

BILATERAL AGREEMENT

between the Royal Government of Cambodia
and the École Française d'Extrême-Orient
respecting terms and conditions for archaeological excavations
on Cambodian soil

(Translation from the French version)

B I L A T E R A L A G R E E M E N T
between the Royal Government of Cambodia
and the École Française d'Extrême-Orient
respecting terms and conditions for archaeological excavations
on Cambodian soil
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Between:

- the Royal Government of Cambodia, represented by the Secretary of State for Fine Arts,
party of the first part
- and the École Française d'Extrême-Orient, represented by Mr. LOUIS MALLERET, acting for this purpose in the capacity of delegate of the Académie des Inscriptions et Belles Lettres, administrative authority of the École,
party of the second part.

The contractual provisions hereinafter have been agreed upon and decided:

Chapter I
GENERAL PROVISIONS:

ARTICLE 1: The Royal Government of Cambodia grants at its request and preferably to the École Française d'Extrême-Orient authorization to conduct methodical and stratigraphic excavations anywhere on Cambodian soil, on both classified sites and unclassified locations, on both conspicuous vestiges of buildings and on middens, mounds or land where no characterized topographical irregularity is observed.

ARTICLE 2: It is here specified that the term "excavations" is to be understood in its scientific meaning and that it includes preliminary test pits and brush removal, clearing off of remains, the analysis and exploration of ruins, stratigraphic cross-sections of land, excluding any and all restoration, reconstruction or consolidation operations, except for props and formwork recognized as emergency operations for the physical safety of researchers or temporary measures for the preservation of newly discovered remains pending intervention by the competent historical monuments conservation department.

ARTICLE 3: Preliminary reconnaissance operations and all land or aerial exploration operations conducted for the purpose of discovering monuments, remains, middens, individual statues, urban outlines, ancient trapeangs, causeways or canals, caves, prehistoric deposits, etc. are included in the prerogatives set forth under Article 2. They include the right to make sketch drawings, maps, plans, surveys of routes, land or aerial photography, to make rubbings or moldings and generally speaking to gather any graphic or other documentation of such a nature as to contribute to the progress of science.

However, the École agrees to abide by existing or future regulations respecting flying over border areas, fortified regions and military positions and in such special cases to obtain authorization from the competent authorities.

ARTICLE 4: Places of worship such as pagodas and chetdei that are an object of special veneration, as well as locations occupied up to plumb with the branches of the Bodhi tree, formerly called the ficus religiosa, are excluded from such authorization. However, an agreement may be worked out with the ecclesiastical authorities for the purpose of putting in test pits within the pagoda compound outside of sacred land marked off by the semas, where topographical indications or traditions concur to show the superposition of a modern pagoda on top of an ancient settlement.

The prohibition

The prohibition shall not apply to locations of pagodas that have been abandoned by their occupants and to chetdei ruins that have ceased to be held in particular esteem. It also does not apply to middens of neak-ta in rural areas unless they are being used regularly by the village inhabitants for purposes of worship.

On the other hand, it does apply to public or private cemeteries, with the exception of individual graves. In the latter case, representatives of the École may come to an informal agreement with the families, if known, or failing that, with the local authorities, for a new location to which to relocate the remains and graves, with the understanding that this operation will take place under proper conditions.

Land and real estate belonging to the Crown domain are protected areas unless express authorization is obtained from the Crown.

Generally speaking, members of the École Française d'Extrême-Orient, excavation mission directors, agree to inquire of the central, provincial and village authorities regarding traditions and customs pertaining to certain locations, and to comply with the laws, habits and customs of Cambodia, more particularly those concerning the Buddhist religion.

Chapter II

TERMS AND CONDITIONS FOR THE EXERCISE OF EXCAVATION RIGHTS:

ARTICLE 5: Representatives of the École Française d'Extrême-Orient or those of its members in charged of archaeological excavation or reconnaissance missions, are authorized under this Agreement to be issued any excerpts of cadastral registration records and certificates of registration from the land registry office records, for locations where excavations are contemplated, in order to know precisely who owns the land lots as well as the boundary markers and limits of land estates.

They shall also be empowered to obtain from the national departments of Agricultural Hydraulics, Navigation, Public Works, Water and Forestry, Office of Land Survey and Topography, Statistics, etc. any information of such a nature as to facilitate their mission or interpret their archaeological findings in harmony with geographical or archaeological information.

ARTICLE 6: In each particular case where the École is making plans to undertake excavation work on a specific site, the Directorate of this institution or one of its duly appointed representatives shall inform in writing the Ministry of Fine Arts of the contemplated program in order to obtain a preliminary administrative authorization.

The application shall set forth the overall research program, the probable sequence in which the excavation campaigns will take place, the extent of the area covered by the excavation rights as may be anticipated, with its boundaries shown on a map attached, the land coordinates of the plots with the names of the landowners, as well as the name of the mission director and any assistants he may have.

The area on which test pits, land cross-sections, excavation positions and sites where buildings are to be cleared off shall be established in such a way as to provide for the classification and disposal of excavated material.

It shall be up

It shall be up to the representatives of the École to make contact with the provincial and local authorities as well as individuals to get authorizations that relate to ownership, depending on whether the land belongs to the national, provincial, communal domain and all authorities of public or private law or whether the contemplated excavations relate to the property of individuals.

ARTICLE 7: An exemplified copy of the ministerial authorization provided for under the preceding article shall be forwarded to the attention of the central authorities and as soon as possible to the provincial and commune authorities. Individual notification shall be issued to the owners of the land by registered mail through the École Française d'Extrême-Orient. The authorization process as well as the map of the area covered by the excavation rights shall thereby be fully published by insertion in the Administrative Bulletin of Cambodia and by posting both in the main city of the province wherein the contemplated site is found as well as at the headquarters of communes wherein the concerned villages are found. A period of one month shall be allowed to owners, with the deadlines set out in the notices or posting, at the expiration of which their claims shall no longer be valid if they have not been submitted to an arbitration board made up mandatorily of the President of the Court, a representative of the chief governor of the province and a representative of the École Française d'Extrême-Orient. It shall be spelled out in the ministerial authorization that starting from the date of posting of the notices or posters, land lots located within the area will be subject to a prohibition of private work or excavation initiated either by the owners or by public works departments or individuals.

ARTICLE 8: If the excavations lead to the discovery of significant buried remains, these shall be left as they are after study and underground exploration, except for measures of provisional consolidation, in order to classify them where applicable, and the local authorities or individuals shall be declared responsible for their conservation until an official decision has been made, although allowance for a compensation amount may be reached by mutual agreement between the historical monuments conservation department and the parties concerned for cropland belonging to individuals.

The École shall be under obligation to return the land in its former condition only if the work has been done on cropland worked by individuals, whether such land belongs to them outright, they have received it by concession or through a tenancy arrangement with the local authorities.

The École shall be freed of any obligation if the locations belong to the forestry sector, non-fenced pasture land or land with no specific assignment to individuals or communities.

It shall enjoy the right, as far as forestland is concerned, to open forest paths and roadways, to clear brush or cut down trees in the areas under the excavation rights, provided that approval has been obtained therefor from the Administration of Water and Forestry, which reserves the right to sell the products cut down if they have not been used on location by the excavation operators.

ARTICLE 9: If any real damage has been sustained on arable cropland, to crop harvests or fruit trees, a lump-sum compensation may be paid to the owners, and this amount shall be reached by mutual agreement between the École and the persons concerned with the possible arbitration of the Commission provided for under Article 7 of this Agreement.

If excavation operations or their possible expansion incur the relocation of light buildings, a compensation amount shall be reached by mutual agreement with the possible arbitration of the Commission mentioned in the foregoing paragraph and remitted directly by the École to the owners. No compensation shall be due however for dwellings that may have been put up on the concession area subsequent to the administrative authorizations granting research rights.

In this event

In this event, representatives of the École shall be empowered to request help from the local authorities to have individuals relocated. This rule shall apply by right to classified locations where illegal occupancy has taken place without prior authorization and in violation of national legislation for the protection of historic monuments.

Within areas for which excavation rights have been granted, fenced off or not, the representatives of the École shall be empowered to submit for sanction by the local authorities policing regulations valid for the entire period of work, prohibiting movement of people and parking, as well as allowing animals to wander on the areas being excavated, while excavation operations are underway as well as during breaks on the work sites, particularly at night. Exceptions shall be allowed for roads, paths or trails that may cross the site, but in such case, traffic shall be limited exclusively to thoroughfares and parking will remain prohibited.

All disputes shall be referred as a last resort to the competent jurisdictions but in no case shall they be allowed to interrupt the work, the École reserving the right to have reports made out and submitted by experts, ministry officials or police authorities of any level.

ARTICLE 10: In the event of a chance discovery of recent burial places, this shall be reported to the local authorities who shall delegate as soon as possible the local commissioner of police to write up a report, look for the families as possible and certify that the remains have been reburied in a new proper grave. If there is no commissioner of police or local authorities nearby, the relocation of the remains shall be carried out as a matter of course by representatives of the École.

A report shall be made out and signed by two witnesses giving the exact position of the new grave and this document shall be forwarded as soon as possible by the École to the nearest administrative authorities.

Chapter III

LEGAL PROVISIONS AND ILLEGAL EXCAVATIONS:

ARTICLE 11: In the event that during or subsequent to any excavation, construction or layout work or other occurrences, discoveries of monuments, ruins, sculptures, inscriptions or artifacts of prehistoric, historic, archaeological or artistic interest are brought to the attention of the Ministry of Fine Arts by the administrative authorities as provided for in national legislation on the protection of historic sites and monuments, the latter shall advise representatives of the École Française d'Extrême-Orient so that they have a full report made out on the matter and submit to [the Ministry] all measures advisable for safeguarding Cambodia's archaeological heritage as well as in the interest of science.

ARTICLE 12: In the particular case of chance discoveries due to human activities or natural events of erosion, construction or layout work for navigation, irrigation or drainage canals, roadways, trenching to put in urban or rural piping systems or passive defense structures, excavating, laying building foundations, putting in test pits for water supply lines or mine prospecting, digging ponds, cemetery relocation or tomb dismantling or, generally speaking, any work that entails a modification of the subsoil, public or private contractors shall notify the local administrative authorities of any discovery made consisting of buried constructions, piling or prehistoric tools, item of ceramics, bronze, iron, lead, tin, coins, jewelry, statues or any unanticipated artifacts, including clusters of bones that may or may not be associated with coffin remains and skulls in particular.

The discoveries

The discoveries shall be left as they are found and the administrative authorities shall inform as soon as possible the representatives of the École Française d'Extrême-Orient and the Ministry of Fine Arts who shall travel to or have themselves represented with all due dispatch at the reported locations and shall have a full report made and initiate the transporting of the discovered artifacts to the national collections at the Phnom Penh Museum, such items being considered part of the public domain under Article 640 of the Cambodian Civil Code.

In instances contemplated under the first paragraph of this article, the representatives of the École shall report on their findings to the public authorities and heads of national government agencies, without their intervention having the effect of interfering with the normal course of the work programs, unless such discovery involves a site of crucial importance. In this event, the Royal Government shall have the authority to decide whether or not the work should be suspended or stopped, regardless of whether such work is the initiative of public authorities or individuals.

Upon mutual consultation between the Directorate of the École Française d'Extrême-Orient and the concerned Ministry, a representative of the École may be temporarily seconded to a national government agency, a public service or qualifying enterprise so as to go ahead with a full archaeological report while work is in progress. Should the research operations involve mining exploration of any nature or national defense developments, the representatives of the École shall keep the geographic location of the findings and archaeological sites confidential, not disclosing it prior to a set deadline, unless express authorization has been given otherwise by the national authorities.

Generally speaking, upon authorization of the Royal Government, representatives of the École shall be allowed to be seconded out to any scientific research mission.

ARTICLE 13: Pending enactment of a law or regulations, the Royal Government shall direct the local authorities with regard to the policing measures deemed necessary to ensure all scientific guarantees for the exploration of classified sites and excavation areas, shall prohibit reckless illegal excavations as well as the diversion of artifacts, and if necessary shall order that items arbitrarily removed from a site through illicit operations or chance findings be deposited with the National Museum collection as a matter of course.

The provisions of the above paragraph shall apply to periods when official excavation work of the École Française d'Extrême-Orient is interrupted, both during workday shutdowns or at night as well as during intervals between excavation campaigns on the site. Any illegal excavating operations performed during the legal length of night shall be considered as aggravating circumstances.

Chapter IV REGISTRATION AND DEVOLUTION OF EXCAVATED MATERIALS:

ARTICLE 14: An official inventory shall be kept of individual artifacts or groups of artifacts found during excavation operations on areas under excavation rights. This inventory shall be forwarded to the Ministry of Fine Arts and the École Française d'Extrême-Orient. The inventory however does not include slag, mineral or ligneous specimens, shells, soil samples, ceramic or glass debris, human or animal bones, gold dust, products of scaling, silver filings or workbench droppings, raw gum or natural crystals that may be discovered during excavation operations and, generally speaking, any traces or evidence of ancient habitat of which the study is done using laboratory processes and that will be registered separately.

In the event

In the event the excavations lead to the discovery of artifacts having an intrinsic value such as gold leaf stamped or not, gems engraved or not, jewelry, coins, ingots, a report shall be made out and attached to the inventory described in the preceding paragraph. No assignment of such artifacts shall be allowed before they have been measured, their location accurately noted, their precious metal content determined, samples taken for chemical or spectrographic analysis and mineralogical determinations, sketches, photographs, moldings, etc., have been carried out by the École.

ARTICLE 15: All artifacts discovered during the excavation and listed on the official inventory provided for under the preceding article shall become national property. However, the Royal Government shall be allowed to grant to the École Française d'Extrême-Orient upon its request a number of copies under the conditions set forth under paragraph 4 of the preceding article.

Only ingots of no determined form and gold matter not of fancy metal work shall be considered as a "treasure" opening an assignment location in the area transferred to the owners of land containing precious artifacts under the provisions of Article 703 of the Cambodian Civil Code. Article 640 of the same code is applicable to ancient items of precious matter of human workmanship because of their social utility.

In the event that a share of artifacts deemed to be precious was allocated to the owners, such owners shall not be allowed to avail themselves of the provisions of Article 7 of this agreement in order to obtain compensation for damage incurred to their land.

Artifacts that are unique in form, material or time period, such uniqueness referring not to the site, but to Cambodia soil overall and some of which artifacts the Royal Government sees no objection to turning over on account of their similarity to those already found in its museums shall be excluded from any assignment to the École Française d'Extrême-Orient and reserved for the Royal Government which shall only be allowed to dispose of them for the State, a national collection, a legal entity under public law or an institution recognized as of public interest.

In no event shall objects that are part of a cluster, the unity of which would be broken by being separated into lots, be assigned to the École Française d'Extrême-Orient. Such clusters shall be assigned either to the Royal Government which shall dispose of them under the conditions provided for under the preceding paragraph, or to the École Française d'Extrême-Orient if duplicates exist.

Irrespective of the location where the Royal Government's share is to be deposited, the École Française d'Extrême-Orient shall be allowed on its request to continue the morphological study or intrinsic analysis by means of taking samples in minimal fractions and with no appreciable damage to the artifacts. It shall likewise retain the right to take moldings, photographs or rubbings. For such scientific purposes, inscription references under inventory numbers shall be conveyed to it by the national authorities.

With the exception of ingots of no determined form, artifacts of precious or semi-precious metals shall not under any circumstances be sent for melting down.

ARTICLE 16: In the event some artifacts are assigned to the École Française d'Extrême-Orient, the latter shall be under obligation to inform the Royal Government of their final assignment and shall only be able to make them available to a public collection so that in all cases they remain accessible to researchers.

Chapter V

FINANCIAL PROVISION AND SCIENTIFIC OWNERSHIP:

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ARTICLE 17: The budget of the École Française d'Extrême-Orient shall be chargeable for the funding of reconnaissance operations, explorations, excavations, transportation, wages of workers or supervisory staff and, generally speaking, all expenses resulting from implementation of this agreement, except as provided for under Articles 8 and 21 of this agreement.

ARTICLE 18: Representatives of the École Française d'Extrême-Orient assigned to excavation missions on specified sites shall retain full scientific ownership of their discoveries, as provided for under international conventions respecting copyright or patent.

The École agrees to publish as soon as possible a preliminary report in its Bulletin or any other periodical of its choice, pending a more comprehensive publication if the significance of the discoveries so merits.

Chapter VI
MUTUAL OBLIGATIONS AND
MISCELLANEOUS PROVISIONS:

ARTICLE 19: The Royal Government agrees to provide assistance through the local authorities to members and mission officers of the École with regard to any transportation of persons, equipment, tools, drinking water supplies or other material, either as a courtesy or according to conditions to be discussed locally, based on official rates, the same local authorities granting the persons concerned with facilities for accommodation or camping, medical care and recruitment of workers necessary for the operations, based on local salary scales.

The Royal Government agrees to ensure through its local representatives the safety of persons, property and excavated materials. It is agreed between the parties that the representatives of the École shall be allowed to request assistance from the administrative and police authorities whenever required. They shall be authorized to carry firearms and hunting ammunition to ensure their personal safety in regions where wild animals range, provided that they comply with all declarations and authorizations ensuing from laws in force or to be enforced regarding firearms control.

ARTICLE 20: The École Française d'Extrême-Orient shall not be allowed to transfer to any other scientific organization the excavation concession obtained from the Royal Government on a given area. It may, however, with the prior approval of the Royal Government, invite agents of any nationality on its scientific, administrative or technical staff to share in the performance of excavation work, including foreign assistants and scholarship holders. However, direction of the work shall continue to be handled by members and officials of the École Française d'Extrême-Orient of French or Cambodian nationality.

If the École feels that it is necessary to have French national scientific organizations associated with its excavation operations, such as the École pratique des Hautes Études, the École du Louvre, the Institut d'Art et d'Archéologie, the Institut de l'homme, the Société Asiatique, the Society Préhistorique Française, the Institut Paléontologique humaine, as well as universities or orientalists, it shall retain such right, subject to obtaining prior approval from the Royal Government, and if obtained, it alone shall assume direction of the work and responsibility therefor.

The École shall likewise retain the right to organize on experimental work sites, when feasible, hands-on training in archaeological excavation technology, open to students possessing

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a higher education degree or to individuals who have the credentials and a record of research work deemed adequate by the École alone. Such introductory courses shall be open in priority to Cambodian nationals, but non-nationals shall be allowed admission to it under conditions to be determined by the Royal Government.

Authors shall cover all of their living and travel expenses and the École shall not be responsible for bodily injury or sickness.

ARTICLE 21: The Royal Government shall be allowed to delegate one of its scientifically qualified representatives to the excavation mission. This person shall be empowered to attend all excavation or registration operations and may offer meaningful input as appropriate, but at no time or in any circumstance to intervene in the development of work.

The mission director shall be allowed to invite his assistance if he deems it necessary to ensure policing of the site, obtain assistance from the local authorities and ask for assistance when needed.

At the conclusion of the operations, the mission director shall send a summary report to the Directorate of the École Française d'Extrême-Orient which shall forward a copy thereof to the Royal Government and another to the Director of Fine Arts. On the other hand, the representative of the Cambodian government shall forward a report to his government which shall forward a copy to the Directorate of the École Française d'Extrême-Orient and another to the Director of Fine Arts.

Generally speaking, the mission director in charge of the smooth conducting of excavations and the decorum of officers placed under his orders shall exercise unique, direct authority over all his subordinates and shall only be allowed to delegate authority to members of the mission's scientific staff.

All expenses for wages, travel or various allowances of the representative of the Royal Government shall be cared for by the Cambodian government.

ARTICLE 22: The Directorate of the École Française d'Extrême-Orient agrees to report to the Royal Government the discovery of any monument, site or historical location, so as to have classification measures undertaken, including underground explorations or surface findings.

On the other hand, the Royal Government agrees to convey to the Directorate of the École an exemplified copy of decrees, orders or decisions regarding classification.

Chapter VII
PUBLICITY AND TERM
OF THIS AGREEMENT:

ARTICLE 23: This agreement shall be published in the Official Journal of Cambodia and shall be fully publicized with respect to the provincial or local authorities.

ARTICLE 24: Any dispute or litigation shall be referred to the competent jurisdictions.

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ARTICLE 25: This agreement is declared valid for a ten-year term. It may be renewed by mutual agreement. In case of unrest, a state of local or general insecurity or any event of force majeure, its effect shall only be suspended and extended again beyond its expiration date.

The contracting parties have agreed to consult one another in the event that amendments or additions to this agreement are deemed necessary with a view to developing a supplementary convention.

SIGNED IN QUADRUPPLICATE IN PHNOM PENH THIS TWENTY-THIRD DAY OF OCTOBER, NINETEEN HUNDRED AND FIFTY-SIX.

Signed: HUOT SAMBATH

Signed: LOUIS MALLERET

S E E N

Phnom Penh, January 8, 1957
AMBASSADOR OF FRANCE
IN CAMBODIA

Signed: P. GORCE

CERTIFIED TRUE COPY
FOR THE MINISTER OF NATIONAL EDUCATION ∞ P.O.
CHIEF OF STAFF

Signed: PHAY PHENG

(stamp of
CAMBODIAN MINISTRY
OF NATIONAL EDUCATION)