



CAMBODIA  
INVESTMENT CLIMATE STATEMENT  
2015

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## **Executive Summary**

Cambodia has experienced rapid economic growth over the last decade. Cambodian gross domestic product (GDP) grew at an average annual rate of over eight percent between 2000 and 2010 and over seven percent since 2011. The tourism, garment, construction & real estate, and agriculture sectors accounted for the bulk of growth. The percentage of the population living in poverty also decreased to approximately 17.7 percent in 2012, the latest figures available. GDP per capita increased to an estimated USD 1,130 in 2014.

Cambodia has an open and liberal foreign investment regime with relatively pro-investor legal and policy framework. Investment incentives available to foreign investors include 100 percent foreign ownership of companies, corporate tax holidays of up to eight years, a 20 percent corporate tax rate after the incentive period ends, duty-free import of capital goods, and no restrictions on capital repatriation.

Historically, these incentives have not been able to attract significant U.S. capital due to various factors including high levels of corruption, a limited supply of skilled labor, inadequate infrastructure (including high energy costs), and a lack of transparency in government approval processes. The political impasse and labor unrest that followed the 2013 national elections were additional deterrents to investment. Recently, however, the Phnom Penh Special Economic Zone has attracted more than USD 100 million in investments from several large American companies, including Coca-Cola, Tiffany & Co., and American Licorice.

Following the 2013 national elections, the government announced a variety of economic and business reforms. The government is also moving forward with new legislation to meet the 2015 deadline for the Association of Southeast Asian Nations (ASEAN) Economic Community.

### **1. Openness To, and Restrictions Upon, Foreign Investment**

#### **Attitude toward Foreign Direct Investment**

Cambodia began its transformation from a command economy to a free market economy in the late 1980s. It is now integrating into the regional and world trading framework. Cambodia joined ASEAN in 1999 and served as ASEAN chair in 2012. In 2001, the country joined the World Customs Organization, and in September 2004, it became a member of the World Trade Organization (WTO).

Cambodia's 1994 Law on Investment established an open and liberal foreign investment regime. All sectors of the economy are open to foreign investment and the government permits 100 percent foreign ownership of companies in most sectors. In a few sectors, such as cigarette manufacturing, movie production, rice milling, gemstone mining and processing, publishing and printing, radio and television, wood and stone carving production, and silk weaving, foreign investment is subject to local equity participation or prior authorization from authorities. There is little or no discrimination against foreign investors either at the time of initial investment or after investment. Some foreign businesses, however, have reported that they are at a disadvantage vis-a-vis Cambodian or other foreign rivals that engage in acts of corruption or tax evasion or take advantage of Cambodia's poor enforcement of laws and regulations.

More information about investment and investment incentives in Cambodia may be found on the Council for the Development of Cambodia's website via the following link:  
<http://www.cambodiainvestment.gov.kh>.

### **Other Investment Policy Reviews**

In compliance with WTO requirements, Cambodia conducted its first review of trade policies and practices in November 2011. The next review will be conducted in 2017. Cambodia's full trade policy review report can be found at:  
[http://www.wto.org/english/tratop\\_e/tpr\\_e/tp353\\_e.htm](http://www.wto.org/english/tratop_e/tpr_e/tp353_e.htm).

In response to the trade policy review recommendations, Cambodia has undertaken the following reforms:

- Elimination of the Certificate of Origin requirement for exports to countries where a certificate is not required;
- Implementation of online business registration;
- Adoption of competitive hiring process for Ministry of Commerce staff;
- Implementation of risk evaluation measures for the Cambodia Import-Export Inspection and Fraud Repression Directorate General (CamControl) and creation of a CamControl risk management unit;
- Enactment of Law on Public Procurement. In February 2015, the Ministry of Economy and Finance issue a sub-decree on the establishment, organization, and functioning of a procurement commission and unit;
- Creation of the Commercial Court as a specialized Court of First Instance

Ongoing or planned reforms include the following:

- Amendment to the Law on Standards.

### **Laws/Regulations of Foreign Direct Investment**

As described more fully in Section 4 below, Cambodian courts are ostensibly independent, and the government has no right to intervene in private commercial disputes. Foreign investors, however, are generally reluctant to resort to the Cambodian judicial system to resolve commercial disputes because the courts are perceived as unreliable and susceptible to external political influence or bribery. To address these concerns, the Cambodian government has enacted the Law on Court Structure in July 2014 under which the Commercial Court was created, which it hopes will increase the judiciary's professionalism and discourage corruption and external political influence.

Cambodia's 1994 Law on Investment created an investment licensing scheme to regulate the approval process for foreign direct investment and provide incentives to potential investors. In March 2003, the government simplified the licensing scheme and increased transparency and predictability by enacting the Law on the Amendment to the Law on Investment (Amended Law on Investment). The licensing scheme for investments of less than USD 2 million was clarified in a sub-decree on the Establishment of the Sub-Committee on Investment in the Provinces-Municipalities of the Kingdom of Cambodia in February 2005. Sub-decree No. 111 on the Implementation of the Law on the Amendment to the Law on Investment, issued in September

2005, lays out detailed procedures for registering a Qualified Investment Project with the Council for the Development of Cambodia and provincial/municipal investment sub-committees.

Cambodia is currently reviewing its investment laws and regulations in connection with the formation of the ASEAN Economic Community in 2015.

### **Industrial Promotion**

The agricultural sector, which contributed an estimated 29.7 percent to Cambodia's GDP in 2014, is a key driver of the country's economy. As part of the government's policy to support the agriculture industry, materials and equipment used in agricultural production are exempt from import duties. While the government hopes these policies will increase milled rice exports to one million tons per year by 2015, exports were only 379,000 tons in 2014. On March 6, 2015, the Council of Ministers approved a new industrial policy, which is expected to launch in 2015, to further boost rice exports.

### **Limits on Foreign Control**

There are few limitations on foreign control in Cambodia. Foreign investors may own 100 percent of their investment projects except in the sectors of cigarette manufacturing, movie production, rice milling, gemstone mining and processing, publishing and printing, radio and television, wood and stone carving production, and silk weaving. According to Cambodia's Amended Law on Investment and related sub-decrees, there are no limitations based on shareholder nationality or discrimination against foreign investors except in relation to investments in real property or state-owned enterprises. The Law on Investment and the Amended Law on Investment state that the majority interest in land must be held by one or more Cambodian citizens. Pursuant to the Law on Public Enterprise, the Cambodian government must directly or indirectly hold more than 51 percent of the capital or the right to vote in state-owned enterprises.

### **Privatization Program**

Not applicable.

### **Screening of FDI**

Foreign direct investment must be registered at the Ministry of Commerce, and investors must obtain operating permits from the relevant line ministries. If a foreign investor seeks investment incentives as a Qualified Investment Project, he/she must register and receive approval from the Council for the Development of Cambodia or the Provincial-Municipal Investment Sub-Committee. The application to the Council for the Development of Cambodia may be made either before or after registration at the Ministry of Commerce. More information about the Qualified Investment Project process may be found at <http://www.cambodiainvestment.gov.kh/investment-scheme/investment-application-procedures.html>.

## Competition Law

The government is in the process of drafting a competition law. The Ministry of Commerce expects to submit a draft Law on Competition to the Council of Ministers in May 2015.

## Investment Trends

The total stocks of foreign direct investment registered capital and fixed assets in Cambodia from 1994 to 2014 were USD 5.5 billion and USD 29 billion, respectively. The average annual foreign direct investment inflow based on fixed assets during the last three years (2012 -2014) amounted to approximately USD 1.2 billion. Annual foreign direct investment inflow based on fixed assets decreased by about 15 percent to USD 1 billion in 2014.

*Table 1*

Measure	Year	Index or Rank	Website Address
<b>TI Corruption Perceptions index</b>	2014	156 of 175	<a href="http://transparency.org/cpi2014/results">transparency.org/cpi2014/results</a>
<b>World Bank's Doing Business Report "Ease of Doing Business"</b>	2015	135 of 189	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
<b>Global Innovation Index</b>	2014	106 of 143	<a href="http://globalinnovationindex.org/content.aspx?page=data-analysis">globalinnovationindex.org/content.aspx?page=data-analysis</a>
<b>World Bank GNI per capita</b>	2013	USD 950	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

### *Millennium Challenge Corporation Country Scorecard*

Table 1B: Scorecards

Measure	Year	Score
MCC Government Effectiveness	FY2015	-0.01/49 percent
MCC Rule of Law	FY2015	-0.1/40 percent
MCC Control of Corruption	FY2015	-0.16/42 percent
MCC Fiscal Policy	FY2015	-3.5/39 percent
MCC Trade Policy	FY2015	72.2/62 percent
MCC Regulatory Quality	FY2015	0.42/83 percent
MCC Business Start-Up	FY2015	0.367/2 percent
MCC Land Rights and Access	FY2015	0.69/65 percent
MCC Natural Resource Protection	FY2015	100.0/100 percent
MCC Access to Credit	FY2015	74/98 percent

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced

scorecards for countries with a per capita gross national income (GNI) of USD 4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015>.

## **2. Conversion and Transfer Policies**

### **Foreign Exchange**

There are no restrictions on the conversion of capital for investors. Cambodia's 1997 Law on Foreign Exchange states that there shall be no restrictions on foreign exchange operations through authorized banks. Authorized banks are required, however, to report the amount of any transfer equaling or exceeding USD 100,000 to the National Bank of Cambodia on a regular basis.

Loans and borrowings, including trade credits, are freely contracted between residents and nonresidents, provided that loan disbursements and repayments are made through an authorized intermediary.

The Foreign Exchange Law allows the National Bank to implement exchange controls in the event of a foreign exchange crisis. In the event of such a crisis, the National Bank may impose certain temporary restrictions for a maximum period of three months on the activity or foreign exchange position of authorized intermediaries or on any loans in domestic currency extended to nonresidents. The Department of State is not aware of any cases in which investors have encountered obstacles in converting local currency to foreign currency or in sending capital out of the country.

### *Remittance Policies*

Article 11 of the Law on the Amendment to the Law on Investment of 2003 states that Qualified Investment Projects can freely remit foreign currencies abroad, purchased through authorized banks, for the discharge of financial obligations incurred in connection with their investments. These financial obligations include:

- Payment for imports and repayment of principal and interest on international loans;
- Payment of royalties and management fees;
- Remittance of profits; and
- Repatriation of invested capital in case of dissolution.

### Financial Action Task Force (FATF) status

Cambodia has committed to work with FATF and the Asia Pacific Group (APG) to address its strategic Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) deficiencies. The FATF's website states that Cambodia has made significant progress in improving its AML/CFT regime and notes that Cambodia has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in June 2011. Cambodia is therefore no longer subject

to the FATF's monitoring process under its on-going global AML/CFT compliance process. Cambodia will work with APG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

### **3. Expropriation and Compensation**

Land rights are a contentious issue in Cambodia, complicated by the fact that most property holders do not have legal documentation of their ownership rights as a result of the Khmer Rouge era. Numerous cases have been reported of influential individuals or groups acquiring land titles or concessions through political and/or financial connections, and then using force to displace communities to make way for commercial enterprises. In late 2009, the National Assembly approved the Law on Expropriation, which sets broad guidelines on land-taking procedures for public interest purposes. It defines public interest activities to include construction, rehabilitation, preservation, or expansion of infrastructure projects, and development of buildings for national defense and civil security. These provisions include construction of border crossing posts, construction of facilities for research and exploitation of natural resources, and construction of oil pipeline and gas networks. Property can also be expropriated for natural disasters and emergencies, as determined by the government. Legal procedures regarding compensation and appeals are expected to be established in a forthcoming sub-decree, which is expected to be submitted to the legal affair council of the Ministry of Economy and Finance by mid-2015. The Department of State is not aware of any cases in which Cambodia has expropriated a U.S. investment.

### **4. Dispute Settlement**

#### **Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts**

Most investors are generally reluctant to resort to the Cambodian judicial system to resolve commercial disputes because the courts are perceived as unreliable and susceptible to external political influence or bribery. Both local and foreign businesses report frequent problems with inconsistent judicial rulings, corruption, and difficulty enforcing judgments. For these reasons, most commercial disputes are currently resolved through negotiations facilitated by the Ministry of Commerce, the Council for the Development of Cambodia, the Cambodian Chamber of Commerce, or other concerned institutions.

Cambodia adopted a Commercial Arbitration Law in 2006. In 2010, the government provided for the establishment of the National Commercial Arbitration Center (NCAC), Cambodia's first alternative dispute resolution mechanism, to enable companies to resolve commercial disputes more quickly and inexpensively than through the court system. The NCAC was officially launched in March 2013 and is now ready to accept cases. Three laws related to the judicial system were enacted in July 2014: the Law on Court Structures, the Law on the Duties and Discipline of Judges and Prosecutors, and the Law on the Organization and Functioning of the Supreme Council of Magistracy. Under the Law on Court Structure, the Commercial Court, established as one of the four specialized Courts of First Instance, will have jurisdiction over all commercial matters, including insolvency cases. The Commercial Chambers will hear all appeals arising out of the Commercial Court.

## **Bankruptcy**

Cambodia's 2007 Law on Insolvency was intended to provide collective, orderly, and fair satisfaction of creditor claims from debtor properties and, where appropriate, the rehabilitation of the debtor's business. The Law on Insolvency applies to the assets of all business people and legal entities in Cambodia. The 2015 World Bank's Doing Business Report ranks Cambodia 84 out of 189 in terms of the ease of resolving insolvency, a dramatic increase from 2014 when it was ranked 163 out of 189.

## **Investment Disputes**

Government's report on the record of investment disputes is not available.

## **International Arbitration**

International arbitration is available for Cambodian commercial disputes. In March 2014, the Supreme Court of Cambodia confirmed a decision of the Cambodian Court of Appeal, which had ruled in favor of the recognition and enforcement of an arbitral award issued by the Korean Commercial Arbitration Board (KCAB) of Seoul, South Korea. Cambodia became a member of the World Bank's International Center for Settlement of Investment Disputes in January 2005. In 2009, the International Center approved a U.S. investor's request for arbitration in a case against the Cambodian government, and in 2013 the tribunal rendered an award in favor of Cambodia.

Domestically, commercial disputes could also be resolved through the National Commercial Arbitration Center (NCAC), Cambodia's first alternative dispute resolution mechanism, which was officially launched in March 2013.

### *ICSID Convention and New York Convention*

Cambodia is a member of the International Center for Settlement of Investment Disputes (ICSID). Cambodia is also a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the New York Convention) since 1960. In 2001, Cambodia passed the Law on Agreement and Implementation of the United National Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

## **Duration of Dispute Resolution**

Due to corruption and an overly bureaucratic system, investment/commercial disputes may take years to resolve.

## **5. Performance Requirements and Investment Incentives**

### **WTO/TRIMS**

To date, Cambodia has not notified the WTO of any measurements that were inconsistent with the Trade Related Investment Measure (TRIMs) requirements.

## **Investment Incentives**

All investments need to be registered with the Ministry of Commerce. Cambodia's Law on Investment and Amended Law on Investment also provide a mechanism for investment incentives (there are varying types of incentives) that meet specified criteria. Investors seeking an investment incentive must submit an application to the Cambodian Investment Board, the division of the Council for the Development of Cambodia charged with reviewing investment applications. Investment activities excluded from incentives are detailed in the September 2005 Sub-Decree on the Implementation of the Amendment to the Law on Investment. These include the following sectors: retail, wholesale, and duty-free stores; entertainment establishments (including restaurants, bars, nightclubs, massage parlors, and casinos); tourism service providers; currency and financial services; press and media-related activities; professional services; and production and processing of tobacco and wood products. Incentives also may not be applied to investments in the production of certain products if the investment is less than USD 500,000. This includes food and beverages; textiles, garments, and footwear; and plastic, rubber, and paper products. Investors are not required to place a deposit guaranteeing their investment except in cases involving a concession contract or real estate development project. Investors who wish to apply are required to pay an application fee of seven million riel (approximately USD 1,750), which represents the administrative fees for securing necessary approvals, authorizations, licenses, or registrations from all relevant ministries and entities, including stamp duties. Under a 2008 sub-decree, the Council for the Development of Cambodia is required to seek approval from the Council of Ministers for investment proposals that involve an investment of capital of USD 50 million or more, politically sensitive issues, the exploration and exploitation of mineral or natural resources, or infrastructure concessions. The Council for the Development of Cambodia is also required to seek approval from the Council of Ministers for investment proposals that will have a negative impact on the environment or the government's long-term strategy.

Qualified Investment Projects are entitled to receive different incentives such as profit tax exemptions, special depreciation, and duty-free import of production equipment and construction materials. Investment projects located in designated special promotion zones or export processing zones are also entitled to the same incentives. Industry-specific investment incentives, such as a three-year profit tax exemption, may be available in the agriculture and agro-industry sectors. Agricultural materials used as inputs in export industries may be exempt from the value-added tax. More information about the criteria and investment areas eligible for incentives may be found at the following link:

<http://www.cambodiainvestment.gov.kh/investment-scheme/investment-incentives.html>

### *Research and Development*

The government does not have any restrictions on foreign firms participating in government financed and subsidized research and development programs. The government has public procurement procedures that companies can follow.

## **Performance Requirements**

Under Cambodian law, most foreign investments and foreign investors will be affected by the following taxes: corporate profits tax (20 percent), tax on individual salaries (0 to 20 percent), withholding taxes (4 to 15 percent), value-added taxes (0 to 10 percent), and import duties (0 to 35 percent).

The Law on Investment permits investors to hire foreign nationals for employment as managers, technicians, or skilled workers if the qualifications and/or expertise are not available in Cambodia.

## **Data Storage**

Cambodia does not have any forced localization policy that obligates foreign investors to use domestic contents in goods or technology. Cambodia also does not have any requirements for foreign IT providers to turn over source code.

The General Department of ICT in the Ministry of Post and Telecommunications oversees ICT related policy in Cambodia.

## **6. Right to Private Ownership and Establishment**

There are no limits on the rights of foreign and domestic entities to establish and own business enterprises or to compete with public enterprises. Only Cambodian citizens or legal entities, however, have the right to own land. Under the 2001 Land Law, foreign investors may secure control over land through Economic Land Concessions (ELCs), long-term leases, or renewable short-term leases. In May 2012, the government issued a moratorium on granting new ELCs. Since that time, however, there have been several new ELCs granted, which the government justified by stating that any ELC in which the parties were in private negotiations or had reached an agreement “in principle” prior to the directive could continue through to issuance. In October 2012, Prime Minister Hun Sen reiterated his support for the moratorium on new ELCs. In 2014, the Minister of the Environment canceled 23 ELCs totaling approximately 90,000 hectares of land, ostensibly for failing to develop the land pursuant to the terms of the ELC.

Qualified investors approved by the Council for the Development of Cambodia have the right to own buildings built on leased property. The law, however, is unclear as to whether buildings from qualified projects can be transferred between foreign investors or whether foreign investors can own buildings built through projects not approved by the Council for the Development of Cambodia.

In 2010, Cambodia adopted a law allowing limited foreign ownership in multi-story buildings from the second floor up, such that ownership may not exceed 70 percent of the area of all private units of the co-owned building. Foreigners are not authorized to acquire ownership rights in buildings located within 30 kilometers of the land borders of Cambodia, except in Special Economic Zones or other areas, as determined by the government.

## **7. Protection of Property Rights**

### **Real Property**

Mortgages exist and the banks often require certificates of property ownership as collateral before approving loans. The mortgages recording system, which is handled by private banks, is generally considered reliable.

The 2001 Land Law provides a framework for real property security and a system for recording titles and ownership. Land titles issued prior to the end of the Khmer Rouge regime in 1979 are not recognized due to the severe dislocations that occurred during the Khmer Rouge period. The government is making efforts to accelerate the issuance of land titles, but in practice the titling system is cumbersome, expensive, and subject to corruption. The majority of property owners lack documentation proving ownership. Even where title records exist, recognition of legal title to land has not been uniform, and there are reports of court cases in which judges have sought additional proof of ownership. Although foreigners are constitutionally forbidden to own land, the 2001 law allows long- or short-term leases to foreigners. As noted above, Cambodia also allows foreign ownership in multi-story buildings from the second floor up. Cambodia was ranked 100th out of 189 economies for ease of registering property in the 2015 World Bank Doing Business Report.

### **Intellectual Property Rights**

Cambodia has adopted legislation concerning the protection of intellectual property rights, including the Law on Copyrights and the Law on Patent and Industrial Design. Cambodia is a member of the World Intellectual Property Organization and the Paris Convention for the Protection of Industrial Property, and is a party to the ASEAN Framework Agreement on Intellectual Property Cooperation. Cambodia has also concluded bilateral agreements on intellectual property protection and cooperation with the United States, China, Thailand, Japan, and South Korea.

Cambodia has enacted several laws pursuant to its WTO commitments on intellectual property. Copyrights are governed by the Law on Copyrights and Related Rights, which was enacted in January 2003. Trademarks are governed by the Law Concerning Marks, Trade Names and Acts of Unfair Competition, which was enacted in 2002. A patent law has been in place since 2003. Some gaps in intellectual property protection remain, however, and outstanding legislation includes a draft law for protecting trade secrets, a law on integrated circuit protection, and legislation on protecting encrypted satellite signals required by the World Intellectual Property Organization. In January 2014, Cambodia enacted the Law on Geographical Indications, recognizing geographical indications of local and foreign products. Infringement of IPR is pervasive, particularly related to software, compact discs and music, books, cigarettes, alcohol, and pharmaceuticals. In March 2015, the Cambodian government submitted its instrument of accession to the Madrid Protocol for International Registration of Marks at the World Intellectual Property Organization.

Although Cambodia is not a major center for the production and export of pirated compact discs, digital video discs (DVD), or other copyrighted materials, local businesses report Cambodia is

growing as a source of pirated material due to weak enforcement. An inter-ministerial committee was established to combat piracy of compact discs and DVDs in the domestic market. Infringement complaints may be made to the Economic Police, Customs, the Cambodia Import-Export Inspection and Fraud Repression Directorate General, or the Ministry of Commerce. The division of responsibility among each agency, however, is not clearly defined. The National Intellectual Property Rights Committee is planning to create two new sub-committees: a sub-committee on IPR enforcement and a sub-committee on the education and dissemination of IPR rules and regulations. The sub-decree on the establishment of the two sub-committees is under review by the Council of Ministers.

Cambodia was not listed in the U.S. Trade Representative (USTR)'s Special 301 report or notorious markets report.

For additional information about treaty obligations and points of contact at local IP offices, please see the World Intellectual Property Organization's country profiles at: [http://www.wipo.int/directory/en/details.jsp?country\\_code=KH](http://www.wipo.int/directory/en/details.jsp?country_code=KH).

#### *Resources for Rights Holders*

Contact at Mission:

Mr. Peter N. Fowler

Regional IP Attaché

Telephone number: (662) 205-5913

Email address: Peter.Fowler@trade.gov

Country resources:

American Chamber of Commerce Cambodia

Email address: ed@amchamcambodia.net

Website: [www.amchamcambodia.net](http://www.amchamcambodia.net)

List of local lawyers: [http://cambodia.usembassy.gov/list\\_of\\_lawyers.html](http://cambodia.usembassy.gov/list_of_lawyers.html)

## **8. Transparency of the Regulatory System**

There is no pattern of systematic discrimination by the government against foreign investors in Cambodia. Numerous issues of transparency in the regulatory regime arise, however, from the lack of legislation and capacity of key institutions. Investors often complain that the decisions of Cambodian regulatory agencies are inconsistent, arbitrary, or corrupt. Cambodia has indicated a desire to discourage monopolistic trading arrangements in most sectors, but it has yet to pass the Law on Competition as part of its WTO accession obligations. The Ministry of Commerce expects Cambodia to enact competition legislation by 2015. Under the most recent draft, a National Committee on Competition would be established.

## **9. Efficient Capital Markets and Portfolio Investment**

The Cambodian government does not use regulation of capital markets to restrict foreign investment. Banks have been free to set their own interest rates since 1995, and increased

competition between local institutions has led to a gradual lowering of interest rates from year to year. Domestic financing, however, is still difficult to obtain at competitive interest rates. The average annual interest rate on loans in U.S. dollars stood at 12.45 percent in August 2014. A law addressing secured transactions, which includes a system for registering such secured interests, was promulgated in May 2007. Most loans are secured by real property mortgages or deposits of cash or other liquid assets, as provided for in existing contract and real property laws. In 2013, loans and deposits grew by 25.8 percent and 12.2 percent, respectively. The ratio of non-performing loans stood at 2.7 percent at the end of 2013, an increase of 0.3 percent compared to 2012. Figures for 2014 are not yet available.

As of June 2014, the banking system in Cambodia consisted of 35 commercial banks; nine specialized banks (banks set up to finance specific turn-key projects such as real estate development); 40 licensed microfinance institutions, of which seven were licensed microfinance deposit taking institutions; and 35 registered rural credit operators. The National Bank has also granted licenses to three financial leasing companies, four third-party processor companies (Wing, Western Union, Money Gram, and AM GSM), and one Credit Bureau Company to improve transparency and credit risk management and encourage more lending to small-and medium-sized enterprise customers.

In a move designed to address the need for capital markets in Cambodia, the Cambodian Securities Exchange (CSX) was launched on July 11, 2011. In April 2012, the Phnom Penh Water Supply Authority, a state-owned enterprise, was the first domestically registered company on the CSX. In June 2014, Grand Twins International (Cambodia) Plc, a garment factory from Taiwan, became the second company to list on the CSX. Two other state-owned enterprises, the Autonomous Port of Sihanoukville and Telecom Cambodia, and a private local company, Express Food Group Co., Ltd, are preparing for initial public offerings, but listing dates have yet to be announced. In November 2006, the National Assembly passed legislation to permit the government to issue bonds to address the country's budget deficits. No bonds, however, have been issued since 2007, and Prime Minister Hun Sen said in 2008 that the government did not plan to issue bonds in the near future. In 2007, the government also passed the Law on the Issuance and Trading of Non-government Securities.

### **Money and Banking System, Hostile Takeovers**

In March 2014, Moody's Investors Service affirmed Cambodia's government issuer rating at B2 with a stable outlook. The rating was based on Cambodia's healthy economic growth outlook and a stable external payment position, which balanced structural weaknesses.

In 2008, the National Bank raised the minimum capital reserve requirements for banks from USD 13 million to USD 37.5 million. By the end of 2013, total assets in the banking system (commercial and specialized banks) had reached USD 12.7 billion, an increase of 17 percent compared with 2012 and equivalent to 75 percent of GDP. The infusion of capital from newly created banks and additional customer deposits were the primary drivers underlying the growth.

## **10. Competition from State-Owned Enterprises**

Cambodia has four main state-owned enterprises: Electricité du Cambodge, which is in charge of producing and distributing power nationwide; Phnom Penh Water Supply Authority, which is responsible for water treatment and supply; Rural Development Bank, which services and refinances loans to licensed financial institutions, commercial banks, specialized banks, micro-finance institutions, associations, development communities, and small- and medium-sized enterprises that take part in rural development in Cambodia; and Green Trade Company, which manages Cambodia's national reserve of rice through purchases and sales made at market prices. In March 2015, the Cambodian government, through the Ministry of Mines and Energy, announced that the government is exploring a possibility of establishing a national oil company to invest in the oil and gas sector.

### **OECD Guidelines on Corporate Governance of SOEs**

Each state-owned enterprise is under the supervision of a line ministry or government institution and is overseen by a board of directors drawn from among senior government officials. Private enterprises are generally allowed to compete with state-owned enterprises under equal terms and conditions. These entities are also subject to the same taxes and value-added tax rebate policies as private-sector enterprises. State-owned enterprises are covered under the law on public procurement, which was promulgated in January 2012, and their financial reports are audited by the appropriate line ministry, Ministry of Economy and Finance, and the National Audit Authority.

### **Sovereign Wealth Funds**

Cambodia does not have a sovereign wealth fund.

## **11. Corporate Social Responsibility**

Corporate social responsibility is a new concept to Cambodia and is not widely understood by local businesses or consumers. The vast majority of corporate social responsibility programs in Cambodia are run by U.S., European, or Australian companies.

### **OECD Guidelines for Multinational Enterprises**

The government neither encourages nor discourages foreign and local enterprises to follow corporate social responsibility principles. Although Cambodia has a number of laws related to labor and employment rights, consumer protection, and environmental protection, enforcement is often inadequate and corruption remains a significant issue for many companies.

The Cambodian government has not enacted any laws or adopted any regulations concerning corporate governance, accounting, and executive compensation standards to protect the interests of shareholders. Companies operating in Cambodia are not required to publicly disclose information related to corporate governance, accounting, or executive compensation, and Embassy Phnom Penh is unaware of any NGOs in Cambodia that focus on private sector public disclosure.

## 12. Political Violence

The risk of political violence directed at foreign companies operating in Cambodia is low. Foreign companies have been the targets of violent protests in the past, such as the 2003 anti-Thai riots against the Embassy of Thailand and Thai-owned commercial establishments. More recently, there were reports that Vietnamese-owned establishments were looted during a January 2014 labor protest. Authorities have also used force, including truncheons, electric cattle prods, fire hoses, and even gunfire, to disperse protestors. Incidents of violence directed at businesses, however, are rare. Embassy Phnom Penh is unaware of any incidents of political violence directed at American or other Western interests.

Following the July 2013 national elections, the opposition Cambodia National Rescue Party (CNRP) refused to take its seats in the National Assembly due to electoral irregularities. In July 2014, the CNRP reached an agreement with the ruling Cambodian People's Party to enter the National Assembly, ending a tense year marked by numerous protests in Phnom Penh, including the largest peaceful political demonstrations ever held in the country, but also labor protest violence that left up to six dead and scores injured. In February 2015, after months of closed-door discussions, the two sides reached formal agreement on specific changes to the country's key electoral laws. The proposed changes and the opacity of the deal-making, however, disappointed many CNRP supporters and civil society. The electoral amendments were signed into law by King Sihamoni on March 26.

## 13. Corruption

The Anti-Corruption Law was adopted in 2010 to combat corruption through education, prevention, and more effective enforcement. Under this law, all civil servants are obligated to declare their financial assets to the government every two years. The fourth round of asset and debt declaration took place during January 2015. The Anti-Corruption Unit (ACU), which was formed in 2010, has launched several high-profile prosecutions against public officials, including members of the police and judiciary.

### *UN Anticorruption Convention, OECD Convention on Combatting Bribery*

Cambodia ratified the UN Convention against Corruption in 2007 and endorsed the Action Plan of the Asian Development Bank/Organization for Economic Co-operation and Development (OECD) Anti-Corruption Initiative for Asia and the Pacific in 2003. Cambodia is not a party to the OECD Convention on Combating Bribery.

Despite the passage of the Anti-Corruption Law and creation of the ACU, business people, both local and foreign (including U.S. companies), have identified corruption, particularly within the judiciary, customs service, and tax authorities, as the single greatest deterrent to investment in Cambodia. Corruption was cited by a plurality of respondents to the World Economic Forum survey as the most problematic factor for doing business in Cambodia. The government plans to increase the average base salary for all civil servants from about USD 105 per month to around USD 135 per month, starting from the second quarter of 2015. Although salaries have increased by 20 percent annually over the last few years, these wages remain below the level required to maintain a suitable quality of life in Cambodia, and as a result, public employees are susceptible

to corruption and conflicts of interest. Local and foreign businesses report that they must often pay facilitation fees to expedite any business transaction. Even though the Cambodian government has published the official fees of public services since early 2013, the practice of paying additional fees remains common. Furthermore, the process for awarding government contracts is not transparent and is susceptible to corruption.

The ACU, in collaboration with the private sector, has been developing guidelines encouraging private companies to establish internal codes of conduct prohibiting bribery and corrupt practices. The ACU expects to publish the guidelines before the end of 2015.

#### *Resources to Report Corruption*

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#### **14. Bilateral Investment Agreements**

Bilateral investment treaties provide reciprocal national treatment to investors, excluding benefits deriving from membership in future customs unions or free trade areas and agreements relating to taxation. These agreements preclude expropriations except those that are non-discriminatory, undertaken for a lawful or public purpose, and accompanied by prompt, adequate, and effective compensation at the fair market value of the property prior to expropriation. The agreements also guarantee repatriation of investments and provide for settlement of investment disputes via arbitration. Cambodia has signed bilateral investment agreements with Austria, Australia, China, Croatia, Cuba, Czech Republic, France, Germany, Indonesia, Kuwait, Japan, Laos, Malaysia, the Netherlands, Democratic People's Republic of Korea, Pakistan, the Philippines, Singapore, Republic of Korea, Switzerland, Thailand, Vietnam, and the Organization of the Petroleum Exporting Countries (OPEC). Future agreements are planned with Algeria, Bangladesh, Belarus, Belgium-Luxembourg Economic Union, Bulgaria, Myanmar, Egypt, Hungary, Israel, Iran, Libya, Macedonia, Malta, Qatar, Russia, Turkey, the United Kingdom, and Ukraine.

In July 2006, Cambodia signed a Trade and Investment Framework Agreement with the United States to promote greater trade and investment in both countries and provide a forum to address bilateral trade and investment issues. In August 2012, the United States and Cambodia agreed to

begin exploratory discussions on a potential bilateral investment treaty. Those negotiations are ongoing.

### **Bilateral Taxation Treaties**

Cambodia does not have a bilateral taxation treaty with the United States.

### **15. OPIC and Other Investment Insurance Programs**

Cambodia has an agreement with the Overseas Private Investment Corporation (OPIC) to encourage investment and is eligible for the Quick Cover Program under which OPIC offers financing and political risk insurance coverage for projects on an expedited basis. With most investment contracts written in U.S. dollars, there is little exchange rate risk. Even for riel-denominated transactions, the fact that Cambodia has adopted a managed floating exchange rate regime based on the U.S. dollar means that exchange rates are likely to remain stable. Cambodia is a member of the Multilateral Investment Guarantee Agency of the World Bank, which offers political-risk insurance to foreign investors. The Export-Import Bank of the United States (Ex-Im Bank) provides financing for purchases of U.S. exports by private-sector buyers in Cambodia on repayment terms of up to seven years. Ex-Im Bank support typically will be limited to transactions with a commercial bank functioning as an obligor or guarantor. The Ex-Im Bank will, however, consider transactions without a bank undertaking on a case-by-case basis.

### **16. Labor**

Approximately 65- 70 percent of the labor force is engaged in agriculture. Around 600,000 people, the majority of whom are women, are employed in the garment and footwear sector. An additional 500,000 Cambodians are employed in the tourism sector, and a further 50,000 people in construction. According to the 2013 Inter-Censal Population Survey of Cambodia, the latest survey available, the country's annual population growth rate was 1.46 percent from 2008 to 2013. Around 55 percent of the population is under the age of 25. The United Nations has estimated that around 300,000 new job seekers enter the labor market each year.

Given the severe disruption to the Cambodian education system and loss of skilled Cambodians during the 1975-79 Khmer Rouge period, workers with higher education or specialized skills are few and in high demand. The Cambodia Socio-Economic Survey conducted in 2013 found that about 27 percent of the labor force had completed an elementary education. Only 3.65 percent of the labor force had completed post-secondary education. The 2014-2015 Global Competitiveness Report of the World Economic Forum identified an inadequately educated workforce as one of the most serious problems to doing business in Cambodia.

Cambodia's 1997 Labor Code protects the right of association and the right to organize and bargain collectively. Specifically, the law provides for the right of private-sector workers to form and join trade unions of their own choice without prior authorization, the right to strike, and the right to bargain collectively. While unions may affiliate freely, the law does not explicitly address their right to affiliate internationally. The Cambodian government does not prohibit hiring foreign nationals. According to the Ministry of Labor and Vocational Training (MOLVT),

the number of foreign workers should not exceed ten percent of the total number of Cambodian workers.

Unresolved labor disputes may be brought to the Arbitration Council, an independent state body that interprets labor regulations in collective disputes, such as when multiple employees are dismissed. The parties may choose whether to consider the council's decisions as binding. If neither party objects to the arbitral award within eight days of its issuance, it automatically becomes binding. Individual disputes may be brought before the courts, although the judicial system is neither impartial nor transparent.

The law requires trade unions to file their charters and lists of their officials with the MOLVT. The Bureau of Labor Relations is responsible for facilitating the process of union registration and certification of "most representative status" for unions, which entitles a union representing a majority of workers in a given enterprise to represent all the workers in that establishment.

Civil servants, including teachers, judges, and military personnel, as well as household workers, do not have the right to form or join a trade union. Personnel in the air and maritime transportation industries are free to form unions but are not entitled to social security and pension benefits and are exempt from the limitations on work hours prescribed by the labor law. The law stipulates that workers can strike only after several requirements have been met, including the failure of other methods of dispute resolution (such as negotiation, conciliation, or arbitration), a secret-ballot vote of the union membership, and seven-days advance notice to the employer and the MOLVT. There is no law prohibiting strikes by civil servants, workers in public sectors, or workers in essential services. Legal protections are in place to guard strikers from reprisal.

The labor code prohibits forced or compulsory labor, establishes 15 as the minimum allowable age for paid work, and sets 18 as the minimum age for anyone engaged in work that is hazardous, unhealthy, or unsafe. The statute also guarantees an eight-hour workday and 48-hour work week, and provides for time-and-a-half pay for overtime or work on an employee's day off. To increase competitiveness of garment manufacturers, the labor code was amended in 2007 to establish a night shift wage of 130 percent of daytime wages.

As of October 2010, the minimum wage for garment and footwear workers was officially set at USD 61 per month. There is no minimum wage for any other industry. In November 2011, to help workers meet basic needs like healthcare, the government approved an increase of USD 5 per month starting in January 2012. More recently, garment workers pushed for an increase to USD 160 per month. In December 2013, the tripartite Labor Advisory Committee agreed to raise the minimum wage to USD 100, effective February 1, 2014. Following the Labor Advisory Committee's decision, violent clashes broke out in early January 2014, resulting in the deaths of at least four protesters. Labor leaders continue to advocate for an increase to USD 160, and the government has established a commission to review the minimum-wage level and report to the Labor Advisory Committee. In October 2014, the Committee decided to increase the minimum wage to USD 128, effective from January 1, 2015.

The labor law stipulates that a worker is entitled to indemnity if he/she is laid off for reasons of health or if the contract is terminated by the employer alone, except in the case of a serious offense by the worker.

Enforcement of many aspects of the labor code is poor, and many labor disputes involve workers simply demanding conditions to which they are legally entitled. Poor enforcement is due to a lack of capacity, corruption and a lack of political will on the part of the government. As a result, strikes are common in some sectors. Unions, for their part almost never observe the legally required prerequisites before initiating strikes. Collective labor disputes between employers and employees may be resolved through conciliation and arbitration by the Arbitration Council, which is an independent, national institution with quasi-judicial authority under Cambodian labor law.

The U.S. government, the International Labor Organization, and others have been working closely with Cambodia to improve enforcement of the labor code and workers' rights in general. The 1999 U.S.-Cambodia Bilateral Textile Agreement linked Cambodian compliance with internationally recognized core labor standards with the level of textile quota the United States granted to Cambodia. Under the terms of that agreement, the U.S. government committed to increase the size of Cambodia's textile export quota if the country demonstrated improvements in labor standards. This was the first bilateral trade agreement to positively link market access with progress in compliance with labor obligations. The International Labor Organization, which works with the government to monitor adherence to international labor standards in the garment sector, succeeded in improving compliance with workplace standards, virtually eliminating the worst labor abuses, such as forced labor and child labor. While the quota regime ended on January 1, 2005 following Cambodia's accession to the WTO, the International Labor Organization's Better Factories Cambodia program continues to monitor and report on working conditions in garment factories. All export garment factories in Cambodia must agree to be monitored by the program in order to receive an export license. Since March 2014, monitoring reports summarizing compliance issues, tracking trends, and analyzing progress in Cambodia's garment and footwear industries are available online.

### **17. Foreign Trade Zones/Free Ports/Trade Facilitation**

To facilitate the country's development, the Cambodian government has shown great interest in increasing exports via geographically defined special economic zones. In December 2005, the government adopted the Sub-Decree on Special Economic Zones to speed up the creation of the zones by detailing the procedures, conditions, and incentives for investors. Since issuing the sub-decree, the Cambodia Special Economic Zones Board has approved 36 special economic zones, which are located in Phnom Penh, Koh Kong, Kandal, Kampot, Sihanoukville, and near the borders of Thailand and Vietnam. The main investment sectors in these zones include garments, shoes, bicycles, food processing, car and motorcycle assembly, and electrical equipment manufacturing.

## 18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
<b>Economic Data</b>	<b>Year</b>	<b>Amount</b>	<b>Year</b>	<b>Amount</b>	
<b>Host Country Gross Domestic Product (GDP) (\$M USD)</b>	2014	16,911	2014	16,367	<a href="http://www.worldbank.org/en/country">www.worldbank.org/en/country</a>
<b>Foreign Direct Investment</b>	<b>Host Country Statistical source*</b>		<b>USG or international statistical source</b>		<b>USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other</b>
<b>U.S. FDI in partner country (\$M USD, stock positions)</b>	2014	84.5	2013	63	<a href="http://bea.gov/international/factsheet/factsheet.cfm?Area=607">http://bea.gov/international/factsheet/factsheet.cfm?Area=607</a>
<b>Host country's FDI in the United States (\$M USD, stock positions)</b>	N/A	N/A	2013	-1	<a href="http://bea.gov/international/factsheet/factsheet.cfm?Area=607">http://bea.gov/international/factsheet/factsheet.cfm?Area=607</a>
<b>Total inbound stock of FDI as % host GDP</b>	2014	0.5%	2012	0.38%	U.S. FDI stock in Cambodia: USD 54 million (USTR source). GDP in 2012: USD 14,038 million (ADB source)

Local Source: Ministry of Economy and Finance (MEF), Council for the Development of Cambodia (CDC)

*Table 3: Sources and Destination of FDI*

According to International Monetary Fund data, total foreign direct investment in Cambodia amounted to USD 2.69 billion in 2013, with the Republic of Korea remaining the largest proportion (44 percent of total investment). The other top four foreign direct investment countries in Cambodia were Malaysia, Thailand, France, and Denmark. The number of Cambodian investments outside the country was quite small compared to inward foreign direct investment. In 2013, outward foreign direct investment was USD 475 million, with 71 percent of the total investment going to China. Two other major countries were Singapore (USD 97 million), which has increased by 26 percent compared to 2012, and the Philippines (USD 26 million).

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**Direct Investment from/in Counterpart Economy Data**


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**From Top Five Sources/To Top Five Destinations (US Dollars, Millions)**


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Inward Direct Investment			Outward Direct Investment		
Total Inward	2,694	100%	Total Outward	475	100%
Republic of Korea	1,183	44%	China, P.R.: Mainland	337	71%
Malaysia	577	21%	Singapore	97	20%
Thailand	500	19%	Philippines	26	5%
France	222	8%	Czech Republic	6	1%
Denmark	137	5%	Thailand	6	1%

"0" reflects amounts rounded to +/- USD 500,000.

Source: IMF Coordinated Direct Investment Survey

*Table 4: Sources of Portfolio Investment*

All the figures in the below tables are provided by the country of origin of the investments. Official data are not available.

The total value of portfolio investment assets was USD 2.42 billion in 2013, the latest figures available. Among the top five partners, Korea remained the largest holder of equity securities with 31 percent and debt securities with 71 percent. Thailand and France were still the second and third largest holders of equity securities and debt securities.

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### Portfolio Investment Assets

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#### Top Five Partners (Millions, US Dollars)

Total			Equity Securities			Total Debt Securities		
All Countries	2,422	100%	All Countries	1,335	100%	All Countries	1,087	100%
Republic of Korea	1,186	49%	Republic of Korea	414	31%	Republic of Korea	772	71%
Thailand	506	21%	Thailand	244	18%	Thailand	262	24%
France	222	9%	France	195	15%	France	27	2%
China	337	14%	China	337	25%	Philippines	26	2%
Denmark	137	6%	Denmark	137	10%	N/A	N/A	N/A

Source: IMF Coordinated Portfolio Investment Survey

### 19. Contact for More Information

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