

Prakas on Formalities and Procedure of Negotiated Settlement under the Law on Competition

This Prakas is adopted in 04th November 2022 in order to set out the formalities and procedures of negotiated settlement for offenses under the Law on Competition with the purpose of 1) encouraging a quick and appropriate settlement procedure; 2) ensuring flexibility with effective outcomes; and 3) reducing the burden of expenses incurred in an investigation as below:

Matters	Description
Scope	This Prakas applies to the negotiated settlement established by any person (“ Person under Investigation ”) suspected of violating the Law on Competition (the “ Settlement Agreement ”).
Competent Authorities	The competent authorities to conduct the Negotiated Settlement Procedure are: <ul style="list-style-type: none"> ➢ Consumer Protection Competition and Fraud Repression Directorate-General (“CCF”); and ➢ Cambodia Competition Commission (“CCC”).
Formalities of Negotiated Settlement Procedure	The Negotiated Settlement Procedure shall commence as follows: <ul style="list-style-type: none"> ➢ To request for a Negotiated Settlement Procedure; ➢ To conduct of the Negotiated Settlement Procedure; ➢ To finish the Negotiated Settlement Procedure; and ➢ To make a discretionary decision of CCC on Negotiated Settlement Procedure.
Request and Decision on Negotiated Settlement Procedure	The Negotiated Settlement Procedure shall comply with the following requirements: <ul style="list-style-type: none"> ➢ During the preliminary examination, the investigating officer may inform the Person Under Investigation of the option to file a request for a Negotiated Settlement Procedure. ➢ If the Person under Investigation requests for a Negotiated Settlement Procedure, the Person under Investigation shall submit an application for a Negotiated Settlement Procedure. ➢ Upon receipt of such application, the investigating officer has full discretion to decide whether or not to permit a Negotiated Settlement Procedure.
Key Steps of the Negotiated Settlement Procedure	The key steps of the Negotiated Settlement Procedure are as follows: <ul style="list-style-type: none"> ➢ The investigating officer may discuss with the Person under Investigation about the acts of violation, the corrective actions, the compensation and the future actions. ➢ The investigating officer may share with the Person under Investigation about the facts, sanctions, responsibilities, evidences and case file and the estimated fines. ➢ The investigating officer shall serve a notice to all parties at least 7 working days prior to the commencement of the Negotiated Settlement Procedure. ➢ At the end of the Negotiated Settlement Procedure, the Person under Investigation has 15 working days to submit a written document stipulating the obligations, warranty, undertakings, and commitments to the investigating officer (the “Undertaking”). ➢ The investigating officer shall conduct a preliminary review on the Undertaking within 15 working days upon receipt and the Person under Investigation has 14 working days to amend and re-submit the Undertaking.
Completion of the Negotiated Settlement Procedure	<ul style="list-style-type: none"> - A Negotiated Settlement Procedure is deemed to come to an end when it is deemed: <ul style="list-style-type: none"> ➢ A Successful Negotiated Settlement Procedure; or, ➢ An Unsuccessful Negotiated Settlement Procedure. - In either case, the investigating officer shall make a report on the outcome of the Negotiation Settlement to the CCC.
Decision on the Negotiated Settlement Procedure	<ul style="list-style-type: none"> - The CCC has full discretion to make a decision either to accept or to deny the report on the Negotiated Settlement Procedure submitted by the investigating officer or it may also require the investigating officer to reopen the Negotiated Settlement Procedure. - For execution, the CCF shall review and monitor the compliance for fulfillment of conditions as set forth in the decision of the CCC.