action)

A cross-action may not be filed in a small claim action.

227-228. (Designation of date for oral argument)

1. When a [small claim] action is filed, the court shall promptly designate a date for ~~initial~~-oral argument and summon the parties thereto.
2. In the absence of special circumstances, the date described in Paragraph 1 shall fall within thirty (30) days of the date on which the action was filed.

~~3. The provisions of Articles 103 (Purpose of preparatory proceedings for oral argument) through 112 (Objections to record, proof of matters in record) shall not apply to small claim actions~~

228-229. (Principle of one-day trial)

1. In a small claim action, in the absence of special circumstances, the court shall conclude the trial on the initial date set for oral argument.
2. The parties shall advance all offensive or defensive measures before or on the date described in Paragraph 1. However, this shall not apply where oral argument has been continued [to a subsequent date].

229-230. (Order that parties appear in person)

The court may order that a party or his legal representative appear in person even where an appointed representative has been appointed. ~~{WHAT IS THIS DISTINCTION, AND DOES IT APPLY IN CAMBODIA?} {I think this is for prompt examination of all the relevant evidence (parties themselves may be the object of evidence) or allegations. See art.231}~~

230-231. (Restriction on examination of evidence)

An examination of evidence can be conducted only with regard to evidence that can be examined immediately.

231-232. (Offer for examination of witness and examination of witness) ~~{'OFFER' SEEMS AN ODD WORD FOR 'MOSHI-IDE'. I THINK APPLICATION OR MOTION IS BETTER.}~~

1. When ~~offering to examine~~ ~~offering for examination~~ ~~[SAME OBJECTION, PLUS THE GRAMMAR IS INCORRECT - IT SHOULD BE 'WHEN OFFERING TO EXAMINE A WITNESS...']~~ of a witness, a party need not submit a written description of the matters to be ~~question~~asked.
2. The judge may examine a witness without administering an oath.

232-233. (Transfer to ordinary procedures pursuant to defendant's statement)

1. The defendant may make a statement indicating that the action is to be transferred to ordinary procedures. However, this shall not apply after the defendant has proceeded with argument on the initial

date set for oral argument ~~or after such date has been concluded.~~

2. The statement referred to in Paragraph 1 shall be in writing unless it is made on the date set for oral argument.
3. Where the statement referred to in Paragraph 1 is made, the court clerk shall, without delay, notify the plaintiff that the action is to be transferred to ordinary procedures based on the defendant's statement. However, this shall not apply where the statement was made on a date on which the plaintiff appeared in court.

233-234. (Transfer to ordinary procedures pursuant to court ruling)

1. In the following cases, the court shall issue a ruling that the trial and decision of the action shall be conducted by ordinary procedures:
 - (a) where trial and decision based on the procedures for small claims has been sought in contravention of the provisions of Paragraph 1 of Article 224;
 - (b) where summons to appear on the initial date set for oral argument cannot be made on the defendant by means other than service by publication; or
 - (c) where it is deemed improper by the court to conduct such trial and decision based on small claim procedures.
2. Where a ruling is issued pursuant to Paragraph 1, the court clerk shall promptly notify the parties of the issuance and substance of the ruling.
- ~~3. No objection may be made by the parties to a ruling issued pursuant to Paragraph 1.~~

234-235. (Timing of transfer to ordinary procedures, etc.)

1. An action shall be transferred to ordinary procedures when the statement described in Article 233, Paragraph 1 is made or when the ruling described in Article 234, Paragraph 1 is issued.
2. Where an action is transferred to ordinary procedures, date already specified for the small claim action shall be deemed specified for the ordinary procedures.

235-236. (Judgement Judgment and transmission of rulingpronouncement thereof)

1. Except where deemed improper by the court, the court shall pronounce judgment immediately after the conclusion of oral argument.
2. In the case described in Paragraph 1, the pronouncement of judgment need not be based on the original of a written judgment. In such a case, the court shall pronounce judgementjudgment by reading aloud the main text of the judgementjudgment and a summary of the grounds therefor.
3. Where the court has pronounced judgementjudgment pursuant to the provisions of Paragraph 2, the court shall instruct the court clerk to include the matters set forth below in the recordprotocol of the date for oral argument on which judgment was pronounced, in lieu of preparing a written judgment:
 - (a) the names and addresses of the parties and their legal representatives~~the main text of the judgment;~~
 - (b) the judgement sought by the plaintiff~~the parties and their legal representatives;~~ and
 - (c) the main and conclusive text of the judgment~~the claim(s) brought by the plaintiff, and the grounds therefor.~~

4. A written judgment or a ~~record~~ protocol in lieu of a written judgment in a small claim action shall be indicated as a judgment in a small claim action.

236-237. (Deferment of payment by judgment)

1. Where the court issues a judgment that authorizes a claim, with regard to the payment of money in connection with such authorized claim, the court may, upon determining it especially necessary in light of the defendant's financial state or other circumstances, take either of the actions specified in subparagraphs (a) or (b) below, or the actions specified in either of these subparagraphs together with subparagraph (c), within a time frame not to exceed three years from the date of pronouncement of judgment:
 - (a) establish a time for payment;
 - (b) establish a period for the making of installment payments; or
 - (c) where payment has been made in accordance with subparagraph (a), or where payment has been made in accordance with subparagraph (b) without losing the benefit of time pursuant to Paragraph 2, establish an exemption from the obligation to pay damages for delay after the action was filed.
2. On specification of installment payments as described in Paragraph 1 subparagraph (b), ~~the court~~ provision shall ~~be designated~~ a provision regarding the loss of benefit of the term where the defendant defaults on a payment.

237-238. (Prohibition of objection)

No objection ~~or appeal~~ may be made to a final judgment in a small claim action. - However, this shall not apply to a petition to set aside a default ~~judgement~~ judgment.

238-239. (Exceptions from application)

The provisions of ~~Articles~~ Articles 103 through 112 ~~and~~ and shall not apply to small claim procedures as defined in ~~Section~~ of this Chapter VII.

CHAPTER VIII. DATES, PERIOD[TERM], SERVICE

Section I. Dates, Terms

240. (Setting of court dates)

1. The court shall set court dates upon motion or on its own authority. However, dates for procedures to be carried out by an assigned panel member judge or an assigned non-member judge shall be set by that judge.
2. Court dates may be set on Saturdays, Sundays and other legal holidays only in unavoidable circumstances.

241. (Changing of date)

1. When a party moves to change a court date [that has already been set], the moving party shall clearly state the grounds on which the change in date is sought.
2. The date set for preparatory proceedings for argument or for oral argument may not be changed except in unavoidable circumstances.

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3. The initial date set for preparatory proceedings for oral argument may be changed based on the agreement of the parties.

242. (Summons regarding date)

A summons regarding a court date shall be issued by service of a writ of summons or by notifying a person who has appeared before the court.

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243. (Calculation of periods)

1. Periods shall be calculated in accordance with the provisions pertaining to [calculation of] periods under the Civil Code.
2. Where a first day is not designated in a decision in which a period is set, the period shall be deemed to run from the date on which the decision became effective.
3. Where the last day of a period falls on a Saturday, Sunday or legal holiday, the period shall be deemed to expire on the following [business] day.

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244. (Extension of period)

1. The court may extend a period fixed by law or a period fixed by the court itself only in unavoidable circumstances. However, this shall not apply where otherwise provided by law.
2. The court, an assigned panel member judge or an assigned non-member judge may extend a period fixed by such court or by such judge only in unavoidable circumstances.

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245. (Subsequent completion of act of litigation)

1. Where a party is unable to comply with a period fixed pursuant to the second sentence of Paragraph 1 of Article 244 (Extension of period) for a reason for which the party cannot be held responsible, an act of litigation that was to have been completed within such period may be completed within a grace period of one week from the time that such reason has ceased to exist. However, for a party located overseas [during the entire grace period - **to check**], such grace period shall be two months.
2. The grace period referred to in Paragraph 1 may not be extended.

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Section I.

Section II. Service

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246. (Principle of service on court's authority, etc.)

1. Except where otherwise provided by law, service shall be effected on the court's authority.
2. The tasks related to effecting service shall be handled by the court clerk.
3. Service shall be carried out by _____.

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247. (Principle of service by delivery)

1. Except as otherwise provided by law, service shall be effected through delivery of the document to be served to the person who is to receive service.
2. Except as otherwise provided by law, the document to be served shall comprise a certified copy thereof.
3. Where the recipient of service cannot read, the person responsible for effecting service shall make efforts to notify the recipient of the nature of the service when the service is delivered.

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248. (Service on person lacking capacity to litigate, etc.)

1. Service intended for a person lacking the capacity to litigate shall be made on that person's legal representative.
2. Where multiple persons have a joint right of representation, service may be made on only one of them.
3. Service on a person incarcerated in an institution shall be effected on the warden of such institution.

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249. (Location of service)

Service shall be effected at the domicile, residence, place of business or administrative office of the person to be served. However, service on a legal representative may also be effected on the place of business or administrative office of the principal.

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250. (Notice of place of service, etc.)

1. The party, legal representative or appointed representative may give notice to the court in which the action was filed of the location within Cambodia where service is to be received or may give notice to the court regarding the person to receive service.
2. The party, legal representative or appointed representative may give notice of a change in the previously noticed location at which service is to be received, or in the person previously noticed as the person to receive service.
3. The notice described in Paragraphs 1 and 2 shall be given in writing.
4. Where the notice described in the first part of Paragraph 1 is given, the service shall be made at the noticed location, notwithstanding the provisions of Article 249 (Location of service).

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251. (Service at location encountered)

Notwithstanding the provisions of Articles 249 (Location of service) and 250 (Notice of place of service, etc.), service on a person who is to receive service, but regarding whom it is not clear that a domicile, residence, a place of business or an administrative office exists within Cambodia, may be made where such person is encountered, except for persons who gave notice pursuant to the provisions of Paragraph 1 of Article 250 (Notice of place of service, etc.). This shall also apply where service is not refused by a person regarding whom it is clear that a domicile, residence, place of business or administrative office exists within Cambodia, or by a person who gave notice pursuant to the provisions of such Paragraph.

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252. (Supplemental service and service of leaving at the location)

1. Where the person who is to receive service is not encountered at the location where service is to be made, the document may be delivered to a domestic servant or other employee, or a co-resident, provided such person possesses proper understanding regarding the receipt of documents.
2. Where the person to receive service or the person to receive delivery pursuant to the provisions of Paragraph 1 unreasonably refuses to receive service, the document may be left at the location where service is to be made.

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253. (Service in foreign country)

1. Service that is to be made in a foreign country shall be made by the court entrusting the document to be served to a competent

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governmental authority of the country or to the Cambodian ambassador, ministerial envoy or consul assigned to that foreign country or stationed therein.

2. Where service is to be made in a foreign country in connection with proceedings to be carried out by an assigned panel member judge or an assigned judge, such judge may also effect service pursuant to the method described in Paragraph 1.

254. (Report of service, etc.)

1. The person responsible for effecting service shall, after service is made, prepare a report of such service and deliver it to the court.
2. The report described in Paragraph 1 shall contain the following matters:
 - (a) an indication of the case and of the document(s) served;
 - (b) the person on whom service was to be made;
 - (c) the date and location of service;
 - (d) the method of service;
 - (e) where the person to receive service could not read, that the means was adopted pursuant to Paragraph 3 of Article 247 (Principle of service by delivery);
 - (f) the signature of the person receiving a document, or the fingerprint seal of such person in lieu of a signature;
 - (g) where receipt of a document is refused by the person on whom service was to be made or a person to receive delivery thereof pursuant to Paragraph 1 of Article 252 (Supplemental service and service by delivery), the facts regarding such refusal;
 - (h) where service is made pursuant to Article 252 (Supplemental service and service by delivery), the facts regarding such service; and
 - (i) the signature of the person effecting service.
3. Where the person responsible for effecting service made an attempt to effect service but was unable to do so, such person shall prepare and submit to the court a report of this fact together with the matters prescribed in subparagraphs (a) through (d) and subparagraph (i) of Paragraph 2.

255. (Requirements for service by publication)

1. Upon motion and with the court's approval, the clerk of the court may effect service by publication in any of the following situations:
 - (a) where the domicile, residence or other location to be served is unknown even after a reasonable attempt to investigate;
 - (b) where service could not be made pursuant to the provisions of Article 252 (Supplemental service and service by leaving at the location);
 - (c) where service in a foreign country could not be made pursuant to the provisions of Article 253 (Service in foreign country), or where service is deemed impossible even pursuant to such provisions; or
 - (d) where six months have elapsed since service was entrusted to a competent governmental authority in a foreign country pursuant to the provisions of Article 253 (Service in foreign country) and the document establishing proof of service has not been delivered.

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2. In the cases described in Paragraph 1, where the court determines service by publication to be necessary in order to avoid delay in the litigation, the court may order the court clerk to effect service by publication even in the absence of a motion.
3. In the cases described in subparagraph (b) of Paragraph 1, the court clerk shall make efforts via an appropriate method to notify the party sought to be served that service by publication has been effected.
4. Following the initial service by publication on a party, subsequent services by publication on the same party shall be conducted on the court's own authority. However, this shall not apply to cases described in subparagraph (c) of Paragraph 1.

256. (Method of effecting service by publication)

1. Service by publication shall be made by posting on the notice board of the court a notice stating that the court clerk has custody of the document to be served and is ready to deliver such document at any time to the person on whom service is to be made. However, service of a writ of summons by publication shall be made by posting the writ of summons on the notice board of the court.
2. Where service by publication is made pursuant to the provisions of subparagraph (b) of Paragraph 1 of Article 255 (Requirements for service by publication), the posting prescribed in Paragraph 1 may be performed at either the location described in Paragraph 1 or a location deemed proper by the court.
3. The court may publish in the Official Gazette or in newspapers the fact that service by publication has been carried out. Where service is to be made in a foreign country, the court clerk may, in lieu of publication in the Official Gazette or newspapers, give notice of the fact that service by publication has been made.

257. (Effective date of service by publication)

1. Service by publication shall take effect two (2) weeks after the first date of the posting of notice pursuant to the provisions of Article 256 (Method of effecting service by publication). However, service by publication made pursuant to the provisions of Paragraph 4 of Article 255 (Requirements for service by publication) shall take effect the day after the posting of notice.
2. Where service is to be made in a foreign country, the period of time prescribed in Paragraph 1 for service by publication shall be six (6) weeks.

Section II-

Section III-CHAPTER IX. VIEWING OF CASE RECORDS

258. (Viewing of case records, etc.)

1. A party or a third party who has established to a preliminary showing his or her legal interest in the case may ask the court for permission to view or copy case records, or may request delivery of authenticated copies, certified copies or excerpts thereof, or delivery of an official certification of matters related to the case. Authenticated copies, certified copies or excerpts of case records shall indicate thereon that they comprise authenticated copies, certified copies or excerpts, and shall be signed by the court

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- clerk.
2. The provisions of Paragraph 1 shall not apply to those audio tapes, videotapes or other media on which certain matters are recorded using an equivalent method that are attached to the case record. In such a case, where a party or third party who has established to a preliminary showing his or her legal interest in the case makes a request with regard to such media, the court must permit the duplication thereof.
 3. Where [compliance with] a request for viewing, transcription or duplication would hinder the maintenance of case records or the court's performance of its duties, the request shall be denied.

TITLE III. APPEAL

CHAPTER I. GENERAL RULES REGARDING APPEAL

259. (Types of appeal)

1. A decision that has not yet become final and binding may be appealed to a higher court based on the following methods:
 - (a) *Uttor* appeal against a judgement issued by a court of first instance, or *Satuk* appeal if the parties have agreed as mentioned in subparagraph (a), Paragraph 1 of Article 260;
 - (b) *Satuk* appeal against a judgement issued by a *Uttor* appellate court; or
 - (c) *Chomtoah* appeal against a ruling.
2. A *Chomtoah* appeal can be made only where it is allowed by law.
3. A *Chomtoah* appeal may not be brought against a ruling adjudicating a *Chomtoah* appeal.

CHAPTER II. *UTTOR* APPEAL

260. (Judgments subject to *Uttor* appeal, etc.)

1. An *Uttor* appeal may be made against a final judgment issued by a court of the first instance, except in the following situations:
 - (a) where, following the entry of final judgment, the parties have agreed not to make an *Uttor* appeal and have agreed to reserve the right to make a *Satuk* appeal; or
 - (b) where a final judgment has been entered in a civil or commercial case and the amount at stake does not exceed 5,000,000 riels.
2. The agreement described in subparagraph (a), Paragraph 1 is ineffective unless it is in writing.

261. (Restrictions on *Uttor* appeal against a decision regarding imposition of litigation costs)

An independent *Uttor* appeal may not be made against a decision regarding the imposition of litigation costs.

262. (Decisions subject to appellate review)

Any and all [interlocutory] decisions issued preceding a final judgment shall be subject to the adjudication of the *Uttor* appellate court. However, this shall not apply to decisions as to which no objection may be made, or to decisions as to which an objection may be made only by

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means of a *Chomtoah* appeal.

263. (Waiver of right of *Uttor* appeal)

1. The parties may waive the right to make an *Uttor* appeal.
2. A statement waiving the right to make an *Uttor* appeal in accordance with Paragraph 1 that is made after the *Uttor* appeal has been filed must be made together with the discontinuance of the *Uttor* appeal.

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264. (Time for filing *Uttor* appeal)

1. An *Uttor* appeal must be filed within one month from the date that service of the written judgement was received or the date that a ruling denying or dismissing [without prejudice] a petition to set aside a default judgment became final and binding. However, this shall not hinder the validity of an *Uttor* appeal filed before the commencement of this period.
2. The period described in Paragraph 1 may not be extended.

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265. (Method of filing *Uttor* appeal)

1. An *Uttor* appeal shall be made by filing a written *Uttor* appeal with the original court. In this case, the original court shall promptly send the written *Uttor* appeal and the record of the case to the *Uttor* appellate court.
2. The written *Uttor* appeal shall contain the following matters:
 - (a) the names and addresses of the parties and of their legal representatives; and
 - (b) an indication of the judgment of the court of first instance and a statement indicating that an *Uttor* appeal is being filed with regard to such judgment.
3. If the written *Uttor* appeal does not include specific grounds for the reversal or amendment of the judgment of the court of first instance, the *Uttor* appellant must make efforts to file with the *Uttor* appellate court a written document containing such grounds within thirty days of the filing of the *Uttor* appeal.

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266. (*Uttor* appellate court's right to review written *Uttor* appeal)

1. Where a written *Uttor* appeal contravenes the provisions of Paragraph 2 of Article 265, the *Uttor* appellate court shall order that the defects therein be remedied, and shall fix an appropriate period of time in which to do so. This shall also apply where the filing fee for an *Uttor* appeal is not paid in accordance with the provisions of Paragraph 4 of Article 61.
2. In the situation described in Paragraph 1, where the *Uttor* appellant fails to remedy the defects in the appeal, the court shall issue a ruling ordering that the *Uttor* appeal be dismissed [without prejudice].
3. A *Chomtoah* appeal may be made against the ruling described in Paragraph 2.

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267. (Service of *Uttor* appeal)

1. A written *Uttor* appeal must be served on the *Uttor* appellee.
2. The provisions of Article 266 shall apply *mutatis mutandis* to cases in which the written *Uttor* appeal cannot be served, including cases where costs necessary for the service of the written *Uttor* appeal were not paid.

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268. (Dismissal of Uttor appeal without oral argument)

Where an Uttor appeal is unlawful and the defects cannot be remedied, the Uttor appellate court may dismiss [without prejudice] the Uttor appeal via judgment without hearing oral argument.

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269. (Discontinuance of Uttor appeal)

1. An Uttor appeal may be discontinued at any time prior to the entry of a final judgment by the Uttor appellate court.
2. As a general rule, the discontinuance of an Uttor appeal must be made in writing. However, it may be made orally at the court date set for oral argument, preparatory proceedings for oral argument or compromise settlement.
3. Where a part of an Uttor appeal is discontinued, the action shall be deemed to have never been pending before the Uttor appellate court with regard to that part.
4. The provision of Article 219 (Construction of discontinuance of action) shall apply *mutatis mutandis* to discontinuance of Uttor appeal.

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270. (Incidental Uttor appeal)

1. An appellee may make an incidental Uttor appeal at any time prior to the conclusion of oral argument, even if his right to make an [independent] Uttor appeal is extinguished.
2. An incidental Uttor appeal shall become invalid where the Uttor appeal on which is based is discontinued or dismissed [without prejudice] on the ground that it is not in conformance with law. However, an incidental Uttor appeal that satisfies the requirements for an Uttor appeal shall be deemed an independent Uttor appeal.
3. Incidental Uttor appeals shall be governed by the provisions of law pertaining to Uttor appeals.

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271. (Declaration of provisional execution of judgment by the Uttor appellate court)

1. The Uttor appellate court may upon motion, via ruling, make a declaration of provisional execution of the judgment of the court of first instance, but such declaration may concern only that part of the judgment as to which no appeal has been made.
2. No appeal may be taken against the Uttor appellate court's decision on provisional execution.

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272. (Scope, etc. of oral argument)

1. Oral argument shall be conducted only to the extent necessary to adjudicate a party's demand for amendment of the judgment rendered by the court of first instance.
2. The parties shall state the results of oral argument made at the court of first instance.

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273. (Mutatis mutandis application of provisions regarding proceedings at court of first instance)

Except where otherwise provided by law, the provisions of TITLE II (Proceedings at Court of First Instance) shall apply *mutatis mutandis* to procedures at the Uttor appellate review. However, this shall not apply to the provisions of Articles 80 and 104 and of Section V, Chapter V, TITLE II and of Chapter VII, TITLE II.

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274. (Effect of acts of litigation conducted at the court of first instance)

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1. Acts of litigation conducted at the court of first instance shall be given effect at the *Uttor* appellate review.
2. Preparatory proceedings for oral argument conducted at the court of first instance shall be given effect at the *Uttor* appellate review.

275. (Restraint on assertion of lack of jurisdiction at the court of first instance)

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The parties may not assert during an *Uttor* appellate review that the court of first instance lacked jurisdiction. However, this shall not apply to cases involving exclusive jurisdiction.

276. (Institution of cross-action)

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1. A cross-action may be filed in an *Uttor* appeal action only with the consent of the other party.
2. Where the other party defends a cross-action on the merits without raising an objection, such defense will be deemed consent to the cross-action.

277. (Dismissal of *Uttor* appeal)

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1. The *Uttor* appellate court shall dismiss [with prejudice] the *Uttor* appeal on determining that the judgment made by the court of first instance was appropriate.
2. Even where the judgment of the court of first instance is found inappropriate for the reason given, an *Uttor* appeal shall be dismissed [with prejudice] if the judgment is appropriate for another reason.

278. (Scope of amendment of judgment of the court of first instance)

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The judgment of the court of first instance may be amended only to the extent sought by the *Uttor* appeal or the incidental *Uttor* appeal.

279. (Reversal of judgment of court of first instance)

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1. The *Uttor* appellate court shall reverse the judgment of the court of first instance in the following cases:
 - (a) where the judgment was inappropriate; or
 - (b) where a serious procedural error occurred in the trial of first instance.
2. In the cases described in Paragraph 1, the *Uttor* appellate court shall adjudicate the action, except where the provisions of Articles 280 and 281 apply.

280. (Remand of case)

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1. The *Uttor* appellate court shall, in cases where it reverses a judgment of the court of first instance which dismissed [without prejudice] the action as not in conformance with law, remand the case to the court of first instance. However, this shall not apply to cases in which no further argument is required.
2. In addition to the cases described in Paragraph 1, the *Uttor* appellate court may, where it reverses a judgment of the court of first instance, remand the case to the court of first instance if further argument is required.
3. Where a case is remanded due to a procedural error in the court of

first instance, all proceedings previously carried out in such court in regard to that case shall be deemed reversed.

281. (Transfer due to error involving exclusive jurisdiction in court of first instance)

Where a judgment of the court of first instance is reversed due to an error involving exclusive jurisdiction, the *Uttor* appellate court shall issue a judgment transferring the case to a court having jurisdiction over the case.

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282. (Declaration of provisional execution on judgment in Uttor appeal)

With regard to a judgment concerning a claim for the payment of money, the *Uttor* appellate court shall, upon motion, declare that a provisional execution may be carried out without the provision of security, except where such a declaration is unnecessary. However, where the *Uttor* appellate court deems it appropriate, the court may require that security be provided as a condition for granting the provisional execution.

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CHAPTER III. SATUK APPEAL

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283. (Satuk appellate court)

1. A *Satuk* appeal may be made to the Supreme Court against a final judgment of the *Uttar* appellate court. A *Satuk* appeal may also be made against a final judgement of the *Uttar* appellate court acting pursuant to the provisions of special law as a court of first instance.
2. With regard to a final judgment of a court of first instance, where after the entry of the judgment both parties agree that the right to make a *Satuk* appeal will be reserved and that no *Uttor* appeal shall be filed, a *Satuk* appeal may be made directly to the Supreme Court.

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284. (General ground for Satuk appeal)

A *Satuk* appeal may be made on the ground of a violation of the constitution, laws or ordinances that has an effect on the judgment.

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285. (Absolute grounds for Satuk appeal)

1. A *Satuk* appeal may always be made on the following grounds:
 - (a) the adjudicating court was not composed according to law;
 - (b) a judge who was legally prohibited from taking part in the judgment took part in the judgment;
 - (c) provisions of law pertaining to exclusive jurisdiction were violated;
 - (d) some defect existed with regard to the authority of the legal representative or appointed representative, or with regard to the authority granted to any representative to enable the representative to conduct a particular act of litigation;
 - (e) provisions regarding public access to oral argument were violated; or
 - (f) the judgment issued did not provide the grounds therefor, or the grounds provided are inconsistent.
2. The ground provided in subparagraph (d) of Paragraph 1 shall not

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apply if subsequent ratification occurs in accordance with the provisions of Paragraph 2 of Article 35 (Measures in case of defect in capacity to litigate) or Paragraph 3 of Article 57 (Measures where defect in authority exists).

286. (Mutatis mutandis application of provisions regarding Uttor appeal)

Except as otherwise provided by law, the provisions of the preceding Chapter shall apply *mutatis mutandis* to Satuk appeals and the proceedings at Satuk appellate review.

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287. (Method of filing Satuk appeal)

A Satuk appeal shall be brought by submitting a written Satuk appeal to the original court. In this case, the original court shall promptly send the written Satuk appeal and the record of the case to the Satuk appellate court.

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288. (Service, etc. of notification of receipt of Satuk appeal)

1. Where a Satuk appeal is filed, the Satuk appellate court shall serve a notification of receipt of Satuk appeal on the parties, except where a ruling dismissing [without prejudice] the Satuk appeal is issued.
2. The Satuk appellate court shall serve the written Satuk appeal on the appellee at the same time as the service of the notification of receipt of Satuk appeal pursuant to Paragraph 1.

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289. (Statement of grounds for Satuk appeal)

1. Where the written Satuk appeal does not state the ground for the appeal, the appellant shall submit a written statement of grounds for Satuk appeal within 30 days of the receipt of service of notification of receipt of Satuk appeal.
2. In cases where a Satuk appeal is made on a ground set forth in Article 284 (General ground for Satuk appeal), the appellant shall state the ground for Satuk appeal indicating the provision of the constitution, law or ordinance claimed to be violated and the facts that give rise to the violation. In this case, if the facts in question involve litigation procedure, such facts shall be described in the statement of grounds.
3. Where the Satuk appeal is made on any of the grounds stated in Article 285 (Absolute grounds for Satuk appeal), the appellant shall state the grounds of Satuk appeal by indicating the provision and relevant facts which full fill the requirement.

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290. (Dismissal of Satuk appeal)

In either of the cases below, the Satuk appellate court shall, via ruling, dismiss [without prejudice] the Satuk appeal:

- (a) where the Satuk appeal is in contravention of law and such defect cannot be cured; or
- (b) where a statement of grounds for Satuk appeal is not submitted in violation in the provisions of Paragraph 1 of Article 289, or the statement of grounds for Satuk appeal violates the provisions of Paragraphs 2 and 3 of Article 289.

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291. (Order to cure)

1. Where the entire statement of grounds contained in a written Satuk appeal or in a statement of grounds for Satuk appeal submitted

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within the period of time set forth in Paragraph 1 of Article 289 violates the provisions of Paragraphs 2 and 3 of Article 289, the Satuk appellate court shall, via ruling, order that such defect be cured within an appropriate period of time established by the court.

2. A ruling of dismissal pursuant to subparagraph (b) of Article 290 shall be issued where the appellant fails to effect such cure within the time period established in accordance with Paragraph 1 of this Article.

292. (Service of copy of statement of grounds for Satuk appeal)

Where the Satuk appellate court does not issue a ruling dismissing [without prejudice] a Satuk appeal pursuant to the provisions of Article 290, a copy of the statement of grounds for Satuk appeal shall be served on the appellee. However, this shall not apply where the Satuk appellate court conducts trial and renders judgment without oral argument and such service is deemed unnecessary.

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293. (Order to submit a preparatory document)

The Satuk appellate court may order the appellee to submit the initial preparatory document to the Satuk appeal within an appropriate period of time established by the court.

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294. (Dismissal of Satuk appeal without oral argument)

Where the Satuk appellate court determines from the written Satuk appeal, the statement of grounds for Satuk appeal, the initial preparatory document submitted by the appellee and any other document that grounds for the granting of a Satuk appeal do not exist, it may dismiss [with prejudice] the Satuk appeal via judgement without oral argument.

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295. (Scope of review)

The Satuk appellate court shall review a Satuk appeal only within the scope of the appeal, based on the stated grounds for the Satuk appeal.

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296. (Binding effect of findings of fact in original judgment)

1. Findings of fact lawfully adopted in the original judgment shall be binding on the Satuk appellate court.
2. Where a Satuk appeal is filed pursuant to Paragraph 2 of Article 283, the Satuk appellate court may not reverse the original judgment on the ground that the findings of fact in such judgment were adopted in violation of the constitution, laws or ordinances.

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297. (Exception relating to matters to be examined on court's own authority)

The provisions of Articles 295 and 296 shall not apply to matters to be examined on the court's own authority.

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298. (Declaration of provisional execution)

The Satuk appellate court may, upon motion and via ruling, make a declaration of provisional execution regarding any part of the original judgment as to which no appeal has been made.

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299. (Reversal and remand, etc.)

1. Where the grounds set forth in Articles 284 and 285 exist, the Satuk appellate court shall reverse the original judgment and, except in

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cases described in Article 300, remand the case to the original court or transfer it to an equivalent court.

2. A court that receives a case via remand or transfer pursuant to Paragraph 1 shall adjudicate the case based on a new oral argument. In this case, factual and legal determinations on which the *Satuk* appellate court based its reversal shall be binding on the court to which the case is remanded or transferred.
3. Any judge that participated in the original judgment may not participate in the decision described in Paragraph 2.

300. (Reversal and de novo adjudication)

The *Satuk* appellate court shall adjudicate the case *de novo* in the following cases:

- (a) where the original judgment is reversed on the ground that the constitution, law or ordinance was incorrectly applied to the facts found in the original trial, and the *Satuk* appellate court can adjudicate the case based on such facts; or
- (b) where the original judgment is reversed on the ground that the case does not fall within the authority of the court.

CHAPTER IV. CHOMTOAH APPEAL

301. (Method for making Chomtoah appeal)

1. A *Chomtoah* appeal shall be brought by filing a written *Chomtoah* appeal with the original court. In such a case, the original court shall promptly send the written *Chomtoah* appeal and the record of the case to the *Chomtoah* appellate court.
2. Where a written *Chomtoah* appeal does not contain specific grounds for the reversal or amendment of the original ruling, the *Chomtoah* appellant shall, within two weeks of the filing of the *Chomtoah* appeal, submit a written document stating such grounds to the *Chomtoah* appellate court.

302. (Appeal of ruling by assigned panel member judge or assigned non-member judge)

1. A party who objects to a ruling issued by an assigned panel member judge or an assigned non-member judge may raise such objection before the court in which the suit is pending if it would be possible to make a *Chomtoah* appeal against the ruling if such ruling were a ruling of the court in which the suit is pending. However, where the court in which the suit is pending is the Supreme Court or an *Uttor* appellate Court, the objection may be raised before such court only if a *Chomtoah* appeal could be made if the ruling were issued by a court of first instance.
2. A *Chomtoah* appeal may be made against a ruling on the objection described in Paragraph 1.

303. (Period for Chomtoah appeal)

1. A *Chomtoah* appeal must be filed within one week from the date of receipt of notice of the ruling.
2. The period prescribed in Paragraph 1 may not be extended.

304. (Mutatis mutandis application of provisions pertaining to Uttor

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appeal or Satuk appeal)

1. The provisions of law pertaining to *Uttor* appeals shall apply *mutatis mutandis* to *Chomtoah* appeals against rulings of courts of first instance and to the procedures followed in *Chomtoah* appellate courts, except to the extent that such provisions are inconsistent with nature of such appeals or procedures.
2. The provisions of law pertaining to *Satuk* appeals and the procedures followed in *Satuk* appellate courts shall apply *mutatis mutandis* to *Chomtoah* appeals from rulings of the *Uttor* appellate court acting as the court of first instance and to the procedures followed in connection therewith, except to the extent that such provisions are inconsistent with such appeals or procedures.

305. (Stay of effect of original ruling)

1. A *Chomtoah* appeal shall have the effect of staying the effect of the original ruling.
2. The *Chomtoah* appellate court, or the court that issued the original ruling, may stay the execution of the ruling or order any other necessary disposition until a ruling is made on the *Chomtoah* appeal.

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306. (Optional nature of oral argument; inquiries in lieu of oral argument)

1. A *Chomtoah* decision may be made without oral argument.
2. Where no oral argument is to be conducted, the *Chomtoah* appellate court may inquire of the *Chomtoah* appellant or any other interested person.

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TITLE IV. ~~RE-TRIAL~~ RETRIAL

307. (Grounds for retrial)

1. Where any of the following grounds exist, a petition for retrial may be brought against a final judgment that has become final and binding, provided however that such petition is not available where the party has asserted such grounds during [*Uttor* or *Satuk* appellate review], or where the party was aware of such grounds and did not assert them:
 - (a) the court rendering the judgment was not composed in accordance with law;
 - (b) a judge not legally authorized to participate in the judgment participated in the judgment;
 - (c) the authority of the legal representative, the authorization required in order for the legal representative to conduct a particular act of litigation, or the authority of the appointed representative was lacked;
 - (d) a judge who participated in the judgment committed a crime in connection with the judge's discharge of his official duties in the case;
 - (e) due to the criminal act of another, the moving party was led to make a confession or was hindered from advancing offensive or defensive measures that would have affected the judgment;
 - (f) a document or other item used as evidence to support the judgment was forged or fraudulently altered;
 - (g) evidence to support the judgment was based on the false

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- statement of a witness, expert witness, interpreter, sworn party or legal representative;
- (h) a civil or criminal judgment or any other decision or administrative disposition on which the judgment was based has been changed by a subsequent decision or administrative disposition;
 - (i) significant facts or matters that would have affected the judgment were left undecided; or
 - (j) the judgment against which the petition for retrial was made conflicts with a judgment that previously became final and binding.
2. Where any of the grounds described in subparagraphs (d) through (g) of Paragraph 1 exist, a petition for retrial may be brought if either of the following circumstances exist:
- (a) with regard to a punishable action, the judgment of conviction or the decision imposing a non-penal fine has become final and binding; or
 - (b) a binding judgment of conviction or a binding decision imposing a non-penal fine cannot be obtained, due to a reason other than lack of evidence.
3. Where a judgment on the merits has been entered at a *Uttor* appellate review, a petition for retrial contesting the judgment of the court of first instance may not be filed.

308. (Grounds for retrial)

Where any of the grounds set forth in Paragraph 1 of Article 307 (Grounds for retrial) exists with regard to a decision forming the basis of a judgment, such ground may be used as a ground for retrial with respect to such judgment even if an independent method for making an appeal against the decision is provided for.

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309. (Retrial court)

1. A petition for retrial shall fall under the exclusive jurisdiction of the court that rendered the judgment as to which the retrial is sought.
2. Jurisdiction over all petitions for retrial with regard to judgments rendered by courts of different levels shall rest with the highest level court among such courts.
3. The judge who participated in the judgement against which the petition for retrial was made may not participate in trial or decision of the retrial.

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310. (Retrial procedure)

The provisions of law pertaining to litigation proceedings at each level shall apply *mutatis mutandis* to the procedure followed on retrial, except to the extent they are inconsistent therewith.

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311. (Period for retrial)

1. A petition for retrial shall be filed within thirty days of the date on which the party learned of the ground for retrial after the judgment became final and binding. However, this shall not apply where the ground for retrial is the ground provided in subparagraph (c) or subparagraph (j) of Paragraph 1 of Article 307.
2. The period prescribed in Paragraph 1 may not be extended.
3. A petition for retrial may not be filed more than five years after

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either (i) the date on which the judgment became final and binding, or (ii) where the ground for retrial came into existence after the judgment became final and binding, the date on which the ground for retrial came into existence. However, this shall not apply where the ground for retrial is the ground specified in either subparagraph (c) or subparagraph (j) of Paragraph 1 of Article 307.

312. (Matters to be included in petition for retrial)

1. A petition for retrial shall include the following:
 - (a) the names and addresses of the parties and the names and address of the parties' legal representatives;
 - (b) an indication of the judgment regarding which the retrial is sought, and a statement that a retrial is being sought regarding such judgment; and
 - (c) the facts comprising the grounds for retrial.
2. A copy of the judgment regarding which retrial is sought shall be attached to a petition for retrial.

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313. (Change of ground for retrial)

A party who files a petition for retrial may change the ground for retrial stated therein.

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314. (Dismissal of petition for retrial)

1. Where a petition for retrial is not in accordance with law, the court shall dismiss it [without prejudice] via ruling.
2. Where there is no valid ground for retrial, the court shall dismiss [with prejudice] the petition for retrial via ruling.
3. Once the ruling described in Paragraph 2 has become final and binding, a subsequent petition for retrial based on the ground previously found invalid may not be filed.
4. A *Chomtoah* appeal may be brought against a ruling issued pursuant to Paragraphs 1 and 2.

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315. (Ruling ordering commencement of retrial)

1. Where grounds for retrial exist, the court shall issue a ruling ordering the commencement of a retrial.
2. The court shall inquire of the adversary party when issuing the ruling described in Paragraph 1.
3. A *Chomtoah* appeal may be brought against the ruling described in Paragraph 1.

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316. (Trial and decision on the merits)

1. Where a ruling ordering the commencement of a retrial has become final and binding, the court shall proceed with trial and decision on the merits within the scope of the petition for retrial.
2. In the cases described in Paragraph 1, the court shall, upon determining the judgment to be proper, dismiss [with prejudice] the petition for retrial.
3. In cases other than those described in Paragraph 2, the court shall reverse the judgment and issue a new decision.

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317. (Retrial regarding ruling)

1. A petition for retrial may be filed with regard to a ruling that has become final and binding and is subject to *Chomtoah* appeal.
2. The provisions of Articles 307 (Grounds for retrial) through 316

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(Trial and decision on the merits) shall apply *mutatis mutandis* to the petition described in Paragraph 1.

318. (Third-party petition for retrial)

1. Where a plaintiff and defendant collude in order to obtain a judgment prejudicial to the rights or interests of a third party, the third party may file a petition for retrial with regard to the judgment when it has become final and binding.
2. In the petition for retrial described in Paragraph 1, the original plaintiff and defendant shall be deemed co-defendants.
3. The provisions of Article 41 (Rules regarding proceedings in compulsory joint actions) shall apply *mutatis mutandis* to persons deemed co-defendants pursuant to Paragraph 2 and to a third party who files a petition for retrial pursuant to Paragraph 1.

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TITLE V. DEMAND PROCEDURE

~~TITLE VI.~~

319. (Requirements for demand ruling)

With regard to a claim for the payment of money, the court may, upon motion of the obligee, issue a ruling demanding payment [('demand ruling')]. However, this shall apply only where such demand can be served in Cambodia in a manner other than service by publication.

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320. (Motion seeking issuance of demand ruling)

1. A motion seeking the issuance of a demand ruling against each of the types of obligor described below shall be made in the court of first instance having jurisdiction over the corresponding location provided below.
 - (a) A natural person
 - the person's domicile, or where there is no domicile in Cambodia or such domicile is unknown, the location of the person's residence
 - (b) A domestic juridical person
 - the juridical person's main office or place of business, or where there is no office or place of business, the location of the domicile of the entity's representative or other principal person in charge of the operations of the entity
 - (c) A foreign juridical person
 - the juridical person's main office or place of business within Cambodia, or where there is no office or place of business within Cambodia, the location of the domicile within Cambodia of the entity's representative or other principal person in charge of the operations of the entity
2. A motion seeking the issuance of a demand ruling in regard to the following types of claims may also be made in the court of first instance having jurisdiction over the corresponding location provided below.
 - (a) A claim against a person having an office or place of business and pertaining to business transacted therein
 - the location in which such office or place of business is located
 - (b) A claim for the payment of money based on a bill or check, or a claim ancillary thereto

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- The location of payment of the bill or check
3. Jurisdiction over the motions described in Paragraphs 1 and 2 shall be exclusive.

321. (Application of provisions pertaining to suit)

Provisions pertaining to 'suit' shall apply *mutatis mutandis* to motions seeking issuance of a demand ruling except where such provisions are inconsistent with the nature of such a ruling.

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322. (Dismissal of motion)

Where a motion seeking issuance of a demand ruling violates the provisions of Article 319 (Requirements for demand ruling) or Article 320 (Motion demanding issuance of demand ruling), or it is clear from the substance of the motion that there are no grounds for the claim, the court shall dismiss the motion via ruling. Where a demand ruling cannot be issued as to part of a claim, this rule shall apply to that part.

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323. (Issuance of demand ruling, etc.)

1. A demand ruling shall be issued without examination of the obligor.
2. The obligor may make an objection to a demand ruling before the court that issued it.

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324. (Matters to be included in demand ruling)

1. A demand ruling shall include the following matters:
 - (a) an order for the payment of a certain sum of money;
 - (b) the contents of the main text of the ruling sought [by the obligee], and the facts necessary to specify the claim; and
 - (c) The names and addresses of the parties and the names and addresses of their legal representatives.
2. The demand ruling described in Paragraph 1 shall include the statement that if no objection thereto is brought within two (2) weeks from the date that the obligor received service thereof, the court shall on its own authority make a declaration of provisional execution.

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325. (Service of demand ruling)

1. The court shall notify the obligee of the demand ruling and serve the demand ruling on the obligor.
2. The demand ruling shall take effect when service thereof is made on the obligor.
3. Where the demand ruling cannot be served because the obligor's domicile, location of residence, place of business or office, or the address of the obligor's representative or other principal person in charge of its operation, does not exist at the location provided by the obligee, the court shall notify the obligee of this fact. In this case, if the obligee fails to provide, within two (2) months after the obligee receives such notification, an alternative location at which service can be made, the motion seeking issuance of a demand ruling shall be deemed withdrawn.
4. The period specified in the latter part of Paragraph 3 may not be extended.

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326. (Dismissal of objection to demand ruling made prior to declaration of provisional execution)

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1. Where the court determines that an objection to issuance of demand ruling that was brought prior to a declaration of provisional execution is unlawful, the court shall dismiss the objection via ruling.
2. A *Chomtoah* appeal may be brought against the ruling described in Paragraph 1.

327. (Effect of objection to issuance of demand ruling made prior to declaration of provisional execution)

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1. Where a valid objection to issuance of demand ruling is brought prior to a declaration of provisional execution, the demand ruling shall lose legal effect to the extent of the objection raised thereto.
2. In the case described in Paragraph 1, a suit shall be deemed filed before the court prescribed in Article 320 (Motion seeking issuance of demand ruling) in regard to a claim as to which the objection to issuance of demand ruling has been filed. In this case, costs incurred in connection with the demand procedure shall be deemed a part of the costs of the litigation initiated thereby.

328. (Declaration of provisional execution)

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1. Where an obligor fails to bring an objection to a demand ruling within two (2) weeks of the date of receipt of service thereof, or where a ruling dismissing an objection to issuance of demand ruling brought prior to a declaration of provisional execution becomes final and binding, the court shall include in the demand ruling an additional statement regarding the amount of costs incurred in connection with the demand procedure, and shall make a declaration of provisional execution thereof.
2. The declaration of provisional execution shall be contained in the demand ruling, which shall be served on the parties.
3. The provisions of Article 197 (Loss of effect of declaration of provisional execution and restitution) and of Paragraph 2 of Article 325 (Service of demand ruling) shall apply *mutatis mutandis* to a declaration of provisional execution made pursuant to Paragraph 1.

329. (Objection to issuance of demand ruling brought after declaration of provisional execution)

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1. An objection to issuance of demand ruling described in Paragraph 2 of Article 323 (Issuance of demand ruling, etc.) that is brought in regard to a demand ruling as to which a declaration of provisional execution has already been made shall be brought within two (2) weeks of the date that service thereof was received.
2. The period specified in Paragraph 1 may not be extended.

330. (Dismissal of objection to issuance of demand ruling brought after declaration of provisional execution)

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1. Where the court determines that an objection to issuance of demand ruling that was brought after a declaration of provisional execution was made is unlawful, the court shall dismiss the objection via ruling.
2. A *Chomtoah* appeal may be brought against the ruling described in

Paragraph 1.

331. (Conversion to litigation arising from objection to issuance of demand ruling brought after declaration of provisional execution)

Where a valid objection to issuance of demand ruling is brought after a declaration of provisional execution, a suit shall be deemed filed before the court that issued the demand ruling in regard to a claim as to which the objection to issuance of demand ruling has been filed. In this case, costs incurred in connection with the demand procedure shall be deemed a part of the costs of the litigation initiated thereby.

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332. (Judgment in litigation [resulting from objection] following declaration of provisional execution)

1. Where a judgment rendered in a litigation [resulting from objection] arising pursuant to the provisions of Article 331 (Conversion to litigation arising from objection to issuance of demand ruling brought after declaration of provisional execution) conforms to the demand ruling, the court shall uphold the demand ruling that included the declaration of provisional execution. However, this shall not apply where the demand procedure was conducted in violation of law.
2. Except where a demand ruling that included a declaration of provisional execution is upheld pursuant to the provisions of Paragraph 1, a judgment rendered in a litigation [resulting from objection] pursuant to the provisions of Article 331 (Conversion to litigation arising from objection to issuance of demand ruling brought after declaration of provisional execution) shall nullify a demand ruling that includes a declaration of provisional execution.

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333. (Effect of demand ruling)

Where no objection is made in regard to a demand ruling that includes a declaration of provisional execution, or where a ruling dismissing an objection made in regard to a demand ruling that includes a declaration of provisional execution becomes final and binding, the demand ruling shall have the effect of a final and binding judgment.

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TITLE VI. COMPULSORY EXECUTION

CHAPTER I. GENERAL PROVISIONS

Section I. Tenor

1. (Tenor)

Except as otherwise provided by other laws, persons holding claims or security rights under the Civil Code or other laws shall be entitled to seek enforcement of such rights by compulsory execution in accordance with the provisions of this Title.

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Section II. Execution Organs

1. (Execution organs)

1. Execution shall be carried out by the execution organs on petition by a party.
2. The execution organ shall consist of an execution court or a bailiff.
3. The court of first instance charged with execution in accordance with the provisions of this Title shall be the execution court.
4. The court of first instance to which the relevant bailiff is attached shall render the decision in respect of any motion of objection to any execution measures to be taken by the bailiff.

2. (Decisions by execution courts)

1. Decisions by the execution court shall be in the form of a ruling.
2. When taking any execution measure, the execution court may examine any interested person or other informant as it deems necessary.
3. Paragraphs 1 and 2 shall also apply to the case where the court of first instance renders a decision or takes any other measure in relation to a petition of objection to any execution measure taken by a bailiff.

3. (Ensuring performance of duties by bailiffs, etc.)

1. Bailiffs who encounter resistance to the performance of their duties may use force or request the assistance of the police or other national organs responsible for maintenance of public order in order to remove such resistance.
2. Persons other than bailiffs, who are performing duties relating to execution by order of an execution court who encounter resistance to the performance of such duties may request the assistance of a bailiff.

4. (Witnesses at the time of execution)

Bailiffs or other persons performing duties relating to execution by order of an execution court who upon entering a person's residence in the performance of their duties cannot find the householder, his or her agent or cohabiting relative, employee or other dependant of reasonable discernment shall call as witness a commune official, police officer or other person deemed suitable to be a witness. This provision shall apply likewise to the case where a bailiff is using force or receiving the assistance of a police officer or other national organ responsible

for maintenance of public order in accordance with 6-1-2 Article 3 (Ensuring Performance of Duties by Bailiffs, etc.) paragraph 1.

5. (Execution on holidays or at night)

1. A bailiff or a person performing duties in connection with compulsory execution pursuant to an order of a court must obtain permission from the court of first instance to which he or she is attached, or the execution court which issued the order, if said bailiff or person will enter the premises of a person and execute the duties on Sunday or other holiday as defined by law or regulation, or between 6:00 p.m. and 6:00 a.m. the following morning.
2. A bailiff or a person executing duties in connection with compulsory execution pursuant to an order of a court must present the document evidencing that he or she has obtained the permission set forth in paragraph 1. above.

6. (Carrying of identification)

When performing their duties, a bailiff or other person performing duties relating to execution by order of an execution court shall carry documentary evidence of their identity or status, and shall present the same upon request by any interested person.

7. (Request for assistance to government office)

Where necessary for execution, the execution court may request the assistance of the competent government office.

8. (Special rules governing Chomtoah appeals relating to execution procedures)

1. Notwithstanding the terms of Article 305 (Stay of Effect of Original Ruling), a Chomtoah appeal under this Title shall not stay the effect of the original ruling.
2. Pending the coming into effect of judgment on the Chomtoah appeal, the Chomtoah appeal court may make the following rulings:
 - (a) order a stay of the effect of the original ruling, with or without the posting of security
 - (b) order a stay of the whole or part of the execution procedures, with or without the posting of security.

9. (Objections to execution)

1. A petition of objection may be filed with the execution court against execution measures against which a Chomtoah appeal cannot be filed.
2. Objections to execution measures taken by a bailiff and/or their delay or neglect relating thereto may be filed at the court of first instance to which such officers are attached.
3. The terms of Paragraph 2 of Article 8 (Special Rules Governing Chomtoah Appeals Relating to Execution Procedures) shall apply mutatis mutandis to cases where motions of objection to execution have been filed.

10. (Chomtoah appeal against cancellation ruling)

1. Chomtoah appeals may be made against the rulings described below:
 - (a) a ruling of cancellation by an execution court of an execution procedure
 - (b) a ruling by a court of first instance ordering a bailiff to cancel execution procedures

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(c) a ruling of a court of first instance dismissing a petition of objection to a disposition of a bailiff canceling an execution procedure.

2. Rulings against which Chomtoah appeals may be made under Paragraph 1 shall only come into effect when they become conclusive.

11. (Exclusive jurisdiction)

Court jurisdiction prescribed in this Title shall be exclusive.

Section III. Execution Parties and Representatives

1. (Naming of parties)

In this Title, the party that files a motion for execution shall be referred to as the "debtor in execution" and the other party named in such motion as the "creditor in execution".

2. (Appointed representative for execution procedures)

1. Matters relating to appointed representatives for execution procedures shall be governed by the following:
 - (a) Paragraph 1 of Article 53 (Qualification of Appointed Representatives) shall govern procedures relating to suits or appeals provided in Title 6.
 - (b) Except in cases provided in subparagraph (a), persons other than persons eligible to become appointed representatives pursuant to Paragraph 1 of Article 53 (Qualification of Appointed Representatives) shall be eligible to become appointed representatives with the permission of the execution court or court of first instance for the purpose of execution procedures carried out by such court.
 - (c) Any person whatsoever may become an appointed representative in the course of the procedures carried out by a bailiff.
2. An execution court or court of first instance may cancel any permission granted under subparagraph (b) of Paragraph 1.

Section IV. Necessary Conditions to Execution

1. (Form of petitions for execution)

1. A petition for execution shall be in writing.
2. A written petition for execution shall include the following matters, and shall be accompanied by the original, executable title of execution:
 - (a) the name or title and address of the creditor in execution and debtor in execution together with the name and address of their legal representatives
 - (b) description of the title of execution
 - (c) classification of whether direct enforcement, substituted execution or indirect enforcement is sought
 - (d) in the case of direct enforcement, a description of the property that is the target of the execution and the method of execution that is sought by the creditor in execution.

(e) in the case of substituted execution or indirect enforcement, the details of the judgment that is sought by the creditor in execution.

3. If the creditor in execution is seeking execution of only part of the claim that is noted in the title of execution ordering payment of money, this fact and the scope thereof shall be noted in the petition for execution.

2. (Title of execution)

1. Execution shall be carried out on the basis of a title of execution.

2. Title of execution refers to the following:

- (a) a conclusive⁶ judgment for performance⁷
- (b) a judgment for performance accompanied by a declaration of provisional execution
- (c) a ruling ordering payment; provided that this is limited to final and conclusive rulings in the case of rulings that are only valid upon becoming final and conclusive
- (d) a ruling demanding payment accompanied by a declaration of provisional execution
- (e) disposition by a court clerk prescribed in Paragraph 1 of Article 66 (Court Cost Settlement Procedures)
- (f) a certificate prepared by a notary concerning a demand for a fixed amount of money; provided that this only applies to certificates that include a statement that the debtor shall be immediately subject to execution
- (g) a judgment of a foreign court in respect of which an execution judgment has been rendered that has become final and conclusive under 6-1-4, Article 4 (Execution Judgments on Judgments of Foreign Courts)
- (h) an arbitration award in respect of which an execution ruling has been rendered that has become final and conclusive under 6-1-4, Article 4-2 (Execution Rulings on Arbitration Awards)
- (i) a protocol having the same effect as a final judgment such as a protocol prescribed in Article 222 (Effect of Protocol of Compromise, Etc.)

3. (Scope of persons who can be parties to execution)

1. Execution can be carried out with the following persons as creditor in execution or debtor in execution:

- (a) parties noted in the title of execution
- (b) if a party set forth in the title of execution has become a party on behalf of another person, said other person
- (c) successors of parties described in Items (a) and (b) after establishment of the title of execution; provided that this shall mean successors after a suit becomes pending in the case of title of executions described in Items (a), (b), (g) or (h) of Paragraph 2 of 6-1-4 Article 2 (Title of executions).

2. Execution by title of execution described in Items (a) to (c) and (g)

⁶ *kakutei (hanketsu)* - i.e. a judgment that is conclusive in the sense that the period for normal appeal has expired, and therefore binding.

⁷ *kyufu hanketsu* i.e. a judgment ordering an action (often payment) to be taken or not taken, as opposed to a declaratory judgment or a formative judgment.

to (i) of Paragraph 2 of 6-1-4 Article 2 (Title of executions) may also be carried out against persons holding the property that is the target of the claim on behalf of persons listed in any Item of Paragraph 1.

4. (Execution judgment of foreign court judgment)

1. An execution judgment must be obtained from a Cambodian court in order to execute a judgment of a foreign court.
2. A suit seeking execution of a judgment of a foreign court shall fall within the jurisdiction of the court having territorial jurisdiction over the debtor in execution by application of Article 8 (Jurisdiction Determined by Address, Etc.), and if no court is determined to have jurisdiction under said Article, then the court of first instance having jurisdiction over the territory in which the property that is the object of the claim, or that can be attached, is located, shall have jurisdiction.
3. Suits under Paragraph 2 shall be dismissed if the foreign court judgment is not proved to have become final and conclusive or does not fulfill each of the conditions set forth in Article 199 (Effect of Final Judgment of Foreign Courts).
4. In arriving at an execution judgment, the court shall not examine the merits of the foreign court judgment.
5. The execution judgment must include a statement that execution of the foreign court judgment is permitted.

4-2. (Execution of arbitration awards)

1. An execution judgment of a court must be obtained in order to execute an arbitration award, whether domestic or foreign.
2. The party submitting the petition for execution of an arbitration award shall file the following documents:
 - (a) the duly authenticated original arbitration award or duly certified copy thereof; or
 - (b) the original arbitration agreement or a duly certified copy thereof.
3. The court may refuse to execute an arbitration award at the request of the party against whom it is invoked, if that party furnishes proof that:
 - (a) a party to the arbitration agreement was under some incapacity; or the said agreement is not valid under the governing law chosen by the parties, or in the absence of a choice of law, under the law of the country where the award was made; or
 - (b) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or
 - (c) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration; or
 - (d) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or
 - (e) the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made.

4. A court may refuse to execute an award if the court finds that:
 - (a) the subject-matter of the dispute cannot be settled by arbitration; or
 - (b) the recognition or enforcement of the award would be contrary to public policy;
5. A petition seeking execution of a domestic arbitration award shall fall within the jurisdiction of the court having territorial jurisdiction over the debtor in execution by application of Article 8 (Jurisdiction Determined by Address, Etc.), and if no court is determined to have jurisdiction under the said Article, then the court of first instance having jurisdiction over the territory in which the property that is the object of the claim, or that can be attached, is located, shall have jurisdiction.
6. The court of appeal shall have jurisdiction over petitions seeking execution of foreign arbitration awards.
7. Except in cases described in Paragraphs 3 and 4 of this Article, the court shall not examine the merits of the arbitration award in making an arbitration ruling.
8. The execution ruling must include a statement that execution of the arbitration award is permitted.
9. No *Chomtoah* appeal may be made against a ruling on a petition for execution.
10. Execution rulings shall only come into effect when they become final and conclusive.

5. (Requirement for execution clause and which organs grant such clause)

1. Execution is implemented on the basis of an authenticated copy of title of execution bearing an execution clause; provided that it shall be implemented with the authenticated copy [no need of execution clause] in cases of execution by or against the creditor in execution or debtor in execution named in the following title of executions:
 - (a) final and conclusive judgments in petty sum suits;
 - (b) petty sum suit judgments bearing a declaration of provisional execution; and
 - (c) payment order rulings bearing a declaration of provisional execution.
2. The clerk of the court where the case record is kept will affix the execution clause upon petition being made; provided that in the case of the title of execution prescribed Item 6 of Paragraph 2 of Article 2 (Title of execution)[6-1-4], the notary who has custody of the original thereof shall issue the execution clause.

6. (Application for grant of execution clause)

1. An application for grant of an execution clause must be in writing and include the following particulars:
 - (a) the name or title and address of the creditor in execution and the debtor in execution, together with the names and addresses of their legal representatives
 - (b) description of the title of execution
 - (c) if grant of an execution clause under 6-1-4 Article 7 (Special Execution Clause) or Article 9 (Multiple Grants of Execution Clause, Etc.) is sought, a statement to this effect and the reason for the same.
2. If the title of execution is an adjudication which only comes into

effect when it becomes final and conclusive, the creditor in execution shall attach to the application for issue of execution clause documentary evidence that the judgment has become final and conclusive; provided that this shall not be required if the fact that the judgment has become final and conclusive is clear from the record.

3. Paragraph 1 of this Article shall apply mutatis mutandis to cases where the creditor in execution requests the issuing of further authenticated copy(s) of title of execution prescribed in the proviso to Paragraph 1 of 6-1-4 Article 5 (Requirement for Execution Clause and Which Organs Grant Such Clause).

7. (Special execution clause)

1. If the right of claim⁸ stated in the title of execution is subject to a condition precedent or to an uncertain time stipulation⁹, the court clerk or notary may only grant an execution clause if the creditor in execution proves that said condition or stipulation has been fulfilled.
2. In order to carry out execution with a party other than a party noted in the title of execution as the creditor in execution or the debtor in execution, the creditor in execution must obtain an execution clause that states this.
3. A court clerk or notary can grant an execution clause prescribed in Paragraph 2 if it is clear that execution with a party other than a party noted in the title of execution as the creditor in execution or debtor in execution can be carried out, or if the debtor in execution provides documentary proof thereof.
4. A court clerk must obtain the permission of the court to which he or she belongs for the grant of an execution clause under Paragraph 1 of Paragraph 3 of this Article.

8. (Particulars to be stated in an execution clause)

1. An execution clause is granted by stating the following at the end of the authenticated copy of title of execution:
 - (a) the person(s) who are entitled to seek implementation of execution of the basis of the title of execution and the other party (or parties);
 - (b) if the execution clause has been granted under 6-1-4 Article 7 (Special Execution Clause), this fact;
 - (c) if the execution clause is granted in respect of a portion only of the cause of action, the scope of execution that is permitted; and
 - (d) if the execution clause is granted in accordance with the terms of Paragraph 1 of 6-1-4 Article 9 (Multiple Grants of Execution Clauses, Etc.), this fact.
2. The court clerk or notary must date and sign the execution clause.

9. (Multiple grants of execution clauses, etc.)

⁸ seikyuken - i.e. a legal term which could also be translated as "cause of action."

⁹ fukakuteikigen - i.e. a time (limit) that is certain to be arrived at but at an uncertain time, such as the time of somebody's death

1. Further issues of an execution clause may be made, but only in cases where more than one authenticated copy is required of the title of execution to which the execution clause is attached in order to satisfy the claim completely, or if the authenticated copy has perished.
2. Where a court clerk or notary has granted an execution clause pursuant to Paragraph 1, he or she shall notify the debtor in execution of this fact, the reasons and the number of authenticated copies of title of execution to which the execution clause has been affixed.
3. Paragraphs 1 and 2 of this Article shall apply mutatis mutandis to further issues of authenticated copy(s) of title of execution described in Paragraph 3 of 6-1-4 Article 5 (Requirement for Execution Clause and Which Organs Grant Such Clause).

10. (Recording on original title of execution)

1. The court clerk or notary shall record the particulars set forth below on the original title of execution after granting an execution clause:
 - (a) the fact that the execution clause has been granted, the date of grant and the number of authenticated copies to which the clause has been affixed
 - (b) where the grant has been made in respect of a portion only of the claim, the scope of execution that is permitted
 - (c) where an execution clause has been granted under Paragraph 2 of 6-1-4 Article 7 (Special Execution Clause), this fact together with the name or title of the creditor in execution or debtor.
2. Where a court clerk has issued a further authenticated copy of a title of execution prescribed in Paragraph 3 of 6-1-4 Article 5 (Requirement for Execution Clause and Which Organs Grant Such Clause), he or she must record this fact, the date of grant and the number of authenticated copies granted on the relevant original judgment or ruling ordering payment.

11. (Service of title of execution, etc.)

Execution can only commence when an authenticated copy or certified copy of a title of execution or an adjudication that is to become a title of execution by becoming final and conclusive is served on the debtor in execution. Where an execution clause has been granted in accordance with 6-1-4 Article 7 (Special Execution Clause), certified copies of the execution clause and any other documents submitted by the creditor in execution under the said Article must be served on the debtor in execution in advance.

12. (Conditions for commencement of execution to be examined by execution organ)

1. Where a time is fixed¹⁰ for performance of the claim noted in the title of execution, the execution organ can only commence execution after such time has passed.
2. If posting of collateral is a condition for execution of a title of execution, the execution organ can only commence execution after the

¹⁰ *kakutei kigen*, literally "a time certain (for performance)", as opposed to "*fukakutei kigen*" – see footnote to Paragraph 1 of Article 7 (Special Execution Clause).

creditor in execution submits documentary proof of the posting of such security.

3. If performance by the debtor in execution is to be exchanged for counterperformance by the creditor in execution, the execution organ can commence execution only after the creditor in execution has proved that it has carried out, or tendered, such counterperformance.

13. (Objection to grant of execution clause, etc.)

1. An objection can be filed against disposition taken in respect of an application for grant of an execution clause, at the court to which the court clerk belongs in the case of action by a court clerk and at the court of first instance that has jurisdiction over the notary's office, in the case of action by a notary.
2. Adjudication of an application under Paragraph 1 shall be by ruling.
3. Paragraphs 1 and 2 shall apply mutatis mutandis to cases where application has been made for re-issue of an authenticated copy of a title of execution as provided in Paragraph 3 of 6-1-4 Article 5¹¹ (Requirement for Execution Clause and Which Organs Grant Such Clause).

Section V. Suits Relating to Execution

1. (Suit objecting to claim)

1. A debtor in execution who objects to the existence or contents of a claim noted in a title of execution can file a suit objecting to the claim, seeking to block execution under the title of execution; provided that this shall not apply to titles of execution listed in Item (b) or Item (d) of Paragraph 2 of 6-1-4 Article 2 (Title of Execution) that have not yet become final and conclusive.
2. The reasons for an objection to a final judgment shall be limited to reasons that have arisen after the conclusion of oral arguments.
3. Suits under Paragraph 1 shall be subject to the jurisdiction of the court noted next to the respective type of title of execution below.

<u>1.</u>	<u>A title of execution listed in Items (a) to (d) or (g) to (i) of Paragraph 2 of 6-1-4 Article 2 (Title of Execution)</u>	<u>The court of first instance for the procedure in question</u>
<u>2.</u>	<u>A title of execution listed in Item (e) of Paragraph 2 of 6-1-4 Article 2 (Title of Execution)</u>	<u>The court of the clerk who made the disposition</u>
<u>3.</u>	<u>A title of execution listed in Items (f) of Paragraph 2 of 6-1-4 Article 2 (Title of Execution)</u>	<u>The court having territorial jurisdiction over the defendant as provide in Title 1, Chapter 2, Article 8 (jurisdiction determined by address, etc.). If there is no court having jurisdiction</u>

¹¹ Check reference – there is no Paragraph 3 in Art. 5.

		under said Article, the court of first instance having jurisdiction over the locus of the object of the claim or attachable property of the debtor in execution.
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2. (Suit objecting to grant of execution clause)

1. Where a special execution clause has been granted under 6-1-4 Article 7 (Special Execution Clause), a debtor in execution who has an objection concerning whether in fact a condition precedent or uncertain time stipulation has been fulfilled, or whether enforcement can take place with a party other than a party named in the title of execution as creditor in execution or debtor in execution can file a suit of objection to the grant of such execution clause in order to seek denial of execution based on the authenticated copy of the title of execution to which such execution clause has been affixed.
2. The terms of Paragraph 4 of 6-1-5 Article 1 (Suit objecting to claim) shall apply mutatis mutandis to Paragraph 1 of this Article.

3. (Suit of objection by third party)

1. A third party having ownership of the property that is the object of execution, or having other rights to prevent the transfer or delivery of said property, can file a third party objection suit seeking enjoinder of the execution.
2. A suit under Paragraph 1 shall fall within the jurisdiction of the execution court, in cases of execution for which that court is to be the execution organ, and of the court of first instance to which the bailiff belongs if the bailiff is to be the execution organ.

Section VI. Stay and Cancellation of Execution

1. (Adjudication of stay of execution upon filing of suit for retrial, etc.)

1. In the following cases, upon petition, the court can order a temporary stay of execution with or without the posting of collateral:
 - (a) Where a suit for retrial has been filed and the situation asserted as the grounds of the protest appears to have legal merit, and there is preliminary showing of the factual issues;
 - (b) Where a Satuk appeal has been filed against a judgment with declaration of provisional execution, and there is preliminary showing of circumstances which should be grounds for quashing the original judgment.
 - (c) Where an Uttor appeal has been filed against a judgment with declaration of provisional execution or a petition of objection has been filed against a demand ruling, and there is preliminary showing of circumstances which should be grounds for canceling or varying the original judgment or demand ruling.
 - (d) Where a petition of mishap has been filed against a default judgment with declaration of provisional execution, and there is preliminary showing of circumstances which should be grounds

for canceling or varying the default judgment.

2. Upon petition, the court can order a temporary stay in a case falling under any Item of Paragraph 1, or reversal of any execution disposition already taken, subject to the posting of collateral.
3. Where a Satuk appeal or Uttor appeal has been filed against a judgment with declaration of provisional execution, if the case record still exists in the original court, that court shall try petitions prescribed in Paragraphs 1 and 2 of this Article.

2. (Adjudication of stay of execution upon suit of objection to claim, etc.)

1. Where a suit of objection to claim, a suit of objection to grant of execution clause or a third party objection suit has been filed and the asserted grounds of objection have been proved, the court which has accepted the filing of such suit can, upon petition, and with or without requiring the posting of security, order the temporary staying of execution pending such time as it makes an adjudication under Article 3 (Adjudication of stay of execution of final judgment, etc.) by final judgment¹².
2. In cases under Paragraph 1, in addition to a temporary stay of execution, upon petition, and subject to the posting of security, the court which has accepted the objection suit can order reversal of execution disposition that has already been carried out.
3. Where a suit of objection to claim or suit of objection to grant of execution clause has been filed, the grounds for objection are proved and also there are urgent circumstances, the execution court or the court of first instance to which the bailiff belongs can, upon petition, make a ruling prescribed in Paragraphs 1 or 2, after fixing a time limit for submission of an authenticated copy of an adjudication prescribed in Paragraph 1. Such an adjudication can also be made prior to the filing of a suit prescribed in Paragraph 1.
4. If the time limit fixed under Paragraph 3 expires, or an adjudication prescribed in Paragraphs 1 or 2 is submitted to the execution court or to the bailiff, the ruling under Paragraph 3 shall cease to have effect.

3. (Adjudication of stay of execution in final judgment, etc.)

In making its final judgment concerning a suit of objection to claim, suit of objection to grant of execution clause, or third party objection suit, the court which has accepted the filing of the objection suit can make an order for disposition prescribed in Paragraphs 1 or 2 of Article 2 (Adjudication of stay of execution upon suit of objection to claim, etc.) or reverse, vary or recognize any adjudication already made under said Paragraphs. This adjudication shall come into effect as of the time of handing down of the final judgment concerning any suit prescribed in this Article.

4. (Adjudication of stay of execution upon petition of objection to grant of execution clause, etc.)

Where a petition of objection to grant of execution clause has been filed, the court, where it deems necessary, can upon petition order a stay of

¹² *shuukyoku hanketsu* - final, as opposed to interim, at a certain level - i.e. final in every sense except that it is still subject to appeal, as opposed to an interim judgment (*chuukan hanketsu*)

the execution pending adjudication of such objection, with or without requiring the posting of security.

5. (Stay and cancellation of execution)

1. Upon submission of any of the documents listed below, the execution court or bailiff shall stay the execution, and shall reverse any execution disposition that has already been carried out:

- (a) an authenticated copy of an adjudication which contains an order canceling a title of execution other than a notary's certificate described in Item (f) of Paragraph 2 of 6-1-4 Article 2 (Title of execution) or an authenticated copy of an adjudication which includes an order canceling a declaration of provisional execution
- (b) an authenticated copy of an adjudication which includes an order that execution is not permitted
- (c) an authenticated copy of a final and conclusive judgment declaring that a compromise or acknowledgment in connection with a title of execution has no effect
- (d) an authenticated copy of a protocol or other document prepared by a court clerk certifying that a title of execution noted in Items (b) through (e) of Paragraph 2 of 6-1-4 Article 2 (Title of execution) has become null and void on account of withdrawal of the suit or other reason
- (e) an authenticated copy of a protocol of compromise in court which contains an undertaking not to carry out an execution or to withdraw the relevant petition
- (f) a document proving the posting of security for the purpose of exemption from execution
- (g) an authenticated copy of an adjudication which includes an order for stay of execution or for reversal of execution disposition [already taken].

2. Upon submission of any of the documents listed below, the execution court or bailiff shall stay the execution; provided that in the case of Item (b), the effect of the stay shall be limited to 2 months.

- (a) an authenticated copy of an adjudication which includes an order for a temporary stay of execution; or
- (b) an authenticated copy of a document including a provision to the effect that the creditor in execution has received payment, or has consented to deferral of payment, since the establishment of the title of execution.

3. 6-1-2 Article 10 (Chomtoah appeal against ruling of cancellation, etc.) shall not apply to cases of reversal of execution disposition under Paragraph 1 of this Article.

Section VII. Execution Costs and Inspection of Execution Record

1. (Meaning of execution costs and procedural costs)

The following terms shall have the meanings respectively set forth beside each term:

- (a) "execution costs": party costs prescribed in Article 2 (petition filing fee), Article 3 (Costs other than the fee) and Article 4 (Party costs).

(b) "procedural costs": among costs prescribed in Item (a), those that are of common benefit.

2. (Petition filing fees)

1. Upon filing a petition for execution at the execution court, the creditor in execution shall pay the amount of [] riels to the court.
2. Upon filing a petition for execution with the bailiff, the fees provided separately shall be paid.

3. (Costs other than commission)

The creditor in execution shall pay as costs such amounts that are determined by the court to be necessary for procedural actions in the course of execution such as service of documents.

4. (Party costs)

Costs that the court finds to be necessary for implementation of execution apart from those prescribed in Article 2 (Petition filing commission) and Article 3 (Costs other than commission) shall be referred to as "party costs".

5. (Payment in advance)

1. The applicant shall pay in advance the amount set by the court upon filing of a petition for execution as the necessary expenses of execution procedures. This shall apply a case where the prior payment was not enough and the court in execution ordered the additional payment to fill the deficiency.
2. If the applicant does not pay such costs in advance, the court can dismiss the petition for execution or reverse the execution procedures.
3. A Chomtoah appeal may be filed against a ruling to dismiss a petition under Paragraph 2.

6. (Allocation of Execution Costs)

1. Execution costs shall be borne by the debtor in execution.
2. In the case of execution of a claim the object of which is payment of money, execution costs can be collected simultaneously with the execution proceedings, without the need for a title of execution.

7. (Deposit of collateral)

Collateral ordered to be posted by a court or execution court shall be deposited by a party with such court in the form of cash or negotiable securities approved by the court.

8. (Inspection of record of execution case, etc.)

1. An interested party can request the execution court responsible for execution to allow such party to inspect the case record or to be issued with a copy, authenticated copy, certified copy or extract thereof, or with a certificate relating to the particulars of the case.
2. An interested party can request the bailiff responsible for execution to allow such party to inspect the case record or to be issued with a copy, authenticated copy, certified copy or extract thereof, or with a certificate relating to the particulars of the case.

3. Amount of the fee for inspection or copy shall be determined by a sub-decree.

CHAPTER II. Execution of Claims Having the Object of Monetary Payment

Section I. Attachable Property

1. (Principles)

Except where otherwise provided in this or another law, attachment can be carried out against all tangible and intangible property belonging to the debtor in execution.

2. (Property exempt from attachment)

The following property cannot be attached:

- (a) clothing, bedding, furniture, kitchen appliances and house fittings that are indispensable for the daily living of the debtor in execution and his or her family living under the same roof;¹³
- (b) foodstuffs and fuel sufficient for two months for the debtor in execution and his or her family living under the same roof;
- (c) money or articles received by the debtor in execution from the central or local government pursuant to any livelihood, educational, medical or other welfare program;
- (d) apart from the money prescribed in Item (c), money up to [] riels;
- (e) tools, fertilizer, domestic livestock and their feed that are necessary for the work of persons engaged predominantly in agriculture by their own labor, together with seeds and other agricultural products required in order to continue such work until the next harvest;
- (f) nets and other fishing equipment, feed, young fish and other fishery products that are necessary for the work of catching or raising fish by persons engaged in fisheries predominantly by their own labor;
- (g) tools and other objects that are necessary for the work of technicians, artisans laborers and other persons engaged in an occupation or business predominantly using their own intellectual or physical work; provided that objects that are held with the object of sale or lease can be attached;
- (h) Buddha images, sacred books and other objects directly used in worship or religious ceremonies;
- (i) genealogical records, diaries, trade books and similar objects required by the debtor in execution;
- (j) objects commemorating awards or other honors received by the debtor in execution or a family member;
- (k) books and other equipment necessary for study at a school or other educational institution by the debtor in execution or a family member residing under the same roof;

¹³ Literally "the debtor and any cohabiting relative having a common livelihood with the debtor"

- (l) an invention or work that has not yet been laid open;
- (m) an artificial hand, leg, ear, eye or other prosthetic body part, or other thing necessary for nursing any sickness of the debtor in execution or a family member residing under the same roof;
- (n) fire fighting equipment, apparatus, escape apparatus and other equipment required to be installed by law for prevention of disaster and security of buildings and other structures.

3. (Change of scope of exempt movables)

1. Upon petition, the court of first instance to which the bailiff belongs can cancel the whole or part of any attachment carried out by a bailiff, or permit the attachment of any movables listed in Article 2, taking into account the living conditions of the debtor in execution and the creditor in execution and other circumstances.
2. If there has been a change of circumstances, the court of first instance to which the bailiff belongs can permit attachment of movables of which attachment has been cancelled under Paragraph 1, or order the cancellation of the whole or part of any attachment under said Paragraph.
3. Where a petition is filed seeking cancellation of attachment under Paragraphs 1 or 2, the court of first instance to which the bailiff belongs can order a stay of execution until such time as said ruling comes into force, with or without requiring the posting of security.
4. Chomtoah appeals can be filed against rulings dismissing petitions under Paragraphs 1 or 2, or rulings permitting attachment under said provisions.

4. (Rights exempt from attachment (garnishment))

1. Salaries, wages and other rights in the nature of compensation for work shall only be attachable to the extent set forth below, in respect of the balance remaining after deduction of taxation and social insurance premiums from the amount receivable by the debtor in execution on the date of payment of such compensation.
 - (a) none of the amount up to the amount of A riels per month.
 - (b) one quarter of the amount exceeding A riels up to the amount of B riels per month
 - (c) one third of the amount exceeding B riels up to the amount of C riels per month
 - (d) one half of the amount exceeding C riels up to the amount of D riels per month
 - (e) two thirds of the amount exceeding D riels up to the amount of E riels per month
 - (f) the whole of the amount exceeding E riels per month.
2. Rights to receive livelihood support, educational support, medical support or other support having the objective of protecting the livelihood of the debtor in execution cannot be attached.

5. (Change of scope of garnishment)

1. Upon petition, the execution court can cancel the whole or part of any attachment ruling, or make a ruling for attachment of any rights prohibited from being attached under Article 4, taking into account the living conditions of the debtor in execution and the creditor in execution and other circumstances.
2. If there has been a change of circumstances, the execution court, upon petition, can attach rights of which attachment has been

cancelled under Paragraph 1, or cancel the whole or part of any attachment ruling under said Paragraph.

3. Where a petition is filed under Paragraphs 1 or 2, the execution court can order prohibition of payment or other performance by a third party debtor prescribed in 6-2-3 Article 1 (Meaning of garnishment (execution against rights) and execution court) until such time as the ruling comes into force, with or without requiring the posting of security.
4. Chomtoah appeals can be filed against rulings dismissing petitions seeking cancellation of execution rulings under Paragraphs 1 or 2.

Section II. Execution Against Movables

1. (Commencement of execution against movables)

1. Petitions for execution against movables shall be submitted to the bailiff belonging to the court of the first instance with jurisdiction over the location of the property concerned.
2. In addition to the matters listed in Paragraph 2 of 6-1-4 Article 1 (Form of petition for execution), the location(s) of the movables to be attached shall be noted in the form of petition.
3. Execution against movables shall commence with the bailiff attaching the target property.
4. In this Title, "movables" includes natural fruits of the land that have not yet been separated from the land and for which it is certain that said fruits can be harvested within one month after attachment.
5. If the bailiff meets the debtor in execution at the site of attachment, he shall give the debtor notice to make voluntary payment prior to commencing the attachment.
6. In the course of carrying out an execution, the bailiff can receive payment of the claim and execution costs on behalf of the creditor in execution.

2. (Attachment of movables in the possession of the debtor)

1. Attachment of movables in the possession of the debtor in execution shall be done by the bailiff taking possession thereof.
2. At the time of attachment under Paragraph 1, the bailiff can enter and search the residence and other locations occupied by the debtor in execution and search for movables to be attached. In such cases the bailiff can take the necessary measures to open locked doors, safes and other containers.
3. In selecting movables for attachment, the bailiff shall take into account the interests of the debtor in execution, to the extent that this does not harm the interests of the creditor in execution.
4. A bailiff may have a debtor in execution store property that the bailiff has attached, if the bailiff recognizes such to be appropriate. In such a case, the attachment shall be valid provided that a seal or other indication of attachment is affixed to the attached movables.
5. Where a bailiff allows the debtor in execution to store attached movables under Paragraph 4, the bailiff may permit the debtor in execution to use the attached movables if the bailiff recognizes such to be appropriate.

6. Where the bailiff deems this appropriate, he can himself take the movables into custody or cancel the license under Paragraph 5. The terms of Paragraph 2 shall apply mutatis mutandis to the case where the bailiff takes custody himself of movables that had been put into the custody of the debtor in execution.

3. (Attachment of movables in the possession of persons other than the debtor in execution)

The terms of Paragraphs 1, 3, 4, 5 and 6 of Article 2 (Attachment of Movables in Possession of Debtor in Execution) shall apply mutatis mutandis to cases of movables in the possession of the creditor in execution and movables in the possession of a third party, where such third party does not refuse to deliver the movables.

3-2. (Special rules relating to registered automobiles, etc.)

1. Where attached automobiles or motorcycles have been entered in a register, the bailiff shall direct the fact of attachment to be entered in such register.
2. Attachment of automobiles or motorcycles described in Paragraph 1 shall only come into effect upon entry of such attachment in the register.
3. The terms of Paragraph 1 and 2 shall apply in the same manner to movables other than automobiles and motorcycles which are required to be registered.

4. (Consolidation of cases)

1. If a further petition for execution against movables is filed against a debtor against whom execution has already been carried out at the same location, the bailiff shall attach such movables as have not yet been attached, if any, and if there are no movables to be attached, shall clarify that fact, and shall consolidate the later execution case with the previous execution case. The same shall apply if a petition for execution against movables is filed against a debtor against whom provisional execution has already been carried out in respect of the same location.
2. If two cases are consolidated in accordance with the first sentence of Paragraph 1, the movables attached in the later case shall be deemed to have been attached in the earlier case at the time of consolidation, and the petition in the later case shall come into effect as a demand for distribution. If the creditor in the earlier case withdraws its petition for execution against movables or if the procedures commenced by that petition are stayed or cancelled, the movables attached in the earlier case shall be deemed to have been attached for the purposes of the later case at the time of consolidation of the cases.
3. If a provisional attachment case and a case of execution against movables are consolidated in accordance with the second sentence of Paragraph 1, the movables attached in the provisional attachment case shall be deemed to have been attached in the case of execution against movables at the time of consolidation, and the petition in the provisional attachment case shall have the effect of a demand for distribution. If the creditor in the case for execution against movables withdraws its petition for execution against movables or if the procedures commenced by that petition are cancelled, the movables attached in the earlier case shall be deemed to have been

attached in the provisional attachment case at the time of consolidation of the cases.

4. Upon consolidation of any cases, the bailiff shall notify the creditor in execution, the creditor in provisional execution and the debtor in execution.

5. (Effect and scope of attachment)

The effect of attachment shall extend to natural products of the movables.

6. (Ruling ordering delivery of attached movables)

1. Where attached movables have come into the possession of a third party, upon petition by the creditor in execution, the court of first instance to which the bailiff belongs can make an order by ruling for the third party to deliver the movables to the bailiff.
2. The petition referred to in Paragraph 1 must be filed not later than one week after the creditor in execution becomes aware that the movables are in the possession of a third party.
3. A Chomtoah appeal can be made against a ruling on a petition referred to in Paragraph 1.
4. A ruling pursuant to Paragraph 1 shall not be enforced after two weeks have passed since the applicant is notified of the ruling.
5. A ruling pursuant to Paragraph 1 can be enforced even before it is served on the third party who is in possession of the attached movables.
6. The cost of a ruling pursuant to Paragraph 1 shall be treated as a cost of common benefit in the execution procedure concerning the movables in question.

7. (Prohibition of excessive attachment)

1. Attachment of movables shall not exceed the necessary limit of satisfaction of the creditor in execution's claim and execution costs.
2. If it becomes clear after attachment that the limit described in Paragraph 1 will be exceeded, the bailiff shall reverse the attachment to the extent of such excess.

8. (Prohibition of attachment with no prospect of producing a surplus)

1. The bailiff shall not carry out an execution if there is no prospect of producing a surplus after paying the procedural costs from the proceeds of sale of the movables to be attached.
2. The bailiff shall reverse the execution if there is no prospect of producing a surplus after paying any claims that have priority over the claim of the creditor in execution and the procedural costs from the proceeds of sale of the movables to be attached.

9. (Cancellation of attachment of movables where there is no prospect of sale)

In cases where despite attempts having been made using appropriate methods to sell attached movables, they cannot be sold and there is no prospect of sale in the future, the bailiff can reverse such attachment.

10. (Demand for distribution by holder of preferential right, etc.)

A person holding a lien or pledge can make a demand for distribution by submitting documentary evidence of such right.

11. (Method of sale)

1. The bailiff shall carry out sale of attached movables by auction or tender.
2. Notwithstanding the terms of Paragraph 1, the bailiff may obtain the permission of the court of first instance to which he belongs and sell the attached movables by a method other than an auction or tender, or have a person other than the bailiff sell the same, if the bailiff deems this to be appropriate in consideration of factors such as the type or quantity of the movables.
3. The bailiff shall post notice of the movables to be sold and the method of sale on the notice place.
4. The debtor in execution cannot offer to buy the movables.(2)
5. If the bailiff approves a purchase, the purchaser must pay the price forthwith.
6. If the movables are resold because a purchaser has failed to pay the purchase price, the previous purchaser cannot offer to buy the movables.
7. Where the bailiff has seized movables of high value, the bailiff shall select a valuer and have the movables valued.

12. (Maintenance of order in the sale premises)

The bailiff can restrict the entry into the sale premises or eject therefrom, or disallow offers by, persons who engage in or cause others to engage in collusion with the objective of blocking offers from other purchasers or reducing the price improperly or otherwise preventing the proper implementation of the sale.

13. (Sale During Suspension of Execution)

1. In cases where a document listed in Item (a) or (b) of Paragraph 2 of 6-1-6 Article 5 (Suspension and cancellation of execution) has been filed and there is an apprehension of severe reduction in price of the attached movables, or of incommensurate cost being required for storage of the movables, the bailiff can sell the seized movables.
2. The bailiff shall deposit the proceeds of any sale of seized movables in accordance with Paragraph 1 with the court of first instance to which he belongs.

14. (Scope of creditors entitled to distribution)

The creditors listed below shall be entitled to distribution:

- (a) the attachment creditor
- (b) creditors who have made a demand for distribution before the bailiff receives the proceeds of sale
- (c) creditors who have a demand for distribution before seizure of money.

15. (Implementation of distribution by the bailiff)

1. If there is only one creditor, or if there are two or more creditors but the proceeds of sale and any cash that is attached is sufficient to pay all the claims of each creditor and the execution costs, the bailiff shall proceed with distribution to the creditors and shall deliver any surplus to the debtor in execution.
2. If the bailiff has collected proceeds from sale or has attached cash in cases other than Paragraph 1, the bailiff shall set a date for

a conference concerning the distribution of the proceeds of sale or the attached cash, within two weeks thereafter, and notify each of the creditors of the date, time and place of said conference. If consensus is reached among the creditors, the bailiff shall then make a distribution pursuant to said consensus.

3. If a document listed in Items (a) through (g) of Paragraph 1 of 6-1-6 Article 5 (Suspension and cancellation of execution) is filed, and there are creditors entitled to distribution other than the creditor(s) in execution, the bailiff shall make a distribution on behalf of said creditors.
4. The bailiff shall execute the distribution even if a document listed in Items (a) or (b) of Paragraph 2 of 6-1-6 Article 5 (Suspension and Cancellation of Execution) is filed after payment of the price by a purchaser.
5. Claims with a definite term that have not yet fallen due shall be deemed to have become due and payable for the purpose of distribution.

16. (Deposit by bailiff with the court)

1. A bailiff shall deposit the amount of such claim with the court of first instance to which he belongs and make a report of the circumstances if any claim of a creditor entitled to distribution carried out under Paragraphs 1 or 2 of Article 15 (Implementation of distribution by bailiff) is covered under any of the following:
 - (a) The claim is subject to a condition precedent or uncertain time stipulation.
 - (b) The claim is a claim of a provisional attachment creditor.
 - (c) A document listed in Item (a) of Paragraph 2 of 6-1-5 Article 5 (Suspension and cancellation of execution) has been submitted.
 - (d) An authenticated copy has been filed of a court proceeding temporarily prohibiting the execution of a lien or pledge relating to the claim.
2. The bailiff shall deposit with the court of first instance to which he belongs the amount of distribution to a creditor who does not appear to receive such distribution.

17. (Report to court of first instance)

If a consensus is not reached under Paragraph 2 of Article 15 (Implementation of distribution to bailiff), the bailiff shall report the circumstances to the court of first instance to which he belongs.

Section III. Execution Against Claims and Other Property Rights

1. (Meaning of execution against claims and execution court)

1. An "execution against a claim" refers to execution against a claim having the object of payment of money or delivery of movables.
2. The debtor of the claim to be attached is called the "third party debtor".
3. The court of first instance having jurisdiction over the district of the debtor prescribed in Article 8, or if there is no such district, the court of first instance having jurisdiction over the district of the third party debtor prescribed in Article 8, shall be the

execution court having jurisdiction over execution against a claim.

4. If a further attachment ruling is issued in respect of an attached claim, the execution court can transfer the case to another execution court if a different execution court has issued the attachment ruling.

2. (The attachment ruling)

1. A petition for execution against a claim shall be filed at the execution court.
2. Except in cases noted in 6-1-4 Article 1 (The form of petition for execution), the petition for execution against a claim shall indicate the name of the third party debtor.
3. Where the petition is for execution against only a portion of a claim, the creditor in execution shall clearly specify the scope of execution in the petition for execution of claim.
4. Execution against a claim commences by way of an attachment ruling by the execution court.
5. In the attachment ruling, the execution court shall enjoin the debtor in execution from collecting or otherwise dealing with the claim, and shall enjoin the third party debtor from paying the debtor in execution.
6. The attachment ruling shall be issued without examination of the debtor in execution and the third party debtor.
7. The attachment ruling shall be served on the debtor in execution and the third party debtor.
8. Attachment shall come into effect upon service of the attachment ruling on the third party debtor.
9. Once the ruling of execution is served on the debtor and the third party debtor, the bailiff shall notify the creditor in execution of that fact and of the date of service.
10. Once a ruling of execution against a claim secured by a registered hypothec or other security comes into effect, the court clerk shall order the registrar to note in the register the fact that the claim has been attached.
11. A Chomtoah appeal may be filed against an adjudication concerning a petition for execution against movables.

3. (The scope of attachment)

1. The execution court can issue an attachment ruling in respect of the whole of the claim to be attached.
2. If the value of the attached claim(s) exceeds the total of the creditor in execution's claim and the execution costs, the execution court shall not attach any other claim.
3. If a portion of a claim has been attached or if provisional execution has been made against a portion of a claim, and if an attachment ruling has been issued which exceeds the remaining portion of the claim, the effect of each attachment or provisional attachment shall extend to the whole of the claim. The same shall apply if the whole of a claim has been attached or subjected to provisional attachment and then other attachment orders are issued in respect of a portion of such claim.

4. (Notice to third party debtor to give statement)

1. Upon petition by the creditor in execution, at the time of service of the ruling for execution, the execution court shall notify the

third party debtor to state within two weeks of the date of service the following matters:

- (a) whether the attached claim exists or not, and if so, the type, amount and details thereof;
- (b) whether the third party debtor intends to make payment, the scope of payment or the reasons for not paying, as the case may be;
- (c) if there is any person having rights with priority over those of the creditor in execution in respect of the claim in question, a description of such person and of the type and scope of such priority rights;
- (d) whether there has been any attachment or provisional attachment execution by other creditors.

- 2. If the third party debtor intentionally or negligently fails to make a statement or makes a false statement, he will liable to compensate any loss incurred thereby.

5. (Delivery of claim certificate)

- 1. If a certificate exists for the attached claim, the debtor in execution shall deliver up such certificate to the creditor in execution.
- 2. The creditor in execution can have the certificate referred to in paragraph 1 delivered by using the method of execution for delivery of movables as prescribed in 6-3 Article 2 (Execution for Delivery of Movables), based on an attachment ruling.

6. (Attachment of continuing payments)

The effect of attachment of salaries and other claims for continuing payments shall extend to payments to be received after the attachment, up to a limit being the total of the claim and execution costs.

7. (Notice of withdrawal of petition, etc.)

- 1. If a petition for execution against a claim has been withdrawn, the court clerk shall give notice to this effect to all third party debtors who have been served with rulings of attachment.
- 2. If a ruling for cancellation of execution proceedings has been made, the court clerk shall give notice to all third party debtors who have been served with rulings of attachment.

8. (Demand for distribution)

- 1. Any creditor holding an authenticated copy of enforceable title of execution or who has submitted documentary proof of holding a lien can submit a demand for distribution.
- 2. Upon the submission of a demand for distribution described in Paragraph 1, the execution court shall serve written notice thereof on the third party debtors.
- 3. A Chomtoah appeal can be made against a ruling that dismisses a demand for distribution.

9. (Collection of claims having the objective of payment of money)

- 1. Once a creditor has attached a claim having the objective of payment of money, such creditor can collect said claim after a week has passed from the day on which the ruling of attachment is served on the debtor in execution; provided that payment in excess of the total of the creditor in execution's claim and the Execution Costs cannot be

collected.

2. Where the creditor in execution has received payment from a third party debtor, the claim and Execution Costs in question shall be deemed to have been paid to the extent of such payment received.
3. Where the creditor in execution receives payment under Paragraph 2, it shall report this fact immediately to the execution court.
4. The creditor in execution shall have a duty to compensate the debtor in execution for any loss arising from the failure of the creditor in execution to exercise the attached rights.

10. (Deposit by third party debtor)

1. A third party debtor shall be entitled to deposit with the execution court the attached amount, or the whole amount of the claim, when a claim having the objective of monetary payment is attached.
2. In the cases described below, the third party debtor must deposit the amounts prescribed below with the execution court:

(a)	<u>If a ruling of attachment or provisional attachment has been issued in excess of the portion of the claim that has not been attached, and if this ruling has been served by the time that the third party debtor receives the written complaint of a suite set forth in Article 11. Par. 1 (Suit of Collection); or</u>	<u>The whole amount of the claim</u>
(b)	<u>If the third party debtor has been served with a written notice that a demand for distribution has been made</u>	<u>The portion of the claim that has been attached</u>

3. If a third party debtor has made a deposit described in Paragraphs 1 or 2, the third party debtor must give notice of the circumstances to the execution court.

11. (Collection Suits)

1. If a creditor in execution has filed a suit against a third party debtor demanding payment under a claim that has been attached, upon petition by the third party debtor, the court that has accepted such suit may, by ruling, order any other creditors that have attached the aforesaid claim by the time of service of the complaint [in the collection suit first mentioned] to participate in said suit as joint plaintiffs.
2. The effect of judgment in a suit described in Paragraph 1 shall extend to creditors in execution who have been ordered to participate in a collection suit under that Paragraph, even where they have not actually so participated.
3. In the case of suit under Paragraph 1 against a third party debtor who is subject to a deposit obligation under Paragraph 2 of Article 10 (Deposit by third party debtor), if the plaintiff's claim is admitted, the court hearing the collection suit shall include an order in the conclusive and main text of its judgment that payment of the amount of such claim shall be by way of deposit.

12. (Ruling ordering sale)

1. If the attached claim is subject to a condition precedent or a time stipulation, is linked to counter-performance or for other reason is difficult to collect, the execution court, upon petition by the creditor in execution, can issue a ruling ordering the bailiff to

sell the claim in the manner prescribed by the court and to submit the proceeds of sale to the court.

2. In making a ruling under Paragraph 1, the execution court shall examine the debtor in execution, except where the debtor in execution is overseas or his/her/its address is unknown.
3. The execution court shall not issue an order described in Paragraph 1 if there is no prospect of a surplus after applying the proceeds of sale to satisfaction of any claim having priority over the claim(s) of the creditor(s) in execution and the Procedural Costs.
4. A Chomtoah appeal may be filed against a ruling on a petition under Paragraph 1.
5. A ruling on a petition under Paragraph 1 shall have no effect unless it becomes final and conclusive.
6. If it deems fit, when issuing a ruling under Paragraph 1, the execution court may select a valuer and order a valuation of the claim.
7. The bailiff shall not sell the claim unless it of sufficient value to leave a surplus after satisfying any claims having priority over the claim(s) of the creditor(s) in execution and the Procedural Costs.
8. The debtor in execution is not permitted to make an offer to buy in any sale under Paragraph 1.
9. At the time of sale of a claim, in lieu of the debtor in execution, the bailiff shall deliver an officially dated notice of assignment to the third party debtor.
10. When sale has been completed under Paragraph 1 of this Article of a claim described in Paragraph 10 of Article 2 (Deposit by third party debtor), the court shall, on petition by the purchaser who acquired the claim, direct the registrar for the benefit of the purchaser to register the transfer of any hypothec or other security right, and to strike out any registration [of the fact of attachment] that has been carried out under Paragraph 10 of Article 2 (Deposit by third party debtor).

13. (Execution of ruling of attachment of right to demand delivery of movables)

1. After the passage of one week after the service of the petition for attachment on the debtor in execution, a creditor in execution who has attached a right to demand delivery of movables can demand that the third party debtor deliver up such movables to the bailiff who has received the petition from the creditor in execution.
2. The bailiff to whom the movables are delivered shall sell them in accordance with the procedures for sale of movables and pay the sales proceeds into the execution court.

14. (Scope of creditors eligible for distribution)

Creditors eligible for distribution shall be those who have carried out attachment or provisional attachment or made a demand for distribution not later than the times set forth below:

- (a) the time at which a third party debtor has made payment into court (deposit) under Paragraph 1 or 2 of Article 10 (Deposit by third party debtor)
- (b) the time at which the complaint in a collection suit has been served on the third party debtor
- (c) the time at which the proceeds of sale pursuant to a ruling ordering sale are delivered to the bailiff

(d) the time at which movables are delivered up to the bailiff in a case of attachment of a right to demand delivery of movables.

15. (Execution against other property)

Except where specifically provided otherwise, execution against property other than real estate, vessels, movables and claims shall follow the example of execution against claims.

Section IV. Execution against real estate (to be drafted)

Section V. Execution against vessels

1. (Meaning of vessels, etc.)

1. In this chapter, the term "vessels" refers to vessels having a gross tonnage of 20 tons or more.
2. In this Title and in Title 7, "certificate of registry of the vessel, etc." refers to the document evidencing the vessel's nationality and other documents necessary for the vessel lawfully to sail.

2. (Petition and method of execution against vessels)

1. Execution against a vessel shall be carried out by means of auction by the execution court.
2. In addition to the matters prescribed in Paragraph 2 of 6-1-4 Article 1 (Form of petitions for execution), a petition for execution against a vessel shall include the location of the vessel and the name and current location of the captain.
3. The petition under Paragraph 2 shall be accompanied by an authenticated copy of the enforceable title of execution, together with:
 - (a) a certified copy of the register, in the case of a registered Cambodian vessel
 - (b) a document proving that the vessel is a vessel provided in Paragraph 1 of 6-2-5 Article 1 (Meaning of vessels, etc.) in the case of non-registered Cambodian vessel or a non-Cambodian vessel and that the vessel is owned by the debtor in execution.

3. (Execution Court)

The court of first instance having jurisdiction over the place in which the vessel is located at the time of ruling of commencement of auction shall be the execution court for execution against a vessel.

4. (Ruling of commencement of auction, etc.)

1. In order to commence auction proceedings, the execution court shall issue a ruling of commencement of auction and order the bailiff to confiscate the certificate of registry of the vessel, etc., and submit the same to the execution court.
2. The ruling of commencement under Paragraph 1 shall include a declaration of attachment of the vessel on behalf of the creditor in execution, together with an injunction against the debtor in execution leaving port.
3. The ruling of commencement under Paragraph 1 shall be served on

the debtor in execution.

4. Upon the issue of a ruling of commencement under Paragraph 1 in respect of a registered Cambodian vessel, the court clerk shall immediately direct the registrar to record the attachment under such ruling.
5. The effect of the attachment shall arise upon service under Paragraph 3; provided that if registration of the attachment is carried out prior to the issue of the ruling of commencement of auction, said effect shall arise at the time of such registration.
6. If the bailiff confiscates the certificate of registry of the vessel, etc., prior to service of the ruling of commencement of auction or the registration of the attachment, the effect of the attachment shall arise from the time of such confiscation.
7. A Chomtoah appeal may be made against a ruling dismissing a petition for auction.

5. (Final date for demands for distribution and change thereof)

1. If attachment has come into effect under a ruling of commencement of auction, the execution court shall determine the final date for submission of demands for distribution.
2. If no ruling permitting sale has been made within 3 months following the final date for submission of demands for distribution, the execution court may change such final date.

6. (Ruling ordering delivery of certificate of registry, etc. prior to petition)

1. If it is likely that it would be extremely difficult to execute against a vessel unless the certificate of registry, etc. is confiscated prior to the petition for execution against such vessel, the court of first instance having jurisdiction over the home port of the vessel, upon petition, may by ruling order the debtor in execution to deliver up to the bailiff the certificate of registry, etc. of the vessel. In cases where the vessel has no home port and in cases of emergency, the court having jurisdiction over the location of the vessel may issue such a ruling.
2. When filing a petition under Paragraph 1 an authenticated copy of the enforceable title of execution must be presented and the grounds prescribed in the said Paragraph must be proved.
3. A ruling under Paragraph 1 shall be served on the debtor in execution.
4. A Chomtoah appeal may be filed against a ruling under Paragraph 1.
5. A ruling under Paragraph 1 ordering the delivery up of a vessel's nationality certificate, etc. to the bailiff can be enforced even before it is served on the other party. The costs of such execution shall be treated as common service costs of the auction proceedings.
6. A ruling under Paragraph 1 ordering the delivery up of a vessel's nationality certificate, etc. to the bailiff shall be enforced after two weeks have passed from the giving of notice thereof to the creditor in execution.

7. Unless the creditor in execution submits documentary evidence of the filing of a petition for execution against the vessel within 5 days of the delivery up to the bailiff of the certificate of registry, etc., the bailiff shall return the certificate of registry, etc. to the debtor in execution.

7. (Appointment of custodian, etc.)

1. Upon petition by the creditor in execution, where it deems necessary, the execution court may appoint a custodian of a vessel for which a ruling of commencement of auction has been issued.
2. The execution court shall supervise the custodian, who shall perform his/her duties with the care of a good manager. When the custodian completes his/her mandate he/she shall submit a report of account to the execution court without delay.
3. The custodian may be paid in advance the costs required for custody of the vessel as determined by the ruling of the execution court. The costs and remuneration required by the custodian for custody of the vessel shall be treated as Procedural Costs.
4. A Chomtoah appeal may be made against the ruling on a petition under Paragraph 1 and a ruling under Paragraph 3.

8. (Cancellation of auction procedures by reason of provision of guarantee)

1. If any document listed in Paragraph 2 of 6-1-6 Article 5 (Stay and cancellation of execution) is submitted in connection with the claim of the creditor in execution, and the debtor in execution provides a guarantee equivalent to the total amount of the claims of the creditor in execution and the creditors who have submitted demands for distribution together with the Execution Costs prior to the making of an offer to purchase, the execution court, upon petition, shall cancel the auction proceedings, with the exception of the distribution proceedings. If the guarantee is provided prior to the final date for submission of demands for distribution, it will suffice if the amount of the guarantee is equivalent to the total amount of the claims of the creditor in execution and the creditors who have submitted demands for distribution by that time together with the Execution Costs.
2. If a stay of execution by reason of submission of a document described in Paragraph 1 lapses, the execution court shall effect distribution of the guarantee provided under said Paragraph to the creditors.
3. A Chomtoah appeal may be made against a ruling dismissing a petition under Paragraph 1.
4. The terms of Article 71 (Method of provision of security and change of security) and Article 72 (Rights of persons receiving provision of security) shall apply mutatis mutandis to the provision of security under Paragraph 1.

9. (Permission to sail)

1. The execution court may, upon petition of the debtor in execution, grant permission for the vessel to sail if the execution court finds that business necessity or other good grounds exist, and with the consent of each creditor and the highest bidder or the

purchaser as the case may be.

2. A Chomtoah appeal may be made against a ruling on a petition under Paragraph 1.
3. A ruling under Paragraph 1 shall have no effect until it becomes final and conclusive.

10. (Transfer of case)

If a vessel in respect of which a ruling of commencement of auction has been issued has been moved to a location outside the jurisdiction of the execution court, the court may transfer the case to the court of first instance with jurisdiction over the location of the vessel.

11. (Cancellation of auction procedures in cases where certificate of registry, etc. cannot be confiscated)

If the bailiff is unable to confiscate the vessel's certificate of registry, etc. within 2 weeks after the issue of the ruling of commencement of auction, the execution court shall cancel the auction procedures.

12. (Cancellation of auction procedures by reason of destruction or loss of vessel, etc.)

Where there are clear circumstances preventing the conveyance of the vessel through sale, such as destruction or loss thereof, the execution court shall cancel the auction procedures.

13. (Request for striking off of registration of attachment)

1. In cases where the petition for auction is withdrawn, or a ruling of cancellation of auction procedures comes into effect, the court clerk shall direct the registrar to strike off the registration of the attachment under the relevant ruling of commencement.
2. The cost of the request for striking off under Paragraph 1 shall be borne by the creditor in execution who has withdrawn his or her petition, or by the creditor in execution who is subject to the ruling of cancellation.

14. (Valuation)

1. The execution court may appoint a valuer and order a valuation of the vessel.
2. The valuer must obtain the permission of the execution court in order to request the assistance of the bailiff pursuant to Paragraph 2 of 6-1-2 Article 3 (Ensuring Execution of Duties by Bailiffs, Etc.).
3. When carrying out an examination for the purpose of valuation, the valuer may board the vessel, question the debtor in execution or other third party in possession of the vessel and/or request the submission of documents by said persons.
4. A bailiff whose assistance has been requested under Paragraph 2 of 6-1-2 Article 3 (Ensuring Execution of Duties by Bailiffs, Etc.) may take the necessary measures to open locked doors if required in cases where the valuer boards a vessel pursuant to Paragraph 3.

15. (Determination of minimum sale price)

1. The execution court shall determine the minimum sale price on the

basis of the valuation by the valuer.

2. Where it deems necessary, the execution court may change the minimum sale price.

16. (Method of sale, etc.)

1. Sale of the vessel shall be by tender or auction or such other method as may be prescribed by the execution court.
2. In the case of sale by tender or auction, the execution court shall set the date, time and place of sale, and have the bailiff carry out the sale.
3. In the case of sale under Paragraph 2, the court clerk shall give public notice with a description of the vessel to be sold, the minimum sale price and the date, time and place of sale.
4. In the case of sales under Paragraph 2, 6-2-2 Article 12 (Maintenance of order in the place of sale) shall apply mutatis mutandis.

17. (Guarantee of offer to purchase)

1. Any person wishing to offer to purchase a vessel shall provide a guarantee in the amount and form prescribed by the execution court.
2. The amount of the guarantee set forth in Paragraph 1 shall be 10 percent of the minimum sale price, provided that the execution court may set a guarantee that exceeds this amount.
3. On request by a person other than the highest bidder, the execution court shall promptly return the guarantee prescribed under Paragraph 1 after the sale has been completed pursuant to Article 16.

18. (Prohibition of offer to purchase by debtor in execution)

No debtor in execution shall be entitled to make an offer to purchase a vessel.

19. (Date for ruling of sale)

1. The execution court shall set a date for the purpose of ruling on sale and shall declare whether to permit or to refuse to permit the sale.
2. If the execution court has set a date for ruling on sale, the execution court must give notice to that effect to the persons with a relationship of interest.

20. (Statements of opinion concerning permission or refusal to permit sale)

Persons having an interest in the permission or refusal of permission for sale of the vessel may state their opinions on the date for ruling of sale concerning any grounds listed in Paragraph 2 of 6-2-5 Article 21 (Permission or refusal of permission for sale) that affect their rights.

21. (Permission or refusal of permission for sale)

1. Except in cases described in Paragraph 2, the execution court shall issue a ruling permitting sale.
2. Where any of following grounds is found, the execution court must issue a finding refusing permission for sale:

- (a) The auction proceedings should not be commenced or continued;
- (b) The highest bidder is not qualified or incapable of purchasing the vessel, or its representative is not authorized to purchase the vessel;
- (c) An application is made for refusal of permission for sale under Paragraph 1 of 6-2-5 Article 23 (Application for refusal of permission for sale in a case where the vessel has been damaged, etc.);
- (d) There is a serious error in the procedure for ruling of minimum sale price;
- (e) There is a serious error in the sale procedures.

22. (Chomtoah appeal against ruling permitting or refusing to permit sale)

1. An interested party may file a Chomtoah appeal against a ruling permitting or refusing to permit a sale, but only in cases where such party's rights would be infringed by such ruling.
2. A Chomtoah appeal against a ruling permitting sale must cite the existence of one of the grounds listed in Paragraph 2 of the 6-2-5 Article 21 (Permission and refusal to permit sale) or of a serious error in the procedures of the ruling permitting the sale.
3. If it deems necessary, the Chomtoah appeal court may designate a respondent to the Chomtoah appellant.
4. A ruling permitting or refusing to permit a sale shall only become effective after it becomes final and conclusive.

23. (Application for refusal of permission for sale in a case where the vessel has been damaged, etc.)

1. If a vessel is seriously damaged by reason of natural disaster or other cause not attributable to fault on the part of the highest bidder or purchaser after the making of an offer to purchase, said highest bidder or purchaser may file a petition for disallowance of the sale prior to a ruling permitting sale being handed down, and for cancellation of such ruling if it has already been issued, until the time of payment of the price.
2. A Chomtoah appeal may be filed against a ruling on a petition for cancellation of a ruling allowing sale under Paragraph 1.
3. A ruling upon petition under Paragraph 1 canceling a ruling permitting sale shall not become effective until it becomes final and effective.

24. (Withdrawal of petition for auction after making of offer to purchase)

In order to withdraw a petition for auction after making an offer to purchase, a creditor in execution must obtain the consent of the highest bidder or purchaser as the case may be.

24-2. (Deadline for Payment of Price)

If the ruling permitting sale has become final and conclusive, the execution court shall promptly stipulate a deadline for payment of the price, and notify the purchaser thereof.

25. (Payment of the price)

1. When a ruling permitting sale becomes final and conclusive, the purchaser must pay the price to the execution court within the

period stipulated by that court.

2. The money paid by the purchaser as guarantee of its offer to purchase shall be applied to payment of the price.

26. (Time of acquisition of vessel)

The purchaser acquires the vessel at the time of payment of the price.

27. (Effect of non-payment of price)

1. If the purchaser does not pay the price, the ruling permitting sale shall lapse. In such a case, the purchaser shall have no right to demand return of the guarantee paid under 6-2-5 Article 17 (Guarantee of offer to purchase).
2. In the event of Paragraph 1, the execution court must once again execute an auction.
3. The Purchaser set forth in Paragraph 1 cannot make an offer to purchase under an auction as prescribed in Paragraph 2.

28. (Request for registration based on payment of price)

1. Upon payment of the price by the purchaser, the court clerk shall direct the noting and striking off of the following matters in the register:

(a) the noting of the transfer of the rights acquired by the purchaser; and

(b) the striking off of the attachment or provisional attachment.

2. The direction to the registrar under Paragraph 1 shall be accompanied by an authenticated copy of the ruling permitting sale.
3. The costs of the request under Paragraph 1 shall be borne by the purchaser.

29. (Ruling ordering delivery up of vessel)

1. Upon petition by a purchaser who has paid the price, the execution court may issue a ruling ordering the debtor in execution or a person in possession of the vessel to deliver up the vessel to the purchaser; provided that this shall not apply in the case of a person who the court finds is in possession on the basis of title that prevails over the title of the purchaser according to the case record.

2. The purchaser cannot file a petition under Paragraph 1 after the lapse of 6 months from the date of payment of the price.

3. In the case of a ruling under Paragraph 1 against persons in possession other than the debtor in execution, the execution court shall examine such other person.

4. A Chomtoah appeal may be filed against a ruling on a petition

under Paragraph 1.

5. A ruling under Paragraph 1 shall not come into effect until it becomes final and conclusive.

30. (Sale price)

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5. The priority and amount of distribution prescribed in Paragraph 4 shall be recorded in accordance with the agreement of all the creditors on the date of distribution, if such agreement is achieved, and in other cases in accordance with the provisions of the Civil Code, Commercial Code or other relevant law.
6. For the purposes of distribution, claims subject to a certain time stipulation which have not matured shall be deemed to have matured.

5. (Objection to entry in distribution table)

1. Any creditor, or any debtor in execution, who is dissatisfied with the claims of creditors or the amounts for distribution noted in a distribution table, may state an objection on the date of distribution.
2. The court responsible for implementing the distribution shall proceed to distribution of that portion of the distribution table to which there is no objection.
3. If a creditor in execution or creditor who has submitted a demand for distribution by virtue of an authenticated copy of enforceable title of execution receives payment of the whole of his or her claim, the debtor in execution may demand that the court clerk deliver up to him or her the authenticated copy of enforceable title of execution submitted by such creditor.
4. Where the case has finished, in circumstances other those described in Paragraph 3, the creditor described therein may demand that the court clerk deliver up to him or her the authenticated copy of enforceable title of execution; provided that if such creditor receives partial payment of his or her claim, the court clerk shall note such amount on the authenticated copy prior to delivering it up.

6. Suit of objection by creditor who has stated an objection to the contents of a distribution table

1. A creditor who has stated an objection to any entry in a distribution table shall file a suit of objection to such entry, naming the other party to the petition of objection as

the defendant.

2. The court that is to effect the distribution shall have jurisdiction over suits described in Paragraph 1.
3. Unless a creditor who has stated an objection to an entry in a distribution table proves, not later than one week following the date of distribution, that the creditor has filed a suit described in Paragraph 1, the objection shall be deemed to have been withdrawn.
4. If a court finds in its judgment in a suit under Paragraph 1 that the objection is well founded, it shall cancel the distribution table in order that an amended or new distribution table may be prepared.

7. (Suit of objection by debtor in execution to contents of table of distribution)

1. A debtor in execution who has stated an objection to any entry in a distribution table against a creditor holding an authenticated copy of enforceable title of execution shall file a suit of objection to claim, naming the creditor who is the other party to the petition of objection as the defendant.
2. A debtor in execution who has stated an objection to any entry in a distribution table against a creditor who does not hold an authenticated copy of enforceable title of execution shall file a suit of objection to distribution, naming the creditor who is the other party to the petition of objection as the defendant.
3. The court that is to effect the distribution shall have jurisdiction over suits described in Paragraph 2.
4. Unless not later than one week following the date of distribution, a debtor in execution who has stated an objection to an entry in a distribution table proves the filing of a suit described in Paragraph 1 and files an authenticated copy of a decision staying execution by virtue of such suit, or proves the filing of a suit described in Paragraph 2, the objection shall be deemed to have been withdrawn.
5. If the court that is to execute the distribution finds in its judgement under Paragraph 2 that the objection is well founded, it shall cancel the table of distribution in order to amend it or prepare a new table.

8. (Retention of amount of distribution)

1. If any of the following grounds applies to a claim to which a creditor is entitled, the court that is to implement the distribution shall retain such amount.
 - (a) the claim is subject to a condition precedent or uncertain time stipulation
 - (b) the claim belongs to a provisional attachment creditor
 - (c) a document listed in Paragraph 2, Item (a) of 6-1-6 Article 5 (Suspension and cancellation of execution) has been submitted
 - (d) an authenticated copy of a decision temporarily enjoining the exercise of a lien, pledge or hypothec relating to the claim has been submitted
 - (e) a suit of objection to an entry in a distribution table has been filed under Paragraph 1 of Article 6 (Suit of objection by creditor who has stated an objection to the contents of a distribution table) or Paragraph 2 of Article 7 (Suit of objection by debtor in execution who has stated an objection to the contents of a distribution table).
2. The court that is to execute the distribution shall retain the amount of distribution to any creditor who fails to appear at the court to receive such distribution.

9. (Implementation of distribution upon confirmation of rights, etc.)

1. If the ground of retention of distribution under Paragraph 1 of Article 8 (Retention of amount of distribution) disappears, the court that is to implement distribution shall proceed to distribute the retained money.

2. Where distribution is to be carried out under Paragraph 1, the court that is to implement distribution shall alter the distribution table even on behalf of creditors who have not stated an objection to an entry in the distribution table in the following cases:
 - (a) if it is no longer possible to make a distribution to a creditor whose distribution has been retained for a cause described in Items (a) through (d) of Paragraph 1 of Article 8 (Retention of amount of distribution);
 - (b) if a creditor whose distribution has been retained for a reason described in Item (e) of Paragraph 1 of Article 8 (Retention of amount of distribution) loses in a suit of objection to an entry in the distribution table filed by the debtor in execution under Paragraph 2 of Article 7 (Suit of objection by debtor in execution who has stated an objection to the contents of a table of distribution).

~~CHAPTER I.~~ CHAPTER III. EXECUTION OF CLAIM RIGHTS OF WHICH THE SUBJECT MATTER IS NOT MONEY

1. **(Execution of delivery of immovables, etc.)**
 1. Execution of delivery of an immovable or a ship, etc. in which a person dwells shall be effected by the bailiff's dispossessing the debtor in execution of the subject matter, and having the creditor in execution take possession thereof.
 2. Execution described in Paragraph 1 may only be effected if the creditor in execution or his representative appears at the place of execution.
 3. When effecting execution under Paragraph 1, the bailiff may enter the immovable or ship, etc. in the possession of the debtor and may if necessary take such action as is necessary to open locked doors.
 4. In performing execution under Paragraph 1, the bailiff may remove movables that are not the subject matter of the execution and deliver the same to the debtor, the debtor's representative or the debtor's cohabiting relative, servant or other employee who has fair capability of understanding. In such cases, if the bailiff is unable to deliver the movables to such a person, the bailiff shall retain custody thereof.
 5. The costs of custody described in Paragraph 4 shall be included in the costs of execution.
 6. If the bailiff cannot deliver the movables to a person prescribed in Paragraph 4, the bailiff may sell the movables in accordance with the procedures for sale of movables.
 7. After selling movables in accordance with Paragraph 6, the bailiff shall deposit the surplus after deduction from the proceeds of sale of the expenses incurred for sale and custody with the court of first instance to which the bailiff belongs.
 8. The bailiff shall give notice to the debtor in execution of the conclusion of execution under Paragraph 1 and Paragraph 4.
2. **(Execution of delivery of movables)**
 1. Execution of delivery of movables other than movables prescribed in 6-3 Article 1 (Execution by delivery of immovables, etc.) shall be effected by the bailiff's taking such movables from the debtor in execution and delivering the same to the creditor in execution.
 2. If neither the creditor in execution nor his or her representative

appears at the place of execution under Paragraph 1, the bailiff may defer the implementation of execution if this is deemed unavoidable taking into account the type, volume, etc. of such movables.

3. If in a case where neither the creditor in execution nor a representative of said creditor has appeared at the place of execution by delivery of movables, the bailiff takes the movables from the debtor in execution, the bailiff shall keep the movables in custody.
4. 6-2-2 Article 1 (Commencement of execution against movables) Paragraph 6, Article 2 (Attachment of movables in possession of debtor in execution) Paragraph 2 and 6-3 Article 1 (Execution of delivery of immovables), Paragraph 4 shall apply mutatis mutandis to execution under Paragraph 1 of this Article.

3. (Compulsory execution of delivery in cases where a third party is in possession of the subject matter)

1. If a third party is in possession of the subject matter of the execution and bears a duty to deliver same to the debtor in execution, execution of the delivery of the subject matter shall be effected by the execution court's rendering a ruling for attachment of the right to demand delivery held by the debtor in execution vis-à-vis the third party and permitting the creditor in execution to exercise said right to demand delivery.
2. The terms of 6-2-3 Article 1 (Meaning of execution against claims and execution court), Paragraphs 3 and 4, Article 2 (The attachment ruling), Article 4 (Notice to third party debtor to give statement), Article 5 (Delivery of claim certificate) and Article 9 (Collection of claims having the objective of payment of money), Paragraphs 1, 2 and 4 shall apply mutatis mutandis to execution under Paragraph 1 of this Article.

4. (Substituted execution)

1. Where the subject matter of the obligation is an act, and this can be caused to be done by a third party in lieu of the debtor, execution of such obligation shall be effected by the execution court's making a ruling permitting the creditor in execution to have the act performed by a third party in lieu of the debtor in execution, at the expense of said debtor.
2. The execution court for the purpose of Paragraph 1 shall be the court prescribed for the appropriate type of title of execution among those set forth in 6-1-5 Article 1 (Suit of objection to claim), Paragraph 3, Items (a) or (c).
3. When making a ruling under Paragraph 1, the execution court shall examine the debtor in execution.
4. When making a ruling under Paragraph 1, upon petition, the execution court may make an order to the debtor in execution to make payment in advance to the creditor in execution of the costs of performing the act prescribed in the ruling.
5. A Chomtoah appeal may be made against a decision concerning a petition for execution under Paragraph 1 or a petition under Paragraph 4.

6. Paragraph 2 of 6-1-2 Article 3 (Ensuring execution of duties by bailiffs, etc.) shall apply mutatis mutandis to cases of execution of rulings under Paragraph 1.

7. Paragraphs 1 through 6 of this Article shall apply mutatis mutandis to cases where the subject matter of the obligation is forbearance to act, and the creditor in execution requests removal of the fruits of conduct in breach, establishment of material facility for the purpose of preventing conduct in breach or other appropriate measures.

5. (Indirect enforcement)

1. Execution of an obligation of which the subject matter is an act or forbearance to act can be effected by the method of the court's issuing a ruling ordering the debtor in execution to pay to the creditor in execution a specified amount of money deemed reasonable to secure the performance of the obligation, either in compliance with a period of delinquency, or immediately if the obligation is not performed within a specified period that is deemed reasonable.

2. The execution court for the purpose of Paragraph 1 shall be the court prescribed for the appropriate type of title of execution among those set forth in 6-1-5 Article 1 (Suit of objection to claim), Paragraph 3, Items (a) or (c).

3. If circumstances have changed, the execution court may, upon petition, alter a ruling made under Paragraph 1.

4. When making a decision under Paragraph 1 or Paragraph 3, the execution court shall examine the other party to the petition.

5. Where payment is made of the money ordered to be paid under Paragraph 1, if the amount of loss arising from failure to perform the obligation exceeds the amount so paid, there shall be no bar to the creditor in execution demanding compensatory damages for the aforesaid amount of excess.

6. A Chomtoah appeal may be filed against a decision concerning a petition for execution under Paragraph 1 or a petition under Paragraph 3.

6. (The fiction of declaration of intention)

1. If a judgment or ruling ordering a debtor in execution to make a declaration of intention becomes final and conclusive, or a title of execution based on a compromise or acknowledgment is formed, the debtor in execution shall be deemed to have made such declaration of intention at the time that the said judgment or order becomes final and conclusive or the said title of execution is formed, as the case may be; provided that if the right to demand the declaration of intention is subject to a condition precedent or uncertain time stipulation, the declaration of intention shall be deemed to have been made at the time of grant of the execution clause pursuant to 6-1-4 Article 7 (Special execution clauses), Paragraph 1. If the declaration of intention by the debtor in execution is to be effected in exchange for counter-performance by the creditor in execution, the declaration of intention shall be deemed to have been made at the time of grant of the execution

Draft-English Tentative Translation
~~Japanese version: August 27, 2002~~
~~Translated on October 7, 2002~~ ~~October 3, 2004~~

clause under Paragraph 2 or Paragraph 3.

2. If the declaration of intention by the debtor in execution is to be effected in exchange for counter-performance by the creditor in execution, the execution clause can only be granted at such time as the creditor in execution has submitted documentary proof that the creditor in execution has effected the counter-performance or tendered same.

SPECIAL RULES RELATING TO EXECUTION OF SECURITY RIGHTS (TO BE DRAFTED)

TITLE VII. PRESERVATIVE RELIEF GENERAL PROVISIONS

1. (Tenor)

Except as otherwise provided by other laws, a person wishing to preserve his or her rights may apply for preservative relief pursuant to the provisions of this Title.

Alternative Draft

1. (Tenor)

If there is an apprehension that execution will become impossible or extremely difficult by reason of alteration of the state of the property of the debtor in execution, or that significant damage or imminent risk will arise affecting the status of one of the parties in respect of the right in issue, a person wishing to preserve his or her rights may apply for preservative relief pursuant to the provisions of this Title.

2. (Types of preservative relief)

Preservative relief may be of the three types detailed below.

(i) • Provisional attachment • Disposition restricting the disposition of property of the debtor in order to safeguard [future] execution of a claim having as its subject matter the payment of money • • (ii) • Provisional disposition of subject matter of dispute • Disposition for the maintenance of the status quo of the subject matter of the dispute, in cases where there is an apprehension that alteration of the status thereof would render it impossible, or extremely difficult, for the creditor to enforce his or her rights • • (iii) • Provisional disposition establishing a provisional status • Disposition establishing a provisional condition until a judgment becomes final and conclusive, where this is necessary in order to avoid significant damage or imminent risk [to the creditor] in relation to the right in dispute • •

3. (The organs that grant preservative relief)

1. A ruling of preservative relief shall be made by the court upon petition.
2. Execution of preservative relief shall be effected by the court or the bailiff, upon petition.
3. The court that is to effect execution of preservative relief pursuant to the provisions of this Title shall be the court of execution of preservative relief.
4. 6-1-2 Article 1 (Execution organs), Paragraph 4 shall apply mutatis mutandis to execution of preservative relief by a bailiff.

4. (Exclusive jurisdiction)

The jurisdiction of the court prescribed in this Title shall be exclusive.

5. (Formalities for petition)

The petitions listed below must be in writing:

- (a) petition for ruling of preservative relief
- (b) Chomtoah appeal against ruling dismissing a petition for preservative relief
- (c) petition of objection to preservative relief
- (d) petition for cancellation of ruling of preservative relief
- (e) Chomtoah appeal stipulated in 7-2-6 Article 1 (Chomtoah appeal)
- (f) petition for execution of preservative relief

6. (Discretionary oral argument, etc.)

1. Decision in preservative relief proceedings shall be by ruling.
2. When effecting execution, if it deems necessary the preservative relief execution court may examine any interested person or other witness.
3. Paragraphs 1 and 2 shall apply mutatis mutandis to cases where a court of first instance carries out disposition such as a decision on a petition of appeal against disposition in execution by a bailiff, etc.

7. (Provision of security)

Security under the provisions of this Title shall be effected by deposit of money or valuable securities deemed reasonable by the court or preservative relief execution court with such court.

8. (Costs of preservative relief, etc.)

1. Where a petition is filed for a ruling of preservative relief, the applicant shall pay a fee in the amount of [] riels to the court.
2. The applicant shall pay in advance the amount set by the preservative relief execution court upon filing of a petition for execution as the costs required for execution of preservative relief.
3. If the applicant does not pay such costs in advance, the preservative relief execution court can dismiss the petition for execution or cancel the execution procedures.
4. A Chomtoah appeal may be filed against a ruling to dismiss a petition under Paragraph 3.
5. When a petition seeking preservative relief is submitted to a bailiff, the applicant shall pay a fee as provided separately.

9. (Perusal of the record in preservative relief cases, etc.)

1. Any interested person may demand that the court permit such person to peruse or copy the case record or issue an authenticated copy, certified copy or extract thereof, or a certificate verifying any matter relating to the case, in respect of procedures relating to preservative relief or execution thereof by a court.
2. Any interested person may demand that the bailiff permit such person to peruse or copy the case record or issue an authenticated copy, certified copy or extract thereof, or a certificate verifying any matter relating to the case, in respect of execution of preservative relief being effected by a bailiff.

10. (Mutatis mutandis application of provisions of Title II through IV)

Except where expressly provided in this Chapter, the provisions of Title II through IV shall apply mutatis mutandis to proceedings of preservative relief.

RULING OF PRESERVATIVE RELIEF

General Provisions

1. (Jurisdictional court)

1. The court having jurisdiction over the principal suit, or the court of first instance having jurisdiction over the objects to be attached or the subject matter of the dispute, shall have jurisdiction over the preservative relief case.
2. The court with jurisdiction over the principal suit shall be the court of first instance, except where the principal suit is pending in an appellate court, in which

case it shall be the appellate court.

3. Where the object to be attached or the subject matter of the dispute is a claim, the claim shall be deemed to be located in the locus of the third party debtor as prescribed by Article 8 (Jurisdiction determined by domicile, etc.); provided that in the case of claims having as their subject matter the delivery of vessels or movables, the claim shall be deemed to be located in the locus of such object.

4. The first clause of Paragraph 3 shall apply mutatis mutandis to cases where the object to be provisionally attached or the subject matter of the dispute is property prescribed in 6-2-3 Article 15 (Execution against other property) and there exists a third party debtor or analogous person.

2. (Petition and preliminary showing¹⁴)

1. A petition for a ruling of preservative relief shall include the following particulars:

- (a) the names or appellations and addresses of the parties together with the names and addresses of their respective legal representatives;
- (b) the details of the ruling for preservative relief that is sought;
- (c) the rights or legal relationship that are to be preserved; and
- (d) the necessity of the preservative relief.

2. The petitioner shall endeavor to include specific detail for Items (c) and (d) under Paragraph 1, together with evidence for each ground requiring to be proved.

3. Preliminary showing must be made of items (c) and (d) of paragraph 1.

3. (Security for ruling of preservative relief)

A ruling of preservative relief may be made with or without requiring the provision of security.

4. (Service)

The court shall serve a ruling of preservative relief on the parties.

5. (Chomtoah appeal against decision to dismiss)

1. A creditor may make a Chomtoah appeal against a decision to dismiss a petition for preservative relief within two weeks of receiving notice thereof.

2. The period prescribed in Paragraph 1 cannot be extended.

Ruling of Provisional Attachment

1. (Necessity of ruling of provisional attachment)

1. A ruling of provisional attachment may be issued in respect of a claim having money as its subject matter if there is an apprehension that execution will become impossible or extremely difficult.

2. A ruling of provisional attachment may be attached even in cases where the claim described in Paragraph 1 is subject to a condition or time stipulation.

¹⁴ *somei* - The Doing Business in Japan (Matthew Bender) translation of the Japanese law provides it as "make a preliminary showing." Another possible translation may be "giving prima facie evidence." See Article 131.

2. (Scope of ruling of provisional attachment)

The court shall order a ruling of provisional attachment that specifies the subject matter thereof; provided that a ruling of provisional attachment may be issued that does not specify the subject matter in the case of movables.

3. (Amount for release of provisional attachment)

1. The court shall stipulate in the ruling of provisional attachment the monetary amount required to be deposited by the debtor in order to have provisional attachment already executed set aside.

2. The monetary amount prescribed under Paragraph 1 shall be deposited with the court that issued the ruling of provisional attachment or the court of execution of preservative relief.

Ruling of Provisional Disposition

1. Necessity of ruling of provisional disposition, etc.

1. The court may issue a ruling of provisional disposition of the subject matter in dispute if there is an apprehension that execution will become impossible or extremely difficult by reason of alteration of said subject matter.

2. Where deemed necessary in order to avoid significant damage or imminent risk to the creditor in relation to the right in dispute, the court may issue a ruling of provisional disposition establishing a provisional status.

3. 7-2-2 Article 1 (Necessity of ruling of provisional attachment), Paragraph 2 shall apply mutatis mutandis to rulings of provisional disposition.

4. A motion of provisional disposition may not be issued without holding either oral arguments or examination which the debtor is able to attend; provided that this shall not apply if there are extraordinary circumstances such as would prevent the attainment of the objective of the petition for ruling of provisional disposition if such arguments or examination were held.

2. (Method of provisional disposition)

The court may order any disposition that it deems necessary to attain the purpose of a petition of provisional disposition, such as requiring a debtor to perform a specified act, enjoining a debtor from performing a specified act, ordering a debtor to effect performance, ordering a custodian to take custody of the subject matter or other disposition.

Objection to Preservative Relief

1. (Petition of objection to preservative relief)

A debtor may file a petition of objection to a ruling of preservative relief at the court which issued such ruling.

2. (Decision to stay execution of preservative relief, etc.)

1. Where a petition of objection to preservative relief has been filed, the court may, upon petition, order a stay of execution of preservative relief or reversal of disposition already executed until the court renders a decision under Paragraph 3 concerning the ruling on the petition of objection, subject to the provision of security,

but only in a case where preliminary showing has been given that clear circumstances constituting grounds for canceling the ruling of preliminary relief exist, and that there is an apprehension that execution of the ruling of preservative relief would cause irreparable damage [to the debtor].

2. In cases where a Chomtoah appeal court issued the ruling of preservative relief and the record of the case is still with the original court, that court may render a decision under Paragraph 1.

3. In its ruling on a petition of objection to preservative relief, the court shall cancel, modify or affirm the ruling already made in accordance with Paragraph 1.

3. (Trial of objection to preservative relief)

A court may only make a ruling on petition of objection to preservative relief after holding oral arguments or an examination at which both parties are entitled to be present.

4. (Conclusion of trial)

The court shall determine the date on which to conclude a case with a grace period as it deems appropriate; provided that it may conclude the case immediately on the date set for holding oral arguments or examination at which both parties are entitled to be present.

5. (Ruling on petition of objection to preservative relief)

1. In its ruling on a petition of objection to preservative relief, the court shall affirm, modify or cancel the ruling of preservative relief.

2. In a ruling canceling a ruling of preservative relief under Paragraph 1, the court may impose the condition that the debtor provide security.

3. 7-2-1 Article 4 (Service) shall apply mutatis mutandis to rulings under Paragraph 1.

6. (Order to restore status quo)

Upon petition of the debtor, in a ruling of cancellation of a ruling of preservative relief under Paragraph 1 of 7-2-4 Article 5 (Ruling on petition of objection to preservative relief) the court may order the creditor to return any object delivered or money paid by the debtor, or any object used or held in custody by the creditor, as the case may be, pursuant to the canceled ruling.

7. (Effect of ruling of cancellation of ruling of preservative relief)

A ruling of cancellation of a ruling of preservative relief under Paragraph 1 of 7-2-4 Article 5 (Ruling on petition of objection to preservative relief) shall only come into effect upon becoming final and conclusive; provided that the court may declare that a ruling shall come into effect immediately if the court deems this particularly necessary.

Cancellation of Ruling of Preservative Relief

1. (Cancellation of ruling of preservative relief due to failure to file suit in the principal case, etc.)

1. Upon petition of the debtor, the court that issued a ruling of preservative relief shall order the creditor to file suit in the principal case and submit documentary proof of such filing within the period deemed reasonable by the court.

2. The period prescribed in Paragraph 1 shall be not less than two weeks.

3. If the creditor fails to submit the document prescribed in Paragraph 1 within the period prescribed thereunder, then upon petition of the debtor the court shall cancel the ruling of preservative relief.

4. If after the submission of the document prescribed in Paragraph 1 the principal suit is withdrawn or dismissed, the document shall be deemed not to have been submitted.

5. In the application of Paragraphs 1 and 3, if there is an arbitration agreement relating to the principal case, the procedure of commencement of arbitration proceedings shall be deemed to be filing of suit in the principal case.

6. If the arbitration proceedings described in Paragraph 5 conclude without an arbitration decision, the creditor shall file suit in the principal suit within the same period as that stipulated under Paragraph 1 but counting from the date of conclusion of the arbitration proceedings.

7. Paragraph 3 shall apply mutatis mutandis to cases where a creditor fails to file suit in the principal case under Paragraph 6, and Article 4 shall apply mutatis mutandis to cases where the suit in the principal case described in Paragraph 6 is withdrawn or dismissed after filing.

8. 7-2-1 Article 4 (Service) shall apply mutatis mutandis to rulings under Paragraph 3 and Paragraph 7.

2. (Cancellation of preservative relief due to change of circumstances)

1. Upon petition by the debtor, the court that issued a ruling of preservative relief, or the court hearing the principle case, may cancel such ruling where the rights or legal relationship to be preserved, or the necessity of preservation, have been extinguished, or where the circumstances have otherwise changed.

2. The debtor must prove prima facie the change of circumstances described in Paragraph 1.

3. 7-2-1 Article 4 (Service) and 7-2-4 Article 5 (Ruling on petition of objection to preservative relief), Paragraph 2 shall apply mutatis mutandis to rulings on petitions under Paragraph 1.

3. (Cancellation of ruling of preservative relief due to special circumstances)

1. Upon petition of the debtor, the court that issued the ruling of provisional disposition or the court hearing the principal case may cancel such provisional disposition, subject to the posting of security, if there exist special circumstances such as the apprehension that the the order of provisional disposition would

cause irreparable damage.

2. The debtor must provide preliminary showing of the special circumstances described in Paragraph 1.

3. 7-2-1 Article 4 (Service) shall apply mutatis mutandis to rulings on petitions under Paragraph 1.

4. (Mutatis mutandis application of provisions concerning objection to preservative relief, etc.)

1. 7-2-4 Articles 2 (Decisions staying execution of preservative relief, etc.) through 4 (Conclusion of trial), 7-2-4 Articles 6 (Order to restore status quo) and 7 (Effect of ruling of cancellation of ruling of preservative relief) shall apply mutatis mutandis to decisions of cancellation of rulings of preservative relief; provided that this shall not apply to decisions under Paragraph 1 of 7-2-5 Article 1 (Cancellation of ruling of preservative relief due to failure to file suit in the principal case, etc.).

2. In cases where a petition for cancellation of preservative relief has been filed with the court of the principal action, which is not the court that issued the ruling of preservative relief, and the case record is still held by the court that issued the ruling of preservative relief, that court may also render a decision under Paragraph 1 of 7-2-4 Article 2 (Decisions staying execution of preservative relief, etc.) applied mutatis mutandis by Paragraph 1 of this Article.

Chomtoah Appeals

1. (Chomtoah appeals)

1. A Chomtoah appeal may be filed against any of the following rulings, within two weeks from the date of service thereof; provided that this shall not apply to a decision on a petition of objection to preservative relief granted by a Chomtoah appeal court:

(a) a ruling concerning a petition of objection to a ruling for preservative relief, or a petition to cancel a ruling of preservative relief;

(b) a ruling pursuant to 7-2-4 Article 6 (Ruling of order for restoration of status quo); or

(c) a ruling pursuant to 7-2-4 Article 6 (Ruling of order for restoration of status quo) applied mutatis mutandis through 7-2-5 Article 6 (Mutatis mutandis application of provisions concerning objection to preservative relief, etc.).

2. The period prescribed in Paragraph 1 may not be extended.

3. 7-2-1 Article 4 (Service) and Paragraph 2 of 7-2-4 Article 5 (Rulings on petitions of objection to preservative relief) shall apply mutatis mutandis to a ruling on a Chomtoah appeal, Paragraph 1 of 7-2-4 Article 2 (Decisions to stay execution of preservative relief, etc.), 7-2-4 Article 3 (Trial of objection to preservative relief), 7-2-4 Article 4 (Conclusion of trial) and 7-2-4 Article 6 (Order of restoration of status quo) shall apply mutatis

mutandis to decisions (saiban) in Chomtoah appeals, and Article 317 (Retrial regarding ruling) shall apply mutatis mutandis to cases where a decision against which a Chomtoah appeal could have been filed has become final and conclusive.

4. Decisions under Paragraph 1 of 7-2-4 Article 2 ((Decisions to stay execution of preservative relief, etc.) applied mutatis mutandis by Paragraph 3 of this Article may also be made by the original court, if it holds the case record.

EXECUTION OF PRESERVATIVE RELIEF

1. (Necessary Conditions to Execution of Preservative Relief)

1. Preservative execution is implemented on the basis of an authenticated copy of a preservative ruling; provided that preservative execution against or for persons other than the party indicated in the ruling of preservative execution shall be implemented on the basis of an authenticated copy of the ruling bearing an execution clause.

2. Preservative execution shall not be carried out after 2 weeks have passed since the day the preservative ruling has been served on the creditor.

3. Preservative execution may be carried out before the preservation ruling is served on the debtor.

2. (Exceptions for Courts with jurisdiction over third party objections)

A third party objection suit against preservative execution effected by an appellate court as court of execution of preservative relief shall be subject to the jurisdiction of the court of first instance having jurisdiction over the territory in which the property in dispute, or the object to be provisionally attached, is located, notwithstanding 6-15 Article 3 (Third Party Objection Suits), Paragraph 2.

3. (Mutatis mutandis application of provisions of Title VI)

Except where expressly provided in this Chapter, the following provisions shall apply mutatis mutandis to execution of preservative relief:

6-1-2 Article 2 (Execution court decisions, etc.), Paragraphs 2 and 3, Article 3 (Ensuring execution of duties by bailiffs, etc.) through Article 11 (Exclusive jurisdiction), 6-1-3 Article 2 (Appointed representative for execution procedures), 6-4-1 Article 1 (Form of motion for execution), Paragraphs 2 and 3, Article 3 (Scope of persons who can be parties to execution), Paragraph 1, Article 5 (Requirement for execution clause and which organs grant such clause), Paragraph 2, Article 6 (Application for grant of execution clause), Paragraphs 1 and 3, Article 7 (Special execution clause), Paragraphs 2 through 4, Article 8 (Particulars to be noted in execution clause) through Article 10 (Recording on original title of execution), Article 13 (Objection to grant of execution clause, etc.), 6-1-5 Article 2 (Suit objecting to grant of execution clause) and Article 3 (Suit of objection by third party) together with 6-1-6 Article 2 (Decision

suspending execution upon filing of suit of objection to claim, etc.) through Article 5 (Suspension and cancellation of execution)

4. (Execution of provisional attachment against movables)

1. Execution of provisional attachment against movables shall be carried out by means of the bailiff, of the court of the first instance having jurisdiction over the location of the movables, taking possession of the subject matter.

2. The bailiff shall deposit money provisionally attached with the court to which he belongs.

3. When there is an apprehension of severe reduction in price of the attached movables, or of incommensurate cost being required for storage of the movables, the bailiff shall sell them in accordance with the procedures for sale of movables as stipulated in 6-2-2, upon motion of the provisional attachment creditor or the debtor, and deposit the sales proceeds into the court to which he belongs.

4. The provisions of 6-2-2 Article 1 (Commencement of execution against movables) Paragraph 2, and of Article 2 (Attachment of movables in the possession of the debtor) through Article 8 (Prohibition of attachment with no prospect of producing a surplus) shall apply mutatis mutandis to provisional attachment of movables.

5. (Execution of provisional attachment Against Claims and Other Property Rights)

1. Execution of provisional attachment against claims as stipulated in 6-2-3 Article 1 (Meaning of execution against claims and execution court) shall be carried out by means of a ruling by the court of execution of preservative relief enjoining the third party debtor from paying the debtor.

2. The court that issued the provisional attachment ruling shall have jurisdiction as the court of execution of preservative relief over the execution of provisional attachment described in Paragraph 1.

3. In cases where provisional attachment has been executed against a claim having money as its subject matter, if the third party debtor has deposited the amount of such claim with the court, the money shall be regarded as having been deposited by the debtor with the court, in the amount of money prescribed in 7-2-2 Article 3 (Provisional attachment release money), provided that this shall not apply to the portion of the money paid by the third party debtor that exceeds the amount [prescribed in 7-2-2 Article 3].

4. Paragraphs 1 and 2 shall apply mutatis mutandis to execution of provisional attachment against other property rights.

5. 6-2-3 Article 2 (Attachment Rulings), Paragraphs 2 and 3, Paragraphs 6 through 8, and Paragraphs 10 and 11, Articles 3 (The scope of attachment) through 7 (Notice of withdrawal of motion, etc.), Article 10 (Deposit by third party debtor) and Article 15 (Execution against other property rights) shall apply mutatis mutandis to execution of provisional attachment against claims described in Paragraph 1 and other property rights.

6. (Execution of provisional attachment against vessels)

1. Execution of provisional attachment against vessels, as provided in 6-2-5 Article 1 (Meaning of vessels, etc.), Paragraph 1, shall be carried out by means of registration of attachment or by the bailiff being ordered to confiscate the certificate of registry, etc. of the vessel and submit same to the court of execution of preservative relief. These two methods may be used at the same time.

2. When provisional attachment is carried out by means of registration of attachment, the court that issued the attachment ruling shall have jurisdiction as the court of execution of preservative relief. When provisional attachment is carried out by means of ordering confiscation of the vessel's certificate of registry, etc, the court of first instance having jurisdiction over the territory where the vessel is located shall have jurisdiction as the court of execution of preservative relief.

3. The court clerk shall be responsible for arranging the registration of attachment.

4. 6-2-5 Article 2 (Petition and method of execution against vessels), Paragraphs 2 and 3, Article 12 (Cancellation of auction procedures by reason of loss of vessel, etc.) and Article 13 (Request for erasure/striking off of registration of attachment) shall apply mutatis mutandis to execution of provisional attachment carried out by means of registration of attachment, and 6-2-5 Article 2 (Petition and method of execution against vessels), Paragraph 3, Article 4 (Ruling of commencement of auction, etc.), Paragraph 7, Article 7 (Appointment of custodian, etc.) and Article 9 (Permission to sail) shall apply mutatis mutandis to execution of provisional attachment carried out by means of ordering confiscation of the vessel's certificate of registry, etc.

7. (Cancellation of execution of provisional attachment by reason of deposit of provisional attachment release money)

1. When the debtor has deposited with the court the amount prescribed in 7-2-2 Article 3 (Provisional attachment release money), the court of execution of preservative relief or the court of first instance to which the bailiff belongs shall cancel the execution of the provisional attachment.

2. Rulings made in accordance with the provisions under Paragraph 1 shall come into effect immediately, notwithstanding Paragraph 2 of 6-1-2 Article 10 (Appeals against cancellation rulings) as applied mutatis mutandis by Article 3.

8. (Execution of provisional disposition)

Execution of provisional disposition shall follow the model of provisional attachment or execution.

9. (Effect of provisional disposition prohibiting transfer of possession)

1. Where in order to preserve a right to demand delivery of an object, a ruling of provisional disposition has been issued to

the effect that transfer of possession of the object is prohibited and said possession must be relinquished and the object delivered up into the custody of the bailiff, the bailiff shall give public notice of the fact that the debtor is prohibited from transferring possession, and that the bailiff has custody over the object, by posting said notice on a public notice board from which it cannot easily be removed, or by other appropriate means.

2. Where execution of the provisional disposition described in Paragraph 1 has been effected, the creditor can effect execution by delivery of the object based on the title of execution of the principal action, but only against a person who took possession of the object with knowledge that the provisional disposition had been executed.

3. A person who takes possession of the object in question after the provisional disposition described in Paragraph 1 has been executed shall be presumed to have done so with knowledge of said execution.

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