The "Engine of Economic Growth"

An Overview of Private Investment Policies, Trends, and Projects in Cambodia

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Cover photo: Economic Land Concession in Lor Peang area, Kampong Chhnang Province. Photo credit: Shalmali Guttal

"The private sector is the engine of economic growth and poverty reduction. The Royal Government recognises that improving the business climate and creating an enabling environment for private sector development are key pre-requisites for fostering growth, creating jobs, reducing poverty and achieving sustainable economic development."

From the Royal Government of Cambodia's National Strategic Development Plan, 2014-2018.

Contents

Abbreviations

ACFTA	ASEAN-China Free Trade Agreement
ADB	Asian Development Bank
AEC	ASEAN Economic Community
ASEAN	Association of Southeast Asian Nations
BIT	Bilateral investment treaty
BOT	Build-Operate-Transfer
CDC	Council for the Development of Cambodia
CIB	Cambodian Investment Board
CoM	Council of Ministers
CSEZB	Cambodian Special Economic Zone Board
EBA	Everything But Arms
EIA	Environmental impact assessment
ELC	Economic land concession
EU	European Union
FDI	Foreign direct investment
GDP	Gross domestic product
GMAC	Garment Manufacturers Association in Cambodia
GMS	Greater Mekong Subregion
IDP	Industrial Development Policy
IFC	International Finance Corporation
ILO	International Labour Organization
JICA	Japanese International Cooperation Agency
MAFF	Ministry of Agriculture, Forestry and Fisheries
MEF	Ministry of Economy and Finance
MoC	Ministry of Commerce
MoE	Ministry of Environment
MME	Ministry of Mines and Energy
NSDP	National Strategic Development Plan
PMIC	Provincial/Municipal Investment Sub-committee
PPP	Public-Private Partnership
QIP	Qualified Investment Project
RGC	Royal Government of Cambodia
SEZ	Special Economic Zone
SME	Small and medium-sized enterprise

Introduction

Since the early 1990s, Cambodia has been heavily reliant on foreign aid. The Cambodian Government is seeking to reduce donor-dependence and increase self-reliance, aiming to lift the country to the status of higher middle-income country by 2030. This goal depends heavily on increasing private investment, and the Government has described the private sector as the "engine of economic growth" for Cambodia. It is therefore seeking to encourage both foreign and domestic investment in order to maintain current growth rates and facilitate continued development of the country.

Beginning in the early 1990s, Cambodia took steps to liberalize the environment for private sector investment. This included reducing restrictions on foreign companies and passing measures to make it easier for companies to register and receive necessary licenses, permits and approvals. Since Cambodia moved away from a centrally-planned economy towards the market economy, all sectors of the economy have been opened for private investment – both from inside and outside the country. This includes investments in agriculture, real estate, energy, transport, communication, manufacturing and extractive industries. Public services have also been opened to private investment, including utilities and healthcare.

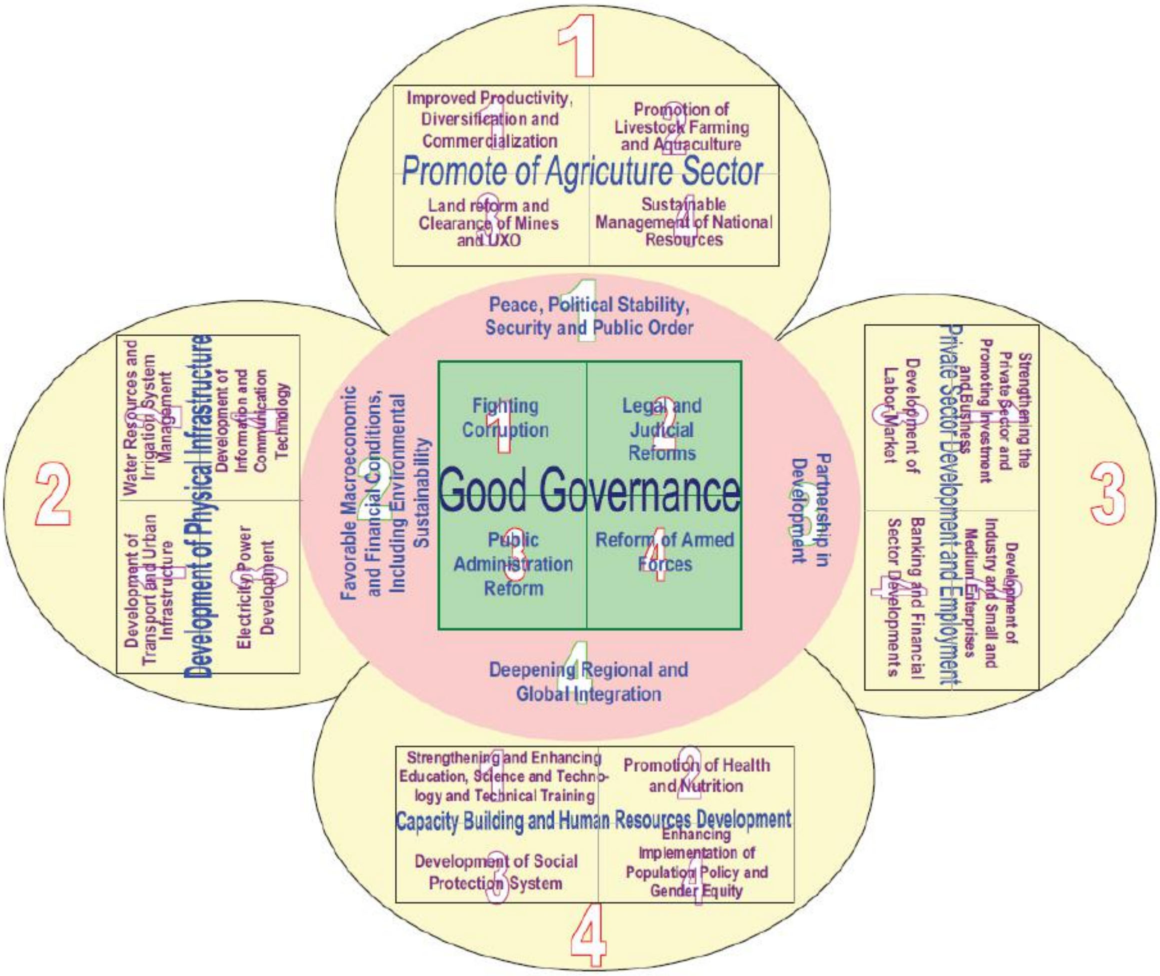
Private investment plays an important role in the Cambodian economy and has generated employment, raised revenues, and contributed to Cambodia maintaining its impressive figures for economic growth. However, many investment projects have also been associated with serious problems in their implementation. Private investment in agriculture has been implicated in land conflicts and violations of the rights of farmers and indigenous people. Infrastructure development has caused environmental damage that has not always been adequately mitigated. Mining operations have poisoned ground water, and manufacturers have become involved in disputes with their workers over pay and working conditions. While investment is important for the continued development of Cambodia, irresponsible investment has been connected to serious human rights abuses and impoverishment of Cambodian communities that have lost access to land and resources.

Acknowledging the importance of private investment as well as the challenges that have so far emerged in its implementation, this paper aims to present an overview and analysis of the current investment landscape in Cambodia, as well as its impacts on people and the environment. It is hoped that the information contained here will both raise awareness about current investment trends and promote discussion among the various stakeholders interested in the current trajectory of Cambodia's development. The paper begins with an overview of Cambodia's policies on investment, followed by a summary of key elements of the regulatory framework. It then looks at nationwide investment trends and focuses on several key sectors, before going on to discuss how regional and international actors and agreements are shaping Cambodia's investment climate. The final section reflects on the impacts of private investment in Cambodia.

Overview of Cambodia's Policy on Private Investment

Since 2001, the guiding strategy behind Royal Government of Cambodia (RGC) policy has been *The Rectangular Strategy for Growth, Employment, Equity and Efficiency in Cambodia* (the Rectangular Strategy). Pillar 3 of the Rectangular Strategy is "Private Sector Development and Employment".[1]

Figure 1: Cambodia's Rectangular Strategy, Phase III (2014-2018)



Source: Royal Government of Cambodia, NSDP 2014-2018

Phase III of Cambodia's Rectangular Strategy gives high priority to private investment, stating that "[f]or the Royal Government, the private sector is the engine of economic growth and poverty reduction." The development of the private sector is seen as crucial for fostering growth, creating employment, reducing poverty and achieving sustainable development. The RGC has therefore committed to improving Cambodia's business climate and creating an "enabling environment" for private sector development.[2] The RGC has taken steps to encourage investment by developing and liberalizing legal frameworks and regulations, in addition to creating more streamlined approval processes.

[1] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.3.
[2] *Ibid.*, p.49.

The Rectangular Strategy is implemented through the *National Strategic Development Plan* (NSDP). Under the NSDP for 2014-2018, the RGC aims to encourage private sector engagement in a number of key sectors, including agriculture, food processing, tourism, exploitation of oil, natural gas and other minerals, information and communication technology, and trade. At the same time, the government is also seeking to attract more private investment in public infrastructure, including water and irrigation systems, transport, and electricity.

As will be discussed throughout this paper, Cambodia faces a number of significant challenges in attracting the levels of investment required to meet the RGC's development goals. Physical infrastructure is weak and business costs are high in comparison to other countries in the region. While Cambodia has a large and youthful workforce, levels of education and training are generally low, and regulatory and institutional frameworks still require further development. Additionally, Cambodian industry is still unsophisticated and focused on a small number of products. The RGC has acknowledged these challenges, and in an attempt to address them has developed and adopted its *Industrial Development Policy 2015-2018* (IDP).

Under the IDP, the RGC prioritizes promoting investments in high value-added industrial sectors and upgrading Cambodia's manufacturing base. The summary of the IDP states that Cambodia urgently needs to embark on a "new growth strategy" that responds to changes in both the domestic economy and regional and global economic architecture.[3]

Currently Cambodia's GDP is generated by a small number of sectors, namely: garments, tourism, construction and rice production. The RGC is eager to diversify these sectors, and sees further industrialization and development of the manufacturing base as the driver for Cambodia's future development. Private investment, both domestic and foreign, is envisioned as playing a major role in achieving these goals, and the IDP includes five priority sectors in which the RGC will promote investment:

1. New industries or manufacturing ventures capable of breaking into new markets, with high value-added products, including consumer products and production equipment such as machinery;

2. Small- and medium-size enterprises in all sectors;

3. Agro-industrial production for export and domestic markets;

4. Supporting industries for the agriculture, textiles, and tourism sectors, as well as industries serving regional production chains linked to global markets and value chains; and

[3] RGC (2015), *Industrial Development Policy 2015-2025 – "Market Orientation and Enabling Environment for Industrial Development"*, Phnom Penh: RGC, p.i.

5. Industries serving regional production lines and those with future strategic importance, such as information technology, telecommunication, energy, heavy industries and green technology.[4]

As articulated in the Government's NSDP, the medium-term aim of this policy is to make Cambodia an "attractive destination for regional and global factories", which will diversify Cambodia's production base, create more "non-farm jobs", improve competitiveness, upgrade technology, and improve Cambodia's linkages to regional and international value chains. The Government aims to target both large-scale industry and small- and medium-size enterprises (SMEs), and it is envisioned that by 2020, the industrial sector will contribute 30% of the GDP, and 20% of this contribution will come from manufacturing. The priority sectors under the NSDP are agro-processing and manufacturing; assembly and production of electric/electronic components and machinery parts; garment industry and handicraft; and new industries such as plastics, chemical industry, IT infrastructure and software development. These goals will be supported by the development of special economic zones (SEZs) and industrial corridors, which are returned to later in this paper.[5]

The RGC aims to raise Cambodia to the status of lower middle-income country by 2018 and to higher middle-income country by 2030.[6] The RGC has estimated this will require US$26.8 billion in investment during the 2014-2018 period. The private sector plays a major role in this calculation, accounting for over 71% of required investment (see Figure 2). This is split approximately 50-50 between domestic and foreign sources (see Figure 3).[7]

Figure 2: Investment required to implement NSDP 2014-2018 (US$ billions)

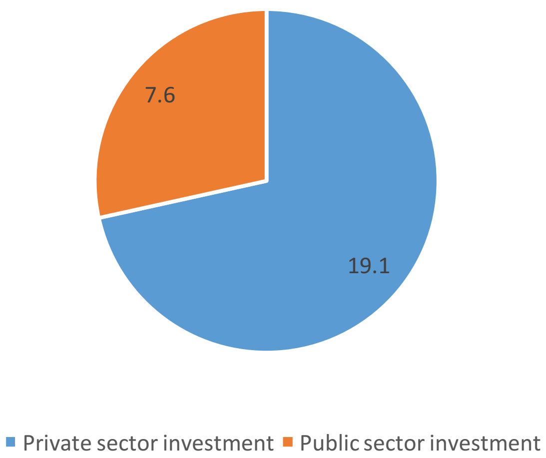
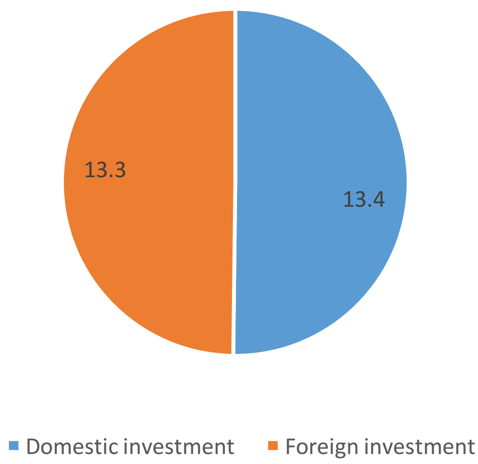


Figure 3: Breakdown of required investment by source (US$ billions)



Source: Royal Government of Cambodia, NSDP 2014-2018

[4] *Ibid.*, p.18.
[5] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.96.
[6] *Ibid.*, p.118.
[7] *Ibid.*, p.206.

Regulation of Private Investment in Cambodia

A major focus of the RGC's attempts to encourage increased investment in Cambodia has been to develop the country's regulatory frameworks and liberalize investment laws. Measures have been taken to streamline the investment approval process, reduce costs, provide incentives, and create a more secure legal environment for investment. The RGC also acknowledges the need to implement measures related to anti-corruption and to move forward with legal and judicial reform, in addition to public administration reform and strengthening the rule of law.[8]

Bodies responsible for promoting and regulating private investment

After the elections of 1991, the RGC began a program of economic reform seeking to promote the development of the private sector. As part of this reform, the *Law on Investment* was passed in 1994. This law was updated in 2003, and a further revision is currently being drafted. The *Law on Investment* created the Council for the Development of Cambodia (CDC), which is the highest decision-making body responsible for private and public sector investment. The CDC is chaired by the Prime Minister and composed of senior ministers from key government agencies. Under the CDC, the Cambodian Investment Board (CIB) and the Cambodian Special Economic Zone Board (CSEZB) are responsible for promoting investment, reviewing applications, and granting incentives for investment projects.[9]

Although the CDC is the senior decision-making body on investment issues, certain types of investment also require approval from the Council of Ministers (CoM). This includes projects with investment of over US$50 million, or which concern politically sensitive issues or which concern the extraction of minerals and natural resources. Investments requiring infrastructure concessions must also be approved by the CoM.[10] The Ministry of Commerce (MoC) is responsible for regulating and promoting commerce and trade in Cambodia. The MoC has the power to issue import and export licenses, inspect the quality of exported goods, and manage Cambodia's economic co-operation with ASEAN and other international bodies. The ministry is also responsible for administering regulations on commercial registration.[11]

In addition to the above actors, line ministries play a role in the approval and monitoring of investments in specific sectors. For example, the Ministry of Agriculture, Forests and Fisheries is responsible for issuing economic land concessions. When an investment concerns water resources, the Ministry of Water Resources and Meteorology should be consulted. Investments in mining require licenses from the Ministry of Mines and Energy, and applications for factory licenses require approval of the Ministry of Industry and Handicrafts. The Ministry of Tourism issues tourism licenses, and the Ministry of Posts and

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[8] *Ibid*., p.118.

[9] Council for the Development of Cambodia (no date), *Who We Are*, http://www.cambodiainvestment.gov.kh/about-us/who-we-are.html (accessed October 2015).

[10] RGC (3 October 2008), *Sub-Decree #149 on the Organization and Functioning of the Council for the Development of Cambodia*, article 11.

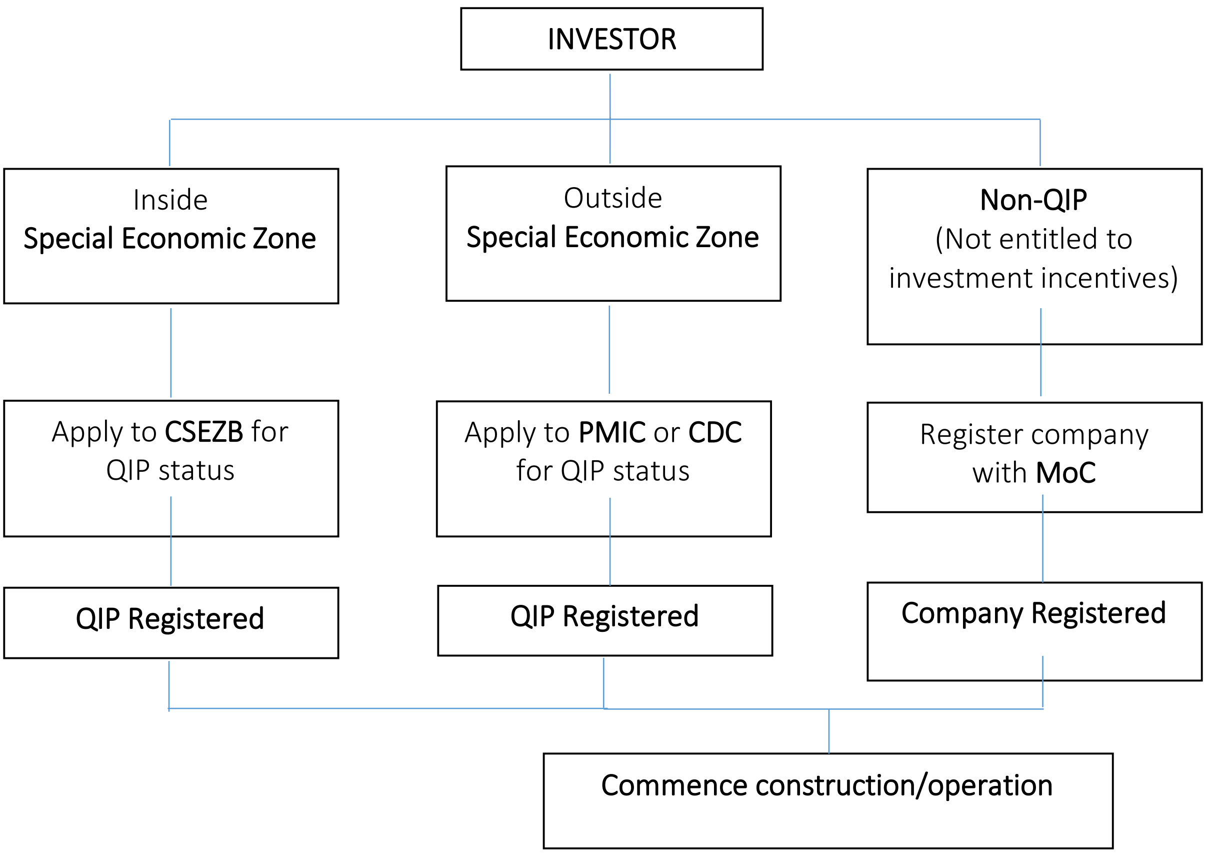
[11] RGC (22 September 1997), *Sub-decree #54 on the Organization and Functioning of the Ministry of Commerce*.

Telecommunications is responsible for granting telecommunication licenses. Finally, if an investment project requires an environmental impact assessment (EIA), this must be submitted to the Ministry of Environment, which is responsible for reviewing and approving the EIA and monitoring project implementation for compliance.

Approval, registration & regulation of private investment projects

Private companies operating in Cambodia are required to follow the *Law on Commercial Enterprises* and register with the Ministry of Commerce and the Department of Taxation before conducting any business operations. If investors (both domestic and foreign) wish to receive incentives for a specific project, they can register for Qualified Investment Project (QIP) status. The *Law on Investment* sets out the process by which investors may apply for status of QIP. Applications for investments worth up to US$2 million should be submitted to the relevant Provincial/Municipal Investment Sub-Committee (PMIC), and any investments larger than this to the CDC.[12] In addition, some investments must be approved by CDC regardless of whether or not the company wants to receive QIP status, for example, mining and Build-Operate-Transfer (BOT) projects, which are discussed later. Figure 4 shows the approval process for QIPs.

Figure 4: Qualified Investment Project approval process



Source: Author's research based on existing legal framework

[12] RGC (27 September 2005), *Sub-decree #111 on the Implementation of the Law on the Amendment to the Law on Investment*, article 4.

Although QIP status provides investors with certain incentives, all investors are subject to the laws of Cambodia, including sections of the *Civil Code* relevant to commercial activities and the *Law on Anti-Corruption*. Investors must abide by the provisions of the *Labor Law* and ensure that all activities are in accordance with the *Law on Environmental Protection* and associated regulations. As will be discussed later in the paper, investments in land and natural resources are also subject to specific legal frameworks. Companies that do not apply for QIP status are also bound by all relevant laws that apply to the sector of their investments.

Investment incentives

Cambodia's investment laws have been described as some of the most liberal in the region in terms of openness to foreign investors.[13] Current laws and regulations also provide a number of incentives to attract potential investors.

- **Investor-friendly process:** Cambodia has a "one-stop service" for processing investment applications, which in theory aims to reduce time and cost and minimize the opportunity for officials to request informal payments from applicants. According to the *Law on Investment*, the CDC should obtain all the necessary license and permits for QIP investors. However, according the CDC website, this system is not working in practice, and investors must still collect the permits themselves.[14]

- **Tax breaks:** The *Law on Taxation* usually requires businesses to pay a tax on profits, however, under the *Law on Investment*, QIPs are exempt from paying profit tax for a specific period. This tax break differs depending on the nature of the investment and when the project begins to make a profit, but cannot exceed 9 years.[15] QIPs may import equipment or materials from overseas without paying import duties.[16] QIPs are also exempt from paying export tax.[17]

- **100% foreign ownership:** Companies can be 100% owned by foreigners and there is no requirement for foreign investors to have a local partner.

- **No discrimination against foreign investors:** Cambodian law does not discriminate between investors on the grounds of nationality, and both foreign and Cambodian companies may apply for QIPs.[18] However, foreigners cannot own land.

- **Hiring foreign employees:** Investors may hire foreign employees if the skills and expertise are not available in Cambodia. QIPs are entitled to obtain work permits and visas for foreign citizens to work as managers, technicians, and skilled workers.[19]

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[13] World Bank (2014), *East Asia Pacific Economic Update April 2014: Preserving Stability and Promoting Growth*, Washington DC: World Bank, p.69.
[14] CDC (no date), *Investment Application Procedures*, http://www.cambodiainvestment.gov.kh/investment-scheme/investment-application-procedures.html (accessed October 2015).
[15] RGC (27 September 2005), *Sub-decree #111 on the Implementation of the Law on the Amendment to the Law on Investment*, article 15.
[16] *Ibid*., article 16.
[17] Law on Investment (as amended 2003), article 14.
[18] *Ibid*., article 7.
[19] Law on Investment (as amended 2003), article 14.

- **Repatriation of earnings:** There are no restrictions on foreigners sending money back to their home country after paying the appropriate taxes.[20]

Additional incentives apply to investments in Special Economic Zones, this is discussed later in the paper. Companies that invest in energy generation may also receive guarantees from the government that power will be purchased at an agreed rate, this is also returned to later.

Restrictions on investment

Investors are strictly prohibited from investing in activities that are forbidden by law, for example, illegal forestry. In addition, various investment activities are not eligible for investment incentives, including casinos, paddy farming covering less than 1,000 hectares, cash crops covering less than 500 hectares, and real estate development.[21] In addition, any investments in oil, gas, and mining are not eligible for the same tax exemptions as regular QIPs. If an investor obtains QIP status through fraud or misrepresentation, or fails to commence investment activities within 6 months, approval for that project may be revoked.[22]

While there is no limitation on foreign ownership of companies, under Cambodia's *Constitution* and *Land Law*, foreigners cannot own land in Cambodia. If a joint-venture company wishes to purchase land, the company must be at least 51% Cambodian-owned.[23] Foreigners and foreign companies can, however, enter short-term and long-term leases for land, and as discussed later in the paper, land concessions may be granted to foreign companies.

Ongoing reform of investment laws

As mentioned above, Cambodia's attitude to foreign investors is seen as one of the most liberal in the region. However, in practice, investors have to negotiate numerous hurdles in order to obtain appropriate certificates, licenses, and permits, while informal payments remain a major part of doing business in Cambodia. The RGC is in the process of revising the *Law on Investment* and the *Law on Taxation*, and has adopted the *Industrial Development Policy*. These developments are likely to impact the approval and regulation of private sector investment in the coming years.

The current NSDP refers multiple times to the need to improve or streamline the legal and regulatory framework for private investment. The policy includes some references to "responsible" investment, but this is limited. For example, the NSDP states that the private sector has social responsibilities in order to ensure sustainable development, and that steps should be made to strengthen corporate governance to "promote the health and growth of

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[20] *Ibid*., articles 14, 18 & 19.

[21] RGC (27 September 2005), *Sub-decree #111 on the Implementation of the Law on the Amendment to the Law on Investment*, Annex 1.

[22] *Ibid*., article 8.

[23] *Ibid*., article 13.

private sector and corporate social responsibility."[24] It remains to be seen how ongoing regulatory reforms will balance economic liberalization with the need for corporate responsibility and accountability.

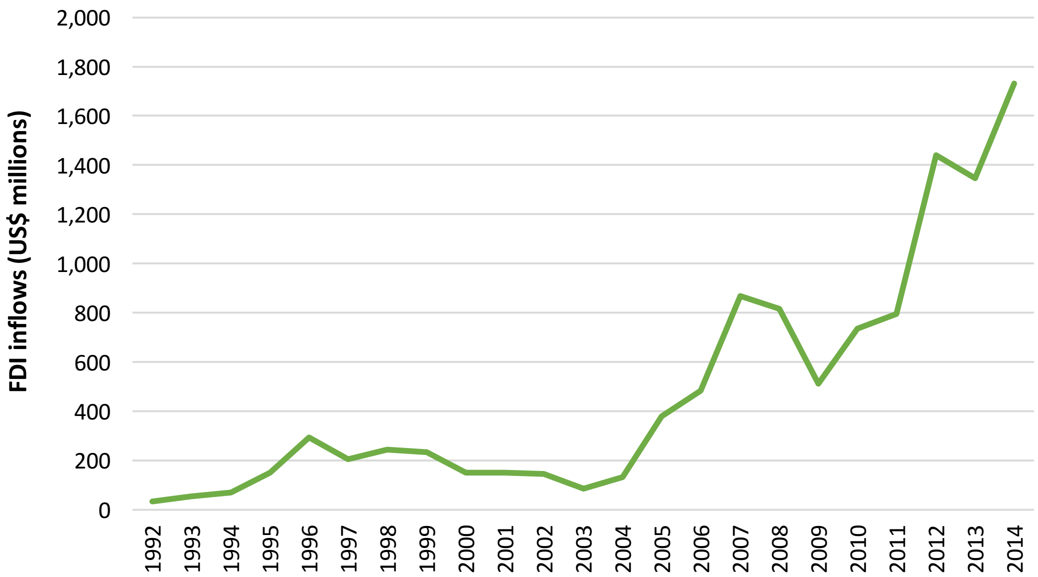
Current Investment Trends

Throughout the 1990s, investment in Cambodia was low, but after the end of the civil war and the subsequent reform of the investment law in 2003, investment increased rapidly. This section of the paper looks at investment trends, focusing in particular on foreign investment.

Private investment statistics

Statistics on Cambodia's investment show that over the last decade, private investment has risen significantly. This dipped in 2009 following the peak of the global financial crisis, but has since risen and exceeded pre-crisis levels. Figure 5 shows the amount of foreign direct investment (FDI) flowing into Cambodia between 1992 and 2013. Foreign investment peaked at US$1.444 billion in 2012, and dropped slightly to US$1.345 billion in 2013.[25]

Figure 5: Inflows of foreign direct investment to Cambodia, 1992 – 2014



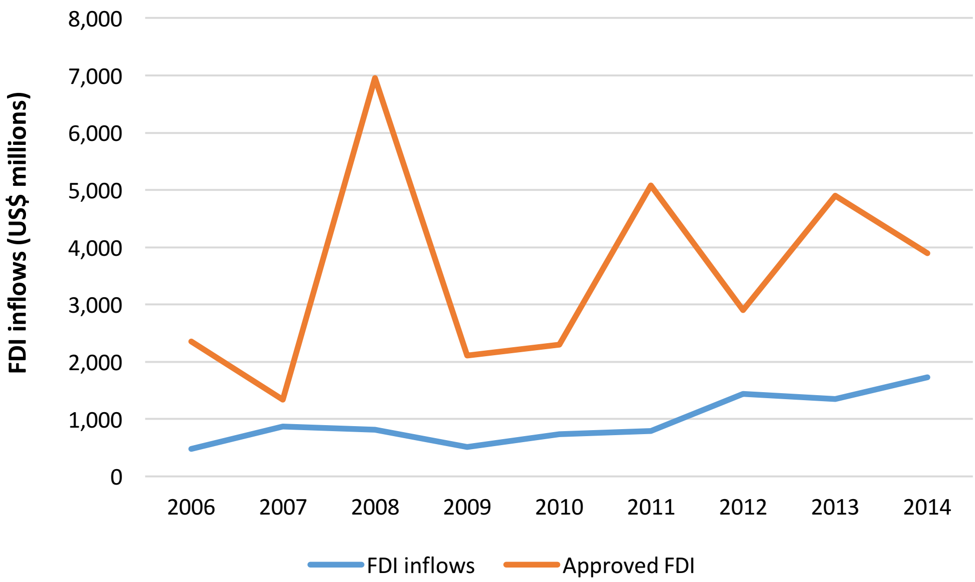
Source: World Bank World Development Indicators

The figures above are compiled by the World Bank using official data and show total recorded FDI inflows. However, the figures for *approved* investment are much higher than the figures above, which show *actual* investment. Figure 6 illustrates how large the gap is

[24] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.94, 164.
[25] World Bank Data, *World Development Indicators: Foreign direct investment, net inflows*, http://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD (accessed October 2015).

between the value of approved foreign investments and how much of that investment is actually realized.[26]

Figure 6: Approved FDI vs. Actual FDI, 2006 – 2014



Sources: World Bank World Development Indicators (FDI inflows), Council for Development of Cambodia (approved FDI)

The statistics on approved investment are often presented by the Cambodian Government in order to illustrate that Cambodia is a popular destination for foreign investment. These figures are then quoted and re-quoted in the media. However, it is rarely explained that these figures concern approved rather than actual investment, and in fact, many approved investments are never implemented. According to Cambodia's Ministry of Commerce, between 2000 and 2012, only 29% of all approved foreign investments were actually realized.[27]

A *Cambodia Daily* article from 2013 examined this issue and pointed to various high-profile investments that were approved but never implemented. For example, in 2008, a Cambodian firm received approval for a US$1.84 billion tourism investment in Ream National Park, Preah Sihanouk province. The project had still not commenced construction at the time of writing. In 2009, the CDC approved investments totaling US$5.86 billion. This included a single approval of US$3.38 billion for an island development by a Cambodian conglomerate, which has still not commenced. In 2010, a South Korean company received approval to build a new US$973 million airport in Siem Reap. Again this project never came to fruition, and the company's CEO was jailed for corruption in Korea.[28] Large one-off

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[26] Statistics for approved investment 2006-2011 from: CDC (2013), *Cambodia Investment Guidebook 2013*, p.II-4. Statistics for 2012-2013 from report of a speech of Prime Minister Hun Sen in: Khan Sophirom (13 January 2014), *PM Hun Sen Highlights Cambodia's Potentials to Vietnamese Investors*, Agence Kampuchea Presse. http://www.akp.gov.kh/?p=40904 (accessed October 2015).

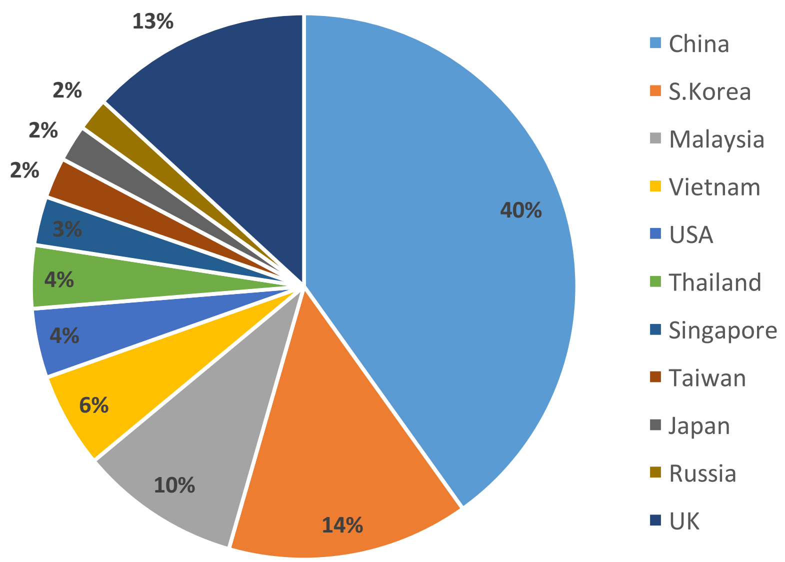
[27] Ministry of Commerce (2014), *Cambodia Trade Integration Strategy 2014-2018*, Phnom Penh: MoC, p.136.

[28] Lewis, S. & Phorn, B. (6 February 2013), *Ambition Trumps Reality in Investment Figures*, Cambodia Daily. https://www.cambodiadaily.com/archives/ambition-trumps-reality-in-investment-figures-9387/ (accessed October 2015).

investments can also skew investment figures. For example, the Chinese company Union Development Group received approval for a US$3.8 billion resort project in 2008 – this accounts for almost 40% of all of China's approved investment between 1994 and 2013.[29]

According to the CDC figures, between 1994 and 2015, the Cambodian Investment Board approved a total of over US$56 billion in investment. Cambodian companies received the most approvals in terms of value. For several years, the top foreign investor has been China, with approved investments between 1994 and 2015 reaching over 12.6 billion.[30]

Figure 7: Breakdown of foreign Investment Approved by the CDC, 1994 – 2015



Source: Council for Development of Cambodia (2013 & 2016)

It is also important to consider that investment projects may also be implemented without being approved by the CDC, and they will not show up in the statistics. The statistics referenced above do not include non-QIP projects, as they are registered with the Ministry of Commerce, not the CDC. The figures also do not cover projects in Special Economic Zones. Rates of business registration in Cambodia are low, and as of 2010, 63% of small enterprises, 29% of medium enterprises, and 7% of large enterprises were not properly registered.[31] This means that a considerable amount of private investment may also go unrecorded.

Areas of investment

[29] Marshall, A.R.C. & Prak Chan Thul, (2012, 7 March), *Insight: China gambles on Cambodia's shrinking forests*, Reuters. http://www.reuters.com/article/2012/03/07/us-cambodia-forests-idUSTRE82607N20120307 (accessed October 2015).

[30] CDC (2013), *Cambodia Investment Guidebook 2013*, Phnom Penh: CDC, p.II-4; CDC (no date*), Investment Trend*, http://www.cambodiainvestment.gov.kh/investment-enviroment/investment-trend.html (accessed April 2016).

[31] RGC (2015), *Industrial Development Policy 2015-2025 – "Market Orientation and Enabling Environment for Industrial Development"*, Phnom Penh: RGC, p.6.

Over the last decade, the majority of Cambodia's private investment has been focused on tourism, manufacturing (mainly garments and footwear), and agriculture. According to the CDC, in 2011 Cambodia's GDP breakdown was as follows.

Table 1: GDP Distribution and Investment by Economic Activity, 2011[32]

Sector	Including	Percentage of GDP	Value of Approved Investments
Services	Tourism, hotels and restaurants, trade, transport and communication	38%	US$3.43 billion
Agriculture, fisheries, and forestry	Crops, livestock and poultry, fishing, logging	32%	US$725 million
Industry	Textiles, garments and footwear, construction, real estate and business	22%	US$2.87 billion
Taxes on products	VAT, profit tax, etc.	8%	N/A

Source: Council for Development of Cambodia (2012)

Pailin City, Pailin Province, May 2015. Photo credit: Ridan Sun

Below is a breakdown of the investments approved by the CDC between 2006 and September 2012. The figures show that in terms of *value*, tourism accounts for the most approved investment. In terms of the number of approved projects, industry received the highest number, with investments in garments, textiles, and footwear accounting for more than half. As mentioned earlier, some of these approved investments were never implemented, including some high-value projects in the tourism sector.

[32] CDC (2012), *Cambodia Investment Guidebook 2012*, Phnom Penh: CDC, p.II-1.

Table 2: Approved Investments by Sector, 2006-September 2012[33]

Sector	Approved projects		Value	
	#	%	US$	%
Industry	513	73.0%	6.688 billion	22.1%
Garment/Textiles	*(290)*			
Footwear	*(36)*			
Energy	*(23)*			
Mining	*(21)*			
Food Processing	*(11)*			
Plastics	*(11)*			
Machine/Metal/Electronics	*(8)*			
Wood Processing	*(6)*			
Others	*(79)*			
Agriculture	96	13.7%	2.535 billion	8.4%
Tourism	60	8.5%	16.870 billion	55.8%
Tourist services	*(55)*			
Hotels	*(12)*			
Service	34	4.8%	4.137 billion	13.7%
Construction/infrastructure	*(20)*			
Other services	*(9)*			
TOTAL	703	100%	30.230 billion	100%

Source: Council for Development of Cambodia (2012)

As mentioned earlier in the paper, Cambodia recently adopted its *Industrial Development Policy*. This policy states that in the coming years, Cambodia will prioritize development of the industrial sector, seek to attract increased foreign investment into agro-processing, and enhance the capacities of small- and medium-size enterprises. The RGC also plans to develop physical infrastructure between Cambodia and the region in order to connect Cambodian manufacturing to regional markets. The industrialization process will require developing specific industrial zones in order to maximize investments in transport, energy, and other infrastructure. The IDP states that border areas with Thailand and Vietnam will be targeted for manufacturing and industrial zones, the Sihanoukville-Phnom Penh industrial corridor will focus on export-oriented manufacturing, the corridor from Kampong Cham to the northwest of the country will be assigned as an agro-processing region, and Siem Reap will focus on tourism. Development of Special Economic Zones will continue to be a key priority for the RGC.[34]

Modes of investment

Much of the discussion on private sector investment in Cambodia tends to focus on the large-scale enterprises, which often grab headlines with their ambitious scope and high investment value. However, more than 97% of Cambodia's companies are "micro" (employing 1-20 people). The country has a relatively small number of "large" enterprises (employing more than 100 people), but large enterprises account for the largest share of

[33] CDC (2013), *Cambodia Investment Guidebook 2013*, Phnom Penh: CDC, p.II-5.

[34] RGC (2015), *Industrial Development Policy 2015-2025 – "Market Orientation and Enabling Environment for Industrial Development"*, Phnom Penh: RGC, p.16-17.

total production value and employ the largest number of people. The Enterprise Census of 2010 found that foreign ownership of micro and small enterprises was very low, but over 60% of large enterprises were foreign-owned.

Table 3: Breakdown of Cambodia's Enterprises by Size, 2010[35]

	Micro 1-20 staff	**Small** 11-50 staff	**Medium** 51-100 staff	**Large** Over 100 staff
Number *(total share)*	69,851 *(97.3%)*	5,861 *(1.9%)*	530 *(0.2%)*	609 *(0.6%)*
Labor force *(total share)*	162,335 *(29.3%)*	28,706 *(5.2%)*	11,949 *(2.2%)*	350,260 *(63.3%)*
Production value *(total share)*	US$396 m *(12.0%)*	US$300 m *(9.1%)*	US$94.4 m *(2.9%)*	US$2.5 bn *(76.0%)*
Foreign ownership	1%	6%	37%	63%

Source: Cambodian Enterprise Census 2010

Private investors can operate through various types of legal entity, including public limited companies and private limited companies. A company and its assets may be owned by a single person or as a partnership. Foreign companies can work through a subsidiary, branch or representative office, but it is common for foreign companies to register a local subsidiary for their investment activities.[36] Companies can also work through a joint venture, which can include Cambodian or foreign companies, or a mixture of both.

Investment projects may be implemented through a range of mechanisms. For example, in the agriculture sector, large-scale agro-industrial projects are implemented through economic land concessions (ELCs). Another common approach for investors, especially in the energy sector, is to invest through Build-Operate-Transfer (BOT) projects. As the name suggests, the investor develops the project, operates it for a period agreed with the government, then transfers the project to the state. Another approach for investors is to locate investment projects within Special Economic Zones. This comes with special investment incentives and ensures proximity to necessary infrastructure.

Long-term financing for large investment projects is not easy to come by in Cambodia. According to Cambodia's *Industrial Development Policy*, interest rates are high and lending requirements are strict and do not favor the development of domestic industries. One way that the RGC hopes to increase access to finance for investments is by promoting Public-Private Partnerships (PPP).[37] In 2013, the Minister for Commerce said that PPP arrangements are the best option for promoting investment in infrastructure development.[38] PPPs are returned to throughout the remainder of the paper.

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[35] RGC (2015), *Industrial Development Policy 2015-2025 – "Market Orientation and Enabling Environment for Industrial Development"*, Phnom Penh: RGC, p.6.
[36] Law on Commercial Enterprises (2005).
[37] RGC (2015), *Industrial Development Policy 2015-2025 – "Market Orientation and Enabling Environment for Industrial Development"*, Phnom Penh: RGC, p.11-12.
[38] Economic Research Institute for ASEAN and East Asia (4 July 2013), *Cambodia Seeks More Participation from Private Sector*. http://www.eria.org/press_releases/FY2013/07/cambodia-seeks-more-participation-from-private-sector.html (accessed October 2015).

Although Cambodia's stock exchange opened in 2012, only 3 companies are listed as of April 2016 and the performance of the stock exchange has so far been disappointing.[39] A number of equity funds are currently active in Cambodia and provide limited financing to specific investment projects. In the absence of domestic finance options, both foreign and domestic companies are also likely to invest their existing resources in order to establish new projects, or seek to generate interest among international investors.

The first half of this paper has focused on providing an overview of the general climate and trends affecting private sector investment in Cambodia. The following sections turn to look at investment in specific sectors, the actors involved in that investment, and its impacts.

Key Sectors for Private Investment

Private investment flows into a wide range of sectors in Cambodia, from agro-industry to small-scale fair trade agriculture projects, luxury tourist resorts to boutique hotels, large bicycle factories to roadside repair shops. It is impossible to cover all sectors in this relatively brief paper, and therefore a handful of important areas have been selected for closer examination. This includes agriculture, manufacturing, energy, extractive industries, infrastructure and public services, as they are both crucial to the development of Cambodia, but also sectors where private investment can pose high risks to workers, rural communities, the environment and overall public interest.

Agriculture

Agriculture is central to Cambodia's economy and to the lives of millions of Cambodian people. In 2014, the Cambodian Government released the results of the country's first agricultural census. This census found that 85% of rural Cambodian households (2.2 million) are engaged in some form of agriculture-related activity, such as growing rice, raising livestock, fishing, or producing rubber. The activities of 73% of these households are focused on home consumption, while the remaining 27% sell crops and livestock to the market.[40] In 2013, investment in the agriculture sector accounted for 31.6% of Cambodia's GDP, compared to 24.1% for industry and 38.5% for the service sector.[41] As of 2013, the agriculture sector was dominated by crop production (54%), followed by fisheries (26%), livestock (14%), forestry and logging (5%).[42] The main crop is rice, which at present is mostly produced for domestic consumption, and cash crops such as cassava and rubber, which are produced for export.

[39] Styllis, G. & Wilwohl, J. (17 June 2014), *Sluggish Stock Exchange Lists 2nd Company*, Cambodia Daily. https://www.cambodiadaily.com/business/sluggish-stock-exchange-lists-2nd-company-61576/ (accessed October 2015).

[40] Hor, K. & Morton, E. (21 August 2014), *Agriculture census unveiled, to the delight of the industry*, Phnom Penh Post. http://phnompenhpost.com/business/agriculture-census-unveiled-delight-industry (accessed October 2015).

[41] MAFF (2014), *Ministry of Agriculture, Forestry and Fisheries Annual Report 2013-2014*, Phnom Penh: MAFF p.13.

[42] MAFF (2014), *Ministry of Agriculture, Forestry and Fisheries Annual Report 2013-2014*, Phnom Penh: MAFF, p.15.

Under the current phase of the Rectangular Strategy, the Government aims to promote increased productivity and diversification in the agriculture sector. The RGC also seeks to add value to the sector by increasing Cambodia's processing capacities, increasing modernization, and developing the commercialization of the sector. A major element of this plan is to encourage private investment in agro-industry. The RGC's vision for the sector involves moving away from small-scale subsistence models towards more intensive operations, moving Cambodia's agriculture from "a low productivity and subsistence-based extensive agriculture" to "a high productivity and commercialized intensive agriculture."[43]

While promoting the development of a commercial paddy rice industry, Cambodia also aims to increase production and export of products such as cassava to China and South Korea, as well as increase exports of processed rubber.[44] At present, it is more common for these products to be exported raw to Thailand and Vietnam where they are processed and then exported to third countries (or even back into Cambodia). In the process, Cambodia loses out on potential profits from selling the value-added products. The RGC aims to further commercialize the Cambodian agriculture sector in order to develop agro-processing industries, further increasing the amount of higher value exports.

In an attempt to industrialize agriculture, Cambodia has granted economic land concessions (ELCs) to domestic and foreign companies. An ELC is a long-term lease that allows a concessionaire to clear land and develop industrial-scale agriculture projects. The ELC mechanism is set out in the 2001 *Land Law*, which is supplemented by a sub-decree issued in 2005. The authority responsible for granting ELCs is the Ministry of Agriculture, Forestry and Fisheries (MAFF). ELCs grant long-term rights to control and utilize land for up to 99 years. Although an ELC gives exclusive rights to the concession holder, they do not have the right to sell the land. ELCs can only be granted on state private land, and cannot exceed 10,000 hectares (ha). It is also not legal for a single person or company to control multiple concessions totaling more than 10,000 ha. Concessionaires must commence operations within 1 year of receiving the concession and it is illegal to use the land for a purpose not specified in the concession contract. ELCs also require public consultation prior to granting, and should be subject to an environmental impact assessment.[45]

ELCs have been granted for various purposes, including creating rubber, acacia, eucalyptus, teak, and palm oil plantations. They have also been granted for cultivation of cash crops such as cassava, sugarcane, corn, and cashew nuts. For many years, there was controversy concerning the true number of concessions granted in Cambodia, and figures published by the government were often incomplete. MAFF claim to have granted concessions to 122 companies over an area of over 1.3 million hectares[46] and the Ministry of Environment (MoE) have reportedly granted 133 concessions over almost 620,000 ha.[47] There are also a small number of concessions that appear to have been approved by senior government,

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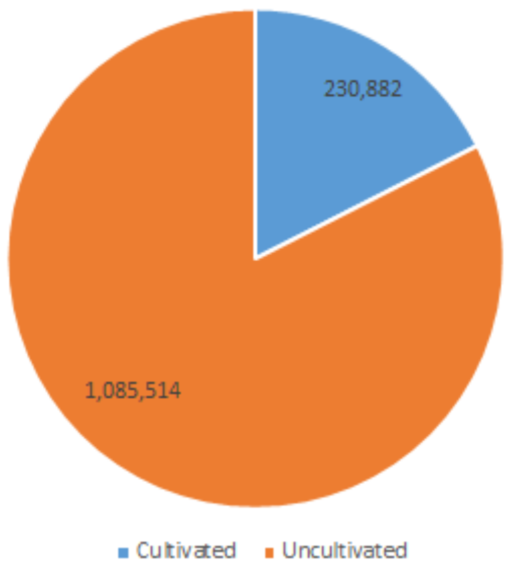
[43] RGC (2013), *"Rectangular Strategy" for Growth, Employment, Equity and Efficiency Phase III of the Royal Government of Cambodia of the Fifth Legislature of the National Assembly*, Phnom Penh: RGC, p.7, 43.
[44] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.165.
[45] Land Law (2001); RGC (27 December 2005), *Sub-decree #146 on Economic Land Concessions*.
[46] MAFF (2014), *Ministry of Agriculture, Forestry and Fisheries Annual Report 2013-2014*, Phnom Penh: MAFF, p.64.
[47] Chea, V. (1 October 2015), *Agriculture Ministry to End ELC Assessment in October*, Agence Kampuchea Presse. http://www.akp.gov.kh/?p=69494 (accessed October 2015).

rather than the agriculture or environment ministries. No official breakdown is available of the non-MAFF ELCs, therefore they are not included in the statistics discussed below.

ELCs have been granted to both domestic and foreign firms, and according to MAFF's annual report for 2014, the vast majority of foreign firms holding ELCs are from Vietnam and China.[48] The majority of MAFF-granted ELCs (almost 60%) were granted in the northeast of Cambodia.[49] These areas contain some of Cambodia's most heavily forested areas, and are also located in close proximity to Vietnam. Of the ELCs granted by MAFF, 29 were granted to Vietnamese companies, followed by 24 to Chinese.[50]

Figure 8: Amount of land under MAFF-granted ELCs that has been cultivated (as of 2014)



Although concessionaires are required to begin development within 1 year, many ELCs have remained idle for years or have only been partially developed. Despite over 10 years of granting concessions for large-scale agriculture, Cambodia's agricultural exports remain low. According to a 2011 report by the World Trade Organization (WTO), Cambodia's agricultural exports were "of little significance".[51] In 2012, agriculture exports only made up 3% of Cambodia's total exports.[52]

The strategy of developing ELCs in order to boost agricultural production and exports has clearly been less successful than hoped, and according to MAFF's annual report for 2013-2014, less than 20% of the land that has been granted as ELC has actually been utilized for agro-industrial development (see Figure 10).[53] Various reports have suggested that many ELCs have been granted in order to facilitate logging, with no long-term vision for agro-industrial development.[54]

[48] MAFF (2014), *Ministry of Agriculture, Forestry and Fisheries Annual Report 2013-2014*, Phnom Penh: MAFF, p.64.
[49] *Ibid.*, p.64-65.
[50] *Ibid.*, p.61.
[51] World Trade Organization (2011), *Trade Policy Review: Cambodia 2011*, p.x-xi.
[52] ASEAN Secretariat (2014), *ASEAN Statistical Yearbook 2013*, Jakarta: ASEAN Secretariat, p.168.
[53] MAFF (2014), *Ministry of Agriculture, Forestry and Fisheries Annual Report 2013-2014*, Phnom Penh: MAFF, p.64.
[54] See, for example, Forest Trends (2015), *Conversion Timber, Forest Monitoring, and Land-Use Governance in Cambodia*, Washington DC: Forest Trends.

Table 4: Details of Concessions granted by MAFF

	Number of ELCs Granted	Total Area Granted (ha)	Total Area Cultivated (ha)
Domestic company	42	661,725	82,155
International company	82	654,671	148,727
Total	124[55]	1,316,396	230,882

Source: MAFF Annual Report 2013-2014

At a ceremony in April 2016, the out-going agriculture minister stated that in addition to the ELCs registered with MAFF, a further 36 were registered at the provincial level and 15 were not yet registered, bringing the total number of companies to 173 and the total area under MAFF-granted ELCs to 1.4 million hectares. In the same speech, the minister stated that the total income raised by MAFF from ELCs was US$5 million in 2015. This works out at just over US$3.50 of state revenue per hectare of land under ELC.[56]

Krakor District, Pursat Province, July 2015. Photo Credit: Ridan Sun

The figures on the following page provide further details on the nature of MAFF-granted ELCs. Figures 11 and 12 show the scale at which land was leased to private investors through the ELC mechanism – and it must be kept in mind that these statistics do not include MoE concessions, which take the total area granted closer to 2 million hectares. The granting of ELCs peaked in 2011, the year before the Prime Minister announced a moratorium on new concessions (discussed more below).

[55] Note that while MAFF states it has granted a total of 122 ELCs, it also states that 42 ELCs were granted to domestic firms and 82 to international firms, which totals to 124. The reason for this discrepancy is unclear.

[56] Khan, S. (14 April 2016), *ELCs Generate Some US$5 Million as State Income*, Agence Kampuchea Press. http://www.akp.gov.kh/?p=79287 (accessed April 2016).

Figure 9: ELCs Granted by MAFF, 1996-2012

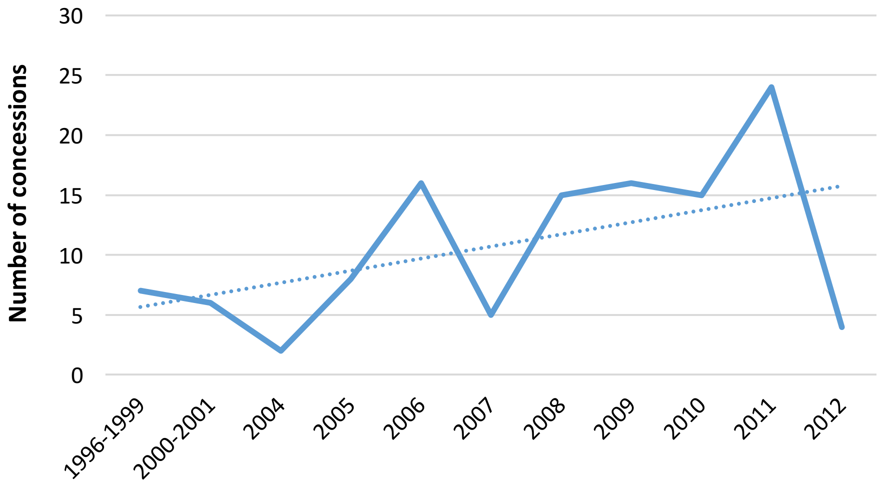


Figure 10: Cumulative Area Granted as ELCs by MAFF, 1996-2012

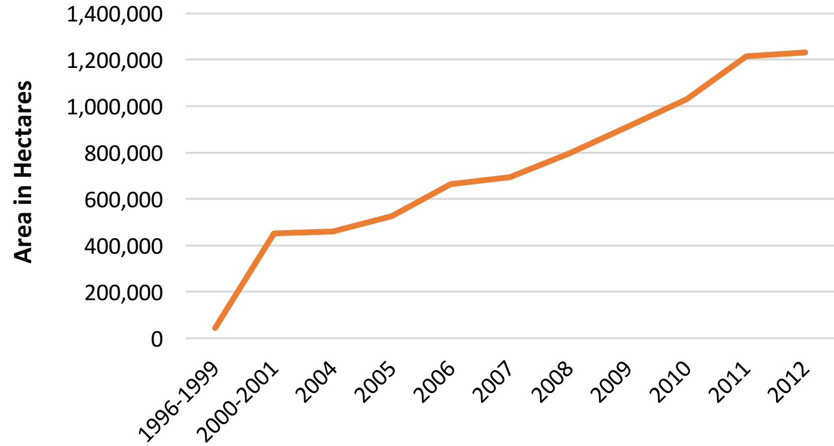
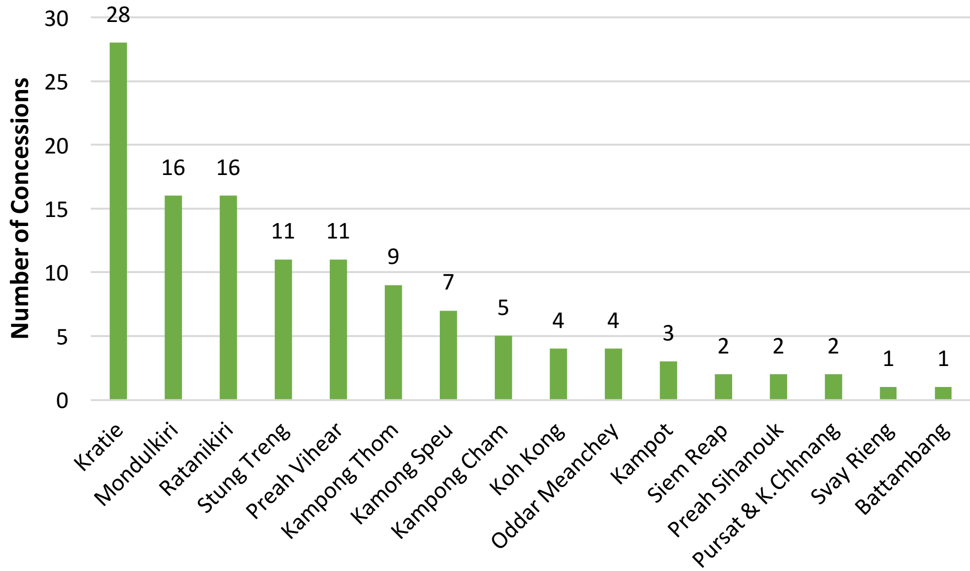


Figure 11: Location of ELCs Granted by MAFF, 1996 - June 2012



Figures 9 & 10 source:
MAFF website, http://www.maff.gov.kh/elc/ (accessed October 2015).

Figure 11 source:
MAFF Annual Report 2013-2014.

Despite the various regulations set out in Cambodian law, many concerns have emerged regarding the ELC program. Disputes between concession holders and local people have dominated the local and international media for years, and ELCs have become widely associated with dispossession and conflict. Although the law limits ELCs to 10,000 ha, it is well-known that individuals and companies have set up various shell companies in order to acquire concessions in excess of this limit. In many cases, these concessions are located directly adjacent to each other, and the companies involved do little to conceal their relationship. Despite the rule that ELCs can only be granted on state private land, many companies have received land in heavily forested areas – which have a clear public interest value, and as such should be regarded as state *public* land. In cases where ELCs have been granted in protected areas, the land has generally been classified as a sustainable use zone first, facilitating the transfer of the land from state public to state private. As mentioned above, critics have suggested that many ELCs have been used to legitimize forest clearance.

Concerns have been raised for many years regarding the impacts of ELCs. While many of these concerns have been dismissed by the government, the RGC has also acknowledged that there are problems around the way the ELC program has been implemented. For example, the *National Strategic Development Plan* for 2009-2013 stated the following: "Land concentration and landless people are on a rising trend, adversely impacting the equity and efficiency of land use. On the other hand, large areas under economic land concessions have not been utilized efficiently as targeted, needing strict government measures to tackle them."[57]

Measures were eventually taken in May 2012 when the Cambodian Government issued *Order 01 on Measures for Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions*, which introduced a suspension of new ELCs and a review of all existing ELCs. The text of Order 01 states that ELCs that have not been implemented in accordance with the law or the concession contract should be cancelled. Between May 2012 and the end of 2014, numerous concessions had areas cut out, at least 23 ELCs were cancelled, and several companies voluntarily gave up their concessions.[58]

In addition to promoting plantation investments through the ELC mechanism, Cambodia also seeks to promote increased rice production. The RGC has developed a *Policy on Paddy Rice Production and Promotion of Milled Rice Export*, under which it aims to achieve a rice surplus of 4 million tons and milled rice exports of at least 1 million tons by 2015. This policy calls for investment in irrigation facilities and increased private sector investment in rice processing and export.[59] Cambodia is currently well short of this target, and in 2015, rice

[57] RGC (2010), *National Strategic Development Plan Update 2009-2013*, Phnom Penh: RGC, p.10.
[58] For an in-depth analysis of the Order 01 campaign, see: Grimsditch, M. & Schoenberger, L. (2014), *New Actions and Existing Policies: The Implementation and Impacts of Order 01*, Phnom Penh: NGO Forum Cambodia; and, Focus on the Global South (2013), *Moving Forward: Study on the Impacts of the Implementation of Order 01BB in Selected Communities in Rural Cambodia*, http://focusweb.org/content/moving-forward-study-impacts-implementation-order-01bb-selected-communities-rural-cambodia.
[59] RGC (2010), *Policy Document on Promotion of Paddy Rice Production and Export of Milled Rice*, Phnom Penh: RGC.

exports were less than 400,000 tons due to inadequate processing and storage facilities.[60] The achievement of these ambitious goals will require improvements in techniques, as well as investment in transport and irrigation networks. To produce rice on this scale will also require either contract farming or commercialized paddy production, which will require extensive private investment in the processing industry in particular.[61]

Linking Small-holders to Agro-industry

The National Strategic Development Plan for 2009-2013 stated that "[t}he Royal Government will foster partnership between small landholders and large-scale agricultural farms or corporations, and between economic and social land concessionaires, especially those involved in agro-industries such as rubber plantation".[62] In support of this goal, the RGC developed and adopted a sub-decree on contract farming, although implementation to date has been limited and it is not clear how much progress has been made in linking small-holders to larger investors. Given the experience so far regarding the widespread violations of the regulations related to ELCs and violations of individual concession contracts by concessionaires, any expansion in contract farming will require close monitoring.[63]

Manufacturing

Manufacturing is an important area of Cambodia's economy, and in 2012 the Ministry of Economy and Finance (MEF) estimated this sector to account for over 15% of GDP.[64] The Government aims to increase this to 20% by 2020.[65] In 2012, there were 869 factories with QIP status, and as can be seen in the table below, garment, textiles, and footwear dominate Cambodian manufacturing, with almost 75% of registered QIPs in the garment sector.[66]

[60] Chan, M (19 December 2014), *Prime minister admits 1 million tonne goal is unlikely for rice sector*, The Phnom Penh Post. http://www.phnompenhpost.com/business/prime-minister-admits-1-million-tonne-goal-unlikely-rice-sector (accessed October 2015).
[61] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.96.
[62] RGC (2010), *National Strategic Development Plan Update 2009-2013*, Phnom Penh: RGC, p.121.
[63] For an examination of contract farming in Cambodia see: Social Action for Change (2011), *Understanding Contract Farming in Cambodia*, Phnom Penh: SAC.
[64] CDC (2013), *Cambodia Investment Guidebook 2013*, Phnom Penh: CDC, p.VII-3.
[65] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.96.
[66] CDC (2013), *Cambodia Investment Guidebook 2013*, Phnom Penh: CDC, p.VII-4.

Table 5: Registered QIPs in the manufacturing sector (2012)

Classification	Number of Factories	Share
Textile, apparel, and leather	651	74.9%
Food, beverage, and tobacco	70	8.1%
Chemicals, petroleum, coal, rubber, and plastic products	58	6.7%
Fabricated metal products	38	4.4%
Paper, paper products, printing and publishing	16	1.8%
Non-metallic mineral products	15	1.7%
Wood products	12	1.4%
Other	9	1.0%
Total	**869**	**100%**

Source: Council for Development of Cambodia (2013)

Factories must be registered with the Ministry of Industry and Handicrafts, and according to an official from the registration department, in 2014 Cambodia had 1,200 garment manufacturing businesses which employed 733,300 people.[67] Most investors in the garment sector are foreign, the majority from mainland China, Hong Kong, Taiwan, and South Korea. The Garment Manufacturers Association in Cambodia (GMAC) is the trade group representing garment manufacturers in Cambodia, and as of 2012, less than 7% of its 449 members were Cambodian companies, the rest being international investors.[68]

Cambodia's garment industry has been boosted by special trade arrangements with the USA and the European Union since the 1990s, and exports to those countries can receive special privileges. As of 2012, garments made up 70-80% of Cambodia's recorded exports, and garments and apparel have played a major role in Cambodia's economic development. In 2014, garment exports reached over US$5.34 billion and footwear US$441.43 million.[69]

The issue of wages and working conditions in the garment industry has been the subject of extensive coverage in recent years, especially since the violent confrontations that occurred between security forces and factory workers protesting for a rise in the minimum wage in 2014. This came to a head on 3 January when security forces shot and killed 5 protesters and injured at least 20 more during protests in the garment district of Veng Sreng Street.[70] A joint NGO statement released soon after called this "the worst state violence against

[67] Henderson, S. & Hul, R. (9 July 2014), *Growth Masks Garment Sector Woes, Groups*, Cambodia Daily. http://www.cambodiadaily.com/business/growth-masks-garment-sector-woes-groups-say-63652/ (accessed October 2015).
[68] CDC (2013), *Cambodia Investment Guidebook 2013*, Phnom Penh: CDC, p.VII-5.
[69] GMAC (no date), *Consolidated Data for Garment and Textile Exports*, http://www.gmac-cambodia.org/imp-exp/garment.php; *Consolidated Data for Footwear Exports*, http://www.gmac-cambodia.org/imp-exp/footwear.php (accessed October 2015).
[70] Mech, D. & Doyle, K. (4 January 2014), *Police Kill 5 During Clash with Demonstrators,* Cambodia Daily. http://www.cambodiadaily.com/archives/military-police-kill-5-during-clash-with-demonstrators-50081/ (accessed October 2015).

civilians to hit Cambodia in 15 years".[71] As of November 2014, the garment industry minimum wage was US$100 per month. However, the previous month the Ministry of Planning stated that the poverty line in Phnom Penh was US$120.[72] Beginning in January 2015, the minimum wage increased to US$128.[73]

Prior to the turmoil of recent years, Cambodia's garment industry was often held up as a 'success story' for both its financial achievements and working conditions, although there have also been numerous reports of violations of the labor law relating to annual leave, sick pay, occupational safety issues, discrimination against union members, and assassinations of union leaders. Since 2001, the International Labour Organization's (ILO) Better Factories Cambodia has monitored conditions in the garment industry. The Better Factories initiative has started to name companies with poor compliance.[74] While this initiative has received praise from some, it has also been criticized by others for having limited impact on the conduct of less responsible companies.[75] A number of top global brands purchase products from Cambodian factories. This includes Walmart, H&M, Gap, Levis, Nike, Adidas, and Puma. The media coverage and images of violent conflict and injured workers has put pressure on these internationally recognized brands to push for improved standards in Cambodian factories.

Cambodia's manufacturing industry is geared towards export, and while this has been a boon for the Cambodian economy, it also means that it is vulnerable to a slowdown in the global economy. For example, after the global financial crisis hit, investment in Cambodia's garment industry dropped drastically in 2008 and 2009.[76] According to one study, 51,000 garment workers were laid off between September 2008 and February 2009.[77] During this time, many factories closed their doors without notice and left without paying workers' outstanding wages.[78] Unions have called on the Government to require companies to set up

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[71] Licadho & Community Legal Education Centre (3 January 2014), *Joint Media Statement: Civilians killed and injured by security forces amid civil unrest in Phnom Penh*. http://www.licadho-cambodia.org/press/files/334JointPR-CiviliansKilledPhnomPenh2014-English.pdf (accessed October 2015).

[72] Teehan, T. (3 October 2014), *Poverty line $120, gov't says*, Phnom Penh Post. http://www.phnompenhpost.com/national/poverty-line-120-gov%E2%80%99t-says (accessed October 2015).

[73] International Labour Organization (2015), *Cambodia Garment and Footwear Sector Bulletin, Issue I*. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_383562.pdf (accessed October 2015).

[74] Better Factories Cambodia (no date), *Transparency Database*, http://www.betterfactories.org/transparency/en/ (accessed October 2015).

[75] Stanford University International Human Rights and Conflict Resolution Clinic & Worker Rights Consortium (2013), *Monitoring in the Dark: An evaluation of the International Labour Organization's Better Factories Cambodia monitoring and report program*. https://humanrightsclinic.law.stanford.edu/wp-content/uploads/2013/03/Monitoring-in-the-Dark-Stanford-WRC.pdf (accessed October 2015).

[76] CDC (2013), *Cambodia Investment Guidebook 2013*, Phnom Penh: CDC, p.VII-5.

[77] Jalilian, H. et al (2009), *Global Financial Crisis Discussion Series, Paper 4: Cambodia*, London: Overseas Development Institute, p.9.

[78] Ek, M. (23 March 2009), *Global downturn threatens Cambodian garment success*, Reuters. http://www.reuters.com/article/2009/03/23/us-cambodia-garments-idUSTRE52M36G20090323 (accessed October 2015).

deposit accounts prior to beginning operations which will cover workers' pay if the company goes bankrupt.[79] However, no such program is yet in place.

Cambodia's domestic textile industry is small, so the garment industry relies mostly on imported materials. Much of the work done in Cambodian garment factories involves stitching together parts that are manufactured elsewhere. This reduces the local value added and means that employment is generally low-skill, resulting in the industry operating on limited profit margins. Combined with the fact that the manufacturing industry is focused on just a handful of products, this means that the country is particularly at risk from global events such as the financial crisis. The RGC is therefore eager to promote diversification of the manufacturing industry, and under the NSDP for 2014-2018, seeks to encourage investment in new high value-added industries such as assembly of electronics, manufacture of spare parts, and agro-processing.[80]

While there are problematic factories and ongoing conflicts over the minimum wage, Cambodia's garment industry has generated a huge amount of employment, and continues to attract workers from around the country. Many workers use their salaries to support families in rural areas who have limited livelihood options. Revenue generated by the industry also plays a significant role in the Cambodian economy, with garments accounting for up to 80% of Cambodia's total exports. Cambodia faces competition from other countries, including Bangladesh and Vietnam, and has to remain competitive. However, this also needs to be balanced with respect for the rights of workers, without whom there would be no garment industry.

Special Economic Zones (SEZs)

Special Economic Zones (SEZs) are a key mechanism for promotion of private investment in the manufacturing sector. SEZs are areas that are established specifically to promote investment and which are subject to special regulations, such as tax breaks and duty-free imports and exports. SEZ regulations are usually market-oriented and seek to attract foreign investment. A single company or joint venture may receive approval to develop an SEZ. After an SEZ is established, the owner(s) will rent space and facilities within that zone to other companies.

The authority responsible for oversight of Cambodia's SEZs is the Cambodia Special Economic Zone Board (CSEZB), which is under the Council for the Development of Cambodia. According to Cambodian state media, 33 SEZs have been approved up to the end of 2014, of which 11 are operational.[81] By the end of 2012, 138 QIPS had been approved within SEZs, 134 of which were for manufacturing. The vast majority of

[79] Chun, S. & Hor, H. (21 February 2008), *Govt pressured to protect garment workers' salaries*, Phnom Penh Post. http://www.phnompenhpost.com/business/govt-pressured-protect-garment-workers-salaries (accessed October 2015).

[80] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.167.

[81] Chea, V. (30 December 2014), *Cambodia Has 33 Special Economic Zones by End 2014*, Agence Kampuchea Presse. http://www.akp.gov.kh/?p=56188 (accessed October 2015).

approved manufacturing projects within SEZs were registered to companies from Japan (30%), mainland China (22%), and Taiwan (19%).[82]

The SEZ model can theoretically reduce business costs by providing pro-business incentives and clustering industries together close to the infrastructure required for manufacturing, for example, water supply, energy, and transport links. Once operational, SEZs may also generate employment, attract further investment, contribute to diversification of exports, and facilitate integration into regional markets (most of Cambodia's SEZs are located in border or coastal areas).

Other countries in the East Asia region, most notably China, have enjoyed significant success by establishing SEZs. However, progress has been slow in Cambodia, and although 33 SEZs have been approved, many still lack investors. According to the RGC's *Industrial Development Policy*, of the 9,000 hectares that have been granted as SEZ up to 2014, only 280 hectares are occupied by operational factories. Development of the areas is in part being held back by weak transport, energy, and water infrastructure.[83] However, the development of SEZs and industrial corridors has been identified by the RGC as a crucial tool for Cambodia's industrialization, and SEZs are likely to remain a feature of the investment landscape for the foreseeable future.

Energy

The limited capacity of Cambodia's energy sector is often highlighted as an impediment to investment. Electricity supplies in Cambodia are often unreliable and unable to meet demand, but also expensive in comparison to neighboring countries. For the last two decades, Cambodia has relied on expensive and polluting diesel-powered generators for much of its power supply. In order to make up for the shortfall in power, Cambodia also has to import electricity from Vietnam and Thailand. Electricity imports in 2012 provided 37% of the nation's total energy supply.[84] This is now changing, and investment to the energy sector has increased over the last decade. This includes multi- and bilateral donor support for transmission projects, as well as major private investments in hydropower and coal-generation projects.

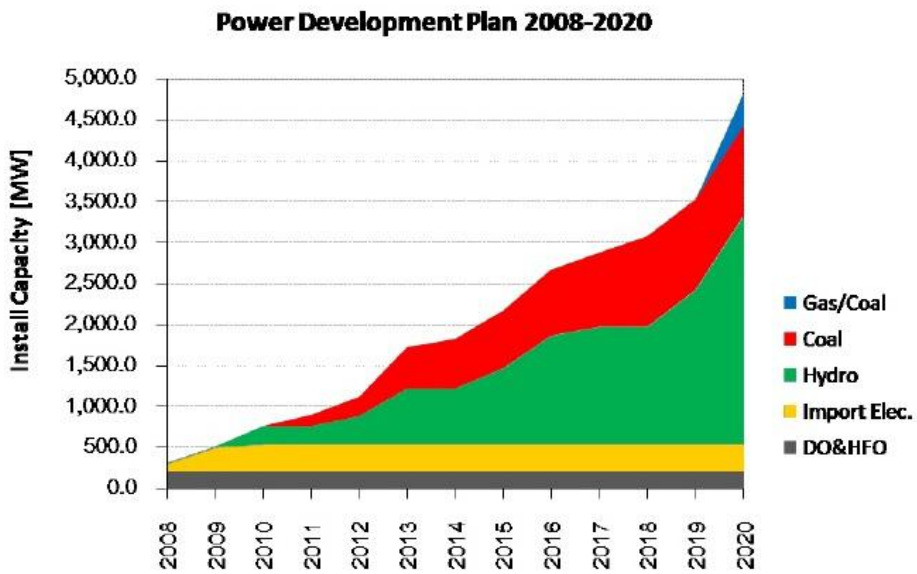
The RGC sees private investment as crucial for the development of the energy sector, and the 2001 *Electricity Law* encourages private actors to invest in electricity generation, transmission, and distribution. Investors from several countries are involved in the development and operation of transmission and generation infrastructure. Chinese companies play a major role, and in 2012 the Minister for Industry, Mines and Energy stated the following: "Most investors in the country's energy sector are from China. Chinese

[82] CDC (2013), *Cambodia Investment Guidebook 2013*, Phnom Penh: CDC, p.II-6.
[83] RGC (2015), *Industrial Development Policy 2015-2025 – "Market Orientation and Enabling Environment for Industrial Development"*, Phnom Penh: RGC, p.11.
[84] Xinhua (23 February 2013), *3rd China-invested Hydropower Dam Begins Operation in Southwestern Cambodia*, Xinhuanet. http://news.xinhuanet.com/english/world/2013-02/23/c_132187633.htm (accessed October 2015).

investors have invested billions of US dollars in building hydropower dams and power transmission lines in Cambodia (...) The investment in this sector is very vital for Cambodia's social and economic development and poverty alleviation."[85]

Much of the private investment in the energy sector is done through Build-Operate-Transfer (BOT) arrangements, whereby the investor builds and operates the project for a specific period of time, then transfers the project to the government to take over operations. For example, the Kamchay hydropower dam was developed under a 44-year BOT contract – 4 years for construction and 40 years for operation – after which the project will be handed to the Cambodian government.[86] In the northwest of the country, a public-private partnership supported by the Asian Development Bank enabled a Malaysian company to establish Cambodia Power Transmission Lines Co. Ltd., which transmits power into Cambodia from Thailand under a 30-year BOT agreement.[87]

As can be seen in the figure below, taken from a 2012 presentation by the Ministry of Industry, Mines and Energy, by 2020, hydropower and coal are projected to play a major role in future generation of power in Cambodia.[88]



Cambodia now has six operational large hydropower dams, with one more under construction. All are supported by investment from Chinese state-owned companies.

[85] Xinhua (13 September 2012), *China's Investment in Energy Crucial to Cambodia*, Global Times. http://www.globaltimes.cn/content/732973.shtml (accessed October 2015).
[86] Grimsditch, M. (2012), C*hina's Investments in Hydropower in the Mekong region: The Kamchay Hydropower Dam, Kampot, Cambodia*, Washington DC: Bank Information Centre.
[87] Cambodia Power Transmission Lines Co. Ltd. (no date), *Company Profile*, http://www.cptl.com.kh/?page_id=2 (accessed October 2015).
[88] Presentation by Deputy Director General Victor Jona (General Department of Energy of the Ministry of Industry, Mines and Energy), *Attaining Energy Access for All, Policy Law and Regulation*, 4-5 June 2012.

Table 6: Hydropower dams operational, under construction or study

Project	Location	Status	Reported cost	Output
Kirirom I	Kampong Speu	Operational (2002)	US$15.5 million	12 MW
Kamchay	Kampot	Operational (2011)	US$270 million	193 MW
Kirirom III	Koh Kong	Operational (2013)	US$47 million	18 MW
Stung Atay	Pursat	Operational (2013)	US$255 million	120 MW
Stung Tatai	Koh Kong	Operational (2015)	US$540 million	246 MW
Lower Russei Chhrum	Koh Kong	Operational (2015)	US$500 million	338 MW
Lower Sesan II	Stung Treng	Under construction	US$782 million	400 MW
Stung Cheay Areang	Koh Kong	Under study (suspended)	US$320 million	108 MW

As well as moving forward with hydropower generation, the RGC has approved a number of coal-fired power plants, in part because hydropower stations will suffer from reduced outputs during the dry season. This includes a US$400 million, 300 megawatt (MW) plant in Kampot that will be developed by a Chinese company[89] and a 100 MW coal-fired plant in Preah Sihanouk province, developed by a Malaysian company.[90] In March 2012, Senator Ly Yong Phat signed a joint-venture agreement with a Thai company to develop a 1,800 MW coal-powered plant in Koh Kong.[91] This joint venture is planned to generate power for Cambodia and for export to Thailand, but the Thai partner pulled out in 2013, leaving the project in limbo.[92]

'Development of physical infrastructure' is a key pillar of Cambodia's Rectangular Strategy, which includes development of electricity infrastructure.[93] This is clearly a priority area for Cambodia, and as mentioned above, limited access to electricity is a major obstacle to further investment. Additionally, millions of ordinary Cambodians continue to live without electricity supplies that could improve their quality of life as well as their livelihood opportunities. However, serious concerns have emerged regarding the implementation of energy sector developments, especially concerning the construction of large-scale

89 Rann, R. (19 June 2012), *China to Back Kampot Power Plant*, Phnom Penh Post. http://www.phnompenhpost.com/business/china-back-kampot-power-plant (accessed October 2015).
90 Hor, K. & Morton, E. (26 February 2014), *Mixed Reaction to Coal-Fired Plant*, Phnom Penh Post. http://www.phnompenhpost.com/business/mixed-reaction-coal-fired-plant (accessed October 2015).
91 Xinhua (25 March 2012), *Cambodian, Thai firms ink deal for 1,800 megawatt coal-fired power plant in Koh Kong,* Global Times. http://www.globaltimes.cn/NEWS/tabid/99/ID/701937/Cambodian-Thai-firms-ink-deal-for-1800-megawatt-coal-fired-power-plant-in-Koh-Kong.aspx (accessed October 2015).
92 Watcharapong Thongrung (21 August 2013), *Ratch Pulls Out of JV for Cambodia Power Plant*, The Nation. http://www.nationmultimedia.com/business/Ratch-pulls-out-of-JV-for-Cambodia-power-plant-30213082.html (accessed October 2015).
93 RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.3.

hydropower projects. One project in particular that has alarmed communities, civil society, environmentalists, academics, and other observers, is the Lower Sesan 2 dam in Stung Treng province. If this dam continues to go ahead as planned, it will lead to extensive resettlement and flooding of a huge area. It may also impact fisheries and sedimentation flow not only in Cambodia but also in neighboring countries.[94] Hydropower projects have been developed in a way that does not meet international best practice with regards to communication and participation of local people, and consultations and access to information have been seriously limited.[95]

The NSDP states that while promoting private sector engagement in the energy sector, the RGC will "make further efforts to mitigate the adverse effects on environment and society" and at the same time safeguard economic efficiency.[96] This is a complex trade-off, and the infrastructure required for energy generation and transmission will often have negative impacts on people and the environment. While progress needs to be made in increasing access to reliable and affordable electricity, more needs to be done to ensure that this is not at the expense of vulnerable people and the environment. Energy generation projects must be developed in a rational and responsible manner, utilizing cleaner energy sources wherever possible. It is crucial that the benefits of these developments reach all Cambodians, not just those living in urban centers or close to areas where industry is developing.

Extractive industries

Cambodia's extractive industries are still undeveloped, although there is considerable interest from domestic and foreign investors. In the mining sector, a range of actors are involved in exploration for mineral deposits including small- and medium-sized companies and a handful of major enterprises. However, for the most part, actual mining operations are small-scale or artisanal. Cambodia's oil industry has yet to take off, but a number of foreign companies are continuing to explore for offshore reserves.

To date, there has been no industrial-scale mining in Cambodia, but a large number of exploration licenses have been granted to both local and international companies. Companies from various countries are engaged in exploration work, including Australia, Canada, Korea, China, and Vietnam. These companies are exploring for a range of resources, including bauxite, gold, copper, coal, and iron ore.[97] The map below shows the location of the known licenses issued in recent years.[98]

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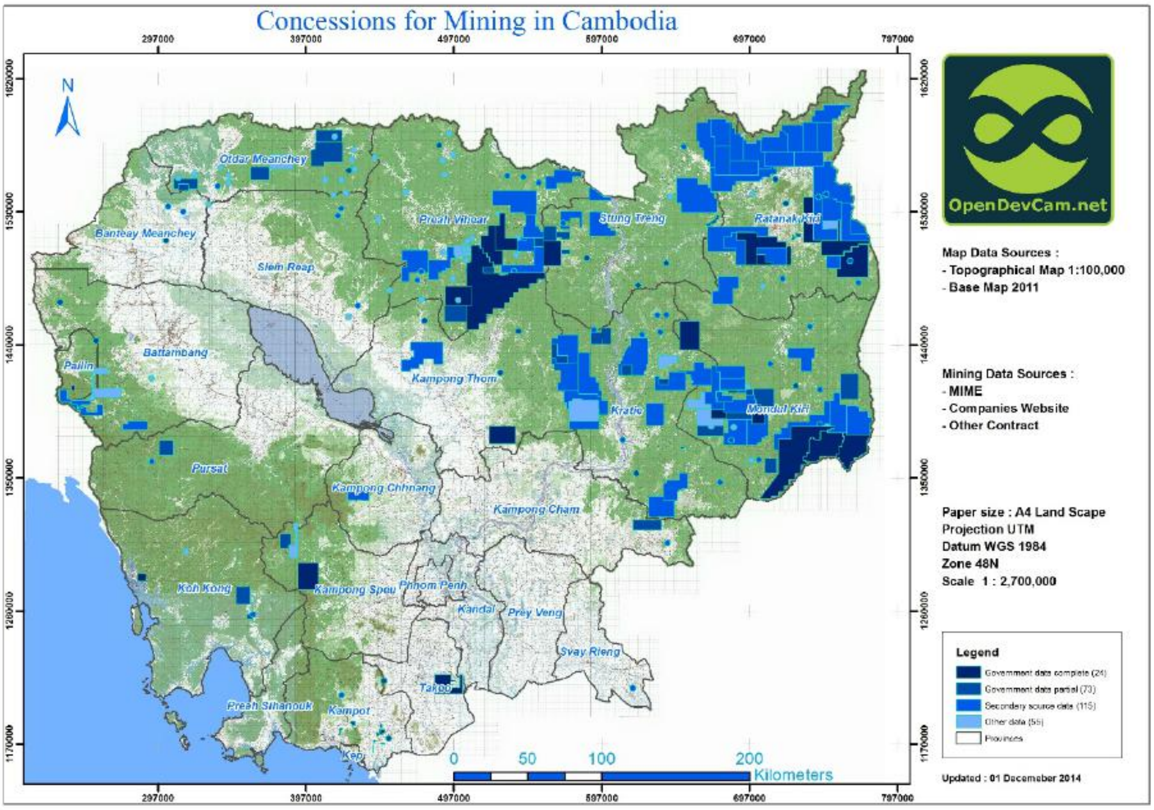
[94] Ogonda, K. (2014), *Starving the Mekong: Expected social and environmental impacts from construction and operation of the Lower Sesan II Dam*, Berkeley: International Rivers.

[95] Grimsditch, M. (2012), *China's Investments in Hydropower in the Mekong region: The Kamchay Hydropower Dam, Kampot, Cambodia*, Washington DC: Bank Information Centre.

[96] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.156.

[97] Soto-Viruet, Y. & Fong-Sam, Y. (2013), *The Mineral Industry of Cambodia*, US Geological Survey 2011 Minerals Yearbook.

[98] Open Development Cambodia (2014), *Concessions for Mining in Cambodia*, http://www.opendevelopmentcambodia.net/download/maps/concessions_for_mining.jpg (accessed October 2015).



Source: Open Development Cambodia (2014)

Although several areas of Cambodia are thought to be mineral-rich, the development of the mining industry is being held back in part by limited infrastructure. Mining and processing on an industrial scale requires significant water and electricity supplies as well as strong transport infrastructure. This is generally lacking in the remote areas where Cambodia's mineral resources are concentrated. However, it has been reported that a number of mining licenses have now been issued, and according to the director of the Department of Mineral Resources at Cambodia's Ministry of Industry, Mines and Energy (MIME), as of March 2013, 91 companies held mineral licenses, including 139 exploration licenses and 13 exploitation licenses.[99] In 2016, Indian company Mesco Gold is expected to receive a mining license for the country's first commercial gold mine.[100]

Under the existing *Law on Mineral Resource Management and Exploitation* from 2001, the Ministry of Mines and Energy (MME, previously MIME) is responsible for issuing mining licenses. MME is also responsible for inspecting mining operations and monitoring implementation of the mining law.[101] License applicants must submit an Environmental Impact Assessment (EIA) and Environmental Management Plan, and must provide financial guarantees and prepare a plan for restoration after the project is over. During project operation, mining companies must protect the health of workers and of the public living in

[99] Chrea, V., *The Current Situation of Mining Industry in Cambodia*, presentation of Ministry of Industry, Mines and Energy, General Department of Mineral Resources, Tokyo, March 2013.

[100] Angkor Gold (7 April 2016), CEO's Message – April 7, 2016. http://www.angkorgold.ca/ceos-message/april-7-2016/ (accessed April 2016).

[101] Law on Mineral Resource Management and Exploitation (2001), article 15.

and around the mining site, and are also required to educate, train, and provide jobs to Cambodian citizens.[102]

Although the mining law includes important provisions that should in theory provide protections for local people and the environment, the legal framework is basic and in need of reform if it is to cope with any significant development of the sector. A major concern is the lack of transparency in the way that licenses are granted, and in many cases licenses are being granted without any consultation with local people. The most striking example of this is the case of a proposed iron ore mine in Rovieng district of Preah Vihear province. This major project involved the development of an iron ore mine, a steel processing plant, a 400 km railway connecting to the coast, and a new commercial port. At a total cost of US$11.2 billion, this would be the biggest development project in Cambodia's history. However, it only came to light when the companies involved held a press conference in January 2013 to announce the project. No consultations were held with local people and no EIA is known to have been conducted. The project has since stalled and its current status is unclear, but this case provides a useful example of the current state of transparency in the extractive and infrastructure sectors in Cambodia.[103]

The Cambodian National Petroleum Authority (CNPA) was previously in charge of the oil and gas sector, but it was reported in 2013 that the CNPA would be integrated to MME.[104] Oil and gas are now the responsibility of MME's General Department of Petroleum. A new Petroleum Law has been in development for many years but has yet to see the light of day. At present, the basic Petroleum Regulations from 1991 are still in effect.[105]

Cambodia's oil exploration areas are divided into six offshore blocks and nineteen onshore blocks. There are also four areas in an overlapping claims area that are currently contested with Thailand. The companies holding exploration licenses come from various countries, including South Korea, Japan, China, Singapore, Vietnam, and Kuwait.[106] Exploration in Block A is the most advanced, although extraction has been delayed for many years. In 2014, Chevron, the most high-profile company involved in Cambodia's oil industry, decided to walk away and sell its stake in Block A to a Singaporean company.[107] The map below indicates the location of the various oil and gas blocks.[108]

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[102] *Ibid.*, article 21; see also, RGC (11 August 1999) *Sub-decree #72 on Environmental Impact Process*, article 2

[103] Equitable Cambodia & Focus on the Global South (2013), *Briefing Paper: The Chinese North-South Railway Project*, Phnom Penh: EC & Focus. http://focusweb.org/content/briefing-paper-chinese-north-south-railway-project (accessed October 2015).

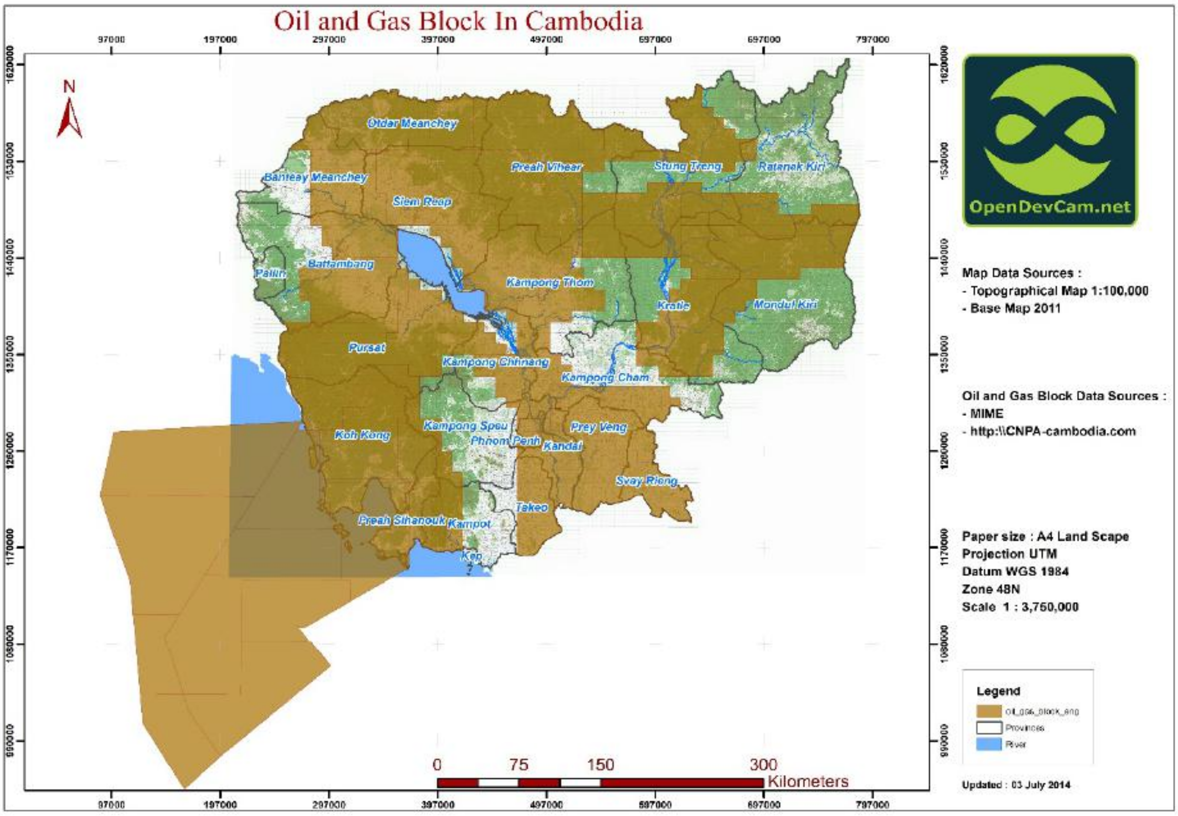
[104] Aun, P. & Meyn, C. (11 November 2013), *National Petroleum Authority to Change Hands*, Cambodia Daily. http://www.cambodiadaily.com/archives/national-petroleum-authority-to-change-hands-46796/ (accessed October 2015).

[105] Ministry of Mines and Energy (no date), *General Department of Petroleum: Regulation*, http://mme.gov.kh/administrator/gd-link-page-gdp.php?gd1=981 (accessed October 2015).

[106] Open Development Cambodia (no date), *Oil and Gas Blocks*, http://www.opendevelopmentcambodia.net/briefing/oil-and-gas-blocks/ (accessed October 2015).

[107] Reuters (10 August 2014), *Singapore's Krisenergy Buys Out Chevron in Cambodian Oil Block*. http://www.reuters.com/article/2014/08/11/krisenergy-chevron-cambodia-idUSL4N0QH1DM20140811 (accessed October 2015).

[108] Open Development Cambodia (2014), *Oil and Gas Blocks in Cambodia*, http://www.opendevelopmentcambodia.net/download/maps/oil_gas_blocks.jpg (accessed October 2015).



Source: Open Development Cambodia (2014)

Cambodia also plans to develop an oil refinery in the coastal province of Preah Sihanouk, again supported by private sector investment. The refinery is reported to cost US$2.3 billion and will be developed by a joint venture of state-owned Chinese firms along with a local Cambodian partner.[109] This project has stalled, as has development of the oil and gas sector in general, especially since the drop in global oil prices.[110]

With Cambodia's extractive industries in the early stage of development, it remains to be seen how profitable the existing mineral and oil deposits will be and how well the revenues will be managed. Both the mining law and petroleum regulations state that license holders must pay fees for registration and land rental, as well as royalties on resources. However, in the current context of weak regulation and very low levels of transparency, it is a serious risk that revenues will not be fully accounted for and that the potentially serious environmental and social risks will not be appropriately mitigated.

The NSDP for 2014-2018 states that efforts will be taken to develop technical regulation and supervision of the extractives industry, including risk management and management of social and environmental impacts through the whole project cycle. The NSDP also states that efforts will be made to develop policies for management of revenues and strengthen

[109] May, K. (16 October 2013), *Oil Refinery to Receive a $1.67b Loan*, Phnom Penh Post. http://www.phnompenhpost.com/business/oil-refinery-receive-167b-loan (accessed October 2015).

[110] McGrath, C (21 March 2016), *Exploring in difficult circumstances*, Phnom Penh Post. http://www.phnompenhpost.com/business/exploring-difficult-circumstances (accessed April 2016),

regulatory framework.[111] In 2007, the Cambodian Prime Minister raised the issue of revenue management, stating:

> The revenues from the recently confirmed discovery of oil reserves will provide additional money for financing development projects in Cambodia. These revenues will be directed to productive investment and poverty reduction (…)We will make sure that oil is a blessing but not a curse.[112]

Such statements are promising, but only time will tell if this becomes a reality. Even after laws and regulations are adopted or reformed, proper implementation is crucial. As can be seen in other areas, for example, the agro-business sector, strong legal frameworks have so far failed to ensure responsible investment practices and have failed to provide appropriate protection for affected people.

Infrastructure

Huge improvements have been made to Cambodia's physical infrastructure in recent years, however, in many areas there is still much work to be done. Transport links and facilities for energy generation and transmission do not meet current demands, irrigation and water supply is limited in many areas, and outside of the capital and other major urban centers, communication infrastructure is basic. This weak infrastructure has implications for the daily lives of Cambodian people, and is also a significant barrier to further investment.

Improving infrastructure is central to the RGC's plans for pursuing industrialization. The government sees the private sector as a key actor in its development, either through direct investments or public-private partnerships (PPP). As discussed earlier in this paper, the private sector is playing a major role in the development of energy infrastructure. The RGC is also seeking to promote private sector investment in transport (including rail, river ports, and airports), communication, and water projects (including water supply, sanitation, and irrigation).[113]

The *Law on Concessions* was adopted in 2007 and its purpose is to facilitate implementation of privately financed infrastructure projects through PPPs.[114] In order to promote private sector participation in building infrastructure, the RGC now plans to review this law and prepare a specific policy on the promotion of PPPs.[115] The *Law on Concessions* covers private investment in various areas, including energy, transportation, water supply and irrigation, telecommunication, and oil and gas related infrastructure.[116] It provides various mechanisms for granting infrastructure concessions, including Build-Operate-Transfer and Build-Own-Operate arrangements.[117] Several of the private investments in infrastructure that have been mentioned in this paper have benefitted from these types of concession.

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[111] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.168.
[112] Xinhua (24 February 2007), *Potential oil reserves put Cambodia into limelight*, People's Daily Online. http://en.people.cn/200702/24/eng20070224_352115.html (accessed October 2015).
[113] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.148, 150, 151.
[114] Law on Concessions (2007), article 1.
[115] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.94, 147.
[116] Law on Concessions (2007), article 5.
[117] *Ibid.*, article 6.

In the transport sector, one of the most well-known PPPs is the donor-funded railway rehabilitation. This US$143 million project was funded by the Asian Development Bank (ADB) in partnership with the Australian aid agency, AusAID, and the Cambodian Government. Part of the financing arrangement between the ADB and the RGC included an agreement to transfer management of the railway to a private sector company through a public-private partnership. A French and a Thai company were contracted to conduct the rehabilitation work, after which the private company Toll-Royal Railways was awarded a 30-year concession to operate the railway.[118] This project is now running a small number of goods trains between Phnom Penh and Sihanoukville, but has run into multiple problems along the course of its development, including lack of funding.[119] The project has also come under heavy criticism for its inadequate compensation and poor resettlement practices.[120]

Development of railway connections is an important part of Cambodia's *Industrial Development Policy*. It is envisioned that along with air, road, and maritime linkages, railways will connect the various industrial areas and connect Cambodia to Thailand and Vietnam.[121] A major Chinese-invested railway project was discussed in the section on extractive industries section of this paper, and Chinese companies have also been connected to the potential development of several other railway lines. No development has yet commenced, although feasibility studies have been conducted for several projects.[122]

Another area where the RGC seeks to attract infrastructure investment is in irrigation. Although water is relatively abundant in Cambodia, especially during the wet season, many farmers still struggle to access adequate water to irrigate their crops because necessary infrastructure is lacking. This has been exacerbated by severe drought in recent years. There are a handful of private investments in irrigation, with companies developing new facilities or rehabilitating old irrigation networks and charging fees to those who wish to access water. For example, private companies have invested in irrigation infrastructure in Kampong Thom in order to provide water for dry season rice cultivation.[123] Improved irrigation is required in order to meet Cambodia's ambitious plans for increasing rice cultivation and exports, and the NSDP for 2014-2018 states that the RGC will continue to encourage donor and private sector investment in the sector.[124]

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[118] Australian Government Aid Program (2013), *The Railway Rehabilitation Project in Cambodia*, http://aid.dfat.gov.au/countries/Documents/railway-resettlement-in-cambodia-qa.pdf (accessed October 2015).

[119] Eang, M. (5 February 2013), *Australia Courted for Further Railway Funding*, Cambodia Daily. https://www.cambodiadaily.com/archives/australia-courted-for-further-railway-funding-9422/ (accessed October 2015).

[120] Bugalski, N. & Medallo, J., *Derailed: A Study on the Resettlement Process and Impacts of the Rehabilitation of the Cambodian Railway*, Phnom Penh: Bridges Across Borders Cambodia.

[121] RGC (2015), *Industrial Development Policy 2015-2025 – "Market Orientation and Enabling Environment for Industrial Development"*, Phnom Penh: RGC, p.28.

[122] Equitable Cambodia & Focus on the Global South (2013), *Briefing Paper: The Chinese North-South Railway Project*, Phnom Penh: EC & Focus, p.18-19.

[123] Chea, C. et al. (2011), *Decentralised Governance of Irrigation Water in Cambodia: Matching Principles to Local Realities*, Phnom Penh: CDRI.

[124] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.152.

The NSDP also indicates that the RGC will encourage private investment in modern communications technology, including broadband Internet and phone networks.[125] For example, the Chinese-owned firm Cambodia Fiber Optic Communication Network Co. Ltd. has been awarded contracts to develop 9,000 km of fiber optic cables linking all of Cambodia's provinces, after which it has a 35-year license to operate the network (as illustrated in the map below). This will provide services including mobile phone networks, broadband Internet, and digital television.[126]

Source: Cambodia Fiber Optic Communication Network Co. Ltd

As can be seen above, the PPP model is growing in importance in Cambodia as a means to mobilize the technical capacities and financial resources of the private sector to develop public infrastructure and services. PPPs can be useful for governments to gain access to finance that is usually only available to the private sector, and in theory the model can improve efficiency and service delivery. Cambodia has implemented a considerable number of PPPs, but as stated in a 2012 ADB evaluation, apart from the major projects in the power sector, most are small-scale and emerge on an *ad hoc* basis. PPPs are not standardized, and they are not being awarded through competitive tendering.[127] Without transparency in the way that PPPs are granted and monitored, the likelihood that they can deliver effective projects that are efficient and provide value for money is limited.

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125 *Ibid.*, p.158.

126 Cambodia Fiber Optic Communication Network Co. Ltd (no date), *About the Project*, http://www.cfocn.com.kh/index.php?categoryid=9 (accessed October 2015).

127 Asian Development Bank (2012), *Assessment of Public–Private Partnerships in Cambodia: Constraints and Opportunities*, Manila: ADB, p.ix.

Private investment in public services

The Cambodian government has welcomed private investment in public services. This gives rise to questions about how the State will regulate service providers, and ensure equity in access and quality of services. Many developing countries seek private sector involvement in physical infrastructure and public goods and services, but put in place strong regulations to ensure that public interest is served.

Private foreign investment in the energy sector is extensive, with Chinese and Malaysian companies playing a major role in the generation and transmission of electricity. In addition to these large private investments, many smaller Cambodian companies operating in the provinces have received licenses to produce and distribute power. Private companies have also invested in water supply in provincial towns and acquired licenses to provide piped water on a commercial basis. An area that has proved controversial, in Phnom Penh at least, is garbage collection and disposal. Since 2002, this has been handled by the private company Cintri. Cintri holds a monopoly on garbage collection, but the terms of Cintri's contract have never been published, and the company has often come under criticism for its performance.[128]

In 2010, Cambodia's public expenditure on education was just 2.6%, lower than that of neighboring Thailand, Vietnam, and Laos.[129] The quality of education provided in state schools is limited, especially in rural areas, where facilities and highly-trained and experienced teachers are often lacking. Most Cambodian families that can afford to will supplement their children's education by sending them to private education institutions. Under the 2007 *Law on Education*, the state is required to open the education sector to participation by the private sector and "strongly encourage and support private institutions in the establishment of partnerships providing all kinds of educational services at all levels."[130] In Phnom Penh in particular, the number of private universities has boomed in recent years and private universities now outnumber those that are state-run.[131] Despite their popularity, ensuring the quality of such institutions is a major challenge. Those who are unable to afford private education continue to rely on the under-funded and under-resourced state system.

As is the case with education, urban Cambodians that can afford to often favor private healthcare services over public ones, especially for serious health concerns. Options are more limited in rural areas, and there is greater reliance on public health services by people in non-urban areas. Numerous clinics and hospitals are run by private Cambodian companies and the country's top private hospitals are ventures by foreign companies, including the Thai-owned Royal Phnom Penh Hospital. While the quality of public healthcare

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128 Ros, C. (12 February 2015), *Cintri's Monopoly Could Get Scrapped*, Khmer Times. http://www.khmertimeskh.com/news/8840/cintri---s-monopoly-could-get-scrapped/ (accessed October 2015).

129 World Bank (no date), *World Development Indicators: Government expenditure on education, total (% of GDP)*, http://data.worldbank.org/indicator/SE.XPD.TOTL.GD.ZS (accessed October 2015).

130 Law on Education (2007), article 29.

131 Ministry of Education, Youth and Sport (2014), *Policy on Higher Education Vision 2030*.

has improved, the number of private clinics and hospitals has risen rapidly, again raising challenges of regulation.

The opening up of public services to private investment can be controversial, but supporters of privatization argue that in situations where the state lacks funds and capacity, private capital can potentially fill funding gaps and in some cases provide a more efficient and higher quality of service. However, there is also a significant risk that when public services are opened to the private sector they become commercialized, and without state subsidies the cost of those services may increase beyond the means of poorer citizens. While the private sector can potentially play a constructive role in this area, it is important to keep in mind that provision of public goods and services such as education, healthcare, and basic utilities is the *obligation* of the state. Private investment in public services is often targeted at higher-end consumers, and the state must ensure that as private sector investment increases, poorer citizens are still able to access adequate services.

The Role of Regional and International Actors, Institutions, and Agreements

This paper has already discussed at length the role of the Cambodian Government in promoting private investment, and outlined a number of key areas targeted by investors. There are also a number of regional and international actors playing an important part in the promotion of private investment in Cambodia. This is the focus of this section of the paper, which also includes discussion of several major international agreements that impact Cambodian private sector investment.

The Association of Southeast Asian Nations (ASEAN)

ASEAN is a political and economic organization that includes 10 nations located in the Southeast Asia region, including Cambodia. Membership in ASEAN has facilitated incoming investment and increased Cambodia's access to markets of other member countries, as well as the markets of ASEAN Dialogue Partners such as Japan, China, and South Korea.[132] In 2007, ASEAN members agreed to develop a roadmap towards establishing the ASEAN Economic Community (AEC) in 2015. This requires reform of investment and trade policies, as well as relaxation on rules concerning the movement of capital and labor.

In the NSDP for 2014-2018, the Cambodian Government states that it aims to "transform Cambodia to be an attractive and competitive destination for investment in the region, especially within the framework of ASEAN Economic Community."[133] Having suffered during the financial crisis due to heavy reliance on exports to US and Europe, Cambodia is eager to promote increased investments from within ASEAN, and the AEC is seen as key to making this possible.[134] However, it is not without risks, and while greater regional integration could bring in more investment, the RGC also acknowledges the risks of opening its markets to greater competition from countries with much stronger economies.

[132] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.50.
[133] *Ibid.*, p.163.
[134] *Ibid.*, p.207.

The wealth disparity between ASEAN members is stark: Singapore is third in the world in terms of GDP per capita, whereas Cambodia ranks 147th. In 2014, an official from Cambodia's Ministry of Labor stated that the country was not yet ready to join the AEC and due to the low level of development in Cambodia, it would stand to gain less than other ASEAN members. A major concern for this official was that there would be an outflow of both skilled and unskilled labor from Cambodia after restrictions on freedom of movement are lifted, which could impact Cambodia economically and socially.[135]

ASEAN-China Free Trade Agreement (ACFTA)

The ASEAN-China Free Trade Agreement (ACTFA) came into effect in 2010, and in terms of population, it is the largest free trade area in the world. Under this agreement, tariffs for 90% of products have been reduced to zero, and although Cambodia is not yet a full member, it plans to join the ACFTA in 2015. China is now ASEAN's biggest trading partner, and the two sides aim to achieve bilateral trade of US$500 billion by 2015 and US$1 trillion by 2020.[136] China actively encourages its companies to invest in ASEAN, and as stated by China's Vice-Premier in 2014, welcomes companies from ASEAN to set up industrial parks in China.[137] However, investment in countries like Cambodia, Laos, and Myanmar will remain one-way for the foreseeable future due to the vast wealth disparity between those countries and China.

Multilateral and bilateral development partners

Cambodia's multilateral and bilateral development partners are both active in the promotion of private sector investment. A number of Cambodia's bilateral development partners have directly supported the liberalization of the country's investment environment. For example, the Japanese International Cooperation Agency (JICA) has reportedly been involved in the process of reviewing drafts of the revised *Law on Investment*.[138] JICA has also contributed to the preparation and publication of investment guidebooks which are published by the CDC and provide important information for potential investors.[139] According to its website, the CDC has a "Japan Desk", where an expert from JICA sits and

[135] Hruby, D. (29 March 2014), *Official Says Cambodia Not Ready for Asean Free Trade*, Cambodia Daily. https://www.cambodiadaily.com/archives/official-says-cambodia-not-ready-for-asean-free-trade-55203/ (accessed October 2015).
[136] Xinhua (13 November 2014), *Backgrounder: Upgraded Version of ASEAN-China FTA*, Xinhuanet. http://news.xinhuanet.com/english/china/2014-11/13/c_133787793.htm (accessed October 2015).
[137] Xinhua (16 September 2014), *Beijing Eyes Upgraded Free Trade Area with ASEAN*, Xinhuanet. http://www.chinadaily.com.cn/regional/2014-09/16/content_18609283.htm (accessed October 2015).
[138] British Chamber of Commerce in Cambodia (2 April 2014), *Consultation on Investment Law*, http://www.britchamcambodia.org/page.php?id=48 (accessed October 2015).
[139] See, for example: CDC (2013), *Cambodia Investment Guidebook 2013* and CDC (2013), *Cambodia: Municipality and Province Investment Information 2013.*

provides investment support to Japanese investors.[140] As discussed earlier, the Australian Aid Program (previously AusAID) has supported PPP investment in the railway sector, and various other development partners have programs supporting private sector collaboration.

Multilateral development partners have also played a major role in supporting reform of laws and regulations to be more welcoming of private investment. Globally, the World Bank seeks to create an enabling environment for private sector investment, strengthening markets and facilitating trade. The Bank supports advisory and analytical work focusing on issues such as investment climate, competition policy, consumer protection, property rights, and market reforms.[141] It also publishes an annual *Doing Business* report which provides a score for countries based on how 'business-friendly' their legal and regulatory frameworks are.[142] In addition to supporting the liberalization of the investment climate, the World Bank is also supportive of public-private partnerships, which the Bank states address its goals of eliminating extreme poverty and boosting shared prosperity by enhancing the reach and quality of the delivery of basic services.[143]

Free market principles are integrated into World Bank projects in various sectors. For example, the Bank's flagship Land Management and Administration Project (LMAP), which ran from 2002 to 2009, focused on developing Cambodia's land administration framework and established a systematic land titling program. The objective of the project was "to improve land tenure security and promote the development of efficient land markets."[144] While the project was successful in establishing a nationwide titling program, it ran into multiple problems, and underestimated the challenges of implementing land reforms in the context of the weak governance and impunity that exists in Cambodia. Eventually the program was cancelled by the government after civil society groups and communities lodged a complaint to the World Bank Inspection Panel alleging breaches of World Bank safeguard policies.[145]

The private sector lending arm of the World Bank is called the International Finance Corporation (IFC). The IFC provides direct support to the private sector; for example, in Cambodia it has provided loans to a private company responsible for airport development

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[140] CDC (no date), *Responsible Organization*, http://www.cambodiainvestment.gov.kh/investment-scheme/responsible-organization.html (accessed October 2015).

[141] World Bank and International Monetary Fund Development Committee (2012), *World Bank Group Innovations in Leveraging the Private Sector for Development: A Discussion Note*, Washington: World Bank and IMF, p.2.

[142] World Bank (no date), *Doing Business*, http://www.doingbusiness.org/ (accessed October 2015).

[143] World Bank (no date), *Public-Private Partnerships Overview*, http://www.worldbank.org/en/topic/publicprivatepartnerships/overview#1 (accessed October 2015).

[144] World Bank (2002), *Project Appraisal Document on a Proposed Credit in the Amount of SDR 19.3 Million (US$24.3 Million Equivalent) to the Kingdom of Cambodia for a Land Management and Administration Project, January 29, 2002*, Washington: World Bank, p.2.

[145] For a summary of the LMAP case, see: Grimsditch, M. (2014), 'Donor Accountability and Local Governance: Development Assistance to the Cambodian Land Sector', in *Perspectives Asia, Volume 2: More or Less? Growth and Development Debates in Asia*, Berlin: Heinrich Böll Foundation Asia Department. https://www.boell.de/en/2014/01/22/perspectives-asia-213-more-or-less-growth-and-development-debates-asia (accessed October 2015).

as well as loans to micro-finance institutions and the banking sector.[146] Along with AusAID, the IFC also jointly funded the operations of Cambodia's Government Private Sector Forum, which is a mechanism aimed at improving the business environment, building trust between the public and private sector, and fostering private investment.[147] A more controversial approach adopted by the IFC is the increasingly common practice of investing in financial intermediaries. This involves the IFC providing financing to another financial institution, such as an equity fund, which is then responsible for investing that capital as it sees fit. In one recent case, the IFC was found to have invested in a Vietnamese investment fund which went on to invest in the Vietnamese company Hoang Anh Gia Lai (HAGL). HAGL holds rubber plantations in Cambodia that have been implicated in serious violations of national law and the rights of local indigenous communities.[148]

The Asian Development Bank is also eager to promote the PPP model, and its Cambodia country partnership strategy for 2011–2013 called for PPPs to be "actively sought in all areas of operations."[149] In addition to supporting projects such as the Cambodian railway rehabilitation project, the ADB has supported technical assistance to provide policy advice on improving PPP policy and regulation, strengthening public sector capacity to develop and pilot PPPs, and help establish a facility to support the Government in developing competitively-bid, bankable PPP pilot projects.[150] The ADB is also behind the establishment of the GMS Economic Cooperation Program, which is a major driver of infrastructure development in the Mekong region. Additionally, in 2015 Cambodia became a founding member of the China-led Asian Infrastructure Investment Bank (AIIB). The AIIB president has stated that mobilizing private sector financing through arrangements such as PPPs will be a priority for the new bank.[151]

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[146] International Finance Corporation (no date), *IFC Project Database*, http://www.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/ifc+projects+database/projects (accessed October 2015).

[147] World Bank (2005), *International Development Association and the International Finance Corporation Country Assistance Strategy for the Kingdom of Cambodia*, Washington: World Bank East Asia and Pacific Region, p.123.

[148] Geary, K. (2015), *The Suffering of Others: The human cost of the International Finance Corporation's lending through financial intermediaries*, Oxford: Oxfam International. https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/ib-suffering-of-others-international-finance-corporation-020415-en.pdf (accessed April 2016).

[149] Asian Development Bank (2011), Country Partnership Strategy 2011-2013, Manila: ADB, p.7.

[150] Asian Development Bank (no date), *45424-001: Support for Public-Private Partnerships (PPP) in Cambodia*, http://adb.org/projects/details?page=details&proj_id=45424-001 (accessed October 2015).

[151] Inclusive Development International (2016), *China-led Infrastructure Finance in the ASEAN Region and Beyond: A Landscape Review*, Asheville: IDI.

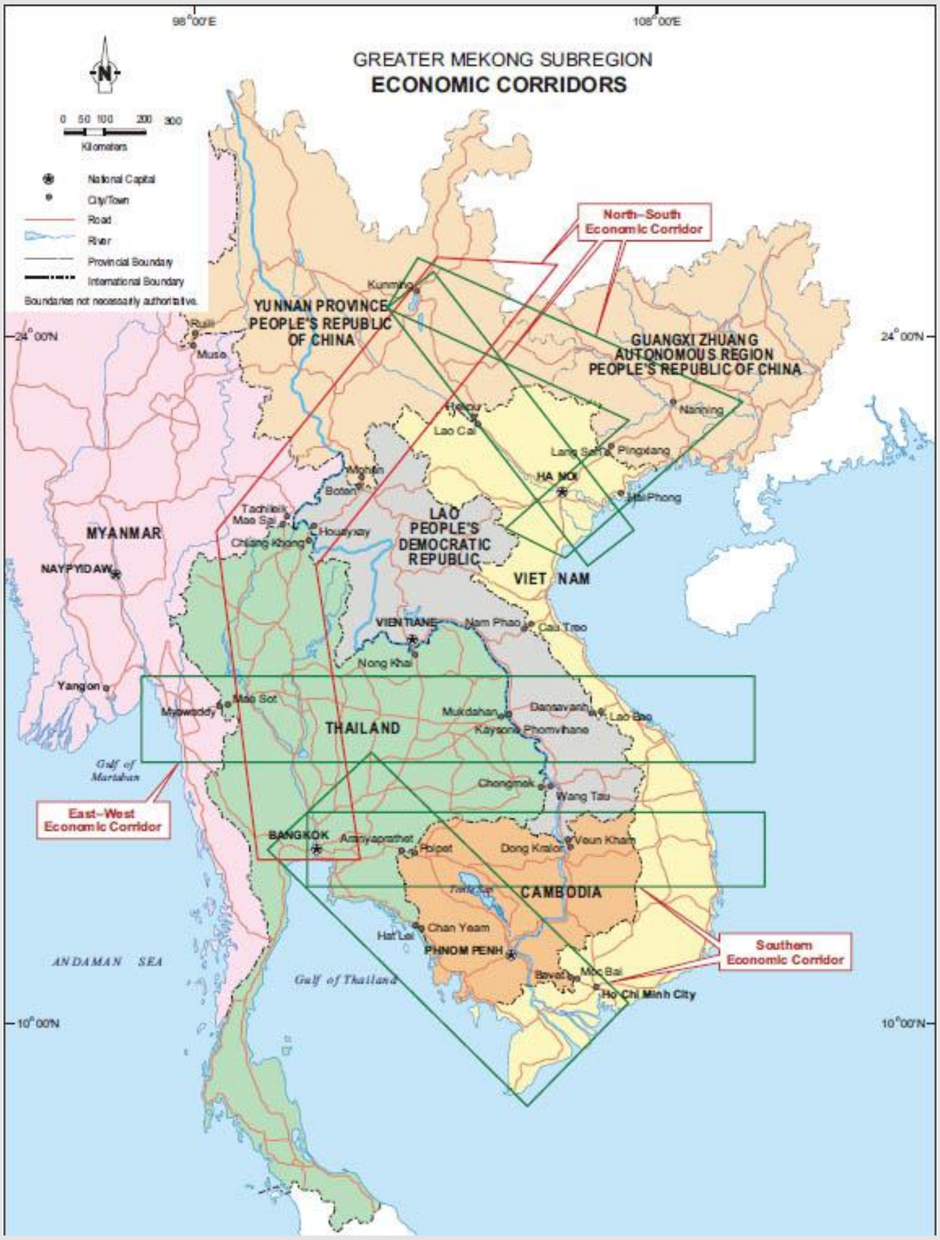
Rice planting in Pursat Province. Photo credit: Shalmali Guttal

The Greater Mekong Subregion (GMS)

In addition to developing economic integration with neighboring countries through its membership in ASEAN, Cambodia also seeks to enhance physical linkages with the Greater Mekong Subregion (GMS). The GMS includes Cambodia, Laos, Myanmar, Thailand, Vietnam, and China (Yunnan Province and Guangxi Zhuang Autonomous Region). In 1992, the Asian Development Bank developed the GMS Economic Cooperation Program, which aims to support the implementation of projects in areas including transport, energy, telecommunications, environmental protection, tourism, trade, private sector investment, and agriculture.[152]

The strategic framework for the program recognizes "the critical role of the private sector as an engine of GMS development."[153] It promotes private investment in economic zones and industrial parks and transport infrastructure such as railway networks, and also encourages the establishment of public-private partnerships in transport and energy infrastructure.[154]

[152] Asian Development Bank (no date), *GMS Overview*, http://www.adb.org/countries/gms/overview (accessed October 2015).
[153] Asian Development Bank (2011), *The Greater Mekong Subregion Economic Cooperation Program Strategic Framework 2012–2022*, Mandaluyong City, Philippines: ADB, p.5.
[154] Asian Development Bank (2011), *The Greater Mekong Subregion Economic Cooperation Program Strategic Framework 2012–2022*, Mandaluyong City, Philippines: ADB, p.14.



Source: Asian Development Bank

As mentioned earlier, the Cambodian Government plans to develop industrial corridors in key areas of the country. In the NSDP for 2014-2018, the RGC states that it aims to link these areas to neighboring countries through the economic corridor development framework of the GMS.[155] As can be seen in the map above, Cambodia lies within the Southern Economic Corridor.

Given the lack of public financing available for infrastructure development in the region, the GMS program has a strong focus on reaching out to the private sector and mobilizing private capital. For example, the GMS strategic framework states that the GMS Business Forum should be expanded and used to ensure that private sector perspectives are well-reflected in all GMS forums and working groups, and that government officials are able to

[155] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.167.

understand the requirements of the business sector. However, it is highly problematic that there is no comparable mechanism that also seeks to understand the needs, requirements, and desires of the general public or civil society.[156]

Everything But Arms (EBA)

Cambodia has signed up to a number of global trade agreements, several of which are utilized by the private sector to export products produced in Cambodia under favorable conditions. It is beyond the scope of this paper to discuss these trade agreements at length, however, due to its importance for exports to the European Union, the Everything But Arms scheme is expanded on below.

A general principle of global trade involving members of the World Trade Organization is that there should be no discrimination between members, and all parties should be treated equally regarding trade issues. However, this puts poorer nations at a disadvantage, as they cannot compete with wealthier economies. There are therefore exemptions from this principle for some countries. One such exemption is provided by the Everything But Arms (EBA) scheme of the European Union (EU). EBA is available only to those countries that are defined as Least Developed Countries (LDC) according to the United Nations. As of February 2016, there were 48 LDCs, which include Cambodia. EBA allows countries to export all products, except for weapons and ammunition, to the EU without quotas or import duties.[157]

EBA has been extremely important for the Cambodian economy. As discussed in this paper, for several years Cambodia has relied heavily on garment exports to maintain its impressive rates of economic growth. Non-Cambodian companies can also benefit from EBA for exports of products produced within Cambodia, and therefore investors have been attracted to Cambodia by the combination of cheap labor and access to European markets. EBA has also contributed to the development of agro-industrial processing in Cambodia, and has been credited with increasing exports of milled rice to the EU, which feeds into Cambodia's plan to expand rice production, processing, and exports.[158] However, EBA hit headlines for the wrong reasons in 2010 when it was revealed that Cambodian sugar was being exported to the EU from plantations that have been connected to serious human rights abuses. This included economic land concessions in Koh Kong, Oddar Meanchey, and Kampong Speu, which were granted on land that was also claimed by thousands of Cambodian farmers. In two of the three cases, the investors were from Thailand, and had invested in Cambodia specifically to take advantage of the country's EBA status.[159] Civil society organizations

[156] Asian Development Bank (2011), *The Greater Mekong Subregion Economic Cooperation Program Strategic Framework 2012–2022*, Mandaluyong City, Philippines: ADB, p.22.

[157] European Commission (2013), *Everything But Arms (EBA) - Who Benefits?*, http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150983.pdf (accessed October 2015).

[158] World Trade Organization (2011), *Trade Policy Review: Cambodia 2011*, p.x-xi.

[159] Equitable Cambodia & Inclusive Development International (2013), *Bittersweet Harvest: A Human Rights Impact Assessment of the European Union's Everything But Arms Initiative in Cambodia*, Phnom Penh: EC & IDI.

attempted to lobby the EU to take action, but the local representative office of the EU initially denied that it had responsibility for the situation.[160] However, after coming under sustained pressure, the EU has since agreed to assist the government in conducting a third party assessment of several of Cambodia's sugar plantations.[161] As of the time of writing, however, this process had stalled.

Bilateral Investment Treaties (BIT)

A bilateral investment treaty (BIT) is an agreement between two countries that sets terms and conditions for private investment by individuals and companies of one state in the other. At the time of writing, Cambodia had signed 21 BITs, although only 11 of them had entered into force. This includes treaties with China, South Korea, Japan, Singapore, Thailand, France, Germany, and Switzerland.[162]

Through these treaties, both parties agree to encourage mutual investment between the countries and provide assistance to investors, for example, by providing facilities for visas and work permits. BITs often include a commitment not to expropriate or nationalize the assets of the investor, unless it is in the public interest and subject to compensation. They may also include a commitment to provide compensation if the investor suffers loss due to war or a state of emergency. BITs also include methods for resolving disputes.[163] There is little information available on the implementation of BITs in Cambodia, and official documents rarely refer to them. It is therefore difficult to know how much influence they currently have on private investment trends in Cambodia.

Reflections on the Impact of Private Investment in Cambodia

Although Cambodia has managed to sustain impressive levels of growth over the last decade, it still requires significant investment to both sustain this growth and promote further development. Sound public investment is vital, but the private sector also has an important role to play. This final section of the paper reflects on some of the key observations that emerge from this analysis of private sector investment in Cambodia.

Job creation and income generation

Private investment is a major generator of employment in Cambodia. As mentioned earlier, according to the Ministry of Industry and Handicrafts, in 2014 the Cambodian garment

[160] Vrieze, P. & Hul R. (27 August 2010), *Sugar's Sweet Deal With Europe Comes at a Price*, Cambodia Daily. http://www.boycottbloodsugar.net/wp-content/uploads/2012/08/Sugars-Sweet-Deal-with-Europe-Comes-at-a-Price_CD-27-Aug-2010.pdf (accessed October 2015).

[161] Hodal, K. (10 December 2014), *European Union agrees to investigate Cambodian sugar industry*, The Guardian. http://www.theguardian.com/world/2014/dec/10/european-union-cambodia-sugar-industry-human-rights (accessed October 2015).

[162] UNCTAD (no date), *Investment Policy Hub: International Investment Agreements Navigator*, http://investmentpolicyhub.unctad.org/IIA/CountryBits/33 (accessed October 2015).

[163] Full text of Cambodia's existing BITs can be found on the UNCTAD website: http://investmentpolicyhub.unctad.org/IIA/CountryBits/33 (accessed October 2015).

industry employed 733,300 people. The tourism sector was estimated to have employed 380,000 people in 2013, and this is predicted to rise to 600,000 in 2018.[164] As of 2012, small- and medium-size enterprises created more than 185,000 jobs.[165] Job creation is vital, as thousands of new workers enter the labor force each year. The lack of opportunities within Cambodia is driving many Cambodians to seek work in other countries, often without obtaining the necessary papers. Migrant workers are exposed to exploitation and other risks, and generation of stable and well-paid employment at home will dissuade more people from seeking risky work abroad.

Improving and maintaining working conditions

The ongoing conflicts between garment workers and their employers point to fundamental problems in the relationship between labor and investment in Cambodia. Workers have been calling for a raise in the minimum wage for several years and the government has responded with several increases. In November 2014, the RGC announced it would raise the minimum wage by 28%. This sounds impressive, but at US$128/month, the proposed minimum wage is still only US$8 above the poverty line for Phnom Penh (as defined by the Ministry of Planning). Factory owners opposed the higher minimum wage proposed by workers unions, and were backed by the Garment Manufacturers Association of Cambodia, which said that a raise in pay would cut into profits, drive investors away from Cambodia and cause job cuts.[166] While Cambodia's manufacturing industry must maintain its competitive edge in order to attract investors that may otherwise go to Vietnam or Bangladesh, this should not come at the expense of workers' rights. Cambodia's growth in recent years has been built on the success of the garment industry, and Cambodian workers should be treated with the respect that they are due, including a living wage and working conditions that comply with labor and occupational safety standards.

Land disputes and forced displacement

An issue that cannot be ignored when discussing investment in Cambodia is that of land conflict. Although there are no publicly available official statistics on the number of people that have been evicted or displaced to make way for investment projects, civil society estimates paint a disturbing picture. For example, in 2012, the human rights NGO Licadho reported that in the 12 provinces where it has offices, it recorded 654 disputes involving the land of 85,000 families, or 400,000 people.[167] While people have lost lands and homes to make way for public infrastructure, most disputes are connected to private investment. In urban areas, land conflicts have often been connected to high-end real estate developments and in rural areas communities have lost land to economic land concessions. In both cases it is invariably the poor that lose out in the name of 'development'. However, as discussed

[164] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p. ix , 53.
[165] RGC (2013), *"Rectangular Strategy" for Growth, Employment, Equity and Efficiency Phase III of the Royal Government of Cambodia of the Fifth Legislature of the National Assembly*, Phnom Penh: RGC, p.30.
[166] Teehan, S. & Mom K. (13 November 2014), *Minimum Wage Set*, Phnom Penh Post. http://www.phnompenhpost.com/national/minimum-wage-set (accessed October 2015).
[167] Licadho (no date), *The Great Cambodian Giveaway: Visualizing Land Concessions over Time*, http://www.licadho-cambodia.org/concession_timelapse/ (accessed October 2015).

earlier in the paper, many of the areas granted as ELC still remain uncultivated, and the sites of several high profile urban evictions remain vacant, years after the previous residents were forcibly removed.[168]

The impacts of loss of land and natural resource access cannot be underestimated. Around 80% of Cambodia's population live in rural areas, and according to the agriculture census, 85% of these households depend on agriculture for their livelihoods. According to one estimate from 2009, landlessness had risen to 20%, and 40% of households held farmland measuring less than 0.5 hectares – the minimum required to conduct subsistence agriculture.[169] In areas where indigenous people live, communities have lost agricultural and spiritual lands. Community representatives report that this has had serious impacts on culture, with many indigenous people abandoning traditional practices in part due to the restricted access to land and resources.[170] Land conflicts associated with irresponsible private investment and land speculation are major drivers of this nationwide problem.

Commercializing agriculture at the expense of smallholders

The drive to commercialize agriculture is rooted in the belief that smallholder farming is inefficient and unprofitable. In some cases this may be true, but simply transferring to a system of large-scale agro-industrial cultivation has proved to be even less effective. Despite having the ELC system in place for over 10 years and granting in excess of 2 million hectares of land to private investors, Cambodia is still not exporting large amounts of agricultural produce (apart from rice, which is not being grown on ELCs). According to MAFF statistics from 2014, less than 20% of MAFF-granted concessions were under cultivation. In many cases these concessions were simply used for speculation or to cut valuable trees, after which no subsequent development occurred. The Government has now acknowledged problems with the ELC system and has seized or reduced concessions that are in breach of regulations or concession contracts. However, this does not help those who have already lost land or access to natural resources to those ELCs.

The current approach to industrializing agriculture emphasizes monoculture and cash-cropping for export. Even when cultivated, commercial plantations do not always generate large amounts of employment, and migrant laborers are often employed in cases where local people have had conflicts with the project developer. This move towards industrialized agriculture also has the potential to impact the food security of people who previously depended on the land. Lessons can be learned from the chain of events that led to the current moratorium on new ELCs, and the RGC should ensure that it does not focus on supporting agro-industry at the expense of smallholders. In addition to protecting the land rights of Cambodian farmers, greater efforts are required to increase smallholders' access to credit, farm inputs, and markets.

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[168] Chhay, C. & Drennan, J. (27 March 2013) *Construction Begins at Bloody Eviction Site*, Phnom Penh Post. http://www.phnompenhpost.com/national/construction-begins-bloody-eviction-site (accessed October 2015).

[169] Üllenberg, A. (2009), *Foreign Direct Investment in Land in Cambodia*, Phnom Penh: GTZ, p.6.

[170] Grimsditch, M. & Schoenberger, L. (2015), *New Actions and Existing Policies: The Implementation and Impacts of Order 01*, Phnom Penh: NGO Forum Cambodia.

Environmental protection and assessment

Cambodia's legal and regulatory framework for environmental protection is currently basic and unable to deal with the rapid industrialization that the RGC has in mind for the country. The authorities responsible for environmental monitoring and enforcement also have limited capacity, staff and equipment, and the laws that do currently exist, although basic, are not being fully enforced. In particular, the law concerning EIAs is failing to ensure that high quality assessments are being conducted, even for major projects such as large-scale hydropower. In 2012, an official from the Ministry of Environment stated that between 2004 and 2011 only 5% of the roughly 2,000 major development projects approved by the government were subject to EIAs.[171] In the words of a former official at the Ministry of Environment's Department of Environmental Planning and Legal Affairs:

> [T]he need for environmental assessment in Cambodia is still widely considered as secondary to the need for development. The significance of EIAs is not fully recognized by, for example, many of the government ministries responsible for infrastructure or industrial and agricultural development.[172]

In recent years, the MoE has received a boost, with a new reform-minded minister appointed, and a comprehensive Environmental Code being developed. While this is potentially promising, there also needs to be a change of mindset among investors and other ministries. In particular, there needs to be a realization that the EIA process is a crucial opportunity to consult with the public and properly assess and mitigate project impacts, rather than simply being a box-ticking exercise.

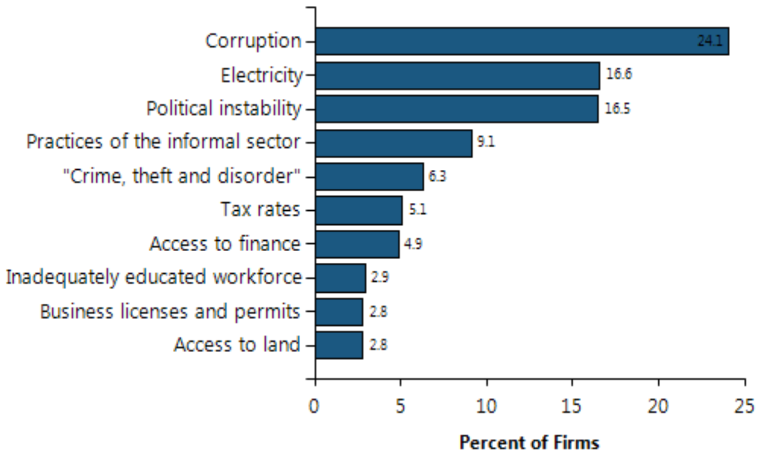
[171] Lewis, S. & Khuon, N. (25 November 2012), *Few Companies Conduct Environmental Studies*, Cambodia Daily. https://www.cambodiadaily.com/archives/few-companies-conduct-environmental-studies-6288/ (accessed October 2015).

[172] Sam, C. (2006), 'Cambodia Water Resources Development: A review of the existing policy and legislation framework', *Mekong Region Water Resources Decision-making: National Policy and Legal Frameworks vis-à-vis World Commission on Dams Strategic Priorities*, IUCN: Bangkok, p.10.

Impacts of poorly planned development on Cambodia's tourism industry

The tourism industry has not been discussed at length in this paper, but it is one of the biggest generators of revenue in the Cambodian economy. The industry was estimated to have directly employed 380,000 people in 2013, which is predicted to rise to 600,000 by 2018. According to the NSDP, Cambodia's tourism industry earned US$2.21 billion in 2012 directly, with a further US$3 billion created indirectly.[173] The industry is of vital importance to Cambodia's economy, however, badly planned development threatens Cambodia's appeal as a tourism destination. Poor zoning and urban development will dissuade visitors from staying longer in urban areas, and pollution and destruction of natural habitats will greatly reduce the appeal of rural and coastal areas.

Corruption, transparency, and collusion between public figures and the private sector



Source: World Bank (2007)

It is well-known that Cambodia continues to struggle with weak governance, and the country consistently ranks very poorly on corruption indexes. For example, in the 2015 *Corruption Perceptions Index* of Transparency International, Cambodia ranked joint 150th with Myanmar, with only Afghanistan and North Korea performing worse in the Asia-Pacific region.[174] Corruption potentially creates barriers which will dissuade responsible investors who may not want to engage in corrupt practices in order to receive approvals, licenses, and other paperwork required for investment. In a 2007 survey of investors in Cambodia, the World Bank asked over 500 businesses what the biggest obstacle to conducting business in Cambodia was. As indicated in the figure above, almost one quarter of respondents highlighted corruption.[175] Progress has been made since then, including the adoption of the *Anti-Corruption Law*, but the country still lags far behind in addressing corruption.

Many of the biggest private investments in Cambodia are connected to powerful actors, including ruling party senators and well-known financial backers of the party. The influence and access to investment opportunities afforded to these actors, at times under dubious legal circumstances, goes against the principles of competition that are central to the pro-

[173] RGC (2014), *National Strategic Development Plan 2014-2018*, Phnom Penh: RGC, p.53.
[174] Transparency International (no date), *Corruption Perceptions Index 2015: Results*, http://www.transparency.org/cpi2015#results-table (accessed April 2016).
[175] World Bank (2007), *Enterprise Surveys: Cambodia*, http://www.enterprisesurveys.org/Data/ExploreEconomies/2007/cambodia#corruption (accessed October 2015).

market reforms that Cambodia has been attempting to implement since the 1990s. In addition, many investment projects are approved behind closed doors and without transparent bidding processes. This problem was identified by the World Bank in 2005 with regards to dealings between the public and private sector for infrastructure projects. The Bank noted "a general lack of transparency in the handling of dealings between the public and private sectors, and specifically in the negotiation and management of contracts between government and investors". This results in inefficient projects and higher costs to consumers.[176] Although there have since been some successful donor-funded PPPs in the infrastructure sector, in a 2012 assessment, the ADB noted similar problems still exist.[177]

Improving natural resource revenue management

Linked closely with the issues of corruption and transparency is the matter of revenue management. For the most part, Cambodia has not yet begun to exploit its natural resources on an industrial scale. The one exception to this is the logging industry, which for two decades has been actively cutting and shipping luxury wood to neighboring countries and China. A handful of well-connected private companies are known to dominate the industry, and media investigations suggest that potential state revenues from the timber industry are being squandered. For example, a leaked report by a conservation NGO which focused on the MDS Import Export Company claimed that in a three-year period, the logging company made US$220 million in unreported profits.[178] Although it is well-known that significant profits are being made from Cambodian timber, in the first half of 2014, Cambodia recorded just US$9.4 million in taxes from timber exports.[179]

If and when Cambodia begins to exploit its mineral, oil, and gas reserves, the country will have to devise ways to appropriately manage the revenues that may be generated. At present, public accounting is non-transparent and the systems currently in place would be unable to deal with a large increase in tax and royalties that could follow the opening up of the extractives industries. Laws and regulations related to mining, oil and gas are basic and are not likely to support the development of the industry. If the industry does take off, the RGC will have to learn quickly how to cope with the resulting revenues, otherwise the risks of Cambodia experiencing the 'resource curse' are considerable.

A liberal investment regime in a context of weak governance

Although much work has gone into liberalizing Cambodia's environment for private investment, implementation of crucial legal frameworks that should mitigate the impacts of development projects is still seriously lacking. There are laws in place that recognize the

[176] World Bank (2005), *International Development Association and the International Finance Corporation Country Assistance Strategy for the Kingdom of Cambodia*, Washington: World Bank East Asia and Pacific Region, p.116.

[177] Asian Development Bank (2012), *Assessment of Public–Private Partnerships in Cambodia: Constraints and Opportunities*, Manila: ADB, p.ix.

[178] Pye, D. & May, T (10 October 2014), *The Calculus of Logging*, Phnom Penh Post. http://phnompenhpost.com/national/calculus-logging2 (accessed October 2015).

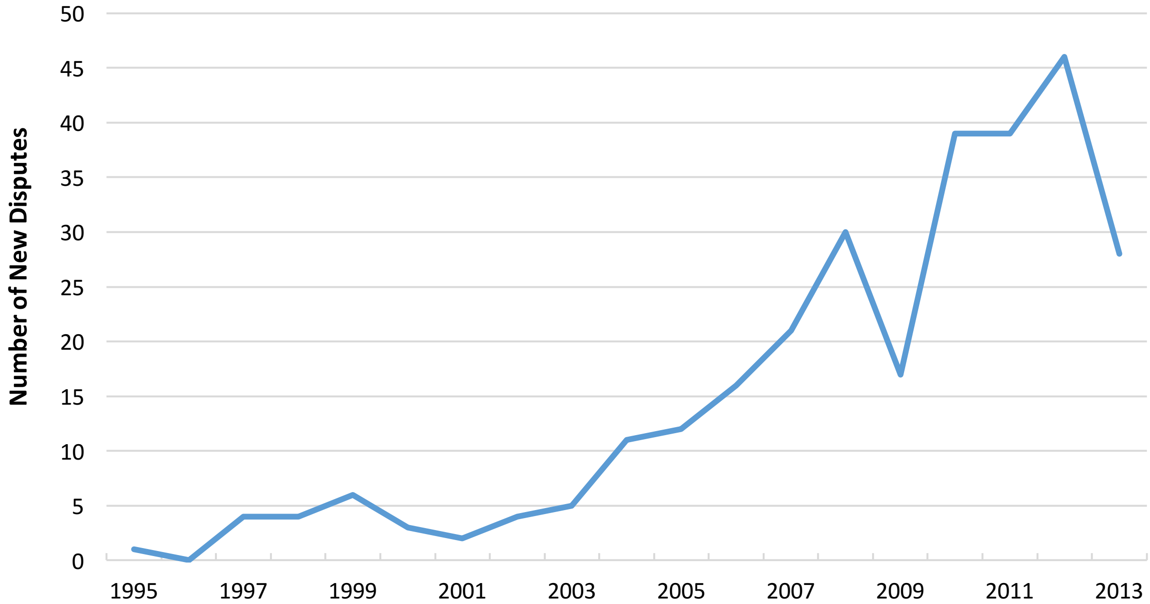
[179] Chan, M. (29 July 2014), *Forestry Revenues Falling Short*, Phnom Penh Post. http://phnompenhpost.com/business/forestry-revenues-falling-short (accessed October 2015).

rights of Cambodian citizens, for example, acknowledging the land rights of legal possessors, the traditional user rights of forest-dependent communities, and the right to collectively own and manage indigenous community land. However, these rights are often violated by private actors with the tacit approval, or even support, of the state. There is a real risk that increased investment and further industrialization in a context of weak rule of law and poor governance could lead to further violations of the rights of the very people that should be benefiting from Cambodia's development.

The occurrence of land disputes provides a useful example of the correlation between investment and conflict in Cambodia. As can be seen in figures 14 and 15 below, the incidence of new land disputes follows a similar trend to increases in FDI inflows. The trends highlighted below show that both disputes and investment dropped drastically around the time of the global financial crisis. As the economy began to recover in 2009 and investor confidence and access to finance began to improve, both investment and land disputes began to rise steeply once again. Although investment alone cannot be blamed for this increase in disputes, the conditions that facilitate investment, and associated increases in land prices, are likely to lead to a situation where competition for land and incentives for speculation and land grabbing are increased.

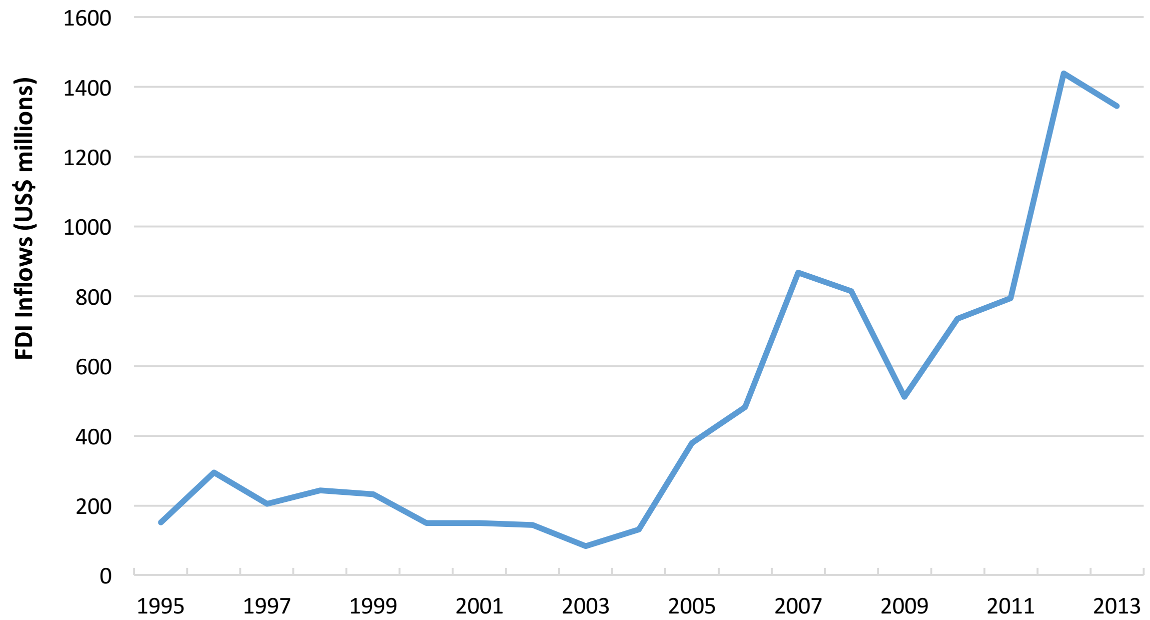
Lor Peang Community marching to Kampong Chhnang Provincial Court, August 5th 2014. Photo credit: Ridan Sun

Figure 14: Occurrence of new land disputes, 1995 - 2013



Source: NGO Forum on Cambodia (2014)

Figure 15: Inflows of foreign direct investment, 1995 - 2013



Source: World Bank World Development Indicators

Conclusion

Private investment from both domestic and international investors has grown rapidly since the early 2000s, and the Cambodian Government has prioritized promoting private sector development in both its *Rectangular Strategy* and successive *National Strategic Development Plans*. The new *Industrial Development Policy* seeks to harness private investment to facilitate the country's industrialization and lift Cambodia to the status of middle-income country. Bilateral and multilateral development partners have also played a facilitating role in promoting the liberalization of Cambodia's economy and regulatory framework in order to encourage investment and increase access for foreign investors.

While the investment climate has liberalized, reforms in the area of governance and rule of law have stalled. Private investment can play an important role in Cambodia, generating jobs, tax revenues, facilitating technology transfer, and increasing the access of Cambodian businesses, large and small, to regional and global markets. However, the sustainability of Cambodia's current trajectory is questionable in the absence of strong public interest regulation, governance, and protections for the rights of citizens and the environment. While private investment can contribute to economic wellbeing and poverty reduction, it also has the potential to exacerbate and entrench inequality, destroy critical ecosystems, and impoverish the vulnerable if their rights are secondary to those of investors and their patrons.

Actors from outside Cambodia play an important role in the development of Cambodia's private sector, be they foreign investors and governments, multilateral financial institutions, or global trade bodies. It is the responsibility of the Cambodian authorities to develop and enforce a framework that both stimulates investment and protects the rights of the people while minimizing harm to the environment. At present this is not happening, and other actors involved in developing or promoting the private sector must be aware of this context and ensure that they are not contributing to problems highlighted in this paper.

It often appears that the concerns of the private sector are given greater attention than those of the public and civil society. For example, multilateral donors have established various private sector-government forums, advised on pro-business legal reforms, and invited the private sector to comment on draft laws. A consultation on the *Industrial Development Policy* was held with the private sector in May 2014, but no similar event was organized to present the policy to civil society representatives.[180] Likewise, the ADB's strategy for the development of the GMS states that more needs to be done to incorporate the views of the private sector, although there is less attention paid to hearing the concerns of the public. More needs to be done to ensure that the voices of ordinary Cambodians and civil society are heard in decisions affecting their lives.

Private investment has the potential to generate revenue through tax and royalties, increase employment, support downstream industries, and bring benefits to local small- and

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[180] Sciaroni, B.G. (31 May 2014), *Industrial development policy consultation - a prelude to amending the Law on Investment*, Cambodia Herald. http://www.thecambodiaherald.com/opinion/industrial-development-policy-consultation---a-prelude-to-amending-the-law-on-investment-954#sthash.PjRN9R2z.dpuf (accessed October 2015).

medium-size enterprises. However, this is also dependent on democratic reforms in terms of governance, electoral politics, policymaking, investor accountability and rule of law. Sound investment decisions must be made and actions taken to ensure that Cambodia's growing and youthful workforce has sufficient access to the education and training needed to benefit from increased employment opportunities. Equally, the Cambodian Government must ensure workers' rights to decent living conditions, living wages, association and assembly, and workplace safety and protection, and put in place appropriate and adequate social services for urban and rural populations. As long as corruption, land conflicts, and other problems continue to affect the business sector, responsible investors are unlikely to invest in Cambodia in large numbers, and less scrupulous actors will fill this space. What Cambodia needs in the coming years is not just *more* investment, but *better* investment, which reflects the needs and desires of the Cambodian people.

Community members from Lor Peang marching to Kampong Chhnang provincial court on August 5th 2014. Photo credit: Phearun Phun

Focus on the Global South is an activist think tank based in Asia providing analysis and building alternatives for just social, economic and political change

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