

## Preliminary Assessment Statement ( PAS )

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Regulation	:	Draft Inter-ministerial Prakas on “Formula for Adjusting Petroleum Retail Prices at Gas Stations in Cambodia”
Ministry	:	Ministry of Commerce
Reference No.	:	MoC.006
Starting Date	:	24 April 2017
Finishing Date	:	21 July 2017

### **Summary on the Proposed Regulation**

As a government headquarter, its thorough and careful observation and research on a petroleum prices status in international markets shows that petroleum retail price at Cambodia’s stations is often relatively high or slowly elastic, which is not parallel to petroleum price in international markets.

This factor has severely impacted standards of living of people, corporations, productions and services of other businesses, slowed down development of the country and affected the government’s policy, thus making it hard for and pressuring the government to find solutions.

Faced with difficulties in advising, monitoring, and controlling petroleum companies and petroleum stations with regard to setting petroleum retail price, the Ministry of Commerce and other line ministries including Ministry of Mines and Energy have closely collaborated in conducting study and research on impact assessment of the Prakas from economic and legal aspects, and have also considered other relevant factors in formula in order to define one clear formula to effectively and transparently adjust petroleum retail price at petroleum stations in accordance with price fluctuation in international markets.

In ASEAN Community, 6 (six) countries including Thailand, Laos, Vietnam, Brunei, Malaysia, and Indonesia, as well as China, have implemented this “formula for adjusting petroleum retail price”; for instance, in Bangkok, petroleum retail price is set everyday and disseminated by the Ministry of Energy of Thailand.

As a result, inter ministries have agreed in “formula for adjusting petroleum retail price” and set it for companies’ implementation in every 10 (ten) day: 01<sup>st</sup>, 11<sup>th</sup> and 21<sup>st</sup> of each month as follows:

$$\text{MOPS} + \text{IMPORT DUTIES} + \text{PREMIUM} + \text{VAT 10\% (VAT OUT)} = \text{RETAIL PRICE} / \text{L}$$

**Note:**

- petroleum retail price in Singapore / litre
- IMPORT DUTIES: = (custom tax + added tax + special tax) / litre
- (PREMIUM= Overhead Expenses + Profits + Profit Tax)
- VAT 10% (VAT OUT): VAT 10% / litre

Therefore, petroleum retail price / liter = [ petroleum retail price in Singapore + (custom tax + added tax + special tax) + (overhead expenses + profits + profit tax) + (VAT) ] / liter

In this above formula of petroleum retail price, premium is an important element to consider, discuss and negotiate between petroleum companies and interministries in order to set petroleum retail price according to oil price fluctuation in international markets.

**Type of Regulation**

Tick in the right type of regulation and explain if the proposal is another type.

Law	Royal Decree	Sub Decree	Prakas	Decision	Circular	Other
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Impacts of the proposed regulation on which sector:**

- Economic  Social  Agricultural  Environmental

**1. Problem identification**

**1.1. Main problem the regulation attempts to address**

- Petroleum retail price at stations in Cambodia is high, not pursuant to international market prices

In the whole global economic system, petroleum is an important and compulsory product. Changes in world petroleum prices and supply mostly occur due to political situation or conflicts between super powers with petroleum producing countries. Cambodia is one of the countries to be negatively affected.

However, petroleum price has to fluctuate according to oil prices in international markets.

So far, Ministry of Commerce has observed that even though crude oil price sharply decreases to 40 (forty) dollar/barrel (approximately 159 litres) and petroleum price in oil refining factories in Singapore (MOPS) decreases because of crude oil price, petroleum retail price at the petroleum station remains high, which is not parallel to change of petroleum price in international markets, thus negatively and seriously affecting standards of living of people in Cambodia as well as corporations, productions and services of businesses due to increased price of commodities, foods and other services in Cambodia.

Upon finding out this issue, Ministry of Commerce and Ministry of Economy and Finance have tried to seek for measures and issued an announcement No. 9817 សំណុំ dated 17 December 2014 to ask companies to decrease their petroleum retail price to an appropriate one pursuant to petroleum price fluctuation in international markets.

Despite the government's efforts to advise, monitor and control the companies, it has not provided a good result. That is, oil companies and some big stations still do not constantly and properly comply with the announcement as they keep setting their petroleum retail price high with a reason that they have to finish selling in high price the remaining quantity in stock, which they have imported with high price, before they can start their retail of petroleum imported with low price in accordance with price change in international market.

For instance, as for petroleum price at oil refining factories in Singapore from 15 to 30 October 2015, Petroleum EA92 (on average) cost 36.95 cent/litre; however, some petroleum companies in Cambodia kept selling it at 87.8 cent/litre (equals to 3.600 Riels/litre) for many months. This means that oil companies continued their sale by setting their own premium high at 0.257 cent/litre. Meanwhile, as we observe, the price of petroleum EA91 in Bangkok (in Thailand, petroleum EA91 is used) cost only 71 cent/litre. This means that their premium is only 0.1409 cent/litre. Besides, in Hanoi, Vietnam, petroleum EA92 retail price was at 77.3 cent/litre too. These data show that petroleum retail price and premium of oil companies in Cambodia is high compared to that of neighboring countries.

That's why Ministry of Commerce, which is the leading agency, has collaborated with line ministries in inviting 08 (eight) petroleum companies - CALTEX, TOTAL, PTT, SOKIMEX, TELA, LHR, SAVIMEX and LIM LONG - to discuss and find solutions.

As a result, CALTEX, TOTAL, PTT and TELA agreed to a request from Ministry of Commerce and Ministry of Economy and Finance to reduce their premium from 0.257 cent/litre to 0.23 cent/litre.

Furthermore, Ministry of Mines and Energy, which is a member of interministries and co-operator, requested those companies to further keep their premium low.

LHR, SAVIMEX, and LIM LONG have already set their premium low as shown in the Annex.

After the discussion to find solutions by reducing premium to 0.230 cent/litre, we, afterwards, could achieve the petroleum retail price reduction from 3,600 Riel/litre (87.8 cent/litre) to 3,450 Riel/litre (84.14 cent/litre).

This formula will also be applied to diesel as premium of diesel is 4 (four) cent/litre higher than petroleum's.

Furthermore, price index in the Annex shows that petroleum retail price of companies like CALTEX, TOTAL, PTT, SOKIMEX, and TELA is higher than that of depots/distributors from 300 Riel/litre to 500 Riel/litre and is higher than other petroleum companies like LHR, SAVIMEX, and LIM LONG from 100 Riel/litre to 300 Riel/litre.

Therefore, premium price for these petroleum companies is set for a period of time only in order to make "formular for adjusting petroleum retail prices at the gasoline stations" better function before the inter ministries, as for the next step, open negotiation and reset premium price for petroleum companies based on actual situation.

## **1.2. Other relevant issues the regulation does not address**

- Eliminate people's complaints and chaos on illegal collusion to set petroleum prices and increase people's confidence in the government.
- Reduce political pressure on petroleum retail price
- Reduce cost burden by productions and services of other businesses and reduce production and service prices etc.

### **1.3. List existing regulations which are related or similar**

- Ministry of Economy and Finance's Letter No. 9817 សំណុំ ៧៧ ចេញថ្ងៃទី ១៧ ខែ ធ្នូ ២០១៤ on announcement to ask petroleum companies and stations to decrease their retail price as set by the Ministry etc.

### **1.4. Does the proposed regulation have negative impacts on competitions?**

This proposed Prakas may not negatively impact competitions as Ministry of Commerce has already considered and conducted actual research from two aspects: legal and economic.

#### **Legal Aspects**

##### International laws

Royal Government of Cambodia has pledged with World Trade Organization (WTO) that Cambodia would set prices for only clean water and electricity. Therefore, the Ministry invited Mrs. Clarisse Morgan, legal advisor to WTO, to clarify about the case that Cambodia wants to set a formula to adjust petroleum retail price.

She raised that Article 2 and Article 3 of the 1994 GATT, which has become an integral part of the WTO, stipulate that internal price control is not prohibited if Cambodia applies it to imported products and local ones and does not discriminate between local and foreign companies which supply goods to Cambodia. This means that Cambodia has already had principles pursuant to the WTO.

##### Related-Law

Article 10 New of the Law on the Amendments to the Law on Investment stipulates that, "The Royal Government shall not fix the price or fee of the products or services of a qualified investment project." However, petroleum companies in Cambodia are listed as a qualified investment project.

#### **Economic aspects**

A. According to figures from the Ministry of Economy and Finance, monthly oil imports average 149.16 million litres, among which petroleum is 49.44 million litres and diesel 99.72 million litres.

B. SOKIMEX's figures show that all companies in Cambodia, including petroleum stations, sell petroleum and diesel in a monthly combined 124.41 million litres on average.

C. The number of all petroleum stations nationwide is 2,286, among which 197 (equals to 9%) belong to individual companies and 2,089 depots/distributors (equals to 91%).

D. Individual companies-owned petroleum stations on monthly average retail a total of 14.6 million litre petroleum (equals to 12% of total sale nationwide) while depots/distributors 109.81 million litres (equals to 88% of total sale nationwide)

E. As a note, depots/distributors retail price is cheaper than that of individual companies-owned petroleum stations from 300 to 500 Riel/litre. Premium – which costs 0.23 cent, the price companies agreed with the Ministry of Commerce and Ministry of Mines and Energy to be set as a formula for adjusting petroleum retail prices and to lower petroleum retail price to 3.450 - remains high.

It can be analysed, based on data in A, B, C, D and E, that the proposed Prakas may not have impacts on companies importing petroleum for whole sale, which provide 88% of petroleum to depots/distributors nationwide. However, for remaining 12%, the companies retail in high price at their stations which are severely affected.

Generally, from legal and economic aspects, the proposed prakas does not have negative impacts on competitions.

## 2. Objective

The objective of this Prakas is to effectively and transparently reduce, prevent and protect the setting of all petroleum retail price at gasoline stations, which has occurred freely or by illegal collusion to set the price too high not pursuant to international markets; reduce and prevent strong negative impacts on the standard of living of people and other businesses; and achieve the setting of clear lower retail price pursuant to international markets.

## 3. Options

Option 1: Keep the status quo (implement it based on existing regulations through strengthening mechanisms to monitor, control, facilitate and address negative impacts on people and other businesses without effectiveness and transparency).

Option 2: Issue interministerial prakas on “Formula for Adjusting Petroleum Retail Prices at the Gas Stations in Cambodia”.

Option 3: Establish state-owned company to import, sell and distribute petroleum.

## 4. Preliminary estimate of obligatory cost and profit burden types

### 4.1. Determining obligations and cost types

Option	Government	Business
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<p><b>Option1:</b> Keep the status quo</p>	<ul style="list-style-type: none"> <li>• Inviting petroleum companies to advise on retail prices</li> <li>• Monitoring retail prices on site at stations <ul style="list-style-type: none"> <li>• Inspection</li> </ul> </li> <li>• Issuing announcements or other guidelines on the setting of retail prices</li> <li>• Government's subsidies</li> <li>• Increasing officials' salaries</li> <li>• other expenses</li> </ul>	<ul style="list-style-type: none"> <li>• Participating in interministerial meetings to set retail prices</li> <li>• Collaborating in monitoring by competent officials</li> <li>• Collaborating in inspections by competent officials</li> <li>• Dissemination of announcements or guidelines on the setting of retail prices to depots/distributors</li> <li>• Increasing salaries for workers and employees</li> <li>• Other expenses</li> </ul>
<p><b>Option 2:</b> Proposal to issue an Inter-Ministrial Prakas on the Formula for Adjusting Petroleum Retail Price at Gas Stations in Cambodia</p>	<ul style="list-style-type: none"> <li>• Officials attending the meeting to assess impacts of the Prakas</li> <li>• Research on relevant data for analysis</li> <li>• Workshops on impact assessment of the Prakas</li> <li>• Dissemination of Prakas via media</li> <li>• Advising companies and monitoring implementation by stations</li> <li>• Inspection at petroleum companies</li> <li>• Acquiring MOPS oil price information</li> <li>• Inviting companies to discuss premium price</li> <li>• Meetings in every 6 months with petroleum companies to re-monitor premium price</li> <li>• 4 technical working group meetings with decision makers of the Ministry of Commerce</li> <li>• 4 technical working group meetings with other ministries</li> </ul>	<ul style="list-style-type: none"> <li>• Obtaining prakas dissemination via commerce bulletins and websites.</li> <li>• Receiving officials for following up and monitoring the implementation of the Prakas</li> <li>• Receiving officials for inspection</li> <li>• Reducing petroleum retail price as set in the interministerial Prakas</li> <li>• Meetings in every 6 months</li> <li>• Other expenses etc</li> </ul>

	<ul style="list-style-type: none"> <li>• 8 technical working group meetings of the Department of Legal Affairs of the Ministry of Commerce</li> <li>• 4 consultations with consumers</li> <li>• other expenses</li> </ul>	
<b>Option 3 :</b> Establishing a State Owned Company to import, sell, and distribute petroleum	<ul style="list-style-type: none"> <li>• Renting lands to establish petroleum retail stations nationwide</li> <li>• Constructing ports and oil drums on the beach</li> <li>• Constructing petroleum stations</li> <li>• transport means</li> <li>• company's administrative costs</li> <li>• salaries for staff at petroleum stations nationwide</li> <li>• salaries for managers at petroleum stations nationwide</li> <li>• Other expenses by stations nationwide</li> <li>• Other expenses etc</li> </ul>	<ul style="list-style-type: none"> <li>• 197 stations owned by 8 companies competing petroleum retail prices with state-owned company</li> <li>• Promotions for 1 time/year</li> <li>• Increasing salary for stations' staff</li> <li>• Incentives or bonus for stations' staff</li> <li>• Improving stations' outlooks</li> <li>• Other expenses etc</li> </ul>

#### 4.2. Determining benefit types

Option	Benefit Type
Option 1: Keep the status quo	<ul style="list-style-type: none"> <li>- Government's tax revenue</li> <li>-Number of petroleum stations keeps increasing etc</li> </ul>
Option 2: Proposal to issue an Inter-Ministry Prakas on the Formula for Adjusting Petroleum Retail Price at Gas Stations in Cambodia	<ul style="list-style-type: none"> <li>- Government's tax revenue</li> <li>-create honest price competitions and transparency in petroleum retail at stations</li> <li>-easy to effectively and transparently manage, control and set petroleum retail price at stations</li> <li>-get proper petroleum retail price in parralel to international markets</li> <li>-help better ease standard of living of people and cost burden of businesses</li> <li>-increase people's confidence in the government</li> </ul>

	<ul style="list-style-type: none"> <li>-get a new mechanism pursuant to standards of ASEAN members which have implemented “formular for adjusting petroleum retail prices”</li> <li>-provide attractiveness to local and foreign investors to invest in productions or services.</li> <li>- contribute to sustainable national economic growth etc</li> </ul>
Option 3: Establishing a State Owned Company to import, sell, and distribute petroleum	<ul style="list-style-type: none"> <li>-Government’s tax revenues</li> <li>-Increase price competition</li> <li>-Provide consumers more choices</li> <li>-Reduce petroleum retail in inappropriate price</li> <li>- Help reduce cost burdens of people and cost of other businesses etc</li> </ul>

#### 4.3. Scopes of Each Options

Option	Business Sector or Type	Number of Businesses	Reference or Evidence
Option 1: Keep the status quo	Petroleum stations in Cambodia	Approximately 2,286	Data from Ministry of Commerce
Option 2: Proposal to issue an Inter-Ministry Prakas on the Formula for Adjusting Petroleum Retail Price at Gas Stations in Cambodia	Petroleum stations in Cambodia	Approximately 2,286	Data from Ministry of Commerce
Option 3 : Establishing a State Owned Company to import, sell, and distribute petroleum	State owned-petroleum stations in Cambodia	At least 800	(competitive condition)

#### 5. Consultation

- Officials attending the meeting to assess impacts of the Prakas
- 4 technical working group meetings with decision makers of Ministry of Commerce

- 4 technical working group meetings with other ministries
- 8 technical working group meetings of Department of Legal Affairs of the Ministry of Commerce
- 1 meeting, workshop or consultation with businesspersons or petroleum companies and
- 4 consultation with consumers etc.

## **6. Conclusion:**

After having analysed obligatory cost and profit, we can conclude that:

Option 1: The government has obligatory cost approximately 28,823,774.50 USD/year (higher than option 2 and lower than option 3) and benefits about 400,147,965.00 USD/year (lower than option 2 and higher than option 3). Businesses have obligatory cost only 452,360.00 USD/year (lower than option 2 and option 3) and benefits about 159,275,902.50 USD/year. This means that option 1 has gross net impacts/gross economic benefits (positive) is approximately 530,147,733.00 USD/year (lower than option 2 and higher than option 3)

However, the government finds it hard to monitor, control and set petroleum retail prices at gasoline stations pursuant to price fluctuation in international market since existing regulations are not effective. Furthermore, the government does not have proper and clear mechanism to monitor, control, and set petroleum retail price at gasoline stations in accordance with international standards. Also, standard of livings of people will further decrease through increased price of all kinds of commodities and services; and even the above amount of gross economic profits can not compensate this; this case may cause social instabilities and chaos among people.

Option 2: The government has obligatory cost approximately 90,150.00 USD/year (lower than option 1 and option 3) and benefits about 434,082,901.50 USD/year (higher than option 1 and equal to option 3). Meanwhile, businesses have obligatory cost about 49,382,461.89 USD/year (higher than option 1 and option 3) and benefits about 125,125,357.00 USD/year. Despite slight decrease in benefits compared to that of option 1, gross net impacts/gross economic benefits (positive) is around 509,735,647.11 USD/year, which is higher than option 1 and option 3.

Furthermore, the government will gain other incalculable benefits such as:

- create honest and transparent competitions in petroleum retail
- easy to effectively and transparently manage, control and set petroleum retail price at gasoline stations
- get proper petroleum retail price in parallel to international markets
- help better ease standard of living of people and cost burden of businesses
- increase people's confidence in the government
- get a new mechanism pursuant to standards of 6 ASEAN Community members including China; and,
- provide attractiveness to local and foreign investors to invest in Cambodia.

These benefits are also a catalyst contributing to sustainable national economic growth.

Option3: The government has must obligatory cost approximately 136,932,000.00 USD/year (higher than option 1 and equals to option 2). Benefits about 445,466,416.50 USD/year (higher than option 1 and equals to option 2). Businesses have obligatory cost about 13,935,581.46 USD/year (higher than option 1 and lower than option 2) and benefits about 113,741,842.50 USD/year (lower than option 1 and option 2). Gross net impacts/gross economic benefits (positive) is around 408,340,677.50 USD/year (lower than option 1 and option 2).

Furthermore, even though people or consumers are comfortable and have many choices to buy petroleum because the number of gasoline stations increase through the establishment of state-owned companies and petroleum price is highly and honestly competitive, it is not sure that the 08 (eight) private petroleum companies or 2,286 (two thousand two hundred and ninety six) retail stations, run by private companies, can sell in low price in parallel to petroleum price of the state-own company or stations, which sell their petroleum in low price pursuant to price change in international markets. That is because the government does not have a mechanism to monitor and control the collusion and petroleum retail price setting which is not parallel with international markets.

Therefore, generally option two is the best one compared to option 1 and option 3 and deserves further discussion without RIS.

**Is it necessary to conduct RIS?**

Yes

No

## 7. Implementation and Monitoring

### 7.1. What measures are selected to improve transparency and governance during implementation?

Ministries will have following measures for implementation and monitoring:

- widely advise and disseminate this prakas and relevant reasons to agencies under their respective supervision, petroleum companies, publics and other stakeholders.
- Highly effectively monitor implementation of this prakas by strengthening relevant officials' capacity in site monitoring and inspection at the petroleum companies and stations etc.

### 7.2. Should there be a follow-up monitoring after this regulation is implemented? If so, how is this regulation followed up or monitored?

Despite a meeting with petroleum companies in every 6 (six) month as well as frequent activities to advise, disseminate and monitor it after implementation, this prakas will be monitored, followed up and assessed on its result for the next 5 (five) years by interministries for the purpose of searching for and addressing negative impacts as well as good points and other loopholes for better mechanism improvement.

Process	Name	Title	Contact
Prepared by RIA Team of Ministry of Commerce (MOC-RIA TEAM)	H.E. Mr. Pen Sovicheat	Chairman	012 816 663
	Mr. Yim Chamnab Phakdey	Permanent Vice Chairman	012 98 78 78
	Mr. You Mab	Vice Chairman	089 76 76 86
	Mr. Sok Thida	Member	070 790 789
	Mr. Sam Chetra	Member	011 635 935
	Mr. Pa Lornreaksmey	Member	077 332 049
	Mr. Poch Sienghai	Member	089 510 600
	Mr. Mie Keatola	Member	012 845 367
	Mr. Peng Bora	Member	017 455 122
	Mr. Keo Buntheng	Member	012 801 996

	Mr. En Dy	Member	012 880 348
Commented by RIA Team of ECOSOCC	H.E. Mr. Pech Sokha	RIA Project Manager	012 698 999
	H.E. Mrs. Seang Sophalla	Group 2 Leader	012 665 201
	H.E. Eng Ratmoni	Training Team Leader	012 912 009
	Mr. Kong Vireak	Group 2 Member	089 899 584
Assistant	Mr. Rom Phallis	Admin Staff	078 235 078
	Miss Hai Sreyleak	Group 2 Member	016 427 429