

Appendix C  
Tertiary Industry

**THE STUDY ON  
REGIONAL DEVELOPMENT OF  
THE PHNOM PENH-SIHANOUKVILLE GROWTH CORRIDOR  
IN THE KINGDOM OF CAMBODIA**

**Appendix C Tertiary Industry**

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## CHAPTER C TERTIARY INDUSTRY

### C.1 CURRENT SITUATION OF TERTIARY INDUSTRY IN CAMBODIA

#### C.1.1 Overview of Tertiary Industry

The tertiary sector by industrial category are mainly service, commercial and tourism businesses such as transportation, communication, wholesale, retail trade, hotel, restaurant, finance, public administration, real estate, etc. The GDP of the tertiary sector steadily grew every the years. Comparing the GDP by sectors between 1995 and 2000, the GDP of the tertiary sector was 1,395 million US\$ in 2000, which accounted for the largest share (44.9%) of GDP among three sectors, while the primary and secondary sectors accounted for 30.9% and 24.3% respectively. In contrast, the GDP of the primary sector was decreased after 1996. The contribution of the tertiary industry to Cambodian economy is and will be substantial.

**Table C-1 GDP by Sector (1995 - 2000)**

(at Current Prices)

(Million US\$)

	1995	1996	1997	1998	1999	2000
Primary	1,274	1,285	1,278	1,094	1,080	962
Secondary	432	534	509	560	639	755
Tertiary	1,220	1,337	1,264	1,133	1,327	1,395
Total	2,926	3,155	3,051	2,787	3,046	3,112

Source: Cambodia's Annual Economic Review 2001, Cambodia Development Resource Institute

Looking at the GDP of the tertiary sector by detailed categories, a trade is the largest share with total amount of 422 million US\$ in 2000, which accounted for 33.3%, followed by hotel and restaurant (19.4%), public administration (14.7%) and real estate and business (9.9%).

**Table C-2 GDP of Tertiary Sectors (1995 - 2000)**

(Million US\$)

	1995	1996	1997	1998	1999	2000
Transport & Communication	174	183	175	160	178	187
Trade	387	419	392	339	416	422
Hotel & Restaurants	156	233	206	182	231	271
Finance	23	24	22	20	27	37
Public Administration	141	130	129	118	139	134
Real Estate & Business	136	139	138	127	135	138
Other Services	204	208	202	187	201	205
Total	1,220	1,337	1,264	1,133	1,327	1,395

Source: Cambodia's Annual Economic Review 2001, Cambodia Development Resource Institute

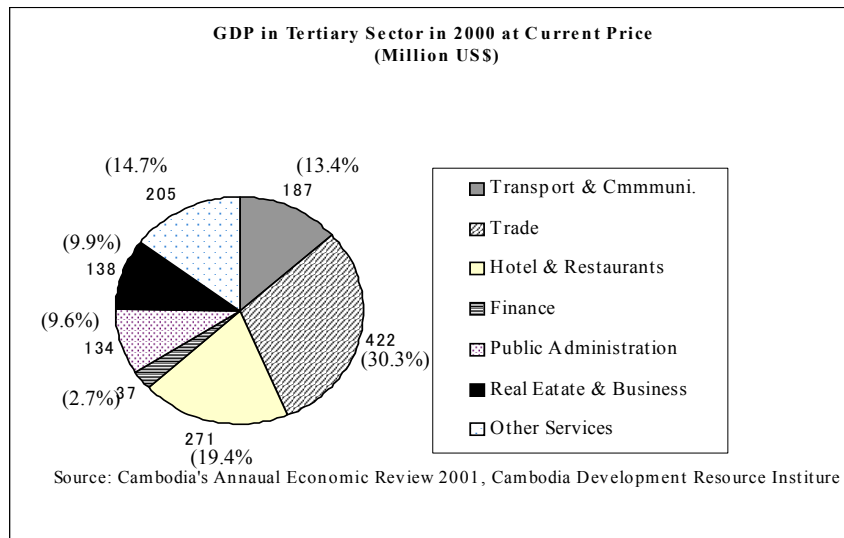
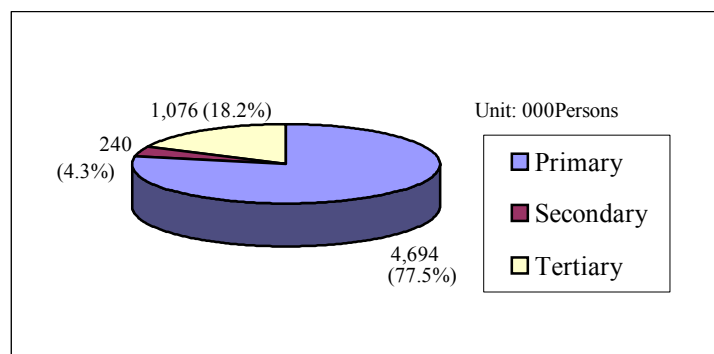


Figure C-1 GDP in Tertiary Sector in 2000 at Current Price

Employment in Cambodia and the Study area by sector shows in **Figure C-2**. The primary sector is dominant in Cambodia with a share of 77.5%. Tertiary sector's share in Cambodia is 18.2%. Except Phnom Penh and Provincial Centers in Cambodia, most people in Cambodia are engaged in primary industry.



Source: General Population Census 1998

Figure C-2 Employment by Sector in Cambodia

### C.1.2 Foreign Investment

Foreign investment in Cambodia by sector approved by Cambodian Investment Board (CIB) from 1994 to 2001 was summarized in the **Table C-3**. The tertiary industry is separated into services and tourism. In the table shows that the tourism sector was the largest investment in registered capital of 1,775 million US\$, which was almost a half of the total registered capitals for all the sectors. On the other hand, the service sector is only 7.8% share of the total registered capitals. -In terms of foreign investment for tertiary sector by country, large investment countries are Malaysia, Taiwan, Singapore, Thailand and France. In the tourism sector, the category of a tourism center accounted for 82% of the total

registered capitals in Tourism sector. According to the investment data by CIB, the large share of the tourism center was due to the huge resort development project in Sihanoukville Province by one Malaysia company with the total registered capital of 1.3 billion US\$ in 1995. In the growing demand of tourism sector in Cambodia, the foreign investment for hotel development will continue to increase in Phnom Penh, Siem Reap and Sihanoukville.

**Table C-3 Approved Foreign Investment in Cambodia by Sector**  
(Approved from Aug. 1, 1994 through Dec. 31, 2001)

Sector	Projects	Foreign Share (%)	Registered Capital (000's \$)	(%)	Fixed Assets (000's \$)
<b>Agriculture (Primary)</b>	<b>80</b>	<b>49.5</b>	<b>172,268</b>	<b>4.5</b>	<b>316,327</b>
<b>Industries (Secondary)</b>	<b>658</b>	<b>77.5</b>	<b>1,538,945</b>	<b>40.6</b>	<b>2,261,854</b>
<b>Services (Tertiary)</b>	<b>76</b>	<b>64.2</b>	<b>300,852</b>	<b>7.9</b>	<b>1,255,724</b>
Construction	13		121,292		637,627
Education	3		4,800		100,192
Engineering	2		1,360		900
Health Services	2		1,150		400
Infrastructure	5		7,550		170,906
Media	3		2,080		5,773
Service Energy	1		500		500
Services	26		28,370		198,048
Telecommunication	11		94,700		110,783
Transportation	9		38,550		29,562
Water Supply	1		500		1,034
<b>Tourism (Tertiary)</b>	<b>63</b>	<b>64.3</b>	<b>1,775,202</b>	<b>46.9</b>	<b>2,134,218</b>
Hotel	45		301,412		576,987
Tourism	6		14,400		23,457
Tourism Center	12		1,459,390		1,533,774
<b>Total</b>	<b>877</b>	<b>73.0</b>	<b>3,787,268</b>	<b>100</b>	<b>5,825,499</b>

Source: Cambodian Investment Board

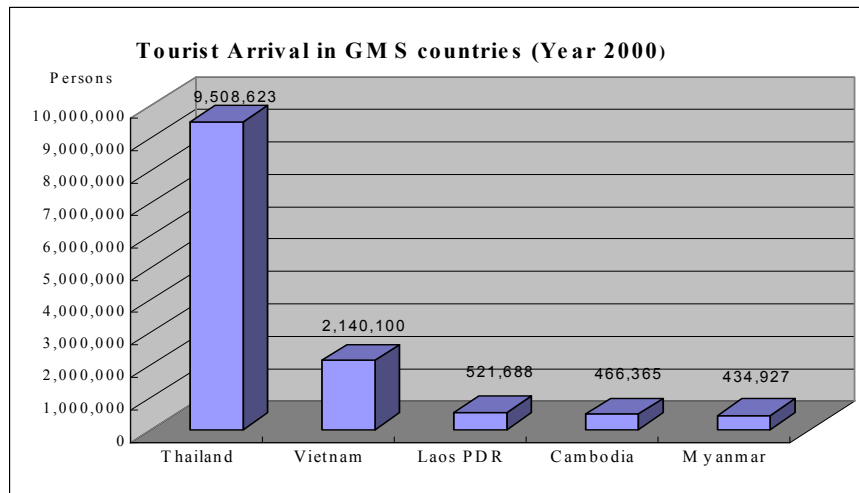
### C.1.3 Tourism Sector in Cambodia

#### (1) Market Trend

##### 1) Foreign tourist arrivals to Cambodia among the Greater Mekong Sub-region (GMS)

The tourism sector not only increases currency earnings but also creates jobs and service businesses. For Cambodia, the tourism sector will be one of prospective industrial sectors in supporting the Cambodian economy.

Among countries in the Greater Mekong Sub-region (GMS), Thailand is a most popular tourism destination with the total tourist arrival of 9,508,623 in 2000. Cambodia has only 466,365 tourist arrivals followed by Laos PDR with 521,688 tourist arrivals.

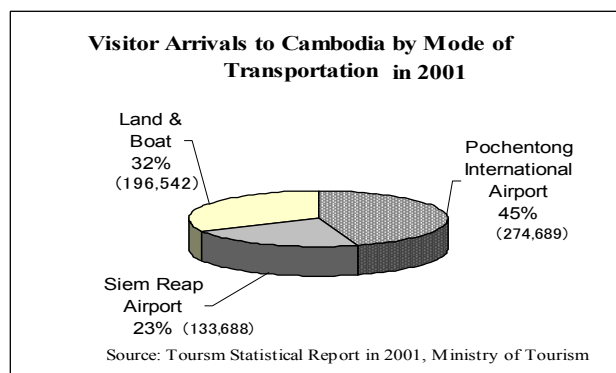


Source: Study on Tourism Development along the West-East Corridor (Final Report), Engineering Consulting Firms Association, Japan, March 2002

**Figure C-3 Tourist Arrivals in GMS Countries (2000)**

2) *Visitor arrivals by mode of transportation*

According to the statistic data by MOT, the total number of visitor arrivals in 1998 including arrivals by land (road) and boat was increased to 466,365 in 2001. In the **Figure C-4** shows visitor arrivals to Cambodia are mainly at Pochentong International Airport in Phnom Penh (45%) and Siem Reap Airport (23%), accounted for 68% in total. Arrivals by road and boat are through border checkpoints at Poi Pet, (Banteay Meanchey Province), Preah Vihear (Preah Vihear Province), Phnom Den (Takaev Province), Bavert (Svay Rieng Province), Cham Yeam (Kaoh Kong Province), Sihanoukville, Don Kralor (Stung Treng Province) and Kham Samnor (Kandal Province). The purpose of visitor arrival by those border checkpoints is to go casinos located near the borders. Besides casino guests, Thai, Vietnamese tourists and foreign back packers are entering through Thai, Vietnam and Laos borders.



**Figure C-4 Visitor Arrivals to Cambodia by Mode of Transportation in 2001**

3) *Foreign tourist arrivals by region and by country*

According to visitor arrival to Cambodia by air from 1994 to 2001 in **Table C-4**, the number of visitor arrivals has been increased from 176,617 in 1994 to 408,377 in 2001. During the period from 1997 to 1998, the number of visitor arrivals was dropped by 14 to 16% due to the political instability of Cambodia. However, since 1999, the number of arrival has recovered and increased drastically.

**Table C-4 Visitor Arrival to Cambodia (Pochenton International Airport) by Air (1994-2001)**

	ASEAN	Asia/ Oceania	Europe	America	Africa/ Middle East	Siem Reap Airport	Total	Growth over Previous Year (%)
1994	31,765	82,249	36,603	24,000	2,000	-	176,617	-
1995	37,625	119,353	37,907	21,538	3,257	-	219,680	24.4
1996	63,062	114,953	53,761	27,812	901	-	260,489	18.6
1997	56,133	94,072	43,331	24,561	746	-	218,843	-16.0
1998	38,046	69,375	46,165	21,773	551	10,423	186,333	-14.6
1999	48,791	88,263	60,031	36,233	1,064	28,525	262,907	41.1
2000	55,684	99,666	65,657	42,156	1,486	87,012	351,661	33.8
2001	58,363	104,735	66,088	43,905	1,598	133,688	408,377	16.1

Source: Tourism Statistical Report in 2001, Statistics and Information Office, Planning Development Dept., Ministry of Tourism

Up to 1997, the Pochenton airport was the only international airport in Cambodia. In late 1997, the “Open Skies” policy of the Cambodian Government allowed international airlines to fly into Siem Reap airport. By the end of 2000, four international airlines from Bangkok, Ho Chi Minh, Rangoon and Singapore flying directly to Siem Reap airport, which increased tourist arrivals to 408,377 accounting for 33% of the total in 2001. As of April 2002, five airline companies have been operating direct flights from Bangkok, Ho Chi Minh, Vientiane and Singapore to Siem Reap airport.

Comparing the visitor arrivals by region, Asia and Oceania region is the largest tourist market in terms of the number of visitor arrival by air with 104,735 in 2001. Top 10 countries of tourist arrival to Cambodia shows in **Figure C-5**. U.S.A, China, France, Taiwan and Japan are the top five countries of tourist arrival at Pochenton International airport. The Figure also indicates sensitiveness toward security by nationality. Japan, Taiwan, Malaysia and Singapore were very sensitive to the political situation of Cambodia in 1997 and 1998, while U.S.A, French and United Kingdom were not so sensitive to the situation because of small decrease or continuous growth of the number of tourist arrivals.



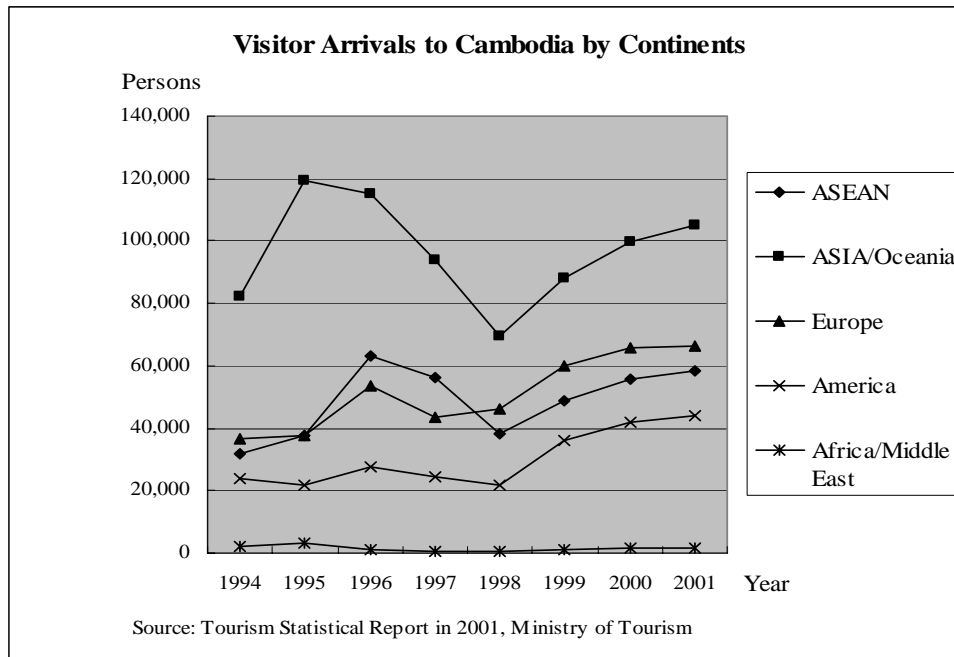


Figure C-5 Visitor Arrivals to Cambodia by Continents

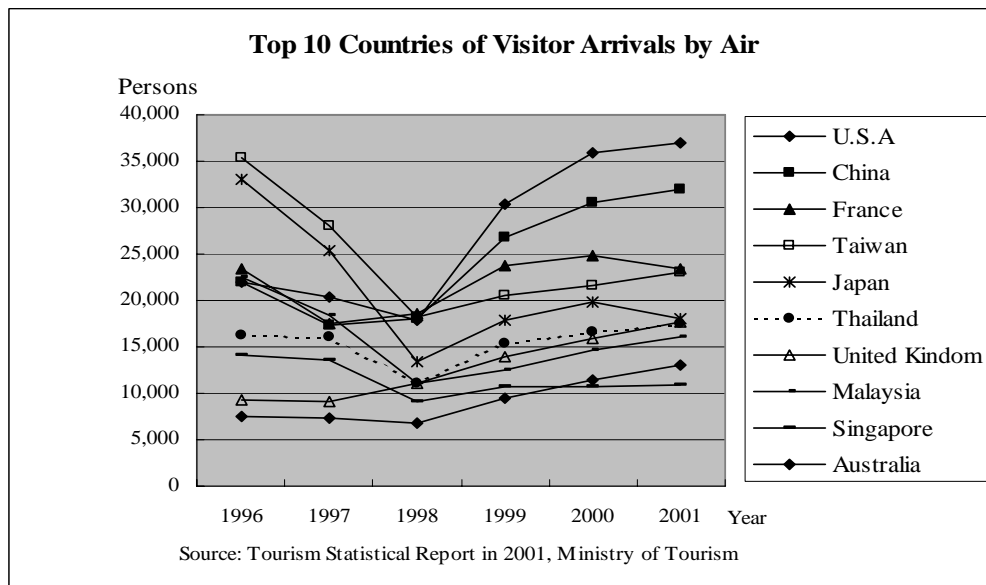
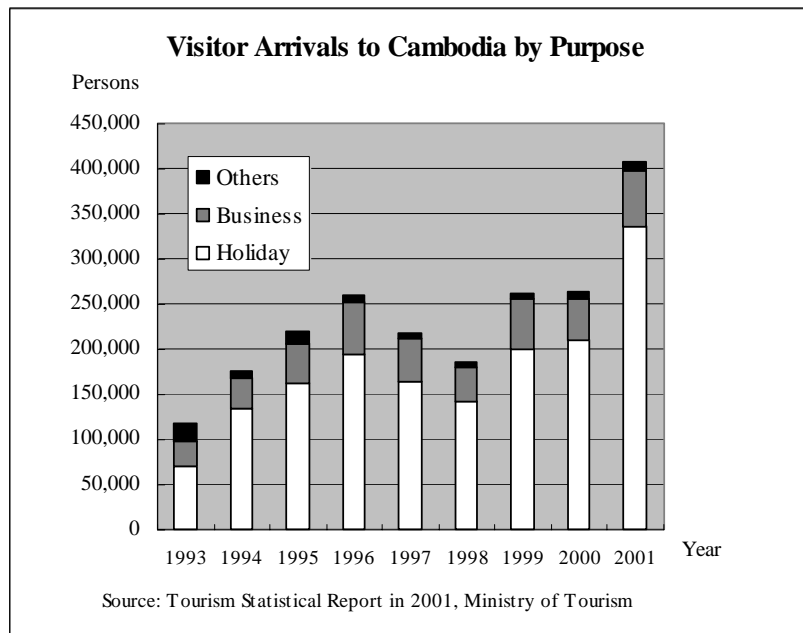


Figure C-6 Top 10 Countries of Visitor Arrivals by Air

4) Foreign visitor arrivals by purpose

Visitor arrivals to Cambodia by purpose indicated majority of visitors to Cambodia was for holiday, share of holiday increased from 57.4% in 1993 to 82.1% in 2001. It is clear that Cambodia is the tourism destination country for foreign visitor.



**Figure C-7 Visitor Arrivals to Cambodia by Purpose**

**(2) Tourism Resources**

Cambodia is rich in excellent tourism resources especially in archeological, historical and cultural heritages and the nature. Angkor temple complex and the other temples around Siem Reap are one of the world’s most magnificent historical monuments. Other archeological and historical resources can be found around the capital city of Phnom Penh. Located close to Thailand border, Preah Vihear Temple complex is a famous archeological monument, which can be accessed from Thailand. Marine and natural resources are mostly found in Sihanoukville, Kaeb, Kampot and Kaoh Kong along the coastal area facing to the Gulf of Thailand. Other attractive natural resources are in the area surrounding the Tonle Sap Lake, the area along the Mekong River and the natural protected areas. Rattanakiri province is known for its isolated hill tribes. The capital of the province, Ban Lung is a place for trekking. Mondulkiri province, located in the lower Mekong River basin, has many waterfalls and four national parks, where has potential for eco-tourism development.

According to Cambodian National Tourism Development Plan prepared by ADB, major tourism attractions were classified into five categories, summarized in **Table C-5**. In Cambodia, cultural (85 attractions) and natural (104 attractions) are major tourism attractions in terms of the number.

**Table C-5 Major Tourism Attractions by Province**

Province/City	Cultural	Natural	Parks/ Beaches	Recreation	Rural/ Village
<b>Plain Region</b>	<b>28</b>	<b>14</b>	<b>1</b>	<b>0</b>	<b>2</b>
Phnom Penh	12				
Kandal	8	1			
Prey Veang	2	3			1
Kampong Cham	1	4	1		1
Takaev		6			
Svay Rieng	5				
<b>Tonle Sap Lake Region</b>	<b>44</b>	<b>36</b>			
Bat Dambang	5	7			
Siem Reap	21	6			
Banteay Mean Chey	4	8			
Kampong Thum	5	4			
Pursat	1	4			
Kampong Chhnang	8	7			
<b>Coastal Region</b>	<b>6</b>	<b>18</b>	<b>18</b>		
Krong Preah Sihanouk	3	1	8		
Kampot		8	1		
Kaoh Kong	1	6	7		
Krong Kaeb	2	3	2		
<b>Plateau and Mountain</b>	<b>7</b>	<b>36</b>	<b>7</b>	<b>1</b>	
Kracheh	3	6	1		
Kanpong Spueu	1	1	1	1	
Stung Treng	1	4			
Krong Pailin		5			
Otdar Mean Chey		2			
Preah Vihear	2	1			
Rotanak Kiri		10	2		
Mondul Kiri		7	3		1
<b>Cambodia</b>	<b>85</b>	<b>104</b>	<b>26</b>	<b>1</b>	<b>3</b>

Source: Cambodian National Tourism Development Plan, July 2001, ADB

### (3) Tourism Products

Handicraft and souvenir are important tourism products in Cambodia. Cambodia's souvenir industry is mostly undertaken by small family-run businesses except for a few private enterprise specializing in weaving and tailoring (silk sampot and sarongs, the Cambodian national dress). Small manufactures grew more rapidly than public industries. Growth of the handicraft industry should be encouraged because souvenir is an essential part of tourism for domestic and foreign visitors. The handicraft industry is an important source of income for local people, especially in rural villages. Thus, the handicraft industry in Cambodia contributes to support the local economy. In Phnom Penh and Siem Reap, there are several types of handicraft shops such as NGO managed, Government/international agencies funded, and private handicraft shops. Various types of handicrafts can be found at handicraft and souvenir shops as below.

1) *Silk Weaving*

The most popular souvenir in Cambodia is the krama – a unique checkered silk scarf. It is hand made using traditional ikat methods and styles. The pattern is dyed into the threads before the silk is woven. The process of dyeing and weaving a single piece takes weeks. Most Cambodian silk is hand woven. The products are available at many places such as family-run shops in a small village to high standard hotels.

2) *Silver Craft*

Silver Boxes, often animal shaped, are popular as traditional souvenirs. These pounded silver containers were once used in ceremonies and everyday life to hold betel leaves. Nowadays the boxes are hand made by local artisans for souvenirs.

3) *Carvings and Statues*

Carvings and statues are popular products in Cambodia, though weighty souvenirs. Bronze busts of ‘The Leper King’ are carved wood Apsara are most popular items. The quality of the carved wood varies considerably. High qualities furniture carvings, antique, Chinese furniture and art decorative furniture are sold at some boutiques.

4) *Gems*

Gems are tempting souvenirs. Western part of Cambodia is a fertile source of colored stones, especially rubies, sapphires and emeralds, as these were the main financial source for Khmer Rouge. There are plenty of gem dealers at the Central Market and Russian Market in Phnom Penh. Rattanakiri is famous for its “Rattanakiri Blue”.

**(4) Accommodation and Travel Agency**

Most accommodation is concentrated in major tourist areas such as Phnom Penh, Siem Reap and Siem Reap. As of January 2002, licensed accommodation in Cambodia consists of 247 hotels with 10,804 rooms and 370 guesthouses with 3,899 rooms, which are registered at Ministry of Tourism. According to statistic data from MOT, an average hotel occupancy rate in Cambodia was increased from 37% in 1995 to 45% in 2000. Besides Phnom Penh and Siem Reap, the existing accommodations in other tourist areas is limited and in low standard to serve foreign tourist. In Siem Reap, the number of tourist visit to Angkor Wat has been growing in recent years. To accommodate growing demand of the tourist accommodation in Siem Reap, a number of development projects for hotel and guesthouse have been planned and underway by foreign and domestic private companies.

**Table C-6 Hotel and Guesthouse in Cambodia**

Province/city	Hotel			Guesthouse		
	Number	Room		Number	Room	
Phnom Penh	105	5,381	49.8%	47	720	18.5%
Siem Reap	47	2,450	22.7%	100	1,028	26.4%
Sihanoukville	38	1,243	11.5%	42	358	9.2%
Kampot	3	117	1.1%	9	72	1.8%
Banteay Mean Chey	12	439	4.1%	13	255	6.5%
Kaoh Kong	4	87	0.8%	13	182	4.7%
Battambang	11	416	3.9%	4	76	1.9%
Kampong Cham	5	158	1.5%	36	307	7.9%
Other provinces	22	513	4.7%	106	901	23.1%
Total	247	10,804	100%	370	3,899	100%

Source: Statistics of Hotel, Guest House, Restaurant as of January, 2002, Tourism Industry Dept., Ministry of Tourism

In Cambodia, there are 235 travel agencies consisting of 164 head offices and 71 branch offices. Travel agencies are mostly located and operated in Phnom Penh and Siem Reap as shown in **Table C-7**. According to MOT data, 117 of travel agencies are owned by Cambodian, while other of which are owned by foreign nationalities, such as Chinese (9), Japanese (9), South Korea (7) and Taiwanese (5). Due to a limited information on tourism resources and tourism attraction, lacking transportation system, most tourists visit major tourism sites through a package tour arranged by travel agency.

**Table C-7 Travel Agency in Cambodia**

Province/Municipality	Head office	Branch office	Total
Phnom Penh	132	8	140
Siem Reap	18	58	76
Banteay Meanchey	11	3	14
Sihanoukville	1	1	2
Kaoh Kong	0	1	1
Odomenchey	1	0	1
Svay Reang	1	0	1
Total	164	71	235

Source: Statistics of Hotel, Guest House, Restaurant as of January 2002, Tourism Industry Dept., Ministry of Tourism

#### 6) *Tourism Revenue and Expenditure*

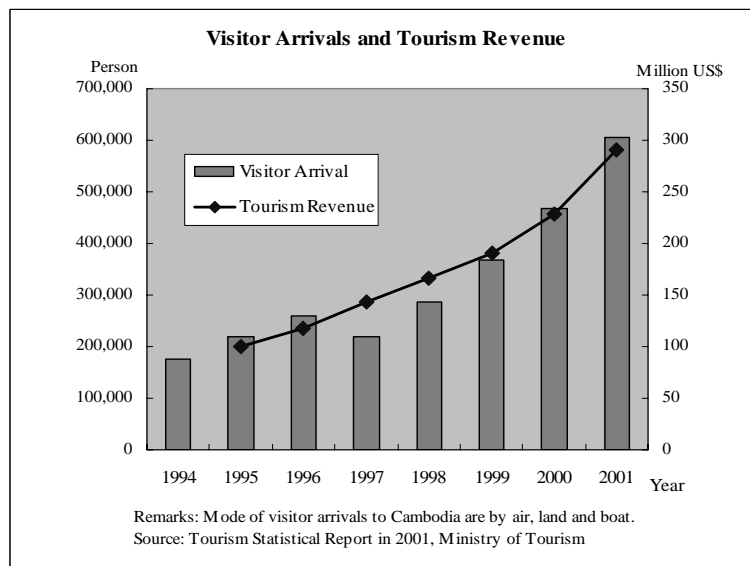
The Government's revenue from the tourism sector was increased from \$100 million in 1995 to \$290 million in 2001, which is calculated based on a foreign tourist expenditure, an average length of stay and total visitor arrival as shown in **Table C-8**. Tourist revenue in 2002 was 7.3 % of the total GDP. The average length of stay for foreign tourist is 5.5 day. According to a result of tourist interview survey at Pochenting International Airport in Tourist Survey Report 2002, MOT, average lengths of stay in Phnom Penh and Siem Reap

were 2.7 and 3.2, respectively. By comparing type of tourist, an individual tourist stays 7.6 days, which is longer than a group tour tourist with 4.4 days. It can be expect that the tourist revenue for tourism sector will continue to grow in line with the growth of visitor arrival.

**Table C-8 Government Revenue from Tourism**

Year	GDP (Million US\$)	GDP of Hotel & Restaurant	Tourist Rev./GDP (%)	Tourist expenditure/visitor	Ave. Length of Stay	Visitor Arrival	Tourism Revenue (Million US\$)
1994	2,421	127	-	-	-	176,617	
1995	2,926	156	3.4%	56.9	8	219,680	100
1996	3,155	233	3.7%	60.4	7.5	260,489	118
1997	3,051	206	4.7%	102.1	6.4	218,843	143
1998	2,787	182	6.0%	111.4	5.2	286,524	166
1999	3,046	231	6.2%	93.9	5.5	367,743	190
2000	3,112	271	7.3%	89	5.5	466,365	228
2001	-	-	-	89	5.5	604,919	290

Source: Tourist Survey Report 2002, Ministry of Tourism, Tourism Statistical Report in 2001, Ministry of Tourism



**Figure C-8 Visitor Arrivals to Tourism Revenue**

## C.2 URRUNT SITUATION OF TERTIARY INDUSTRY IN THE GROWTH CORRIDOR

### C.2.1 Employment

In the Study area, Phnom Penh dominates employment in the tertiary sector, which accounted for 67.9% of the total employment as shown in **Table C-9**. Kaoh Kong and Sihanoukville provinces have a similar characteristic of employment structure with about 40% in tertiary sector. As seen from

employment share in the Study area, provinces situated in the coastal area show a tendency to have more employment share comparing inland provinces.

**Table C-9 Employment by Sector**

(Unit: 000 persons)

Province/Cities	Primary Sector		Secondary Sector		Tertiary Sector	
Phnom Penh	44	10.0%	96	22.2%	290	67.9%
Kandal	243	76.8%	35	6.2%	96	17.0%
Kampot	254	87.7%	5	1.7%	30	10.7%
Kaoh Kong	34	53.2%	5	7.4%	25	39.4%
Takaev	389	90.1%	7	1.7%	35	8.2%
Kampong Spueu	298	89.5%	4	1.1%	31	9.4%
Sihanoukville	36	50.8%	8	11.4%	26	37.9%
Cambodia	4,694	77.5%	240	4.3%	1,076	18.2%

Source: General Population Census 1998

Employment by type of work in the tertiary industry in the Study Area (General Population Census in 1998) showed in the **Appendix C.2.1**. More than a half of employment in the Study Area belongs to the following three categories.

- i) Whole sale, retail trade, repair of motor vehicle, personal and household goods
- ii) Transport, storage and communication
- iii) Public administration and defense

Between 30 and 40 % of employment in the tertiary industry is wholesale, retail trade, repair of motor vehicle, and personal and household goods. According to the Census data of Phnom Penh Municipality in 1998, 72.2% of employment in this category work, retail trade not in store. Various types of retail business activities are seen in Phnom Penh and other provinces in the Study Area. Despite the fact that most of retail business activities are operated without setting up store. Due to a recent booming of mobile phone, the number retail stores dealing in mobile phone has been increased. Internet users are an increase, especially urban areas in Cambodia, which leads to an increase in the number of the Internet café.

In transportation, the motorbike taxis are a major transport means for local people and back packer tourists because of no public transportation in Cambodia. The motorbike taxi driver will be a large share in the category of transport.

## C.2.2 Tourism Sector

### (1) Tourist Arrivals to the Growth Corridor Area

In the Study Area, Phnom Penh is a main gateway to Cambodia for foreign tourist by air, which accounted for 45% of the total foreign tourist arrivals in 2001. Some airlines fly directly to Siem Reap carrying visitors to visit Ankor Wat and other temples in the area. Most foreign tourists visiting to Siem Reap by using the direct flight do not visit Phnom Penh.

Besides Phnom Penh and its surrounding areas, Sihanoukville is a major tourist destination for mainly local people, foreign residents in and around Phnom Penh and back packer tourists. The number of tourist arrivals to Sihanoukville increased from 43,332 in 1996 to 103,568 in 2001, as shown in **Table C-10** and **Figure C-9**. In the last five years, 80 to 90% of tourist arrivals to Sihanoukville are domestic visitors. Those are mostly weekend visitors coming from Koh Kong, Kampot provinces and Phnom Penh.

Foreign tourists to Sihanoukville by nationality are French, English, China, U.S.A and Japan accounted for 48% of the foreign total. Most foreign tourists visiting Sihanoukville from Phnom Penh use either regular scheduled buses, a tour operator's mini-bus or a taxi using National Route No. 4, while most domestic tourists come by bus or own cars. There is a daily ferry service connecting between Sihanoukville and Kaoh Kong. Foreign backpackers, domestic and Thai tourists will arrive to Sihanoukville by ferry from Kaoh Kong.

Tourist arrivals to other tourist destinations in the Study Area are negligibly smaller than the three major destinations; Phnom Penh, Siem Reap and Sihanoukville.

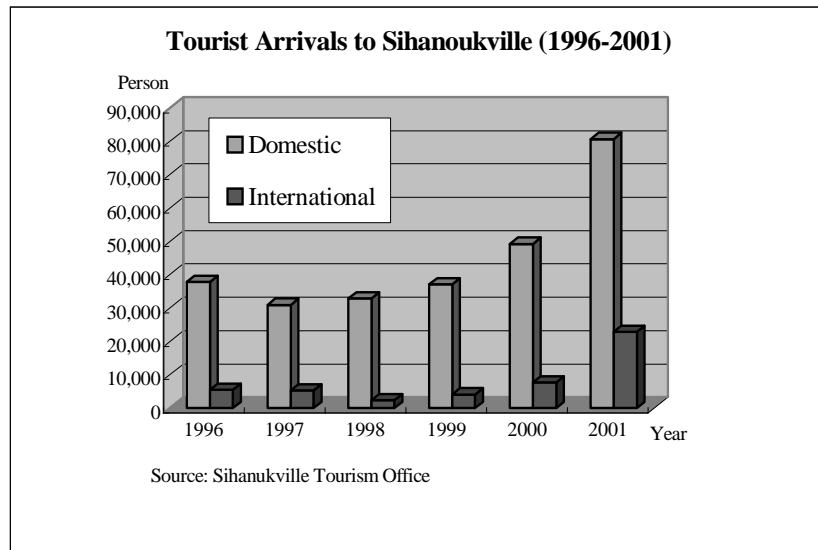
**Table C-10 Tourist Arrivals to Sihanoukville**

	1996	1997	1998	1999	2000	2001
Domestic (%)	37,816 (80.3)	31,030 (83.4)	32,911 (87.7)	37,123 (88.8)	49,274 (87.8)	80,718 (82.9)
International (%)	5,515 (19.7)	5,284 (16.6)	2,467 (12.3)	4,139 (11.2)	7,676 (12.2)	22,850 (17.1)
Total	43,331	36,314	35,378	41,262	56,950	103,568

Source: Sihanoukville Tourism Office

Remark: The number of tourist arrivals implies only an accommodated tourist reported from hotels and guesthouses and does not include a day-tripper.





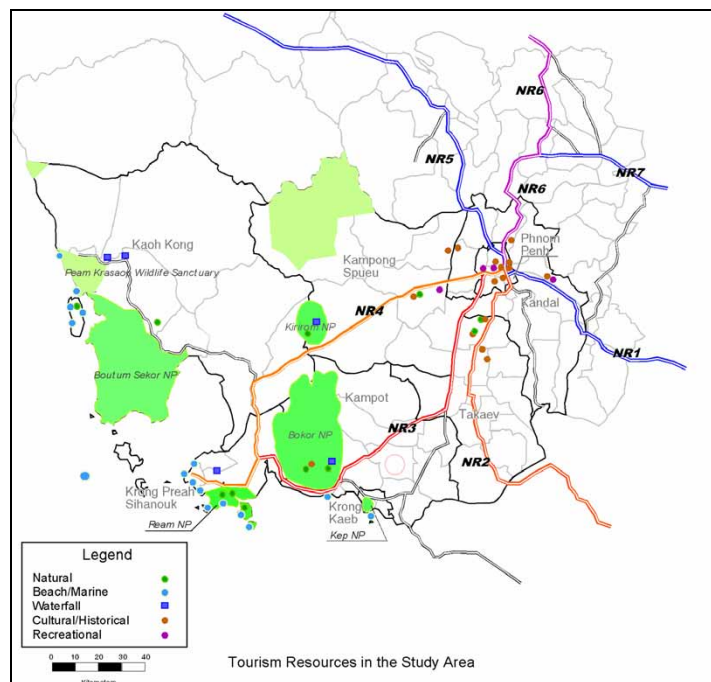
**Figure C-9 Tourist Arrivals to Sihanoukville (1996-2001)**

### **(2) Tourist Arrivals from International Border Checkpoints**

Except for foreign visitor arrivals to the Study Area by air, foreign visitors come through two international border checkpoints, Cham Yeam in Kaok Kong Province and Phnom Den in Takaev Province. The number of visitor arrivals from these two border check points in 2001 were 13,569 (6.9%) and 846 (0.4%), respectively. Cham Yeam is famous for casino and beach resort. Most foreign visitors to Cham Yeam are Thai for playing a casino. Foreign backpackers come through the Cham Yeam border checkpoint. When the rehabilitation work of National Route No. 48 from Kaoh Kong to National Route No. 4 is completed, National Route No. 48 will be a strategically important access route for tourism and commercial visitors and tourists to Kaoh Kong and Sihanoukville will increase substantially.

### **(3) Tourism Resources and Products**

Existing tourism resources and products in the Study Area are summarized as follows. Distribution of tourism resources is illustrated in **Figure C-10**. A preliminary evaluation of tourism resources in the Study Area is summarized by type of resource and classified five evaluation degrees in **Appendix C.2.2**, which were based on the field survey.



**Figure C-10 Tourism Resources in the Study Area**

*1) Greater Capital Area (Phnom Penh Municipality and Kandal Province)*

Phnom Penh offers several cultural and historical attractions including the Royal Palace, Silver Pagoda, National Museum, Wat Phnom, Toul Sleng Genocide Museum and Choeng Ek Memorial (the Killing Fields). There are also a variety of services including five-star hotels and budget guesthouses, fine international dining, shopping at the Central Market and traditional handicraft shops, and pubs and discos.

There are some tourism resources and products at surrounding areas of Phnom Penh along the National Road no. 1 and 6 in Kandal Province. Kean Svay is a famous weekend resort for local people with many floating platforms built on the edge of Koki Beach, which is located in 19 km from Phnom Penh along National Route No. 1. Koh Dach is known for a handicraft village located at Muk Kampool District, in the middle of Mekong River, which is access by boat across the River from National Route No. 6. Most people at Koh Dach are engaged in weaving and producing various types and design of silk Kroma (Scarf in Khmer language). Many foreign and local tourists enjoy visiting Koh Dach to see actual silk weaving. In addition to the silk weaving, there are many resting cottages along Mekong River during the dry season. Many local visitors come to Koh Dach for a picnic and playing in the river.

## 2) *Intermediate Area*

### - Takaev

Takaev Province is the oldest province and rich in historical resources with six cultural and historical sites and four natural sites. Tonle Bati area is 33km south of Phnom Penh along National Route No. 2, has two Ankor era temples, Ta Prohm Temple and Yeay Peau Temple built under Jayavarman VII in the late 12<sup>th</sup> century. About 300m northwest of Ta Prohm, there is a lake connected to the Bati River. A lakefront is a picnic place for local weekend visitors. A Ta Prohm Temple (laterite Khmer temple), Yeay Peau Temple,

Phnom Tamao has 2,500hectar of forest protected area, consisting of temples (11<sup>th</sup> century) and the Cambodia's leading zoo, located about 44km from Phnom Penh by the National Road no. 2. Phnom Tamao temple is very popular for local visitors in the weekend. Temples at Phnom Tamao have been severely damaged.

Phnom Chisou is a mountain (380M) located in 62km from Phnom Penh along National Route No. 2. Nicely preserved early 11<sup>th</sup> century Khmer style temple is sat on the top of Phnom Chosou. There are 503 steps to the top of Phnom Chisou. Wonderful view of the countryside form the top of Phnom Chisou makes the climb worth it.

### - Kampong Spueu

Kirirom National Park is the main tourism resource in Kampong Spueu Province, and abuts Koh Kong Province, located 112km south-west of Phnom Penh in the Chuor Phnom Damrei (Elephant Mountains) along the west of National Route No. 4. It covers a total area of 35,000ha. The Park is center on 700m Kirirom Plateau, where was a holiday destination in the 1960s and contained large recreational facilities, although roads and other infrastructure were mostly destroyed during the Khmer Rouge era. Some buildings have recently been rehabilitated. In the Park, there are a visitor information center, trekking route, toilet and information boards and signs, which were implemented by support of donors and NGOs. Since 1997, tourist began to visit the Park. The Park is popular with local people at weekend enchanting pine tree forests with orchid flowers and waterfall. Kirirom is an idealistic eco-tourism destination for local and foreign tourists.

### - Kampot

Kampot is located at the side of Kampot River. Kampot town has French style architectures. It is accessible through National Route No. 4 and 3 from Phnom Penh and Sihanoukville. Kampot town is a good base for visiting Kaeb Beach and Bokor National Park, Teuk Chhou Waterfall and Teuk Chhou

Zoo. Preak Anpil Beach is located along the coastal area of Kampot in parallel with National Route No. 3. The Bokor National Park situated just north of Kampot town, is one of Cambodia's largest national parks. The park has the Old French hill station of Bokor on the top of Bokor Mountain (1,075m) is known for its cool climate with abundant natural forest. At the hill station, there still remains an old hotel, Bokor Palace, Catholic Church and other buildings, those are attractive cultural resources for tourists. Although, existing access road to the hill station is seriously damaged and poor condition, which needs to be rehabilitated. Teuk Chhou Waterfall and Teuk Chhou Zoo are also famous tourism sites for local visitors in the weekend.

- Kaeb

Kaeb was developed as French seaside resort in the early 1900's, accessed from Kampot by National Route No. 33 via National Route No. 3. The beach along the coastline is rather rustic and often crowded with local visitors at weekend. There is Koh Tonsay (Rabbit Island) near the coast of Kaeb with nice beach, accessed by a boat. There are a number of unexplored caves in and around the limestone hills near Kaeb. Phnom Sia is one of major caves that tourist can visit, located on the northeast of Kaeb, 2km from National Route 33. There is no tourist information center in Kaeb. Kaeb is famous for seafood, especially crab. Tourist facilities and infrastructure are very poor and require improvement to serve both local and foreign tourists.

- Kaoh Kong

Kaoh Kong has 20 islands, 237km long coastal line with Phnum Samkos Wildlife Sanctuary, Boutum Sakor National Park and a part of Kirirom National Park. Kaoh Kong has not been developed for tourism purpose yet apart from the Casino resort located in the Thai border area. Currently, Sea Park (Seaworld) and recreational facilities have been under construction by a private sector near the Casino in the border area. Mangrove forests and fisherman village in the Wildlife Sanctuary is suitable for eco-tourism site. Tuol Kokir and Ta Tai waterfalls are major nature tourism resources situated along the National Road no. 48. At present, some tourism attractions and recreational facilities have been developed at the border area to mainly serve Thai tourist. Transportation system needs to be improved in order to attract more tourists by connecting to major tourist destination in Cambodia.

3) *Sihanoukville Area*

Sihanoukville, formerly known as Kampong Som, is located along the Gulf of Thailand, which is a beach town as well as a port town. Sihanoukville offers beautiful sandy beaches and marine areas for beach resort development and marine activities. At present, Sihanoukville is considered as a weekend resort

for local people and foreign tourist from Phnom Penh. It is good access from Phnom Penh for three hours by using National Route No. 4. It is also accessed from Kaoh Kong by ferry and by National Route No. 48.

There are five major beaches, Victory Beach, Independence Beach, Sokha Beach, Hawaii Beach and Ochheuteal Beach along the coastal line. There are offshore islands, Koh Pos, Koh Koang and Koh ROUNG Samlen and with unspoiled beaches. Some guesthouses and private travel agents arrange for cruising trip to these islands by boat. Koh Pos, called Snake Island, is the closest island from the beach, which has not been developed yet by a private foreign developer. This island will be attractive for foreign tourist.

Ream National Park is known as "Ream" compasses 21,000ha of coastal area including sandy beaches, mangrove forests, offshore coral reefs and two islands. Guesthouses at Sihanoukville arrange transportation and eco-tourism tour of the park for individual and group visitors. For tourist, the Park Headquarters also provides eco-tour information and boat trips to various destinations with park ranger.

In recent years, many hotels, guesthouses and casinos were constructed in Sihanoukville. Although, most hotels lack of quality service which does not meet international standard. At Sokha Beach area, a large-scale hotel and resort facility development has been underway by the Cambodian oil company.

Besides beaches, Kabal Chhay waterfall is one of natural tourism resources accessed from Sihanoukville by National Route No. 4, located about 16km east of Sihanoukville. It has been getting a popular tourist site for local visitor in the weekend by improvement of access road and development of tourist service facilities.

### **(3) Accommodation and Travel Agent**

As of January 2002, there are 150 hotels with 6,828 rooms and 146 guesthouses with 1,531 rooms in the Study Area, which accounts for 63.2% and 39.1% of the total in Cambodia. Among the Study Area, most hotels and guesthouses are concentrated in Phnom Penh with the total of 105 hotels and 47 Guesthouses with various levels from budget to high standard. Sihanoukville has 38 hotels (18.2%) and 42 guesthouses (23.5%), situated in downtown and near the beach areas. According to high standard hotels such as Hotel Cambodiana and Sunway Hotel in Phnom Penh, average hotel occupancy rates are 60% and 90-95% during the high season period from November 2001 to March 2002. The hotel occupancy rate in Phnom Penn especially high standard hotel is significantly high because of limited number of the hotel. On the other hand, hotels in Sihanoukville are generally substandard, not sufficient to the international level. Besides Phnom Penh

and Sihanoukville, hotels and guesthouse are few in number and limited. In Phnom Penh and Sihanoukville, some hotel development have been planned and underway by local and foreign investors.

There are 417 restaurants in the Study Areas with 60% of the national total, which are officially obtained by license from Ministry of Tourism. 64.5% of restaurants in the Study Area is concentrated in Phnom Penh. In fact, many small restaurants and street vendors have been not counted as the number of restaurant at MOT and operated businesses without a business license from MOT.

**Table C-11 Accommodations and Restaurants in the Study Area**

	Cambodia	Study Area	Greater Capital Area		Intermediate Area				Sihanoukville
			Phnom Penh	Kandal	Kampot	Koh Kaoh	Kampong Spueu	Takaev	
<b>Hotel</b>									
Number	247	150	105	0	3	4	0	0	38
Room	10,804	6,828	5,381	0	117	87	0	0	1,243
%	100	63.2	78.8	-	1.7	1.2	-	-	18.2
<b>Guesthouse</b>									
Number	370	145	47	20	9	13	5	9	42
Room	3,899	1,523	720	48	72	182	51	92	358
%	100	39.1	47.3	3.2	4.7	12	3.3	6	23.5
<b>Restaurant</b>									
Number	695	417	269	24	13	16	13	53	29
%	100	60	64.5	5.8	3.1	3.8	3.1	12.7	7

Source: Statistics of Hotel, Guest House, Restaurant as of January, 2002, Tourism Industry Dept., Ministry of Tourism

#### **(4) Existing Tourism Transport Network**

##### *1) Air route*

Phnom Penh is the core tourism destination and a gateway city for domestic and international tourist in the Study Area. Most foreign tourists come to Phnom Penh by air from Bangkok, Singapore, Ho Chi Minh and other cities.



**Figure C-11 Air Route to Phnom Penh**

Phnom Penh is connected to major cities in the neighboring countries by air as follows.

Name of city (Departing from)	Frequency of flight	Airline company
Bangkok	10/week 2/day 2/day	Royal Phnom Penh Airways Bangkok Airways Thai Airways International
Singapore	10/day	Silk Air
Hong Kong	2/week	Dragon Air
Kuala Lumpur	5/Week	Malaysia Airlines
Taipei	3/week	Eva Air
Saigon	2/day + 5/week	Vietnam Airlines
Kaohsiung	4/week	Mandarin Airlines
Guangzhou	3/week	China Southern Airlines
Vientiane	2/week	Lao Aviation Vietnam Airlines
Shanghai	2/week	Shanghai Airlines
Utapao	Daily	Royal Phnom Penh Airways

Source: Phnom Penh International and Siem Reap-Angkor International Airport Booklet, 5<sup>th</sup> edition, May-October 2002

For domestic air routes in the Study Area, as of July 2002, Phnom Penh (Pochentong International Airport) has only four scheduled flights routes connecting to Battambang, Stung Treng, Rattanakiri and Siem Reap. Currently, Kaoh Kong airport has no scheduled flight. Kompon Som (Sihanoukville) airport had stopped operation of flight since 1998. Redevelopment of Kompon Som airport has been underway by a private sector, including a construction of a new terminal building and expansion of existing runway.

2) *Road route*

A foreign visitor is possible to access to the Study Area by road through Vietnam and Thailand border crossing points as follows.

- Moc Bai (Vietnam border crossing point): An access route is from Ho Chi Minh City to Phnom Penh via Bavet in Svay Rieng using National Route No. 1 by either bus or taxi. Distance from Moc Bai to Phnom Penh is 165km.
- Cham Yeam, Kaoh Kong (Thai border crossing point): An access route is from Hat Lek, Trat Province of Thai border to Kaoh Kong via Cham Yeam. National Route No. 48 has been under rehabilitation and is connected from Kaoh Kong to National Route No. 4. Any vehicle has to go across four rivers by a barge along National Route No. 48.

In the Study Area, most tourist sites are accessible by land route using National Route No. 1, 2, 3, 4, 5, 31, 33 and 48. Except for National Route No. 4, other national road are still not good condition. Several bus companies operate schedule bus services between Phnom Penh and Sihanoukville along National Route No. 4. These buses are relatively comfortable with air conditioning, which is suitable for foreign tourist. It takes about two and a half or three hours from Phnom Penh to Sihanoukville.

Traveling around/to coastal area, Bokor National Park and Kaoh Kong are desirable to use a four-wheeled vehicle for safety.

3) *Waterway route*

There is a boat service between Kaoh Kong and Sihanoukville offering about four hours' travel along the coastline. It is very popular transportation for local business people and foreign tourists. Speedboat serving between Phnom Penh and Siem Reap through Tonle Sap Lake so that local tourist and backpackers from Siem Reap to Phnom Penh often use one way by speedboat and the other way by bus.

4) *Railway route*

One of two railway lines, the southwestern line (263km) serves a route between Phnom Penh and Sihanoukville via Takaev, Kampot and Kaeb. The railway is mainly for a freight train and travel at an average 20km/h. The train from Phnom Penh to Kampot and to Sihanoukville takes six hours and twelve hours, respectively. Due to a long travel hours and lack of safety, the railway needs to be rehabilitated urgently. The southwestern line is connecting major tourist destinations in the Study Area, which can be an alternative transportation to road transportation for tourist.



## **(5) Typical Tour Patterns in the Study Area**

### *1) Phnom Penh City Tour:*

Visiting major cultural/historical sites and museum in Phnom Penh including Royal Palace, Silver Pagoda, National Museum, Central Market, Wat Phnom, Toul Sleng Museum and Killing Field. Most private tour operators in Phnom Penh arrange same type of city tour visiting those tourist sites and museums. Individual local and foreign tourists can hire motor cycle or taxi to visit tourist sites in Phnom Penh and its surroundings.

### *2) One day tour to surrounding areas of Phnom Penh and areas along National Route No. 2, 3 and 4*

Following tourist areas are possible to visit from Phnom Penh by motor cycle, taxi and bus in a day. In case of visiting more than two tourist areas except Kirirom National Park and Sihanoukville, tour duration requires more than two days.

- Kien Svay and Koh Dach (Silk Island) in Kandal Province
- Tole Le Bati, Phnom Ta Mau and Phnom Chisou in Takaev Province
- Kirirom National Park in Kampong Spueu Province
- Sihanoukville

### *3) Tour to Sihanoukville and Kaoh Kong*

Sihanoukville is popular beach resort for weekend visit among local people and foreign residents in and around Phnom Penh. Several bus companies operate scheduled express buses between Phnom Penh and Sihanoukville. It is very popular transportation for backpackers travel to Sihanoukville. In recent years, some travel agents have started promoting tour to Sihanoukville and various package tours combined with Sihanoukville. Capitol Tour in Phnom Penh arranges a bus tour to Sihanoukville. Tour courses and duration vary depends on local and foreign tourist markets. First Travel in Phnom Penh has a 3-days package tour to Sihanoukville by bus including visiting beaches, Ream National Park, a boat trip to two islands (Koh Sampoach and Koh Chhang) and fishing village. There are some optional tours to Ream National Park, Kbal Chhay Waterfalls, offshore islands by local guesthouses. Other package tours including Sihanoukville and Kaoh Kong are arranged by local travel agencies in Phnom Penh as follows:

According to the local travel agents, package tours including Sihanoukville and Kaon Kong are quite limited and mostly tour duration of 6 to 9 days. Those tours were planned for a target of foreign market but not so much demand. Existing tour packages are not a circuit travels pattern and requires extra hours

and day to connect next destination due to a limited transportation network. If Sihanoukville and Kaoh Kong are connected to Phnom Penh and Siem Reap by air directly and combine with road transport by reducing traveling time, tour package can be more efficient and attractive for foreign tourist. In addition to improvement of transportation network, it is also necessary to have strong promotion measures by private tour operators in cooperation with hotel and airline companies.

**Table C-12 Package Tours including Phnom Penh, Sihanoukville and Kaoh Kong by Travel Agents in Phnom Penh**

Tour duration (Days)	Tour title	Traveling course	Name of travel agent
6	From the wonders of Angkor Wat to the unspoilt beaches of Sihanoukville and Kaoh Kong	Bangkok-Siem Reap-Phnom Penh-Sihanoukville- Kaoh Kong	First Travel
6	Overland from Thailand to Cambodia	Trat-Kaoh Kong-Sihanoukville-Phnom Penh-Siem Reap	First Travel
6	Beauty Kingdom	Phnom Penh-Siem Reap-Phnom Penh-Sihanoukville-Phnom Penh	Apsara Tour
9	Cambodian Spirit	Phnom Penh-Takaev (1night) -Phnom Penh-Siem Reap-Phnom Penh-Kampong Chhang-Phnom Penh	Apsara Tour
9	Super Tour/Border Crossing	Poipet-Siem Reap-Phnom Penh-Sihanoukville-Kaoh Kong (2days)	Apsara Tour

Source: First Travel and Apsara Tour

### **C.2.3 Commercial and Other Service Sector**

#### **(1) Type of Business in Commercial and Service Sector by Area**

##### *1) Greater Capital Area*

Phnom Penh is a capital of Cambodia with function of the largest urban center, where attracts various type of commercial business due to growing demand of economic and social activity in Cambodia. Wholesale, retail, bank, educational and public institutions are concentrated in Phnom Penh and surrounding areas. In Phnom Penh, following commercial business such as mobile phone shop, private language school, printing shop, music and computer software shops and Internet café increased in number.

According to data received from Department of Commerce, Phnom Penh Municipality, the number of registered commercial was 2,416 in 2001. Major commercial business are food and beverage 246, construction material 241,

mobile phone 128, car spare parts 116, furniture 108, canned food 107, restaurant 103, repair motor bike and bicycle 82.

Currently, the number of market is 14 in Phnom Penh. In 2000, registered retails in these markets are 17,837 in total. The top five retails are clothing (3,569, 20%), spices (1,348, 7.6%), cloth (1,130, 6.3%), gold (1,112, 6.2%) and shoe (797, 4.5%). Among 14 markets in Phnom Penh, market with more than 1,000 retails in 7 districts are Orussey (3,808) in 7 makara district, Olympic (3,798), Toul Toun Poug (1,224) in Cham Camoun district, Central Market (2,849) in Daun Penh district, Pochen Tong (1,048) in Daung Kor district and Chba Ampao (1,013) in Mean Chey district. Various types of agricultural products, industrial material, commodity goods and appliance are distributed and sold at market. Garments and shoes sold at markets are mainly manufactured in Phnom Penh and surrounding area.

## 2) *Intermediate Area*

Each provincial center in the Intermediate Area has concentration of various types of commercial and service business activities. Provincial town hall, market, retails and vender are seen in each provincial center. In general, Commercial activities are relatively small scale, which are very primitive and undeveloped. Agriculture products and household commodities are distributed and sold in each provincial center. Register retails and business establishment in the Intermediate Area is unknown.

## 3) *Sihanoukville Area*

In Sihanoukville, various kinds of commercial and service business establishment are seen in downtown area including a central market, retail shops, restaurants, hotels, guesthouses, banks, gas station, etc. In recent years, mobile phone shop has been increasing similar to Phnom Penh. As of December 2000, the number of commercial and service business are 317. 243 of which were applied for business license from Department of Commerce, Sihanoukville Municipality.

### **(2) Registration System of Commercial Business License**

According to Commercial Law, establishment and operation of any type of commercial business requires to apply a business license to either Ministry of Commerce (MOC) or Department of Commerce at local government. Any commercial business with a capital of more than 20 million riel has to apply the business license directly to MOC, while commercial business with a capital of lower than 20 million riel has to apply Department of Commerce at local government. According to Department of Phnom Penh, Phnom Penh Municipality, companies with license will be only about 50% of the total

business operators or companies in Phnom Penh. Registration fee is between 600 and 700 riel. Currently, it will take about seven days to issue the business license after applying the license.

Existing Commercial Law does not distinguish type of commercial business for applying commercial business license. Registered commercial businesses at MOC are not classified by type of business. In fact, many local and foreign companies apply commercial business license including more than two different business activities. After receiving a business license from MOC, the company has to apply a business license for specific business activity to relevant ministry. In case of hotel and tour operator business, it is required to apply a business license to Tourism Industry Department, Ministry of Tourism. Registered company has to renew the business license in every year.

### **(3) Financial Sector**

#### *1) Overview*

Financial sector in Cambodia is at rudimentary stage, with limited financial intermediation and low public confidence. Cambodia still has one of the lowest rates of banking intermediation in the world: bank loans and deposits account for approximately 8% and 12% of gross domestic products (GDP), respectively. Cambodia had a monobanking system when the National Bank of Cambodia (NBC) operated through its provincial branches. In 1991, the first private commercial bank was established as a joint venture between National Bank of Cambodia (NBC) and Siam Commercial Bank of Thailand. In 1996, NBC was established as the central bank by the Central Banking Law.

In November 2000, just before the first phase of NBC's bank relicensing program, the commercial banking system consisted of 31 banks, including two Government-owned banks, 22 locally incorporated banks, and 7 foreign bank branches. In December 2000, NBC revoked the licenses of 12 banks classified as nonviable and placed 16 banks under conditional licenses.

In the rural areas, banking activities are even scarcer; the microfinance operations of non-government organization (NGOs) are the main and de facto providers of credit there.

The five largest commercial banks, including the Government-owned Foreign Trade Bank (FTB), hold more than 50% of total banking assets and deposits. Deposits in foreign currencies are predominantly US dollars, which covers more than 90% of total banking deposits. Loans and deposits in the banking sector as of December 2000 is shown in **Table C-13**. The loans increased 31% to US\$249million, while deposits increased 40% to US\$382million, comparing to 1999. Loan growth occurred predominantly in the

manufacturing and service sectors. Despite the low level of lending, asset quality in the banking system is poor. According to NBC, the volume of nonperforming loans in the banking system is reported to be substantial and growing.

**Table C-13 Loans and Deposits in the Banking Sector as of December 2000**

Item	Riel (million)	US\$ (million)	% of GDP
Loans	972,747	249	7.60%
Deposits in Riel	103,969	27	0.8%
Deposits in Foreign Currency	1,386,985	355	10.9%
Total Deposits	1,490,954	382	11.7%

Source: National Bank of Cambodia

The high risk and operating costs associated with bank lending are caused in a high interest rate spread and the prevalence of short-term lending. Typical loan maturity is between three to six months, because banks are reluctant to provide loans with longer terms. Typical lending conditions provided by major banks to private companies are shown in **Table C-14**.

**Table C-14 Lending Conditions of Commercial Bank**

	Foreign Trade Bank of Cambodia	Cambodia Public Bank	Canadian Bank
Lending period	Short-term (within a year)	Short-term (within a year)	Short-term (within a year)
Interest rate (per month)	1.5% for dollar 1.4% for riels	0.75-1.5% for dollars	1-1.5% for dollars
Collateral	Up to the max. of 30-40% of the assessed value	required	required

Source: Cambodia Investment Board

## 2) *Greater Capital Area*

As explained the above section, Phnom Penh is a financial center of Cambodia. In Phnom Penh, two state-owned banks, the Foreign Bank of Cambodia, Cambodia Commercial Bank and Rural Development Bank, foreign and local private banks have been established and operated in Phnom Penh. It is necessary to develop efficient financial system in order to support private sector development and foreign direct investment.

## 3) *Intermediate Area*

Banking system in rural area has not developed yet. According to Financial Sector Blueprint for 2001-2010, ADB, the estimated rural finance demand is US\$120-130 million per annum, of which one third is for micro credit ranging from US\$50 to US\$300. Reliable savings facilities are not available in rural areas such as Intermediate area. For rural area, NGOs provide micro finance,

supported by international funding agencies such as UN Children's Fund, International Fund for Agricultural Development, United State Agency for International Development. Most of the borrowers are women.

In Intermediate area, private commercial bank is limited. Only one private bank is established and operated at each Provincial center in Kampot and Koh Kong.

In order to develop rural financial system in Cambodia, Rural Credit and Savings Project and Technical Assistance for Capacity Building for Rural Financial Services were carried out by ADB.

#### *4) Sihanoukville Area*

Branch offices of Cambodian Farmer Bank, Cambodia Commercial Bank, Canadia Bank, Pacific Commercial Bank, First Overseas Bank and Union Commercial Bank are located in commercial area of Sihanoukville. By increasing demand of commercial, trading and tourism activities in Sihanoukville, improvement of existing banking system and function is indispensable.

### **C.3 ISSUES IN THE TERTIARY SECTOR DEVELOPMENT IN THE STUDY AREA**

#### **C.3.1 Tourism Sector**

##### **(1) Overall Growth Corridor Area**

##### *1) Poor Road Condition to Connecting Major Tourism Sites except National Route No. 4*

Road conditions of National Route No. 2, 3, 33 and 48 in the Study Area are still poor and damaged due to no proper maintenance, overloaded vehicle and trucks. Access roads to major tourism sites in Takaev and Kampot near National Route No. 2 and 3 are still not paved and in poor condition which make difficult for tourist visiting tourist area by car and bus. National Route No. 4 is a well paved and good condition which is a main road network connecting two tourism destinations (Phnom Penh - Sihanoukville) in the Study Area.

##### *2) Limited Transportation to Accessing Tourism Destinations*

Only two routes, Phnom Penh - Sihanoukville and Sihanoukville - Kaoh Kong have scheduled bus and ferry services, respectively. Sihanoukville airport is not in operation. Currently, Kaoh Kong airport is no service of scheduled flight. Railway is available between Phnom Penh and Sihanoukville via

Takaev, Kampot and Kaep, but railway system is old and it takes a whole day to travel.

3) *Limited Tourist Information and Facility*

Tourist information facilities and services are very limited. There is a small tourist information counter near the arrival gate of the Pochenton International Airport. Existing tourist information space at the department of Phnom Penh Tourism near the Tonle Sap riverfront area is limited number of tourist service staff and information materials to serve foreign tourist. Sihanoukville and other provincial tourism offices are not sufficiently function as a tourist information center. Among tourist sites in the Study Area, only national parks (Kirirom, Ream and Bokor) have a visitor center.

4) *Lack of Explanation and Signage at Tourism Sites*

Explanation and signage are lacking at most tourism sites in the Study Area. Some tourist sites attract foreign tourist with only explanation and signage in Khmer. Destination signs to tourism destinations and tourist sites are not sufficiently provided.

5) *Limited Financial Resource and Budget Allocation for Tourism Development*

Financial resource and government budgets are limited for improvement and development of tourism facilities, related infrastructure and human resources in the tourism sector.

6) *Lack of Sufficient Tourist Guide and Eco-tourism Guide*

Licensed tourist guides for foreign tourist have been often brought a complaint to MOT and private tour operators from tourists because guides have limited tour guiding and language communication skills. The main problem is current tourist license system and training programs, which are provided by MOT. In recent increase of eco-tourism demand at national parks in the Study Area, there is no official licensing system yet. Currently, a park ranger at each national park is in charge of responsible of eco-tourism guide.

7) *Lack of Attractive Tourism Product (Handicraft and Souvenir)*

Most Cambodian tourism products such as handicraft and souvenir are available in the markets and souvenir shops at hotels in Phnom Penh. These products are quite similar to that of neighboring countries in terms of design, styles and colors. Besides Phnom Penh and Takaev in the Study Area, no specific tourism product can be found.

8) *Still Remaining Negative Image of Cambodia*

For foreign tourism market, it still remains and gives negative image of Cambodia such as Pol Pot regime and land mine, which also affects to development and promotion of tourism in the Study Area. Foreign tourists are very sensitive regarding safety and security as well.

8) *Creation of Tour Circuit Programs Combination with Various Tourism Sites and Activities within the Study Area*

Most tourist resources and sites are located near National Route No. 2, 3 and 4. After road rehabilitation work was completed, various tours circuit can be planned and promoted as follows.

- Growth Corridor Tourism Circuit by road (National Route No. 2, 3 and 4)

The tour circuit route is Phnom Penh – Kirirom National Park-Sihanoukville (Beaches – Kbal Chhay – Offshore islands – Ream National Park) – Bokor National Park – Kampot Town – Preak Anpil Beach - Phnom Chisou- Neang Khmau Temple - Phnom Ta Mau – Ton Le Bati – Phnom Penh.

Kaoh Kong is included as an optional tour destination using NR 48 in the tour circuit program.

- Tour Circuit Connecting Major Tourism Destinations including Siem Reap by air

The tour circuit route is Phnom Penh – Sihanoukville – Kaoh Kong – Siem Reap – Phnom Penh.

**(2) Greater Capital Area**

1) *Phnom Penh is a Main Gateway to Cambodia and a Good Access from Major Cities in Neighboring Countries*

Phnom Penh is a main gateway for tourist and connects to major cities in neighbor countries by air. It also has good access from Ho Chin Min, Vietnam and Sihanoukville by road. Moreover, Phnom Penh is designated as one of priority areas for tourism development in Cambodia.

2) *Various Types of Cultural, Historical and Tourism Resources in Phnom Penh*

Phnom Penh offers a mixture of cultural, historical and shopping attraction as the commercial, cultural, and political capital in Cambodia. Tourist can enjoy a Mekong River cruising.



3) *Phnom Penh Requires an Additional International Standard Hotels and Services*

Phnom Penh has various types of international standard hotel with service facilities, which can serve a large number of tourists and hold business conventions. It requires an additional hotel development due to increasing the number of visitor for sightseeing and business in Phnom Penh.

4) *Deterioration of Cultural and Historical Assets*

French style old buildings in Phnom Penh have cultural and historical value and have been severely damaged without preservation work. The Grand Market in Phnom Penh is a symbolic colonial style structure with cultural and historical value. Those assets need to be preserved and rehabilitated for tourism resource.

**(3) Intermediate Area**

1) *Lack of Accommodation and Limited Tourism Service Facilities*

Hotels are limited only at Kampot and Kaoh Kong in the Intermediate Area. Accommodation in the Area is mostly guesthouse, which are suitable for domestic tourist with lack of quality service. There is no tourist information center for foreign tourist. Existing rest areas are not sufficient enough to serve foreign tourists in term of service level and facility.

2) *Preservation of Historical and Tourism Assets*

An old hotel and church located at Bokor National Park in Kampot Province are significantly important historical and tourism assets, which have been deteriorated and also damaged by tourist's graffiti on the surface the wall, which need to be preserved. Bokor National Park is a very popular tourist site in Kampot, but an access road to the Bokor Mountain area is severely damaged and needs to be rehabilitated.

3) *Existing National Parks for Eco-Tourism Destinations*

Kirirom National Park in Kampong Spueu Province has abundant of natural pine forests and wildlife species with waterfalls and trekking routes. The park has a great potential to promote eco-tourism for international tourists. Peam Krasaop Wildlife Sanctuary in Kaoh Kong has vast area of mangrove and fishing villages, which is suitable area for eco-tourism.

**(4) Sihanoukville Area**

*1) Sihanoukville, Designated as One of Tourism Development Priority Areas in Cambodia*

Sihanoukville is designated as one of priority areas for tourism development in Cambodia followed by Phnom Penh and Siem Reap. Sihanoukville Municipal Government also gives a priority to promote and develop tourism industry.

*2) Development Potential of Marine/Beach Resort Destination for Foreign Market in the Future*

Sihanoukville has undeveloped white sandy beaches along the coastal line and unspoiled beaches at offshore islands with a warm tropical climate. It is good marine areas for diving and fishing. In the short term, Sihanoukville should continue to improve and develop hotels and necessary infrastructure for a weekend resort for local and foreign residents in Phnom Penh. In the long term, It is possible to promote Sihanoukville as an international marine/beach resort destination to foreign market with offering variation of tourism activities and attractions.

*3) Ream National Park for Marine and Eco-Tourism Destinations*

Ream National Park has various natural features including sandy beach, mangrove forests, and offshore coral reefs. The park has a great potential to promote eco-tourism for international tourists.

*4) Limited Number of International Standard Hotel with Lack of Quality Service in Sihanoukville*

Hotels in Sihanoukville are mostly low to mid standard with lack of quality service. It is necessary to have mid to high standard hotels to serve growing number of foreign visitor for business and tourism in the future.

*5) Limited Promotion Measure to Attract Foreign Tourists and Private Investors to Sihanoukville*

In Cambodia, Siem Reap and Phnom Penh are the first priority tourist destination for foreign market by MOT and private sector such as tour operators, hotels and airline companies. While Sihanoukville is still domestic tourist destination and not ready to promote foreign market due to limit tourism facilities, infrastructure and promotion measure.

### **C.3.2 Commercial and Other Service Sector**

#### **(1) Overall Growth Corridor Area**

- 1) Wholesales auctioning system is not established in Cambodia, which is an effective function to control market price and fair trade for agriculture and fishery producers.
- 2) Financial institutions are limited only at Phnom Penh and Provincial centers with low public confidence and providing short-term loan and credit. There is limited financial and training support for small and medium-sized enterprises.
- 3) MPDF (Mekong Project Development Facilities) has been assisting to improve the business environment for Small and Medium size companies (SMEs) in Cambodia, by strengthening the capacity of local finance, training, and consulting institutions to provide high quality services. MPDF's assistance program will be effective measure to improve and support for SMEs and financial sectors.
- 4) Various supports and projects have been carried out by international agencies by through technical assistance from World Bank, ADB and donor countries. Recently, a long-term financial sector development plan, Financial Sector Blueprint for 2001-2010 was prepared by ADB, which contains the sector development strategy covering the whole country.

#### **(2) Greater Capital Area**

- 1) Phnom Penh is a capital of Cambodia with growing demand of economic and financial activities. It is expected that tertiary industry will be a leading industry to support regional economy and provide employment opportunity.
- 2) Greater Capital Area will be expected to develop a center of tourism and financial industry so that an information and technology communication (ITC) system will be applied to serve further improvement and development of service sector.
- 3) Improvements of transportation and information service are most important factor to support growing tourism business in Greater Capital Area.
- 4) Various types of garment and foot ware factories have been located in Phnom Penh and surrounding areas. Outlet store for those manufactured products should be established in Phnom Penh and will attract local and foreign visitors for shopping. Products sold at the

outlet store are necessary to select from big-name brands with reasonable price setting.

**(3) Intermediate Area**

- 1) Transportation system for commodity and passenger has not been developed in the Intermediate Area. Improvement of transportation system will be indispensable to support any commercial and trading business operation.
- 2) Telecommunication system has not been developed in the Intermediate Area. Local government and private business people are heavily relying on handy phone for a communication device.
- 3) Financial institutions such as bank are established only limited Provincial centers in the Intermediate Area. In rural area such as Intermediate Area, about 90 NGOs supported funding agencies have been providing microfinance to rural farmers in Cambodia.

**(4) Sihanoukville Area**

- 1) Sihanoukville Area has a great demand for improvement and development for commercial and service sector in order to accommodate Special Promotion Zone and Export Processing Zone.

**C.3.3 Tourism Demand Projection for the Growth Corridor Area**

**(1) Estimation of Tourist**

International and domestic tourists to Cambodia, and Provinces along the coastal area in Cambodia up the 2017 were projected by Thailand Institute of Scientific and Technological Research (TISTR), which has been preparing Master Plan for Tourism Development in Coastal Zone of Cambodia. Domestic tourist demands for both Cambodia and Phnom Penh were not projected due to a reliable statistic data. According to Ministry of Tourism, the number of domestic tourist in Cambodia was 1,756,790 in 2001 increased by 121.24% comparing with 2000. The number of domestic tourist will drastically increase every year at major tourist destinations.

International tourist to Phnom Penh was estimated to receive 713,307 in 2015, with the share of 35% of the estimated of the total international visitors to Cambodia. Other areas in the coastal area for Master Plan for Tourism Development in Coastal Zone of Cambodia were estimated international tourists with following share of the total.

Planning stage	Sihanoukville	Koah Kong	Kampot
Stage 1 (2005-2007)	7.0%	5.0%	1.5%
Stage 2 (2008-2012)	10.0%	7.0%	2.0%
Stage 3 (2013-2017)	15.0%	10.0%	3.0%

Source: Master Plan for Tourism Development in Coastal Zone of Cambodia, Draft Final Report 2002, Tourism Authority of Thailand (TAT), Thailand Institute of Scientific and Technological Research (TISTR)

An estimated tourist demand for Sihanoukville in 2015 shows that the number of international tourist will reach 305,703, which exceeds the number of domestic tourist, by continuous tourism development and promotion to attract foreign tourist. Kaoh Kong becomes the popular tourist destination for Thai tourist and the large share of international tourist will be Thai.

**Table C-15 Estimated Tourist Demand in the Study Area (2003-2015)**

		2003	2005	2008	2015
Cambodia	International	903,260	1,092,386	1,376,076	2,038,019
Phnom Penh	International	180,652	273,097	344,019	713,307
Kampot	Domestic	102,495	121,174	148,244	215,938
	International	1,390	16,386	27,522	61,141
	Total	103,885	137,560	175,765	277,078
Kaoh Kong	Domestic	52,927	63,938	80,128	120,871
	International	1,923	54,619	96,325	203,802
	Total	54,850	118,557	176,453	324,673
Sihanoukville	Domestic	85,251	103,891	131,430	200,886
	International	31,699	76,467	137,608	305,703
	Total	116,950	180,358	269,038	506,589

Source: Master Plan for Tourism Development in Coastal Zone of Cambodia (Draft Final Report), 2002, Tourism Authority of Thailand (TAT), Thailand Institute of Scientific and Technological Research (TISTR), The JICA Study Team

Note: International tourist in Phnom Penh is projected based on the tourist projection of Cambodia, sharing 20%, 25% and 35% of the projected international tourist in Cambodia during the 2001-2004, 2005-2009 and 2010-2015, respectively.

## (2) Estimation of Room Requirement

Room requirement in Phnom Penh, Kampot, Kaoh Kong and Sihanoukville were estimated up to the year 2015 as shown in **Table C-16**. Estimated room requirement in Phnom Penh is only for international tourist. As of January 2002, the total number of room (Hotel and guesthouse) is 5,939. At present, there are about 1,500 rooms with a price of a single room over US\$40, which are suitable for international tourist in Phnom Penh. Currently, some hotels have been planned and under construction in Phnom Penh, however, additional hotels and rooms are required to serve growing number of international tourists up to 2015. According to the estimated room requirement, rooms in Sihanoukville, Kampot and Kaoh Kong will be in short supply by 2005 or 2006. It will be necessary to conduct a feasibility study for development of additional hotels and guesthouses.

**Table C-16 Estimated Room Requirement in the Study Area**

	Phnom Penh	Kampot	Kaoh Kong	Sihanoukville
2002	702	133	208	890
2003	784	142	225	983
2004	866	151	242	1,077
2005	1,580	188	487	1,517
2006	1,716	200	524	1,633
2007	1,853	211	560	1,749
2008	1,990	241	725	2,262
2009	2,977	253	770	2,405
2010	3,169	265	816	2,548
2011	3,360	278	861	2,691
2012	3,551	290	906	2,834
2013	3,743	351	1,217	3,883
2014	3,934	365	1,276	4,072
2015	4,126	380	1,334	4,260

Source: Master Plan for Tourism Development in Coastal Zone of Cambodia (Draft Final Report), 2002, Tourism Authority of Thailand (TAT), Thailand Institute of Scientific and Technological Research (TISTR), The JICA Study Team

Note: Room requirement in the Study Area is projected using following equation and assumption.

- Room requirement (R)=(((No. of visitors x percentage of overnight tourist) x (Average length of stay)/Tourist per room (1.8))/365days
- Projection of room requirement in Phnom Penh is only international visitor.
- Percentage of overnight visitor: 95% (Phnom Penh), 36% (Kampot), 75% (Kaoh Kong), 85% (Sihanoukville)
- Average length of stay: 3-4days (Phnom Penh), 2.5days (Kampot), 3.6days (Kaoh Kong), 6.5days (Sihanoukville)
- Tourists per room: 1.8

Appendix D  
Human Resources Development for  
Industrial Development

**THE STUDY ON  
REGIONAL DEVELOPMENT OF  
THE PHNOM PENH-SIHANOUKVILLE GROWTH CORRIDOR  
IN THE KINGDOM OF CAMBODIA**

**Appendix D Human Resources Development for Industrial Development**

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## **APPENDIX D HUMAN RESOURCES DEVELOPMENT FOR INDUSTRIAL DEVELOPMENT**

### **D.1 OBJECTIVES OF THIS SUPPORTING REPORT**

This Sector Report is aimed at providing current pictures of human resources in the Study Area and prioritizing measures designed to achieve desired human resources outcomes. The desired human resources can be set as those who can engage in modern labor - formal sector/employment in industry and service sector in 2015.

Statistics may not depict bright picture of current Cambodia human resources for regional development. It is obvious that there are many tasks for the government: from providing more access to education by construction of more primary school and secondary schools, strengthening of higher education institutions and technical and vocational education and training, and capacity building of government officials for regional development.

Cambodia now enjoys peace without separatist rebels, turmoil or internal strife for the first time in several decades. Cambodia can now devote its full energy to the challenges of economic reconstruction and development.

The Second Economic Development Plan (SEDP-II) estimates that Cambodia needs to create around 228,000 in order to absorb young people entering the labor market annually.

If no measures are taken, increasingly rural agricultural workers continue to produce constant level of agricultural output (marginal utility is small). It is therefore necessary to accelerate employment in manufacturing and service sectors with a view to break through rapid population growth, insufficient employment creation and poverty.

The supporting report deals with both supply and demand for human resources in the Study Area. First, it describes demographic profile including population by age, literacy rate and education opportunities. Donor assistance on education sector is briefly presented. Second, employment generated in the past few years is described. Then several issues for human resources development are described. Strategies for human resources development strategies are discussed. Some projects are proposed. The projects are supposed to contribute to achieve the outcomes set forth in the master plan.

## D.2 SUPPLY OF HUMAN RESOURCES

### D.2.1 Demographic Profile

Cambodia has a population of 11 million according to General Population Census of 1998 (hereinafter “Census”). Annual population increase rate is 2.46%. As seen in this high population increase rate, Cambodian population is young. Dependency ratio – measured by dividing inactive population (age below 15 and aged over 65) over the active (aged 15 - 64) is 86.15% in 1998. This high dependency ration is common in five provinces and two cities as shown in Table below.

**Table D-1 Population by Age and Dependency Ratio by Province/City 1998**

Provinces/Cities	Total	-15 (a)	15-64(b)	65+(c)	Dependency Ratio (%) (a+c)/b
Kandal	1,075,125	452,036	576,296	46,793	86.6%
Takaev	790,168	349,234	409,733	31,201	92.8%
Kampong Spueu	598,882	272,255	306,963	19,664	95.1%
Kampot	528,405	237,049	272,626	18,730	93.8%
Kaoh Kong	132,106	53,770	75,900	2,436	74.1%
Phnom Penh	999,804	330,989	640,588	28,227	56.1%
Sihanoukville	155,690	67,054	85,015	3,621	83.1%
Total	4,280,180	1,762,387	2,367,121	150,672	80.8%

Source: General Population Census of Cambodia 1998

Active population (15-64) generally increases with improvements in health, infrastructure, education and falling population growth rates. Mortality rates and birth rates fall with rising incomes and literacy rates. Unless the economy grows sufficiently, falling mortality rates is unlikely to be compensated by falling birth rates.

Census shows that literacy rate of over 15 years old is 67.3% (**Table D-2**). It is however necessary to examine the quality of literacy. Out of those who answered as “Literate,” 57.1% have either never attended school or have not completed the primary school. It is common to regard the literacy level as those who has basic read and write ability. When people complete a five-year education, they are considered to acquired “Functional Literacy.” Until recently, primary education in Cambodia was 5 years (currently 6 years). Those who have not completed primary education are not considered to have functional literacy. Out of population over 15 years old (6.5 million), only 28.8% (1.8 million) of them have functional literacy now. Only 1.8 million people can be considered as labor force suitable for industrialized work. Furthermore, percentage of adult (15 years old and above) literacy with at least lower secondary education is merely 16.1% in Cambodia. Phnom Penh

marks the highest (36.5) among the provinces and cities (**Table D-4**). Gender difference in educational attainment is also high in Cambodia. While male with at least lower secondary education is 19.5%, female merely 12.1%.

**Table D-2 Adult Literacy**

Province/Cities	Literacy Rate (Aged)
Phnom Penh	85.00
Kandal	72.40
Sihanoukville	70.00
Takaev	66.50
Kampot	64.30
Kampong Spueu	64.20
Kaoh Kong	62.50
Cambodia	67.30

Source: General Population Census of Cambodia 1998

**Table D-3 Adult Literacy and Educational Attainment by Age Group**

Age	Total Population	Total literate	None	Primary not completed	Primary	Lower secondary	Secondary school	Undergraduate	Graduate	Post-Graduate	Other	Not reported	Functional Literacy	Functional Literacy Ratio(%)
15-19	1,344,258	1,042,795	7,226	568,069	314,583	133,756	16,800	1,576			392	393	467,500	34.8%
20-24	745,687	546,595	4,962	284,964	164,950	60,415	26,099	2,432	1,816	356	205	396	256,669	34.4%
25-29	888,540	674,920	5,935	314,015	221,160	87,295	38,268	1,937	4,880	695	210	525	354,970	39.9%
30-34	782,682	547,977	7,063	301,816	144,640	64,788	24,163	798	3,383	652	208	466	239,098	30.5%
35-39	695,868	448,112	8,418	295,635	83,502	45,085	12,287	389	1,634	371	266	525	144,059	20.7%
40-44	497,067	345,828	5,864	209,467	71,897	43,669	12,187	427	1,282	338	296	401	130,497	26.3%
45-49	415,931	279,396	5,661	162,814	61,665	34,583	11,690	578	1,347	339	378	341	110,921	26.7%
50-54	312,463	183,772	4,842	102,725	44,475	22,710	7,010	234	849	243	412	272	76,205	24.4%
55-59	256,930	122,146	4,656	69,589	28,333	14,535	3,729	92	405	160	425	222	47,901	18.6%
60-64	204,994	79,543	4,919	48,703	15,556	7,677	1,685	37	191	75	486	214	25,921	12.6%
65-69	166,928	55,776	4,445	35,922	9,412	4,344	871	38	70	33	446	195	15,409	9.2%
70-74	112,213	33,210	3,076	21,730	5,049	2,374	424	11	35	22	349	140	8,404	7.5%
75+	116,287	30,685	3,343	19,563	4,712	2,071	363	15	36	16	406	160	7,779	6.7%
Total	6,539,848	4,390,755	70,410	2,435,012	1,169,934	523,302	155,576	8,564	15,928	3,300	4,479	4,250	1,885,333	28.8%

Source: General Population Census of Cambodia 1998

As seen above Cambodian labor force has been increasing. However, it merely confirms that active population will increase, not the well-trained human resources. Cambodia has the second lowest adult literacy rate among the Indochina countries; only Lao PDR has lower rate<sup>1</sup>. Literacy rate as described above is still low.

<sup>1</sup> The State of the World's Children, UNICEF 2000

**Table D-4 Adult Literacy Rate of Aged 15 Years and above  
with Lower Secondary Education in the Study Area**

Province/Cities	Total	Male	Female
Phnom Penh	36.5	45.4	27.3
Sihanoukville	20.3	25.1	14.0
Kandal	15.9	20.0	11.4
Kaoh Kong	15.7	18.8	10.7
Takaev	15.6	19.3	11.0
Kampot	14.0	16.7	10.7
Kampong Spueu	14.0	16.8	10.4
Cambodia	16.1	19.5	12.1

Source: General Population Census of Cambodia 1998

## D.2.2 Employed Population by Industrial Category

**Table D-5** shows employment by industrial sector in the Study area. Secondary sector's share is only 4.3% in Cambodia. Secondary sector plus tertiary sector employs 22.5% of the labor force. Similar to Cambodia as a whole, primary sector dominates the employment structure in the study area. Attention shall be given to Kaoh Kong's high share of tertiary sector. In Kaoh Kong, trading with Thailand is active. Tourism related facilities like hotel and restaurants seem to have provided employment opportunities. Takaev and Kampong Spueu have very high share (nearly 90%) of primary sector. This may be due to the fact that relative proximity to Phnom Penh has not promoted the location of manufacturing establishment.

**Table D-5 Employed Population by Sector**

Province/Cities	Primary Sector	Secondary Sector	Tertiary Sector
Kandal	76.80	6.20	17.00
Kampot	87.70	1.70	10.70
Kaoh Kong	53.20	7.40	39.40
Takaev	90.10	1.70	8.20
Kampong Spueu	89.50	1.10	9.40
Phnom Penh	10.00	22.20	67.90
Sihanoukville	50.80	11.40	37.90
Cambodia	77.50	4.30	18.20

Source: General Population Census 1998

## D.2.3 Education Administration

Ministry of Education, Youth and Sports (MoEYS) is the ministry responsible for education sector. MoEYS is at the center of education in Cambodia. Primary, secondary, higher education, technical and vocational education and training, and non-formal education are under jurisdiction of MoEYS. MoEYS thus has responsibility for quality assurance of newly established private

universities as well. MoEYS has education offices in 23 provinces. In most Provinces, Provincial (Vocational) Training Centers are established to provide a short-term (less than a year) training programs.

Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (MoSALVY) provides short-term vocational training courses. University of Health Sciences is under the supervision of the Ministry of Health. Likewise, Royal University of Agriculture is under the supervision of the Ministry of Agriculture.

Royal Academy of Administration is an institution specializing in multi-disciplinary research and policy studies with particular focus on the Khmer language and public administration (government officials).

#### **D.2.4 Education/Training Opportunity in the Study Area**

The RGC has achieved significant expansion of primary education opportunities as Cambodia as a whole. Regional disparities remain. **Table D-6** shows educational attainment and number of various levels of schools in the study area. Features of three areas are described below.

**Table D-6 Education Statistics of the Study Area**

	Phnom Penh	Sihanoukville	Kampong Speu	Koh Kong	Kampot	Takeo	Kandal	Study Area
Area (km <sup>2</sup> )	267	868	7,017	11,160	5,209	3,563	3,591	31,675
Population (1998) (000)	1,000	156	599	132	528	790	1,075	4,280
Population Density	3,448	57	85	12	101	222	301	135
<b>Educational Attainment (1998)</b>								
<b>Primary Completed</b>								
Male (%)	27.7	28.3	25.8	24.8	23.5	30.0	27.4	26.8
Female (%)	24.0	15.9	11.4	12.1	12.2	15.0	15.6	15.2
Total (%)	25.7	21.9	18.0	18.7	17.3	21.7	21.0	20.6
<b>Lower Secondary Completed</b>								
Male (%)	20.9	14.7	11.4	10.9	10.5	13.2	12.6	13.5
Female (%)	12.6	5.9	4.6	4.2	4.6	5.2	5.4	6.1
Total (%)	16.5	10.1	7.6	7.7	7.2	8.7	8.6	9.5
<b>Secondary and Higher Completed</b>								
Male (%)	22.6	6.8	2.9	4.0	3.2	3.6	4.9	6.9
Female (%)	7.7	1.7	0.9	1.1	0.9	0.7	1.3	2.0
Total (%)	14.7	4.2	1.7	2.6	1.9	2.0	2.9	4.3
<b>Number of Schools (2000/2001)</b>								
Primary School	111	52	255	72	255	349	404	1,498
Number of Classroom	3,717	769	3,458	520	3,045	4,608	5,570	21,687
Number of Pupils	170,924	35,248	159,673	23,636	133,379	203,459	255,282	981,601
Gross Enrollment Ratio (%)	119.0	115.0	132.6	91.4	131.7	133.1	129.5	121.8
Number of Teachers	3,989	631	2,270	292	2,492	3,825	4,610	18,109
Pupils per school	1,539.9	677.8	626.2	328.3	523.1	583.0	631.0	701.3
Classes per School	16.5	14.8	13.6	7.2	11.9	13.2	13.8	13.0
2 - Shift (%)	93.7	92.3	84.7	83.3	92.2	82.2	79.2	86.8
Pupil Teacher Ratio	42.8	55.9	70.3	80.9	53.5	53.2	55.4	58.9
Lower Secondary School	13	5	28	2	22	31	45	146
Number of Pupils	50,996	4,814	16,964	1,377	19,208	25,814	31,899	151,072
Gross Enrollment Ratio (%)	62.5	31.5	29.0	11.9	37.7	44.9	39.5	36.7
Upper Secondary School	15	2	7	2	8	19	14	67
Number of Pupils	27,566	1,463	4,009	361	5,309	8,644	10,628	57,980
Gross Enrollment Ratio (%)	30.8	10.3	7.7	3.5	11.5	14.6	11.6	12.9
Number of Grade 10 Intake	9,197	591	1,525	137	2,101	3,379	3,704	20,634
Number of Vocational Training Institutions*	37	12	1	0	7	2	2	61
Number of Students at VTI	13,443	917	80	0	613	364	468	15,885
Number of University	15	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	15
Number of University Students	31,687	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	31,687
<b>Employment structure(1998)</b>								
Primary Sector (%)	12.5	55.0	89.5	53.2	87.7	90.1	76.8	66.4
Secondary Sector (%)	17.2	9.7	1.1	7.4	1.7	1.7	6.2	6.4
Service Sector (%)	70.3	35.3	9.4	39.4	10.7	8.2	17.0	27.2

Source: Education Statistics & Indicators 2000/2001, EMIS Center, Department of Planning, Ministry of Education, Youth and Sport, Statistics of Officers, Teachers and Students of Public, Private Institutions and NGOs Sectors, 2000-2001, Department of Vocational, Technical Education and Training, National Population Census of Cambodia (1998) Ministry of Planning

\* Number of Vocational Training Institutions includes only those listed in MoEYS "Statistics of Officers, Teachers and Students of Public, Private and NGOs Sectors"

### (1) Greater Capital Area

In Phnom Penh, educational opportunities have expanded in the last decade. Primary schools are packed with students. 93.7% of its primary schools are operated in two shifts. Pupil teacher ratio is still at 42.8 (nevertheless the lowest in the study area). There exist substantial number of over-crowded schools.

Gross enrolment ratio to lower secondary school is the highest in the study area. Likewise, its enrolment ratio to upper secondary school is the highest. Once the students have made the crucial transition from primary to lower secondary school, the chances of retention and completion improve.

There are five public universities, three independent institutes, faculties, and a few large-scale private universities in the study area<sup>2</sup>. In 1996, each university was authorized to charge tuition to students. Most universities increased the number of students. Nevertheless, there are some faculties where non-fee paying students are common, e.g. humanities, health and sciences. Private university was first established in 1997. Many private universities were established since then. The number of students rapidly increased in Business Administration including Marketing and Accounting. Computer Science and Languages increased as well.

As **Table D-7** shows (detailed number of students is available in Table 2 “Number of Students by Study Area” at the end of this Appendix), nearly a half (43.6% or 15,949) of students is enrolled in Business field. 4,000 students are enrolled in Computer Science (11.8%). There are 2,589 students in Foreign Languages (7.6%). Engineering fields putting civil, Electric & Electronic and Mechanical together consists merely 4% of the total university students. Until two private universities, - Norton and Build Bright Universities – started offering engineering courses; Cambodia Institute of Technology was the sole provider of engineering faculty in Cambodia (though merely 15 students complete civil engineering course each year for example). Royal University of Agriculture has been providing agro-related engineering courses. Preah Kossamak Polytechnic Institute, and National Technical Training Institute started Bachelor level engineering course a year ago.

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<sup>2</sup> Number of students of each university is available in Table-1 “Number of Students at Higher Education Institutions” at the end of this APPENDIX



**Table D-7 Number of University Students by Faculty (2001/2002)**

	Total	Percentage
Business (including Management, Marketing, Accounting, Finance/Banking)	15,949	43.6%
Computer Science	4,013	11.8%
Other Areas	5,371	14.7%
Foreign Languages	2,589	7.6%
Economics	2,287	6.7%
Law	2,179	6.4%
Tourism	2,146	6.3%
Engineering	1,156	3.2%
Civil Engineering	747	2.2%
Electric & Electronical Engineering	334	1.0%
Mechanical Engineering	75	0.2%
Sciences	903	2.7%
<b>Total</b>	<b>36,593</b>	<b>100.0%</b>

Source: JICA Study Team based on data from Ministry of Education, Youth and Sports and each university

It should be noted that higher education institutions are all located in Phnom Penh except a few institutions in Bat Dambang and in Prey Veang. Thus, it is necessary for bright young boys and girls in rural areas to come to Phnom Penh for studying at higher education institutions. Recent increase of private universities and fee-paying students at public institutions indicate that the demand for higher education is higher than the current intake.

Many of vocational training institutions - both public and private - as well are located in Phnom Penh. Except public training institutions like Preah Kossamak Politechnic and National Technical Training Institute, many private vocational training schools and schools assisted by NGO provides short-term training courses on computer, foreign languages and handicraft- making type courses. Number of students and name of major vocational training institutions are presented in **Table 3** “Number of Students Studying at Vocational Training Institutions” at the end of this Appendix.

## **(2) Sihanoukville**

Due to the increasing population, many primary schools have been constructed. Within the academic year 2000 to 2001 alone, ten primary schools were established. Enrolment ratio to secondary schools is still at the low level compared to Takaev Kandal and Kampot provinces, however higher than Kaoh Kong and Kampong Spueu.

There are two public vocational training institutions offering long-term courses. One is JVC Technical School offering car repairing and welding courses for training duration of 1 to 2 years. The other is Don Bosco Technical School. Don Bosco offers 5 courses including, welding, electricity, machinery, sewing

and computer secretary. Its training period is two years. JVC and Don Bosco Schools are run by NGOs. However, these two schools provide certificates recognized by Department of Education of Sihanoukville. Therefore, these schools are classified as public vocational training institutions.

Sihanoukville Vocational Training Center has sewing, electric appliance repairing and masonry courses (4 months). Provincial (or municipal) Vocational Training Centers like the one in Sihanoukville were assisted by ADB project through Basic Skills Project until June 2002. Sihanoukville Vocational Training Center is located inside the campus of Sihanoukville Pedagogical School. Its capacity and equipment is limited. Thus, the Center's training program can take 15 trainees per course.

There are five private language and computer schools. Some 1,000 students attend 3 to 8 months courses there. The most popular language is English followed by Chinese and Thai. Four NGOs are offering vocational training courses. Such training courses include computer, English and French, engine repairing and sewing. Given its relatively smaller population compared to provinces with more inhabitants like Kampong Spueu and Kampot, Sihanoukville offers good learning opportunities.

Build Bright University - A private university in Phnom Penh - has a plan to establish its branch campus in Sihanoukville. The planned courses include Management and Informatics (computer science).

Port Authority of Sihanoukville (PAS) supports its employees' study in the evening and during the weekends. This implies that formal employment provides good learning opportunities. Likewise, Educated, trained and motivated personnel invite the presence of good employment.

### **(3) Intermediate Area**

Kaoh Kong Province provides poor learning opportunities to the schooling age population. Gross Enrollment ratio for primary school is 78.9% (the lowest in the study area). Enrolment ratio for lower secondary school is 9.5% and upper secondary school is merely 3.3%, both percentages are the lowest. There is no vocational training institution in Kaoh Kong. Konpong Spueu and Kampot provinces show similar trend however the situation is better than in Kaoh Kong.

Pupil teacher ratio of Konpong Spueu is the worst (70.3) in the study area. In Konpong Spueu province, there is a Provincial Training Center (PTC). PTC Konpong Spueu offers electricity, building (carpentry), motorcycle repairing, welding and computer. Training period is 4 months for each course. Fifteen to twenty people attend the trainings.

Takaev province having the bigger population, enrolment ratio to secondary schools is higher than Kaoh Kong, Konpong Speu and Kampot. Pupil teacher ratio is 53.2 - the second lowest next to Phnom Penh -. Provision of primary education has substantially expanded in Takaev. The next agenda will be development of secondary education. Takaev Provincial Training Center provides 9 training courses; Tape recorder repairing, sewing, food processing, small engine repair, television repair, motor repairing, welding, automobile repair and computer. The training period is 3 to 4 months. 15 to 35 people attend the course each time. Sewing, Food processing and small engine repairing courses are held several times. One NGO provides 3 months welding course. Due to its proximity to Phnom Penh, those who wish to continue their study seem to go to Phnom Penh.

Expansion of basic education facilities is still required in Kampot. Enrolment to secondary schools has been improving. Kampot Provincial Vocational Training Center has five training courses; Automobile Repair, Sewing, Motor Repairing, Weaving and Construction. 15 people attend each course. There are three private schools. They offer computer and accounting. Two NGOs provides vocational training courses. Kampot Industry Technical Education and Training Center has courses on Automotive, Welding, Motorbike Repair, Tape, Radio and T.V. Repair and Electricity. They take 20 to 35 trainees for 4 months to 6 months. Women Progressing Center has 10 training courses, Sewing, Weaving, Haircut, Rattan handicraft, Shell handicraft, Khmer and English Typing, English, General Office Skills, and Housekeeping.

As described above, there are provincial training centers (PTC) in Kandal, Takaev, Kampong Spue and Kampot provinces. These PTCs were strengthened under the ADB Basic Skills Project. Their training costs were mostly borne by the National Training Fund until the end of 2001. Currently the training costs come from Priority Assistance Program (PAP) of the MoEYS.

After the 4-months training at the PTCs, micro credit is provided. With this small credit - \$100 to \$1,000 - to a group of three or more trainees, they are supposed to start their own business.

The micro credit scheme is called "Self Employment Generation Fund (SEGF)." Large-scale factories and other employment opportunities cannot be expected immediately in the intermediate areas. Thus, this scheme seems to be effective in fostering employment. Repayment to the SEGF has been made on time so far. This scheme may also be effective in demonstrating the fact those who have upgraded their skills (at school) are more likely to increase their income.

## D.2.5 Donor Assistance on Human Resources

Cambodia's human resources base have been devastated by two decades of internal strife. Chaos and turmoil destructed education system in the 1970s. As shown in the **Table D-6** (Education Statistics), considerable efforts are required to catch up with the neighboring countries.

**Table D-8 Regional Comparisons of Educational Profiles**

Country	Adult Literacy Rate (% aged 15 and above) 1998	Female Adult Literacy Rate (% aged 15 and above) 1998	Youth Literacy Rate (% age 15-24)	Children Reaching Grade 5 (%)
Thailand	95.0	93.2	98.8	n/a
Philippines	94.8	94.6	98.4	n/a
Vietnam	92.9	90.6	96.7	n/a
Indonesia	85.7	80.5	97.3	88.0
Cambodia	67.3	58.0	56.9	49.0
Laos	46.1	30.2	67.5	55.0

Source: p235 Second Five-Year Socio-Economic Development Plan 2001-2005 (SEDPII),  
Ministry of Planning

Public expenditure on education was low in the 1980s and the 1990s. The cost of education was primarily borne by donor agencies and NGOs. Many donor agencies and NGOs have been involved in educational sub-sector as shown in the following table.

EU, USAID and UNICEF have specialized in primary education with emphasis on curriculum development and teacher training. NGOs as well have extended assistance to the primary education. NGOs have also been involved in non-formal education. The World Bank has assisted with the construction of schools through its Social Fund. ADB has assisted in formulating an education investment plan, a master plan, textbook development and Basic Skills Project (Technical and Vocational Education and Training "TVET"). ILO and GTZ have been involved in TVET. JICA has dispatched an education adviser to the Ministry of Education, Youth and Sports. Japanese government has constructed the primary schools in Phnom Penh and in rural areas. JICA is currently implementing "Secondary School Teacher Training Project in Science and Mathematics." JICA has assigned various senior and young volunteers to Preah Kossamak Polytechnic Institute (Computer science, Civil Engineering and Electric and Electronical Engineering) and to the universities (as Japanese language teachers).

**Table D-9 Donor Assistance on Human Resources Development**

		Pre-school education	Primary education	Lower secondary education	Upper Secondary education	Higher education	Vocational and technical Education	Non Formal education
Education administration	Education Policy	UNESCO/UNDP/AND/EU/JICA/USAID/DFID/WB						
	Financial Capacity Building	AusAID						
System improvement	Improvement in the quality and quality of educational information	EU/UNICEF/ADB						
	Reform of the exam system	AusAID						
Improvement in education services	Teachers Training	NGOs	USAID/ UNICEF/ EU/ NGOs	DFID /NGOs/ France	JICA/ NGOs	NGOs /AusAID /France	ADB/ France/ GTZ/ ILO/ UNDP/ NGOs	NGOs/ UNESCO/ ADB /GTZ
	Improvement in curricula		ADB/ NGOs	ADB/ France/ EU/DFID	ADB/ DFIF/ France	NGOs	GTZ/ILO /UNDP/ NGOs	ILO/UN DP/ UNICEF
	Development of textbooks and teaching materials	NGOs	ADB/ NGOs	ADB/France/EU/ DFID	ADB/DFI D/France	NGOs	GTZ/ILO /UNDP/ NGOs	
Educational infrastructure	School Facilities Building	NGOs	WB/Japan /EU/ NGOs	WB/ADB/ EU/NGOs	ADB	ADB/ France	ADB/France/GTZ/ ILO/ UNDP/ NGOs	

Source: p251 Part II Chapter 2 Section 5. Human Resources Development, JICA (March 2002) The Kingdom of Cambodia – From Reconstruction to Sustainable Development - Country Study for Japan's Development Assistance to the Kingdom of Cambodia –

Cambodia has made significant progress in expanding access to primary and secondary schooling in the 1990s. Share of government expenditure on education was 10 % in 1999. The share increased to 13%. MoEYS has the second biggest government budget next to the Ministry of National Defense though majority of its budget have been appropriated for teachers' salary. On the other hand, SEDP II noted that government expenditure on education had

remained constant at between 0.9 and 1.0% of GDP since 1994. While that of Lao P.D.R is 2.4%, Bangladesh 2.3% and Nepal 2.9%.

Nevertheless, primary school enrollments increased from 1.8 million to 2.4 million in five years. Some 1,000 primary schools were established in the past five years. Net enrollments for primary and lower secondary schools are 90.0% and 21.9% (2001).

### D.3 DEMAND FOR HUMAN RESOURCES

This Section describes recent employment generation.

#### D.3.1 Employment Generated in the Past Eight Years

**Table D-10** Labor Force Created by Newly Approved Investment (1994-2001)

	Manager	Engineer	Technician	Supervisor	Office Staff	Skilled Worker	Unskilled Workers	Total
<b>Primary Sector</b>	379	425	1,059	815	1,099	11,550	24,095	39,422
Agriculture	50	36	153	120	214	1,253	4,588	6,414
Agro-Industry	93	99	303	286	337	2,430	6,387	9,935
Livestock	1	3	6	2	20	72	66	170
Plantation	235	287	597	407	528	7,795	13,054	22,903
<b>Secondary Sector</b>	2,629	3,218	6,879	8,081	11,885	78,196	110,371	221,259
Animal Meal	5	5	7	1	4	73	10	105
Building materials	45	42	144	178	238	970	1,470	3,087
Cement	41	121	240	169	278	1,682	1,504	4,035
Chemical	358	1,011	1,032	530	1,042	5,097	10,146	19,216
Disc	7	6	6	6	13	21	67	126
Electronics	16	49	97	55	94	287	2,960	3,558
Energy	15	35	84	28	26	112	19	319
Food Processing	176	87	288	415	561	2,237	6,759	10,523
Garment	1,267	1,086	3,000	4,795	7,030	42,764	45,004	104,946
Hat	0	1	0	8	4	20	230	263
Household goods	17	12	34	29	52	343	282	769
Leather Processing	2	1	2	2	11	32	30	80
Mechanic Assembly	56	52	131	41	85	739	486	1,590
Mechanics	1	0	1	3	2	35	40	82
Medical Chemical	23	39	79	33	96	372	453	1,095
Medical Instrument	0	0	0	0	2	20	20	42
Medical Supplies	4	3	14	10	10	30	249	320
Metal	12	13	38	31	54	214	961	1,323
Mining	22	25	31	21	64	253	530	946
Other Industries	77	112	171	182	257	2,529	2,803	6,131
Other Industry	2	2	2	5	8	90	10	119
Paper	95	77	264	154	327	1,225	1,893	4,035
Petroleum	49	86	107	136	125	343	363	1,209
Petroleum Distribution	8	0	1	3	16	27	98	153
Plastic	31	28	94	71	118	852	818	2,012
Shoes	72	78	245	287	391	9,654	10,679	21,406
Sock	1	4	20	4	17	130	80	256
Textile	57	54	121	146	117	3,959	6,787	11,241
Tobacco	70	44	179	163	240	977	1,787	3,460
Wood Processing	100	145	447	575	603	3,109	13,833	18,812
<b>Tertiary Sector</b>	262	383	797	517	1,324	2,079	8,391	13,753
Construction	41	91	145	153	155	375	5,336	6,296
Education	9	6	8	24	188	206	212	653
Engineering	6	12	46	8	27	44	10	153
Health Services	3	0	5	2	5	10	16	41
Infrastructure	10	18	28	21	36	170	542	825
Media	21	11	36	24	70	75	77	314
Service Energy	1	1	2	1	2	5	2	14
Services	65	80	176	108	232	627	1,704	2,992
Telecommunication	86	154	294	134	473	358	249	1,748
Transportation	19	9	56	41	131	202	234	692
Water Supply	1	1	1	1	5	7	9	25
<b>Tourism</b>	460	204	588	860	1,419	5,158	8,083	16,772
Hotel	343	130	387	706	1,015	3,428	5,507	11,516
Tourism	21	28	104	74	91	463	592	1,373
Tourism Centre	96	46	97	80	313	1,267	1,984	3,883
<b>Total</b>	3,730	4,230	9,323	10,273	15,727	96,983	150,940	291,206

Source: Cambodian Investment Board, 2002

In spite of the current economic structure dominated by primary sector, secondary sector have created 75% of new jobs from 1994 to 2001 (**Table D-10** ‘Labor Force Created by Newly Approved Investment 1994-2001’). Garment sector created the biggest number of jobs (over 100,000) and shoes, chemical and wood-processing industries followed. Due to a small number of well-educated personnel available in Cambodia, majority of jobs are created as unskilled workers’ jobs (51.8%). 85% of jobs created in the last 8 years were for skilled and unskilled workers. It can be summarized that there are little human resources well educated, while there are little jobs requiring educated/trained personnel.

Tertiary sector including tourism sector ‘s impact has been modest (10.4%) to date. The Table shows how secondary sector has been important for employment creation in Cambodia. On the other hand, current major export industries including garment sector have a limited linkage with local economy. Its local inputs include transportation, freight clearing services and construction of factories. In many cases in the study area, enterprises generate electricity because electricity supplied from electricity company is expensive. They dig underground for water they use.

Tourism sector has multiplier impacts. Hotels and restaurants purchase local food, utility, electricity and telecommunications. Construction services are also required in many instances. It is however essential those domestic suppliers must meet the demand of tourism and manufacturing sectors.

It should be noted that data on **Table D-10** was taken from investment application documents submitted to Cambodian Investment Board. Some of the investment might have not reached the planned number of employment.

**Table D-11 Employment Generated in New Enterprises Established 1994-1999**

ISIC	1994	1995	1996	1997	1998	1999	Total
2 Mining	90	0	118	0	0	0	208
3 Manufacturing	14,387	7,513	11,751	28,336	43,058	32,287	137,332
31 Food, beverages and tobacco	1,258	472	3,564	471	549	20	6,334
32 Textile and wearing apparel	9,109	4,641	5,449	25,781	41,649	30,678	117,307
33 Wood and wood products	20	2,099	1,411	259	27	592	4,408
34 Paper and paper products	387	0	51	44	86	66	634
35 Chemicals, rubber and plastic products	686	113	627	349	532	732	3,039
36 Non-metallic mineral products	2,590	158	349	0	119	0	3,216
37 Basic metals	25	0	20	1,286	0	0	1,331
38 Fabricated metal products	302	30	238	146	96	199	1,011
39 Other manufacturing industries	10	0	42	0	0	0	52
4 Electricity, gas and water	37	0	0	0	0	0	37
Total	14,477	7,513	11,869	28,336	43,058	32,287	137,340

Source: Business Directory of Cambodia 1999, Ministry of Industry, Mining and Energy

**Table D-11** “Employment generated in new enterprises established 1994-1999” presents employment generated from 1994 to 1999 by mining, industry and electricity, gas and water sector which Ministry of Industry, Mining and Energy (MoIME) is in charge of. Textile and wearing apparel (classified as garment in CIB statistics) created the biggest jobs. Shoes making industry is classified as ISIC 32 “Textile and wearing apparel.” No industry so far has competed with textile and wearing apparel in terms of employment creation.

More than 110,000 jobs were created in the late 1990’s by Textile and wearing apparel factories, majority of these workers are unskilled workers. These investors have mainly come to Cambodia for cheap but not so skilled workers utilizing GSP (General Scheme of Preference) status and quota given to them. Many industrialized countries’ investors have already shifted its labor-intensive production lines to developing countries. In order to catch up with neighboring countries’ industrial base, Cambodia needs to invest more in education. With a small population (1.1 million) compared to neighboring Vietnam and Thailand, it seems more effective to create a small but well-trained personnel who can work as mid-level supervisors rather than competing with neighboring countries by offering cheap labor. It is therefore essential that Cambodia try to create more human resources at least with lower secondary education.

### **D.3.2 Employment by Region**

**Table D-12** shows “Employment (from mining to electricity, gas and water) by Province and ISIC” made by MoIME. Out of 154,000 persons working in this industrial classification, 70% of them are in Phnom Penh. Together with neighboring Kandal Province, 84% of them are Phnom Penh - Kandal area. In Sihanoukville, 8,607 persons or 5.6% work in this mining and industry sector. It can be summarized that industrial activities are concentrated in Phnom Penh area. Sihanoukville area ranks second but it is far behind Phnom Penh area.

Kampot has rather unique characteristics of mining or resource based activities. In Kampong Spue, wood and wood products are the biggest employer (664 persons). In Kaoh Kong, 118 persons are working in mining/quarrying sector. Takaev has two small industrial sector, food, beverages and tobacco (303 persons) and wood and wood products (138 persons). As seen above there are little opportunity for industrial sector in provinces other than Phnom Penh - Kandal area and Sihanoukville area.



**Table D-12 Employment by Province and ISIC**

Provinces/cities	Mining / Quarrying	Manufacturing									Electricity, gas and water	Total	
		Food, beverages and tobacco	Textile and wearing apparel	Wood and wood products	paper and paper products	Chemicals, rubber and plastic products	Non- metallic mineral products	Basic metals	Fabricated metal products	Other manufactur ing industries			Total
ISIC	2	31	32	33	34	35	36	37	38	39	3	4	2+3+4
Banteay Meanchey	-	120	-	-	-	-	30	-	-	-	150	12	162
Battambang	-	319	725	-	-	-	232	-	26	10	1,312	167	1,479
Kampong Cham	10	363	2,315	167	-	30	280	-	-	-	3,155	91	3,256
Kampong Chhnang	-	62	-	-	-	-	65	-	-	-	127	28	155
Kampong Speu	130	23	417	664	-	-	-	-	-	-	1,104	-	1,234
Kampong Thom	-	142	-	31	-	-	638	-	-	-	811	-	811
Kampot	4,186	33	-	15	-	-	1,769	-	-	-	1,817	61	6,064
Kandal	45	2,647	13,335	2,100	477	541	1,155	-	233	-	20,488	-	20,533
Koh Kong	118	11	-	12	-	-	28	-	-	-	51	35	204
Kratie	-	170	-	773	-	-	192	-	-	-	1,135	28	1,163
Mondol Kiri	-	-	-	118	-	-	-	-	-	-	118	-	118
Phnom Penh	-	3,315	98,468	523	213	2,644	1,438	65	1,119	42	107,827	1,278	109,105
Prey Veng	-	110	-	55	-	-	-	-	-	-	165	39	204
Pursat	-	68	-	-	-	-	-	-	-	-	68	37	105
Rattanakiri	-	-	-	81	-	-	-	-	-	-	81	-	81
Siem Reap	-	84	-	-	-	-	182	-	12	-	278	91	369
Sihanoukville	-	2,131	5,506	460	30	297	76	-	-	-	8,500	107	8,607
Svay Rieng	-	-	677	10	-	-	10	-	-	-	697	54	751
Takeo	-	303	-	138	-	-	16	-	-	-	457	25	482
<b>Total</b>	<b>4,489</b>	<b>9,901</b>	<b>121,443</b>	<b>5,147</b>	<b>720</b>	<b>3,512</b>	<b>6,111</b>	<b>65</b>	<b>1,390</b>	<b>52</b>	<b>148,341</b>	<b>2,053</b>	<b>154,883</b>

Source: Business Directory of Cambodia, 1999 Ministry of Industry, Mines and Energy

## **D.4 ISSUES FOR HUMAN RESOURCES DEVELOPMENT**

Currently some 130,000 turn 15 years of age each year<sup>3</sup> in the study area. Out of these, 20,000 continue their study at upper secondary schools. The rest of them are absorbed in their family business including small enterprises, and the service sector. The garment and footwear industries absorb 20,000 mostly girls as factory workers. The remaining young boys and girls leave school prematurely (dropouts) or repeat the grades. Those who leave school prematurely neither qualifies for further study at higher education institutions nor for any of formal vocational training opportunities. Some of these people are left as surplus agricultural workers and in casual employment and low pay.

### **D.4.1 Greater Capital Area**

#### **(1) Shortage of skilled workers and technicians – Replace foreign supervisors with Cambodians**

There are many garment and footwear factories (nearly 200) operating in the suburb of Phnom Penh including Kandal Province. Many unskilled female Cambodian workers are working there. However, at supervisory level, many foreign workers are recruited. This practice is not unique to such quota-protected industries as garment and footwear. It is also common in construction and hotel industries of foreign capital. This leads to a vicious cycle of shortage of qualified labor force, many expatriates and thus under employment and further imbalances in Cambodian labor force.

It is therefore necessary to replace these supervisory level foreign workers with Cambodians.

\* *Example 1. Garment sector supervisor*

One of the successful measures is Garment Training Center (GTC) in Phnom Penh. GTC was established in 1999 in order to develop supervisors at garment factories. A four-week training is provided to supervisor candidates. The training expense is borne by the company, which the trainees work. Two Japanese instructors together with Cambodian instructors teach production management including time study and machine layout, and quality control there. GTC flyer is attached at the end of APPENDIX for reference.

Another example is in Sihanoukville. Don Bosco Technical School in Sihanoukville offers a 2-year Sewing course. This course has proved effective to develop Cambodian supervisors. Some of the graduates of

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<sup>3</sup> Estimate based on school going population “Education Statistics & Indicators 2001/2002” MoEYS

the course were recruited in garment factories in Sihanoukville, and they were promoted to supervisory level jobs soon after start working there.

\* *Example 2 Construction (Project) Management*

There are many foreign construction companies operating in Cambodia. These foreign companies are mostly involved in a large-scale donor assisted projects. Due to a shortage in local civil engineers and technicians, there are many foreigners working as project managers. Most Cambodian construction companies have 50 or fewer employees. They work as subcontractors to the foreign companies. For foreign companies, it is difficult to find Cambodian who can work as project managers. Given high market demand for construction industry in Greater Capital Area, it would be important to provide training on construction management. National Technical Training Institute started offering a two-week course on project management targeting Cambodian construction companies' employees in 2002.

**(2) Lack of Career Guidance and Career Counseling at Secondary Schools**

There are five public universities, three independent institutes, faculties, and a few large-scale private universities in the study area. In 1996, each university was authorized to charge tuition to students. Most universities increased the number of students. Nevertheless, there are some faculties where non-fee paying students are common, e.g. humanities, health and sciences. Private university was established in 1997. Many private universities were established since then. The number of students rapidly increased in Business Administration including Marketing and Accounting. Computer Science and Languages increased as well.

Private universities mostly invested in Business Administration however not in engineering because the investment required in setting laboratories and equipment was expensive. Perhaps in a few years from now, there will be so many unemployed or underemployed university graduates who majored "Business Administration."

In order to industrialize and to make Cambodia competitive, more engineers including civil, mechanical, electric and electronics, and IT are required.

Until the end of 1990's, each Ministry submitted the number of new recruits it needed as candidates for officials. Based on these figures, the quota for higher education was set. Thus, higher education was open to a fixed number of students. Those who completed higher education were guaranteed posts as high-ranking government officials. This practice was over. There are no

projections or plans required for personnel in what sector at what level. The lack of orientation may have led to the above mentioned over concentration in Business Administration and Foreign Languages.

It would be cost effective to provide adequate career guidance and career counseling to help the youth to choose jobs matching their job aptitudes. Currently at some universities and some institutes, internship at prospective employers (enterprises) is promoted. School Staff in charge of marketing (sometimes Director) is involved in students' internship.

Guidance at secondary school will also be effective in finding the right career path. Advice on life skills and world of work should start as early as secondary school.

#### **D.4.2 Sihanoukville**

##### **(1) Lack of Demand Driven Human Resources Development**

Except for public vocational training institutions, most non-formal and private vocational training institutions provide computer and language skills. Computer and languages certainly provides basis for any of clerical jobs.

However, there has been little private initiative in training the skilled workers, thus, the needs of the private sector have not reflected in the subjects and contents of the current vocational courses. It seems necessary to develop partnership between training institutions and enterprises to ensure the training course relevance to the market needs.

\* *Example 3. Training of Construction Workers*

Most public vocational training institutions provide traditional vocational training skills like welding, auto and electric appliances repairing. However, little efforts have been made to develop brick laying, plumbing and carpentry workers.

Thus, there are unofficially imported Vietnamese workers in many construction sites. Some types of jobs in construction sites are mostly done by Vietnamese workers. It would be cost effective to provide basic skills training for construction workers. Private construction companies, in particular Cambodian-capital companies will not provide such basic training due to financial burden on establishing workshop and installing equipment. It seems therefore important to flexibly adjust the contents offered at the public vocational training institutions, e.g. Sihanoukville Vocational Training Center. With a view to sustain and enhance competitiveness of garment industry in Sihanoukville, training programs similar to the one offered at the Garment Training Center in

Phnom Penh would also be effective.

Public sector i.e., government both central and provincial, should be involved in the provision of training until the private sector invests in technical and vocational education and training.

#### **D.4.3 Intermediate Area**

##### **(1) Lack of Opportunities for the Marginalized and the Disadvantaged to have Skills Development**

High-level training issues are described above in Phnom Penh and basic training issue is discussed for Sihanoukville. In intermediate area, improvement of enrolment and retention at basic education and assistance for their life skills development are discussed.

It is estimated that less than a third of schooling age children enroll in lower secondary school in Kampong Spueu, Kampot, Kaoh Kong. Many children are not able to attend schools because they have to support their families in particular their brothers and sisters.

Non-formal vocational training provides an alternative route for those who have not completed primary level education. Assistance to help them make their living is required.

Private training providers are not active in this area. Private school will not invest in these four provinces because of its small population and local economic scale. Thus, short-term (less than 1 year) training course organized at Provincial Vocational Training Center (PTC) will provide these dropout youths with necessary skills. Micro credit scheme called “Self-Employment Generation Fund” is open to those who have completed the training program at PTC. With those skills acquired at the institutions, the marginalized and the disadvantaged may be able to start up their own business. After 6 years of primary education and subsequent 3 years of lower secondary education, vocational education and training shall be the second priority.

#### **D.5 STRATEGY FOR HUMAN RESOURCES DEVELOPMENT**

##### **D.5.1 Approach for Human Resources Development for Industrial Development**

Advancement of technology and information requires qualified human resources. Many countries pay attention to the quality of the labor force as a key to the economic development. While Cambodia has made certain progress in the provision of primary education, there are a number of issues to be solved in order to develop the labor force capable and responsive to the market needs.

Besides small and family businesses, FDIs are primary employers in Cambodia as a whole and also in the study area. These FDIs however cannot absorb the increasing Cambodians entering into the labor market.

A number of governments try to invite FDIs by promoting cheap, abundant and well-trained labor. In the study area, workers may be cheap but the two other factors cannot be guaranteed. In regard to number of work force, Thailand and Vietnam offer larger work force. It is impossible to catch up with these neighboring countries in terms of the number of workers at least until 2015. Slightly more than 1 million people are supposed to engage in industrial activity. It is however, possible to compete with them by offering well-educated and trained personnel.

Unless Cambodian government takes measures on human resources development and creation of employment, there will be too many underemployed and unemployed young Cambodians with unstable livelihood and low salary.

The sector strategies for human resources development are;

- To improve capabilities of the increasing number of young Cambodians by improving relevance and quality of education, and
- To provide productive/formal employment opportunities to the increasing number of young Cambodians

#### **D.5.2 Area Specific Development Strategy**

The Study Area has diversity in its character. Development strategy is prepared below taking into consideration the characteristics of the three areas.

##### **(1) Sihanoukville**

###### *1) Urgent strategy*

###### i) Development of Cambodian Supervisors

Sihanoukville will become a major industrial center of Cambodia with establishment of the proposed Special Promotion Zone (SPZ). Until the establishment of SPZ, major employers in Sihanoukville will continue to be garment and footwear factories. Provision of Cambodian supervisors will be the immediate task in view of the following aspects.

- To foster better communication between workers and supervisors/managers
- To decrease labor disputes arising from misunderstanding of Cambodian laws and regulations

- To reduce personnel cost of foreign supervisors, and
- To accumulate production management skills

In terms of labor disputes, in addition to management side or supervisors' misunderstanding on Cambodian labor law and other rules, lack of knowledge on collective action and industrial action by labor unions and their supporters are another constraint on fair business activity. An open letter appeared on the Cambodia Daily on February 2001 is attached at the end of this Appendix for reference. This shows one incident provoked by the mobs related to the labor union.

2) *Medium Term Strategy*

i) Multi-purpose training facility within the SPZ

In addition to the immediate task of replacing supervisor-level foreign workers at garment and footwear factories, continued provision of workers and clerks training opportunity is required.

Due to a financial burden for workshop, equipment and materials, it would be useful meanwhile to establish a multi-purpose training facility within the SPZ. Enterprises in the SPZ can utilize the basic facility available at the training area. Direct participation of the employers (FDIs) in training programs design is a useful instrument to carry out demand-driven skills training.

ii) Establishment of Engineering University to solve Urban-Rural Disparity in higher education

In addition to the training facility, a technical and science university or college in Sihanoukville will contribute to solving the problem of urban-rural disparity in higher education. It is worth inviting a private university to Sihanoukville, which is the other pole of the growth corridor.

**(2) Greater Capital Area**

1) *Development of Human Resources who cater for Sophisticated and Diversified needs*

Phnom Penh is the most populous area in the Growth Corridor. It is the area where many educated and trained personnel live. There are a number of education institutions of various levels in the Greater Capital Area, providing opportunities to those wishing to improve their skills and knowledge. The best and brightest people in Cambodian are found in Phnom Penh.

There are three areas of jobs expected - spin off from garment and other FDI factories, service sector and construction - in Phnom Penh besides the public

services.

2) *Spin-off from FDI to Entrepreneurs*

The first group is garment and footwear industry located in the outskirts of Phnom Penh and in Kandal province. These factories may continue recruiting certain number of young workers, mostly unskilled workers with low educational profile. At supervisor level, there are many foreigners. Most foreign supervisors have little knowledge about Cambodian customs and laws in particular Labor Law. Their lack of knowledge and cultural difference often lead to labor disputes. Recruitment of foreign supervisors persists because Cambodians who can substitute them are difficult to find.

It is thus necessary to develop labor force that can replace foreign supervisors. Garment Training Center (GTC) run by GMAC provides training for supervisor candidates. As the current training program focuses on technical aspects, additional training on managerial aspects shall be effective for promoting Cambodian workers to managerial positions. With good supervisory and managerial skills, some of Cambodians workers at FDI companies may spin out and set up their own business, which has potential for expanding industrial base in Cambodia.

3) *Urban Service Sector Employment*

The second group of employment opportunity is the service sector (some 360,000 are employed in this sector as of 2000), including commerce, tourism, real estate, telecommunication and miscellaneous business service. There are several large-scale retail shops and a number of smaller outlets in town. It is necessary to upgrade these retail shops to deal with the newly introduced Value Added Tax (VAT) and cater for growing demand for various services. Similarly, introduction of Point of Sales (POS) system in the shops will be made in a few years. Familiarity with those machineries is required in retail sector. In this regard, more workers with at least secondary level education will be required in order to shift its current practice to modern business.

Tourism sector or hotel industry needs improvement in its labor force. Some of the private universities already have courses on tourism in parallel with the market needs. The first class hotel like Hotel Le Royal also runs training schools for hotel employees candidates in Siem Reap and in Phnom Penh. The hotel has a substantial impact on employment. A hotel with 300 rooms, for example, requires more than 400 workers and purchases local food - fresh fruits and vegetables all round the year -, utility and telecommunication services.

Other service sectors like real estate services are recruiting relatively



well-educated young Cambodians. Likewise, telecommunication services attract educated young personnel. In this regard, computer literacy would be an advantage. Education and training on information technology (IT) may contribute to development of various service industries including travel agency, logistics and IT industry itself.

4) *Project Management for Construction and other Development Projects*

The third group is the construction industry. A number of foreign construction companies are in operation in Cambodia, mostly involved in larger-scale works. These foreign companies claim that they have to recruit foreign engineers because there are no competent Cambodian candidates for project managers. Domestic construction companies often participate in projects as subcontractors. They are often disqualified for bidding because of lack of past record and shortage of qualified engineers in civil, mechanical and electric fields.

In addition, skilled workers are also in shortage. Thus, a number of Vietnamese are brought to Cambodia as masonry workers and carpenters. It would be effective to develop this category of workers, as the skilled or semi-skilled masonry worker or carpenters who can work in various construction sites in Cambodia or abroad. Cambodian government policy is to encourage increased official labor exports to (i) improve the living conditions of the people; (ii) enhance professional skills; (iii) absorb unemployed and underemployed labor, and; (iv) raise State revenues (Article 1 of the Anukret on the Export of Khmer Labor to Work Overseas, N. 57 29 July 1995). Remittances from export workers are an important source of foreign exchange earnings.

Engineers and technicians are required in most sectors. For example in hotels, good engineers and technicians as maintenance staff are necessary. In spite of hotel business's image of receptionist and sales clerk, maintenance staff constitutes nearly 10% of total hotel employees.

5) *Local NGOs - alternative path to starting up a business*

In addition to the above-mentioned three categories, NGO attracts many young and bright personnel of Cambodia by offering good salary and training opportunity. There are some 12,000 Cambodians working in international and local NGOs. Number of employee in each NGOs are presented in Tables 4 and 5 "Number of Personnel Employed at NGOs" at the end of this APPENDIX. Those working in NGOs can be candidates for entrepreneurs as well. Alternative to NGO job is to make these young ones to entrepreneurs. They can be future entrepreneurs of Cambodia once necessary orientation and

training are given, for example at universities

### **(3) Intermediate Area**

#### *1) Achieve nine years of basic education by 2015 and increase vocational and literacy education*

There are strong signs of demand for specific education and training in urban areas (e.g. management, computing, accounting, foreign languages). However, it is difficult to assume that private schools invest in rural area for training. The issue in this area is skills development for the marginalized and the disadvantaged.

On demand side, there are little employment opportunities other than agriculture, fishery, mining and some informal and self-employment sector. Many school dropouts and the unskilled go to work in Sihanoukville and to Phnom Penh. They engage in casual work or manual work. Otherwise, they are left as surplus agricultural workers.

In the short-term, better quality literacy programs mostly offered by NGOs are effective to better farming productivity and food processing and other resource based.

In the medium to long-term, it is indispensable to improve the enrolment ratio to secondary schools. It is thus necessary to improve access to education. The target for year 2015 is 100% of children complete the six years of education. Then they are considered as literate and numerate.

There are many school dropouts in the intermediate area. In addition to the supply side factors as lack of schools and distance to schools, demand for education seems to be weak in this area. In other words, daily life and working life do not require schooling of not more than a few years. There are little employment opportunities requiring 12 years of schooling as described above. School dropouts and repeaters are considered as “wastage<sup>4</sup>” from the viewpoint of education provision. This phenomenon of wastage is common in any country in its early stage of industrialization. Supply of educated people comes first and demand from industry follows in many cases. Cambodia is no exception. It is then necessary to try to improve enrolment ratio and to reduce the number of dropouts first. Then the assistance for finding employment opportunities in rural areas other than subsistence farming would be effective.

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<sup>4</sup> Wastage is defined as “dropouts or premature leave from schools” and “repetition or retardation.” This phenomenon is observed in many countries in their early stage of industrialization.

## 2) *Assistance for Employment Creation in Rural Areas*

A few government agencies, NGOs and donors are involved in rural entrepreneurship development to carry out certain programs to promote entrepreneurship in rural areas. Among them, Technical and Vocational Education and Training Department (TVET) of Ministry of Education, Youth and Sports (MoEYS) - which has the biggest function in Vocational training mostly through its Basic Skills Project (ADB) - plays the most important role.

Training on entrepreneurship is the only alternative to learn skills that can help the disadvantaged young rural young make out a living. It is because no matter how many classrooms are built, there are many poor children - in particular girls - who are not able to attend schools unless there are such incentives as scholarships and subsidies for the family. The poor children including girls drop out of the school system because they have to help their families supplement the family income.

However, no proper study has been carried out so far with focus on rural entrepreneurship development. Current assistance programs are mostly focused on technical skills development. Thus, there is a need to improve entrepreneur development program among rural young people to ensure sustainability and viability of the income generating and value added activities. Provincial governments can be further developed to play roles in motivating, providing basic skill and training for rural young.

## **D.6 RECOMMENDED PROJECTS**

Cambodia is still at the beginning of industrialization. In this stage of development, basic education including primary and lower secondary education is most relevant. Higher education institutions increased the number of annual intake a few years ago. Though, in the short-term, well-trained workers are needed in labor-intensive industries. On the other hand, the number of highly educated personnel is in shortage. The following projects are proposed from the two points: one is to develop sufficient number of workers to be absorbed in labor intensive industries and service sectors, and the other is to develop candidates for managerial positions.

The relationship between human resources development and industry development is like a chicken and an egg. It appears to be a waste of resources to develop many engineers when there are little employment opportunities requiring engineering profession at the outset. Experiences in many countries show that demand for particular occupations does not come in tandem with supply of human resources. This does not justify for not making any effort for developing engineer until the demand arises.

Promotion of entrepreneurship as an alternative to paid employment is proposed. It is because the FDIs to be invited to the Special Promotion Zone in Sihanoukville may not be able to absorb the increasing population the Study area.

**Table D-13** below lists the six projects.

**Table D-13 Development Projects for Human Resources Sector**

Project name	Objective	Executing Agency
G1: Establishment of Training Institute within Sihanoukville SPZ	To provide training facility and practical training opportunity for FDI firms	Private Sector, Sihanoukville Municipality
G2: Establishment of University in Sihanoukville with faculty of Engineering	To provide practical education in the field of engineering	Sihanoukville Municipality, Private Sector
G3: Strengthening Sihanoukville Municipal Vocational Training Center	To establish university in Sihanoukville which provides practical engineering education	Sihanoukville Municipal Vocational Training Center in collaboration with Sihanoukville Municipality
G4: Upgrading of Preah Kossamak Polytechnic Institute in collaboration with King Mongkut's Institute of Technology, Thailand	To establish IT course in Preah Kossamak Polytechnic Institute to develop more IT engineers	Preah Kossamak Polytechnic Institute in collaboration with Technical and Vocational Education and Training Department, MoEYS
G5: Establishment of Faculty of Engineering in Royal University of Phnom Penh	To establish Faculty of Engineering – Civil, Electric and Electronic and Mechatronic fields – to cope with growing demand for Cambodian engineers	Royal University of Phnom Penh in collaboration with Higher Education Department, MoEYS
G6: Assistance for Rural Entrepreneurship Development	To strengthen capacity of provincial government officials and MoEYS through jointly undertaking the following - To identify new value added products in rural areas - To provide rural women with entrepreneurial and managerial training - To explore marketing strategy for existing and new value added products	Takaev and/or Kompong Spue Provincial Government with Technical and Vocational Education and Training Department, MoEYS

Appendix E  
Legal and Institution Framework

**THE STUDY ON  
REGIONAL DEVELOPMENT OF  
THE PHNOM PENH-SIHANOUKVILLE GROWTH CORRIDOR  
IN THE KINGDOM OF CAMBODIA**

**Appendix E Legal and Institution Framework**

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## **APPENDIX E LEGAL AND INSTITUTIONAL FRAMEWORKS**

### **E.1 Overview of Basic Situation of Legal Framework of Cambodia**

#### **E.1.1 The Scope of Review, Analysis and Examination in this Appendix**

The Study Objectives, as stated in the Scope of Work agreed on by the Ministry of Commerce and JICA on 4<sup>th</sup> October 2001, include:

- Formulating a Master Plan on regional development of the Phnom Penh - Sihanoukville Growth Corridor, mainly focused on the industry development,
- Conducting a feasibility study on the Sihanoukville Export Processing Zone (EPZ)

In this context, this Appendix shall review briefly the basic situation of legal framework of Cambodia, followed by the detail review, analysis, examination and proposals on some improvement measurements of the legal and institutional framework in the field of the investment, trade and business promotion.

#### **E.1.2 Legislative Hierarchy**

In the current legal system in the Kingdom of Cambodia, the hierarchy of legislative texts is generally understood as follows.

- a) The Constitution: The Supreme Law of the Kingdom of Cambodia
- b) Treaties and Convention: According to Article 26 of the Constitution, the King shall sign and ratify international treaties and conventions, following the approval of the National Assembly. After such ratification, the international treaties and conventions shall become one of the bases for court's judgment.
- c) Laws (Chhbab): Laws adopted by the National Assembly.
- d) Royal Decree (Reach Kret): To be issued under the name of the King for executing his constitutional powers
- e) Sub-Decree (Anu-Kret): To be signed by the Prime Minister and countersigned by the Minister(s) in charge after adoption of the Council of Ministers. The Prime Minister can also use this within his own regulatory power.
- f) Ministerial Order (Prakas): To be issued by members of the government within their own regulatory power.
- g) Decision (Sechdei Samrech): Individual decision of the Prime Minister, a Minister or a Governor, which is used within his own regulatory power.
- h) Circular (Sarachor): In general, to be issued by the Prime Minister as head



of government, and by minister as an official of the ministry either to explain or clarify certain legal regulatory measures or provide instructions

- i) Provincial Deka (Arrete): To be used by provincial governor within the geographical limit of his province

### **E.1.3 Legislative Procedures**

There are two ways of legislative process in the Kingdom of Cambodia. Their successive stages are, in general, as follows:

#### **(1) Through drafting laws by the Royal Government**

	Stage	Person/Section in Charge	Contents
1	Law drafting	A technical line ministry	Preparation of draft law
2	Discussion on the draft law	Inter-ministerial meeting (or, within the concerned ministry)	Examination of the contents of law
3	Study of the draft law	The Council of jurists in the Office of the Council of Ministers	Checking the conformity with the Constitution, the coherence with existing laws, etc.
4	Discussion on the draft law	Inter-ministerial level under the Council of Ministers	Examination of the contents of law on higher level
5	Adoption of the draft law	The Council of Ministers	Final examination and adoption of the draft law in the Government
6	Submission of the draft law to the National Assembly	The Royal Government	The draft laws are submitted in a written form to the Permanent Committee of the National Assembly, being accompanied by a "Statement of Purpose".
7	Review of the draft law in the National Assembly	The Permanent Committee of the National Assembly A Specialized Commission of the National Assembly	The Permanent Committee forwards the draft law to a specialized commission for review. The Chairman of the Commission presents the opinions of the Commission to the National Assembly, after reviewing.
8	Examination of the draft law	At plenary session of the National Assembly	Examining the draft law
9	Vote on the adoption of the draft law	The National Assembly	Voting for/against the draft law
10	Review in the Senate	The Senate	The adopted law is submitted to the Senate for review. The Senate shall review the law and provide a recommendation within no more than one month in normal cases. If the Senate fails to approve or disapprove within the said time limit, the adopted law shall be promulgated.
11	(Secondary Review in the National Assembly)	The National Assembly	If the Senate calls for changes, the National Assembly shall review them for a second time. In a second vote, the National Assembly shall adopt the law by an absolute majority.

12	Promulgation	The King or the Head of State	<p>Any law approved by the National Assembly and signed by the King for its promulgation goes into effect, in general, 10 days after the signing in Phnom Penh and 20 days throughout the country.</p> <p>All the laws promulgated by the King are published in the Official Gazette (“Journal Official” or “Reach Kech”) and circulated nationwide.</p>
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**(2) Through proposal on laws from members of the National Assembly**

	Stage	Person/Section in Charge	Contents
1	Law drafting	The Prime Minister, The Member of the National Assembly	To initiate new legislation. Proposed law shall be in a written format, drafted into separated articles and submitted with “Statement of Purpose”.
2	Submission of draft law	The Prime Minister, The Member of the National Assembly	The drafting legislator shall present his report to the reviewing Commission. The drafting legislator can at any time withdraw his proposed law. However, the other member can request the National Assembly to reintroduce them back for discussion.
3	Judgment of the reviewing Commission	The Reviewing Commission	Regarding the proposed law, the commission will; 1) Request the National Assembly not to consider them, 2) Request the National Assembly to express their opinions first as to whether it should consider them or not; or 3) Request the National Assembly to consider and treat them in urgent.
4	Examination of the drafted law	The National Assembly	The debate on the proposed law first focuses on the overall contents and then proceeds by articles.
5	Vote on the adoption of the draft law	The National Assembly	Voting for/against the draft law

**(3) Special Treatment or Process**

- 1) The proposals for new legislation made by the Prime Minister or the member of the National Assembly are unacceptable if they aim at reducing public income or increasing the burden on the people.
- 2) Laws adopted by the National Assembly, which run counter to the principles

of preserving the national independence, sovereignty, territorial integrity, and affect the political unity or the administration of the nation, will be annulled. The Constitutional Council is the only organ that can decide upon this annulment.

#### **E.1.4 List of Major Laws of the Kingdom of Cambodia relating to the Study**

Followings are the major laws of Cambodia to relating to the regional development.

Area of Regulations	Name of the Laws and Regulations	Year of Adoption/ Promulgation
<b>Constitution, The National Assembly</b>		
	The Constitution of the Kingdom of Cambodia	September 1993
	Internal Regulations of the National Assembly of the Kingdom of Cambodia	October 1993
	Law on the Amendment to Article 28 of the Constitution	July 1994
	Law on the Organization and Functioning of the Constitutional Council	March 1998
	Constitutional Law on the Amendment of Articles 11, 12, 13, 18, 22, 24, 26, 28, 30, 34, 51, 78, 90, 91 & 93 and Articles of Chapters VIII to XIV of the Constitution	March 1999
	Internal Regulations of the Senate of the Kingdom of Cambodia	May 1999
<b>Government</b>		
	Law on the Organization and Functioning of the Council of Ministers	July 1994
	Law on the Establishment of the Ministry of Culture and Fine Arts	January 1996
	Law on the Establishment of the Ministry of Public Works and Transports	January 1996
	Law on the Establishment of the Ministry of Justice	January 1996
	Law on the Establishment of the Ministry of Industry, Mines and Energy	January 1996
	Law on the Establishment of the Ministry of Interior	January 1996
	Law on the Establishment of the Office of the Council of Ministers	January 1996
	Law on the Establishment of the Ministry of Foreign Affairs and International Cooperation	January 1996
	Law on the Establishment of the Ministry of Planning	January 1996
	Law on the Establishment of the Ministry of Rural Development	January 1996
	Law on the Establishment of the Ministry of Agriculture, Forestry and Fishery	January 1996
	Law on the Establishment of the Ministry of Information	January 1996
	Law on the Establishment of the Ministry of Tourism	January 1996
	Law on the Establishment of the Ministry of Commerce	January 1996
	Law on the Establishment of the Ministry of social Action, Labor and Veteran Affairs	January 1996
	Law on the Establishment of the Ministry of Economy and Finance	January 1996
	Law on the Establishment of the Ministry of Religious Affairs	January 1996
	Law on the Establishment of the Ministry of Environment	January 1996

	Law on the Establishment of the Ministry of Women's Affairs	January 1996
	Law on the Establishment of the Ministry of Health	January 1996
	Law on the Establishment of the Ministry of Defense	January 1996
	Law on the Establishment of the State Secretariat for Civil Aviation	January 1996
	Law on the Establishment of the State Secretariat for Civil Services	January 1996
	Law on the Establishment of the State Secretariat in Charge of the Relations with the National Assembly	January 1996
	Sub-Decree on Procedures for Imposing Disciplinary Sanctions on Civil Servant	January 1997
<b>Judiciary</b>		
	Law on the Organization and Functioning of the Supreme Council of Magistracy	December 1994
	Law on the Bar	June 1995
<b>Infrastructure, Industry, Transport</b>		
	Law on Land Use Planning, Urbanization and Construction	May 1994
	Sub-Decree on the Establishment of the Sihanoukville Industrial Zone	October 1995
	Ministerial Order on Measures Against Food Products Devoid of Appropriate Packing Labels	October 1999
	Sub-Decree on the Development of Sihanoukville Autonomous Port	April 2000
	Law on the Management of Quality and Safety of Products and Services	May 2000
	Law on Electricity	February 2001
	Law on Land	August 2001
<b>Economic Development</b>		
<b>A. Banking</b>	Law on the Organization and Functioning of the National Bank of Cambodia	January 1996
	Law on Banking and Financial Institutions	October 1999
	Law on Foreign Exchanges	September 1997
	Ministerial Order restructuring the Foreign Trade Bank of Cambodia (FTRC)	December 1999
<b>B. Investment</b>	Law on the Investment in the Kingdom of Cambodia	August 1994
	Sub-Decree No.51 on the Organization and Functioning of the Council for the Development of Cambodia	June 1995
	Agreement between the Kingdom of Cambodia and the Kingdom of Thailand for the Promotion and Protection of Investments	March 1995 (October 1996)
	Agreement on Economic and Technical Cooperation between the Kingdom of Cambodia and The People's Republic of China	November 1995 (October 1996)
	Agreement between the Government of the Kingdom of Cambodia and the Swiss Confederation on the Promotion and Reciprocal Protection of Investments	N.A.
	Investment Incentive Agreement between the Royal Cambodian Government and the Government of the United States of America	August 1995
	Memorandum of Understanding on Economic and Technical Cooperation between the Kingdom of Cambodia and the Republic of India	January 1996

	Law on the Adoption of the Agreement between the Government of the Kingdom of Cambodia and the Government of Malaysia on the Promotion and Protection of Investments	October 1996
	Ditto (The Republic of Singapore)	1996
	Law on the Adoption of the Agreement between the Government of the Kingdom of Cambodia and the Government of The Republic of Korea on the Promotion and Protection of Investments	February 1997
	Sub-Decree No.88 on the Implementation of the Law on the Investment in the kingdom of Cambodia	December 1997
	Sub-Decree on Build-Operate-Transfer (BOT) Contract	December 1997
	Sub-Decree No.048 on the amendment of the Sub-Decree on the Organization and Functioning of the Council for the development of Cambodia	May 1999
C. Business	Law on the Chamber of Commerce	May 1995
	Sub-Decree on the Establishment of the Phnom Penh's Chamber of Commerce	July 1995
	Law on the Commercial Regulations and Commercial Register	June 1995
	Declaration No.38 referring to Contract and Other Liabilities	October 1988
	Law on the Amendments of the Law on the Commercial Regulations and Commerce Register	November 1999
	Ministerial Order on Trading Activities of Commercial Companies	January 2000
	Law on Commercial Enterprises	July 2000
	Law on Marks, Trade Names and Acts of Unfair Competition	January 2002
D. Finance	Law on Audit	January 2000
	Law on Insurance	June 2000
E. Tax	Law on Accounting	1992
	Circular No.635 on the Certification of the Business Accounts	August 1994
	Declaration No.18 on the Identification of Business subject to Profit and Income Tax	1994
	Law on Taxation	January 1997
	Sub-Decree on Value Added Tax	N.A.
	Ministerial Order on Salary Tax	N.A.
	Ministerial Order on Turnover Tax	N.A.
	Law on Corporate Accounting, Audit and Accounting Profession	July 2002
F. Tourism	Law on the Suppression of Gambling	January 1966
	Law on the Protection of Cultural Heritage	January 1996
G. Environment	Royal Decree on the Protection of Natural Areas	November 1993
	Law on Environmental Protection and Natural Resources Management (LEPNRM)	N.A.
	Forestry Law	N.A.
	Sub-Decree on the Water Pollution Control	N.A.
H. Trade & Others	Law regulating the Duties on the Imported and Exported Goods	1989
	Decision No.112 on the Creation of an Inter-Ministerial Commission for the Preparation and Organization of Import and Export Procedures and Regulations	September 1994
	Circular No.63 on the Adoption of the Market Economy	October 1994

	Ministerial Order on Procedures of the Intellectual Property Department	December 1997
	Ministerial Order on the Issuance of the Certificate of Origin, Commercial Invoice and Export License for Garments	June 1999
	Ministerial Order on Import Export Trading Activities of Commercial Companies	January 2000
	Ministerial Order on the Pre-shipment Inspection	2001
	Law on the Adoption of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards	2001
<b>Social Legislation</b>		
A. Labor Legislation	Law on Labor	March 1993
	Sub-Decree on the Export of Khmer Labor to Work Overseas	July 1995
	Law on Labor (Amendment)	January 1997
B. Social Legislation	Judiciary and Criminal Law and Procedure Applicable in Cambodia (Enacted by the SNC)	September 1992
	Criminal Procedure Law	January 1993
	Law on Immigration	August 1994
	Law on the Press	July 1995
	Law on the Suppression of the Kidnapping, Trafficking and Exploitation (For protecting vulnerable groups)	February 1996
	Law on Nationality	August 1996

### **E.1.5 The Draft Laws that are in preparatory process at Ministerial Level and the Laws that have to be introduced in Future**

#### **(1) Laws that have already been drafted but have not yet adopted by the National Assembly**

Area	Name of the Draft Law
Commercial Regulations	Law on Commercial Contract
	Law on Commercial Agency
	Law on Insolvency (Bankruptcy)
	Law on Personal Property Leasing
	Law on Secured Transaction
Foreign Investment	Amendment of the Law on Investment
	Amendment of the Law on Taxation
	Amendment of the Law on Labor
Manufacturing	Law on Factory
	Law on Industrial Zones
	Law on the Cambodian National Standards Institute
Trade	Customs Code
	Law on the Protection of Patents and Industrial Designs
	Law on Copyright and Related Rights
Development	Amendment of Law on Forestry
Infrastructure	Law on Telecommunications
Transport	Highway Code
	Law on Civil Aviation

**(2) Laws that are in preparatory process at ministerial level or have to be newly introduced**

- Regulations on Sanitary and Phytosanitary Measures (SPS)
- Law on Rules of Origin
- Law on Anti-dumping, Countervailing duty and Safeguard
- Law on Water Supply
- Law on Water Resources Management
- Merchant Shipping Law

**E.2 OVERVIEW OF PRESENT SITUATION OF LEGAL AND INSTITUTIONAL FRAMEWORKS IN CAMBODIA**

**E.2.1 Recent Transition of The RGC's Trial on Legal and Institutional Framework Reform**

The Royal Government of Cambodia has been putting emphases on the reform and improvement of the legal framework for business and investment, especially after 1997's political unrest. The main targets were:

- To ensure transparency in laws, regulations and procedures
- To encourage private sector involvement
- To promote trading through internationally recognized and accepted principles of laws

Along with such principles, a series of laws and regulations as described in above E.1.4 and draft laws and regulations as described in E.1.5 have been promulgated or prepared in recent years.

**E.2.2 Private Sector Investment and FDI:**

**(1) Current Tendency of Private Investment and FDI**

"Semestral Report: 1994-2002" issued on July 30, 2002 by the Project Monitoring Department of the CIB shows that the total number of all investment companies approved between 1994-2002 is 811, 40 %of which were in a garment industry. Although the RGC has been trying to improve the legal framework for business and investment especially after 1997, the total number of the investment approved and realized and the asset amount owned by the investors kept decreasing.

"Socio-Economic Development Priorities and the Official Development Assistance Needs" dated on May 2002 reports that Cambodian Investment Board (CIB) of the Councils for the Development of Cambodia (CDC) approved a total of 51 new investment projects in 2001, which was declined by 14% from the figures in 2000. They will have the registered capital of US\$130 million with

US\$230 million fixed assets and be expected to create over 28,000 jobs, mainly in the garment industry. The new private sector investments, including those with no investment incentive, were approved in the field of industry, which is mostly in the garment sector, tourism, infrastructure and agriculture/agro-industry. (Page 27)

The major players in the Cambodian exports are still the garment and footwear industries, which are mostly of FID. The RGC is eager to diversify and broaden the export industry base into such other industries as toy industry and assembly of electronic products.

## **(2) Basic Legal Framework regulating the Investment**

There is no law or regulation in Cambodia targeting only FDI. The 1994 Law on Investment (1994 LOI) covers all private sector investment projects, applied and made by both domestic private sector and FDI, who seek for the investment incentives provided under the Law. There is no other comprehensive investment law with the purpose of promoting the investment in general. The Draft Amendment to Law on Investment (Draft LOI) has already been drafted and scrutinized and is now waiting for review and decision of the National Assembly.

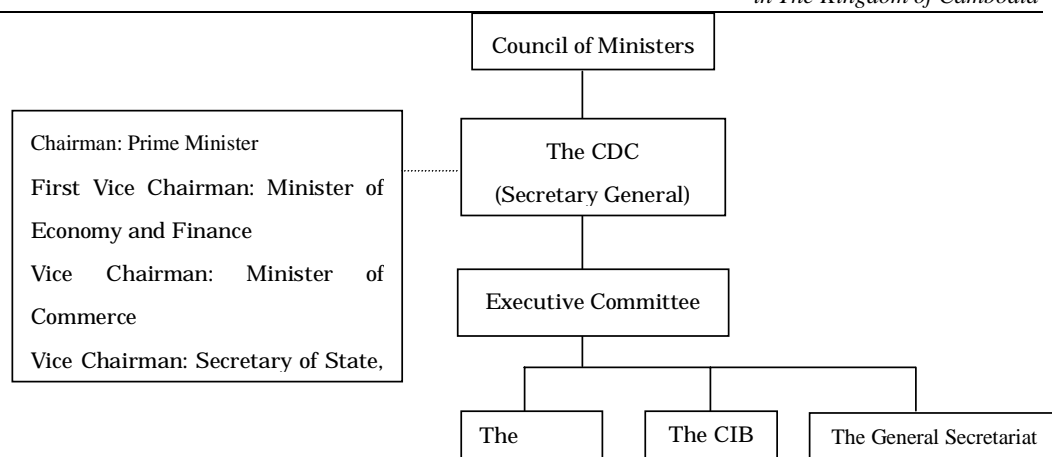
Theoretically, those FDI, who do not seek for the investment incentives provided by 1994 LOI, can register their incorporation only with the MOC and freely make investments, without the CDC approval, in Cambodia.

## **(3) The CDC**

The CDC is the sole agent of the ROG responsible for guiding and regulating the rehabilitation, development and investment activities as stipulated in the Sub-Decree No.51 on the Organization and Functioning of the Council for the Development of Cambodia of 1995. It has two departments besides General Secretariat, namely, the Cambodian Rehabilitation and Development Board (CRDB) and the Cambodian Investment Board (CIB). The latter is responsible for dealing with the private investments in Cambodia.

In 2001, the Minister of Commerce was appointed as a Vice Chairman of the CDC, who would be in charge of private investment, industrial and commercial development policies and strategies, while First Vice Chairman, a position to be assigned to the Minister of Economy and Finance, would be in charge of overall development planning, public investment and foreign assistance policies. The organization of the CDC is currently as follows:





**Figure E-1 The Current Organization of the CDC**

**(4) CIB Organization and Job Descriptions of each Department**

CIB’s organization (with number of persons in charge) and their respective job description are shown in **the drawing “CIB Organization & Job Description”**.

**(5) Current Process of Investment Project Approval**

1994 LOI originally stipulated the investment approval process, when the investor seeks for the incentives provided by the CDC, as follows:

- 1) Incorporation of a company: Incorporation by the investor in Cambodia may be done either before or after the issuance of investment license. The incorporation can be done by the registration of the corporate documents with the Ministry of Commerce and may take about three weeks.
- 2) Prior Approval: Investors, who wish to be entitled to the privileges and incentives, must obtain a prior approval from the CDC.
- 3) Application Submission: An investor submits complete file of application documents and installs the first payment of application fee. Fees are: US\$100 for investment of US\$1 million or less and US\$200 for investment over US\$1 million.
- 4) Q & A with the CDC (CIB) on the proposed investment
- 5) Provision of additional documents required by the CDC
- 6) Provision of One-stop service by the CDC: The CDC will be in charge of the necessary talks with other ministries and obtain approvals from them.
- 7) Period for Application Consideration: The 1994 LOI allows the CDC to consider the application for 45 working days. By that time, the CDC is required to decide whether to approve or reject the investment application.
- 8) Issuance of Approval in Principle: Once an investor receives the investment approval notice from the CDC, the second payment of application fee shall

be installed. The fees are: US\$500 for investment of US\$1 million or less and US\$1,000 for investment over US\$1 million.

- 9) Appeal: The applicant can file an appeal to the CDC within 25 working days after receiving a notice to revoke or cancel, partially or wholly, privileges and incentives.
- 10) Payment of Investment Guarantee Deposit: 1.5% of the total investment capital exceeding US\$40 million to 2.0% of the total investment capital amounting to US\$1 million or less
- 11) Issuance of Formal Approval
- 12) Paid-up of the capital: At least 25% of the capital or equivalent capital assets have to be paid in within 30 days after the investment approval.
- 13) Implementation of the Investment Project: To be commenced within 6 months after the issuance of formal investment approval
- 14) Refund of Investment Guarantee: To be made after 30% of the project will have been completed

In spite of the stipulations of 1994 LOI, the CDC has long been unable to offer the “One-stop” service to its full extent. Following the Private Sector Forum of December 1999, however, the CDC began to offer a full “One-stop” shop services, according to the Prime Minister’s instruction. Relevant ministries now maintain the offices in the CDC premises for facilitating the investment approvals and business activities thereafter.

By a ministerial order followed by the above-mentioned Forum, the investment project approval process was modified. The whole process shall be completed within 28 working days since December 1999, comparing to the former regulation of 45 working days. The CDC must issue its decision to approve or to reject an investment application before such time period expires. The average decision making time in last two years is said to have been 23 days per project.

However, the new procedural guidelines was issued recently to modify the approval process time again and such decision became to be made within even shorter period:

- 7 days for “routine” projects (Garment and footwear)
- 14 days for all other projects

The current process of investment approval and expected time at each stage are shown in **the drawing “Investment Project Application Process”**.

The investment enterprise is required to make notice to the CDC within 10 working days when it changes name and/or address.

**(6) 1994 LOI and 1997 Sub-Decree No.88 on the Implementation of the Law on Investment**

The summary of above Law and Sub-Decree is as follows:

*1) The form of Investment*

The legal form of investment permitted shall include the followings:

- Wholly owned domestic capital (100%)
- Wholly owned foreign capital (100%)
- Joint Ventures
- Build-Operate-Transfer (BOT)
- Business Cooperation Contract (B.C.C.)
- Others

*2) Investment Incentives*

- Corporate tax rate of 9%, except for the exploration and exploitation of natural resources
- Corporate tax exemption of up to eight (8) years, which starts from the first year of recording profit. The period of tax holidays shall be determined basing on the following factors.

- Investment amount
- Number of Cambodians employed at full production
- Exports %
- Value Added %
- Use of local resources %
- Percentage of training provided to Cambodian employees & HRD
- Investment location
- Employment of women and disables

For determining the number of years of tax holidays, coefficients derived from each value above are applied to the tax holiday matrix scale. The matrix figures must be realized in the first year operation. There has been no investment project granted the maximum eight-year tax holidays. In reality the longest period of tax holiday granted is 3 years and many investors have not been granted any tax holidays.

Since the tax holiday period is applied from the first year of recording profit, the prepayment of the tax on profit is requested to the investment enterprises until the tax holiday period starts.

- Loss carry-forward for five (5) years
- Tax exemption on the distribution of dividends, profits or re-investment,

whether transferred abroad or distributed within Cambodia

- 100% exemption of import duties on construction materials, means of production, equipment, intermediate goods, raw materials and spare parts, exclusive of office equipment, transportation and distribution equipment, used by:
  - a) An export-oriented project with a minimum of 80% of the production set for exports
  - b) Projects located in the designated Special Promotion Zone (SPZ)
- 100% exemption of import duties for other investment projects than those of above a) and b) for the construction period of enterprises, factories and buildings and the first year of operation
- 100% exemption of export duties
- Permission to bring in foreign nationals, who are management personnel and experts, technical personnel, skilled workers and their dependents

3) *Transfer of the Approval and/or Incentives*

The investment approval and incentives granted by the CDC shall not be transferred or assigned to any third party.

4) *Minimum Requirement for Granting Incentives*

In order to be granted the incentives, the requirement for the minimum investment capital or the investment space (area) has to be fulfilled in most of the investment fields. Those include:

- Crop and livestock production: 1,000 hectares and above
- Manufacture or production of garment, textile, furniture, paper, chemicals, metal products, machinery: US\$1 million and above
- Manufacture of food, rubber and plastics, leather products, electrical and electronic devices: US\$500,000 and above
- Hotel: Three star standard and above

5) *Land Use Right*

- Land ownership of foreigners or foreign companies is prohibited.
- Land use right, including long-term leases of up to 70 years, renewable upon request, is permitted.

6) *Employment*

Investors are free to hire Cambodian and foreign nationals. Only subject to requirement for specific skills and experience, investment enterprises shall give preference to the Cambodian nationals in employment.

**(7) Draft Amendment to 1994 Law on Investment**

*1) Background*

- On March 29, 2002, the Council of Ministers approved Draft Amendment to 1994 LOI, of which work has started in 1997. The objectives of reform of 1994 LOI are:
  - a) To raise the tax revenues since the revenues from import duties will decrease, as the AFTA's CEPT (Common Effective Preferential Tariff) requires. Cambodia's possible accession to WTO will also be a negative factor for revenue rising. Besides, Cambodia committed to the IMF recommendation of increasing Cambodia's tax revenue from 8.6 percent of GDP in 2000 to 9.7 percent in 2002 so that Cambodian tax revenue can cover the current expenditure.
  - b) To streamline the investment approval process and incentive scheme, by limiting discretion, improving transparency and reducing the administration cost.
- According to "Cambodia: Integration and Competitiveness Study (ICS)", made under the Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries ("IF"), the reform of 1994 LOI aimed to assist in creating a regime more conducive to the encouragement of private investment in Cambodia through:
  - a) Transparency, simplicity and predictability in both the approval process of private investment and the provision of fiscal incentives to such private investments; and
  - b) The provision of investment guarantees

*2) Approval of the Investment Project*

Investment Proposal is automatically approved by issuing Conditional Registration Certificate within 3 working days after submission of Investment Proposal and Final Registration Certificate within successive 28 working days, if the investment proposal contains all the necessary information and the proposed project is not in the Negative List. The approved investment project is called "Qualified Investment Project (QIP)".

*3) Adoption of Unified Corporate Profit Tax Rate*

The unified rate of 20% shall be levied to all QIP providers. The current preferential rate of 9 % will be grandfathered in 5 years after the promulgation of Amended LOI.

*4) Investment Incentives*

- Exemption of Tax on Profit: Trigger period + 3 years + n years (Maximum 9 years and minimum 3 years)

Trigger period: To be the first year of profit or 3 years after the start of operation, whichever is earlier.

n years: To be determined by the Budget Management Law (0 year for all light manufacturing industry: 1 year for tourism: 2 years for agriculture and heavy industries: 3 years for infrastructure projects and plantation agriculture)

Existing tax holidays will be grandfathered in 5 years.

- Special depreciation: 40 % of the tangible assets used in production can be depreciated in the first year of operation as stipulated in Draft Amendment to Law on Taxation. The QIP, which uses the tax holiday scheme, shall not be entitled to claim a special depreciation.
- Duties-exempt import
  - a) Export QIP and Supporting QIP: Production equipment, construction materials, and production input materials
  - b) Domestically oriented QIP: Production equipment and construction materials

5) *Abolition of Various Tax Exemption Scheme*

Tax exemption on the distribution of dividends, profits or re-investment shall be abolished.

6) *Transfer of Incentives*

Through merger or acquisition of the project, an investor may inherit the right, privileges and guarantees and obligations.

7) *Use of Land*

- Use of land shall be permitted to an investor, including concessions, unlimited long-term leases and limited short-term leases, which are renewable upon request.
- The concession of the public owned land is permitted as provided in Law on Land.
- The real property on the land, which QIP uses, can be used as mortgage.

**(8) Comparison Table of 1994 LOI and Draft Amendment to LOI**

For summarizing the difference between 1994 LOI and Draft Amendment to LOI, a comparison table was prepared and is shown at the end of this Chapter.

**(The National Assembly passed the Draft LOI on February 3, 2003.)**

**E.2.3 Special Promotion Zone (SPZ)**

The establishment of SPZ has been a long time issue for Cambodia since 1960's.

The earlier concept is said to have aimed at designating all the area of Sihanoukville as a special zone and tried to attract FID. This plan was abandoned because the government was split into two groups: one for pro and the other for con. The group against the plan was afraid that the special zone (Sihanoukville) might become an independent area as a separate nation, like what happened in Singapore.

The transition of issue thereafter is as follows:

**(1) 1994 LOI**

The Law anticipated the establishment of SPZ and provided the full incentives including the duty-free import of construction materials, means of production, equipment, intermediate goods, raw materials and spare parts, which would be provided only to the export investment enterprises and any investment enterprise locating in the SPZ under Article 12, 13 and 14. Nevertheless, as described before, there has been no SPZ ever established in Cambodia up until now.

**(2) Sub-Decree on the Establishment of the Sihanoukville Industrial Zone of October 5, 1995**

This Sub-Decree was dispatched to create “Stung Hav Industrial Zone of Preah Sihanoukville”, which is a special industrial development zone to promote and exploitation activities of general industry, export industry, free trade industry and other services. The industrial zone proposed here is to contain:

- The general industrial area: The center of the industrial and other activities involved in the production of goods for domestic needs and for exports.
- The export industrial area: The center of the industrial and other activities with minimum of 80% of goods produced for export.
- The industrial service area: The duty-free area for supporting activities such as storage, wrapping, collection, cleaning, finishing of products and other activities that are not prohibited by laws.

Under this Sub-Decree, the Ministry of Industry, Mines and Energies (MIME) was appointed to be responsible for preparing a proposal to create Industrial Zone Authority of Cambodia.

The concept provided by this Sub-Decree is much similar to the industrial zone concept, which had been proposed by the Draft Law on Industrial Zones (Draft LIZ) of July 6, 2002.

**(3) Sub-Decree on the Development of Sihanoukville Autonomous Port of April 2000**

This authorizes the development of an autonomous port of Sihanoukville located at Tumnuop Rolok with the following boundaries (Approx.40 ha):

- North boundary adjacent to Sakura School
- South boundary adjacent to the railways
- East boundary adjacent to the railways, and
- West boundary adjacent to the beach

This Sub-Decree is understood to aim the future development of special zone, by designating the nearby area of the port as the reserved space for the Sihanoukville Autonomous Port.

#### **(4) Draft Law on Export Processing Zone of February 2000**

The Law on Export Processing Zone (EPZ) was drafted by the Ministry of Commerce in February 2000, as the first comprehensive draft law aiming the implementation of EPZ in Cambodia. It offered the frameworks for establishing, managing and operating of EPZ.

##### *1) Character of proposed EPZ*

The draft law defined the investment enterprises, which would locate in the EPZ, as “a enterprise who is exclusively specialized in manufacturing and marketing industrial goods for exports”. From this description, the character of proposed EPZ was meant to be of a traditional EPZ, which does not include the functions of Free Trade Zone, Free Port (Free Logistic Center) or duty-free non-manufacturing processing.

##### *2) Management body*

The draft proposed the establishment of EPZ Inter-ministerial Committee as a provisional organization to manage the implementation of the first EPZ and the Cambodian Export Processing Zone Authority (CEPZA) as a permanent managing body of EPZ, which would start functioning after the starting-up of the operation of the first EPZ. Both organizations were suggested to be under a direct governance of the Council of the Ministers. Although it was not clearly stated, CEPZA seemed to be a governmental organization of which budget should be separately stipulated by the Sub-Decree.

##### *3) Investment incentives*

The proposed investment incentives were basically similar to those stipulated under 1994 LOI. At the same time, it proposed to introduce the more simplified procedures for VAT refund and customs clearance and the exemption of real estate tax on factories and related facilities for EPZ enterprises and developers.

##### *4) Investment procedures*

The investment procedures should be conducted in accordance with the stipulations of 1994 LOI except that the CDC would not but the One-Stop



Investment Service Center of CEPZA would conduct the investment procedures and formalities.

5) *Land management*

All the land within EPZ should be owned by the State of Cambodia under the land management of CEPZA and the EPZ enterprises or developers would lease land from CEPZA.

6) *Labor relations and employment*

Cambodian workers who wished to work at EPZ enterprises or developers within EPZ should register at CEPZA. EPZ enterprises or developers should recruit employees from the registered applicants.

7) *Other characteristics*

- All the investors in EPZ should submit the accounting reports a financial authority and CEPZA as well.
- Cambodian Riel should not be circulated within EPZ.
- CEPZA should be responsible for the mediation for the disputes relating to rights and obligations of the parties in EPZ. After 2 months, the dispute should be brought for conciliation before CEPZA.

**(5) The Third Government**

Private Sector Forum of February 7, 2001 decided that, while some countries in the region have lost their MFN and GSP status, the competent ministries/institutions should cooperate in promoting the establishment of export processing zones along the border in areas such as Poipet and Koh Kong with the aim of attracting investors from the neighboring countries.

**(6) “Socio-Economic Development Requirements and Proposals” dated on May 2001**

The RGC’s government papers titled as “Socio-Economic Development Requirements and Proposals” dated on May 2001 says that:

- The policy objective is to provide a consistent incentive-based framework for the private sector supported by public investment measures to take the lead role in the establishment of a competitive and outward oriented industrial sector. (119. Internationally Competitive Industry, Page 34)
- With appropriate private sector involvement, the planned establishment of export processing zones in Sihanoukville, Koh Kong and Poipet and serviced industrial estates in other strategic areas will be important in establishing export growth centers and in stimulating further private investment. (Ditto)

- Specific laws governing EPZs, industrial zones and a factory law will be prepared and implemented to support and improve all industrial establishments. (120. Legal and Regulatory Framework, Page 34)

**(7) Prime Minister’s Sub-Decree No. 33 on the Creation of Development Zones of April 6, 2001**

Prime Minister’s Sub-Decree No. 33 on the Creation of Development Zones of April 6, 2001 designated the area of Chrouy Chang Va Development Zone, which will be located in between Route No.6A and Tonle Sap River. None of the concept of development zone, however, is described in the Sub-Decree.

**(8) The Draft LIZ of July 6, 2002**

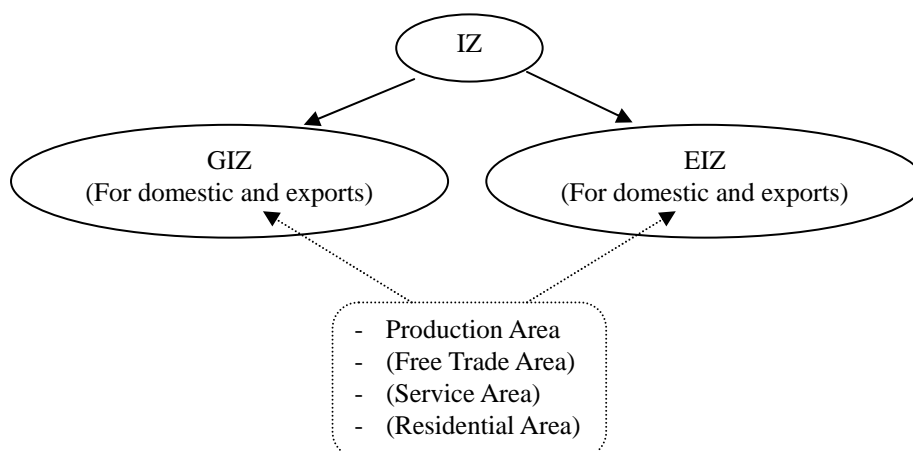
*1) Purpose of the Draft LIZ*

This Draft LIZ was prepared by the Ministry of Industry, Mines and Energy (MIME) since 2001 and has been reviewed by the CDC.

According to the draft dated on July 6, 2002, the purpose of the Draft LIZ is “to establish and manage the IZ (Industrial Zone) in the Kingdom of Cambodia in order to contribute to the economy by a sustainable development of the industrial sector.”

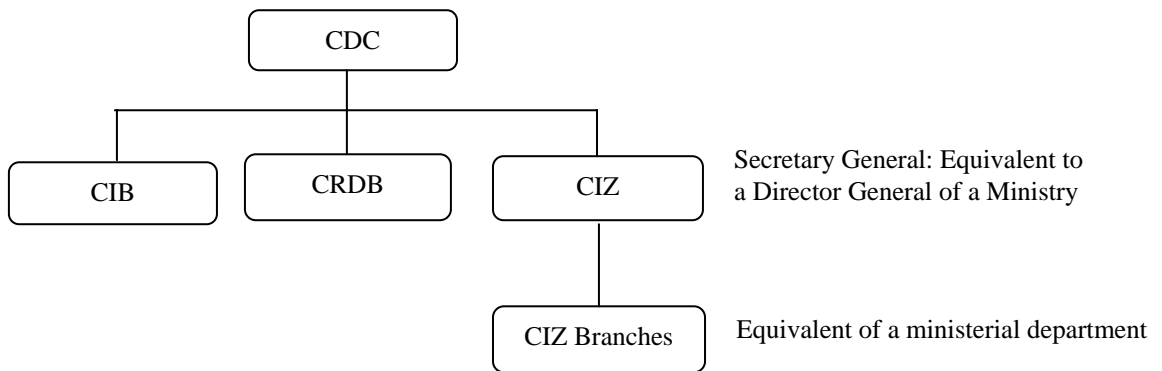
*2) Industrial Zone (IZ)*

The IZ is a special industrial development zone and is classified as a General IZ, which is a zone constructed to produce goods for the domestic needs and for exports, or a EIZ, which is an industrial zone only to produce goods for exports. Each IZ shall have Production Area and may have Free Trade Area, Service Area and Residential Area. IZ can be established as state-owned, joint venture between public and private sector or private-owned. The stated concept is schematized as follows.



3) *The Council for Industrial Zone of Cambodia (CIZ)*

The Draft LIZ proposes the establishment of the Council for Industrial Zone of Cambodia (CIZ) under the CDC. CIZ, of which Secretary-General has an equivalent position to a Director General of the Ministries, would be responsible for the development and operation of IZ and investment in it. CIZ may have branches to be located in each IZ, as operational entities, which have an equivalent rank of a department of the ministry. CIZ's officials are civil servants transferred from relevant ministries and institutions but shall be governed by the internal regulations of CIZ, including salaries and promotion.



**Figure E-2 CIZ Organization**

#### 4) *Incentives*

The incentives proposed in the Draft LIZ as to be granted to the investment in IZ are similar to those provided by 1994 LOI.

- Corporate tax rate of 9%
- Corporate tax exemption period up to 8 years
- 5-year loss-carried forward
- Tax exemption of re-invested profits, distribution of dividends or profits
- Duties- and taxes-free import of raw materials, semi-finished products and packing materials used for the production for exports
- Duties- and taxes-free import of any means of production, construction materials used in IZ
- 100% exemption of export duties and taxes for the export of produced goods in IZ
- Duties- and taxes-free import, for the first year of production, of raw materials, semi-finished products and packing materials used for the production for domestic market

#### 5) *Inspection*

Inspection in the production or service areas carried out by CIZ officers is subject to the 24-hour prior notice from the General Secretary of IZ.

#### 6) *Arguments regarding the fiscal incentives proposed by the Draft LOI and Draft LIZ*

- The Draft LOI proposes the unified rate of corporate profit tax of 20%, while the Draft LIZ suggests the existing preferential rate of 9% to be applied to the investments in IZ.
- The Draft LOI also aims to eliminate the tax exemption treatment on the re-invested profits, distribution of dividends or profits, which the Draft LIZ intends to keep applying to the investment in IZ.
- Article 31 of the Draft LIZ clearly requests that the more favorable incentives and/or tax regime has to be provided to the investments in IZ throughout the future. At this point, the Draft LOI and the Draft LIZ have a wide discrepancy and to-date the conclusion has yet come.

#### 7) *Consistency of Draft LIZ and LOI*

LOI deals with the private investments at national level, which seek for the investment incentives, while Draft LIZ regulates the private investments only in designated areas as IZ. The consistency of two laws has to be secured by clearly so stating in either law. The desirable method may be that LOI will have a stipulation saying, “The investments to be made in Industrial Zones (or SPZ) shall be regulated by a separate law”.

**(9) “Socio-Economic Development Priorities and the Official Development Assistance Needs” dated on May 2002 reports:**

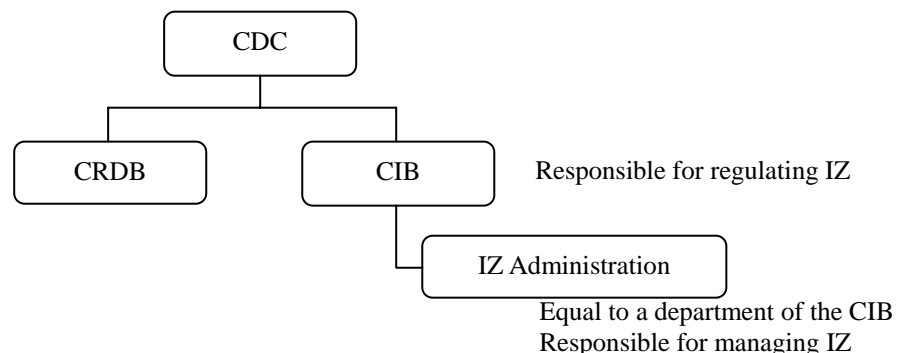
“259. The creation of industrial zones is aimed at facilitating export development and creating employment by providing high-quality infrastructure and utilities needed to encourage investment. Zones in suburban Phnom Penh and Sihanoukville would provide transport and communications, power and water, waste management, education and health facilities, and shopping complexes, along with minimal customs formalities and duty-free importation of business inputs. The spatial concentration of export-oriented enterprises would provide a business incubator environment in which ideas and experiences could be exchanged. .... Other possible regions for industrial/export processing zones include Koh Kong, Battambang and Banteay Meanchey. The Government will conduct feasibility studies during SEDP II and, where feasibility is established, proceed to full project formation and implementation.” (Page 74)

**(10) The Amended Draft of LIZ of July 6, 2002**

The Amended Draft of LIZ dated on October 2002 was drafted up by the CDC and its unofficial translation was arranged by the Study Team. According to the English translation version of the amended draft of LIZ, profound modification was made to the original draft LIZ of July 6, 2002, with respect to the management structure of IZ and investment incentives to be granted to the IZ developers and investors in IZ.

*1) Management structure of the industrial zones*

While the Draft LIZ of July 2002 proposed the establishment of a new organization under CDC, called as the Council for Industrial Zone of Cambodia (CIZ), this amended draft intends to appoint the CIB as a responsible regulating organization of IZ. The IZ Administration is proposed to set up as one department of the CIB and a management body of IZ.



**Figure E-3 Management Structure of IZ**

2) *Incentives*

The investment incentives proposed by the amended draft are equivalent to these being proposed by the Draft Amendment to 1994 Law on Investment, except that this amended draft admits the 0% Tax on Profit only to the developers of IZ. Comparing the scope of investment incentives proposed by the Draft LIZ of July 2002, the amended draft considerably restricts the incentives.

## **E.2.4 Foreign Trade**

### **(1) Market Access Arrangement**

#### *1) Bilateral arrangement*

10 Countries: the U.S.A., EU, China, Thailand, The Philippines, Vietnam, Malaysia, Indonesia, Lao PDR and Russia

#### *2) MFN/GSP*

28 countries including the U.S.A., EU, Japan, UK, ROK, Czech, Australia, Austria, Sweden, Denmark, etc.

#### *3) ASEAN/AFTA*

Cambodia was admitted to become an observer of ASEAN in July 1995 and became a full member on 30 April 1999. Cambodia is expected to reduce the tariff rate to 0-5% for 85% of all commodities and services, which are to be imported from other ASEAN member countries and on the Inclusion List by 2007 and for 100% by 2009. By 2015, 0% tariff rate has to be applied to 100% of the commodities and services on the Inclusion List.

#### *4) WTO*

Cambodia completed its Memorandum of Foreign Trade Regime for the WTO in mid-1999 and already filed its official reply to the questions raised by WTO in late 2000 and attended at the First Working Party Meeting held in Geneva in May 2001, where it was questioned regarding the preparation process for joining the WTO.

For its accession to the WTO, Cambodia will have to go through the process of preparing and/or reforming various laws and regulations required by the WTO Agreements and the bilateral negotiations with individual member country of the WTO. Some of the laws and regulation necessary to be promulgated include the anti-dumping, countervailing duty, sanitary and phytosanitary (SPS) controls, etc.

## (2) Export-Import Procedures

### 1) General Import Customs Clearance Procedures

According to the information provided by the Customs and Excise Department (CED), the standard import procedure is as follows:

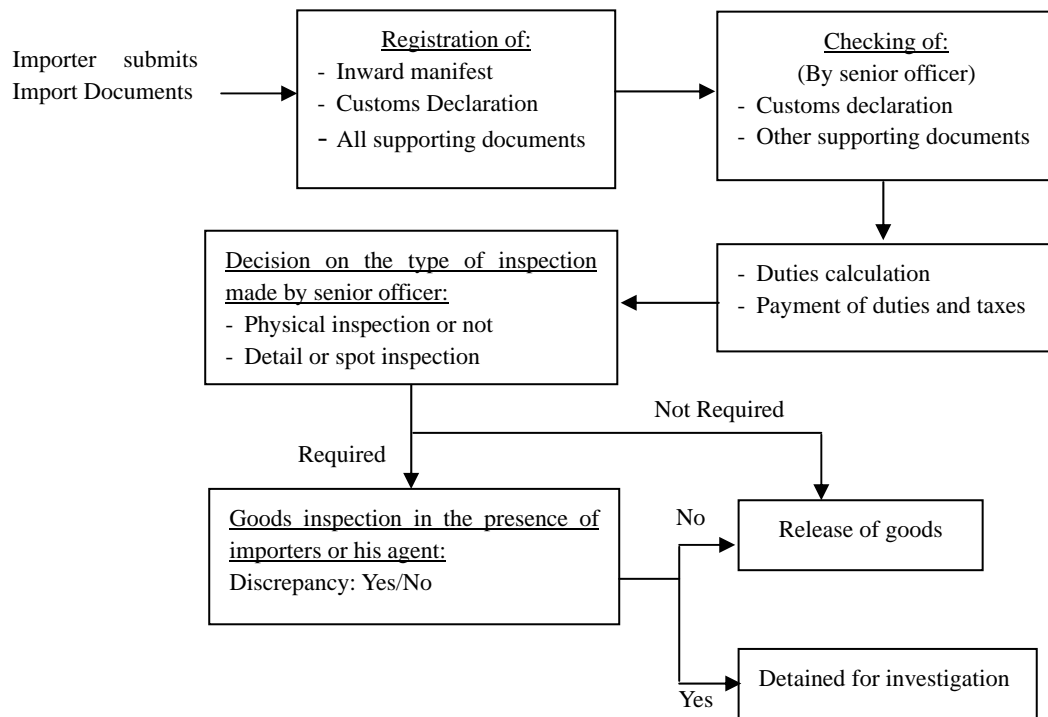


Figure E-4 Flow Chart of Import Customs Clearance Procedure

### 2) Pre-shipment Inspection (PSI)

The RGC made a contract in October 2000 with SGS (a private company) on the implementation of Pre-shipment Inspections (PSI) and the contract was extended in October 2002 for another one year.

PSI is carried out, upon request of the importers, by SGS staff (or their agents) at the exporters site before shipping out to Cambodia. SGS will issue “Report of Finding” to the importers and, upon the arrival of the goods, they submit the Report to the customs. PSI is required for the goods valuing over US\$5,000 and the importers pay to the SGS a charge of 0.8% of the FOB price of the goods (minimum US\$210 per one shipment).

Although PSI is time-consuming and costly procedure, the importers say that it contributes to facilitate the flow of goods at the Cambodian ports. On the other hand, one customs officer told that the employment of PSI was decreasing globally and the autonomous customs clearance would have to return in

Cambodia. It is said that IMF is backing the implementation of PSI for revenue rising purpose.

Regarding the goods valuing under US\$5,000, the customs clearance is carried out according to the import procedures shown above.

### *3) Duty-exempt Import*

Investment enterprises registered with the CDC have to submit a list (Master List) of duty-exempt import plan for 12 months to the Project Monitoring Department of the CIB. The Master List contains detail information on the type (production equipment, materials, etc.), volume, and value of the goods to be imported. Thereafter, the investors must make quarterly report of goods and volume of planned import to the CED and Tax Department. And the CDC will check the Master List and quarter report to ensure that the investor imports the goods accordingly as described in the List.

After submission of the Master List, the investors must obtain an approval for amendment when necessary. The investors often complained the amendment procedures were time-consuming and it was not pragmatic to be asked to provide the import plan for coming 12 months because the business circumstances (especially, those of garment industry or footwear) were so changeable.

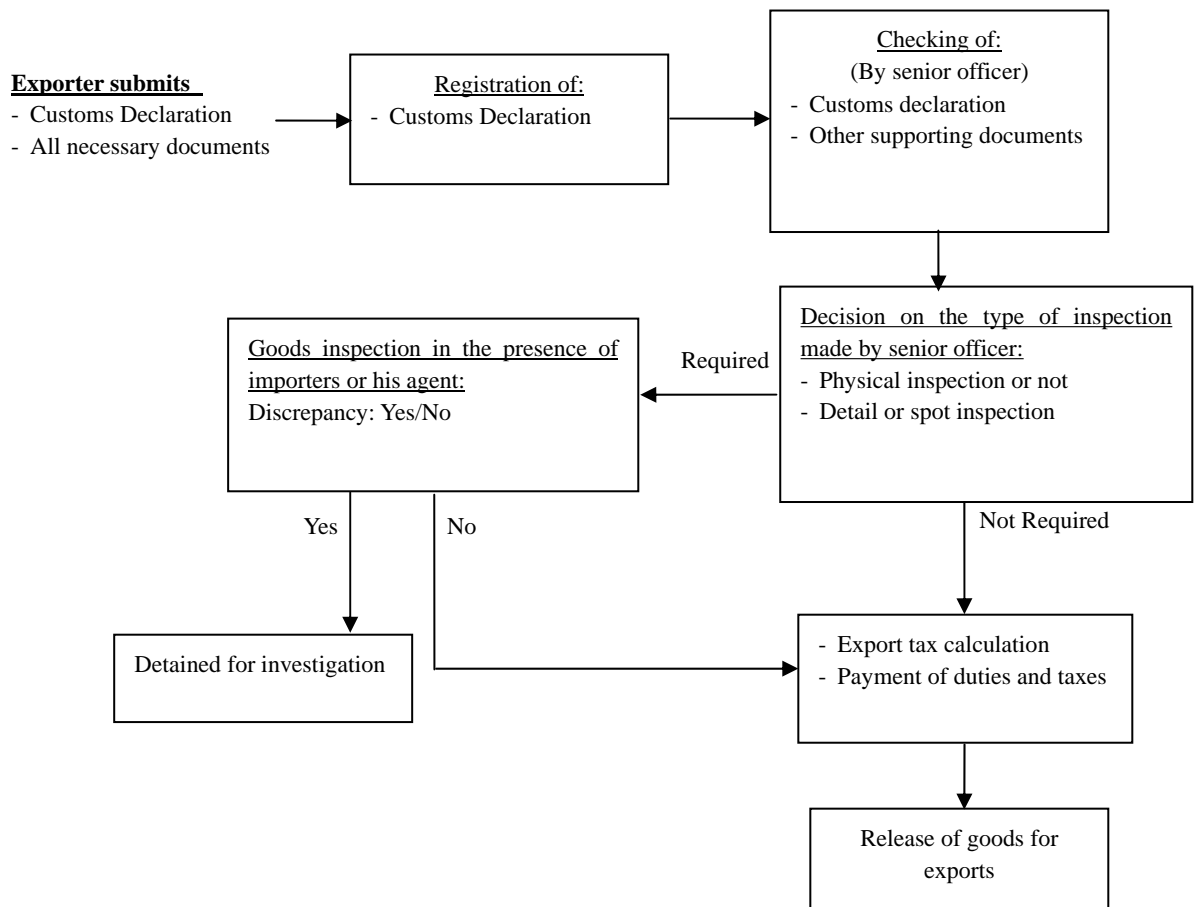
For tackling this complains, the CDC has introduced new procedures, which allow 3 days for approval of customs duty-exempt import. Instead, the CIB/CDC will strengthen monitoring and post-audit activities to enforce compliance with stated intention on the use of imports and to avoid the leakage. This new procedure is schematized in Drawing “**Proposal Settlement Procedure for Customs Duty-Exempt Import**”.

For duty and tax-exempt import, the investors are requested to supply with the export record. Submission of this certificate admits the concerned import to obtain “Government-paid VAT” status so that it will be exempted from VAT. The investors claim that to obtain the export record certificate is also costly.

### *4) General Export Customs Clearance Procedures*

The CED’s standard procedures for exports customs clearance is explained as follows:





**Figure E-5 Flow Chart of Export Customs Clearance Procedure**

### 5) *Garment Export Licensing Procedures*

Among the exports from Cambodia, the garment exports occupies overwhelming shares. In this context, to explain the current licensing conditions and procedures of garment exports would be meaningful as an example describing the situation of bureaucratic bindings on the Cambodian exports. Such procedures are regulated by the Ministerial Order on the Issuance of the Certificates of Origin, Commercial Invoice and Export License for Garments June 21, 1999, which was issued by the Minister of Commerce.

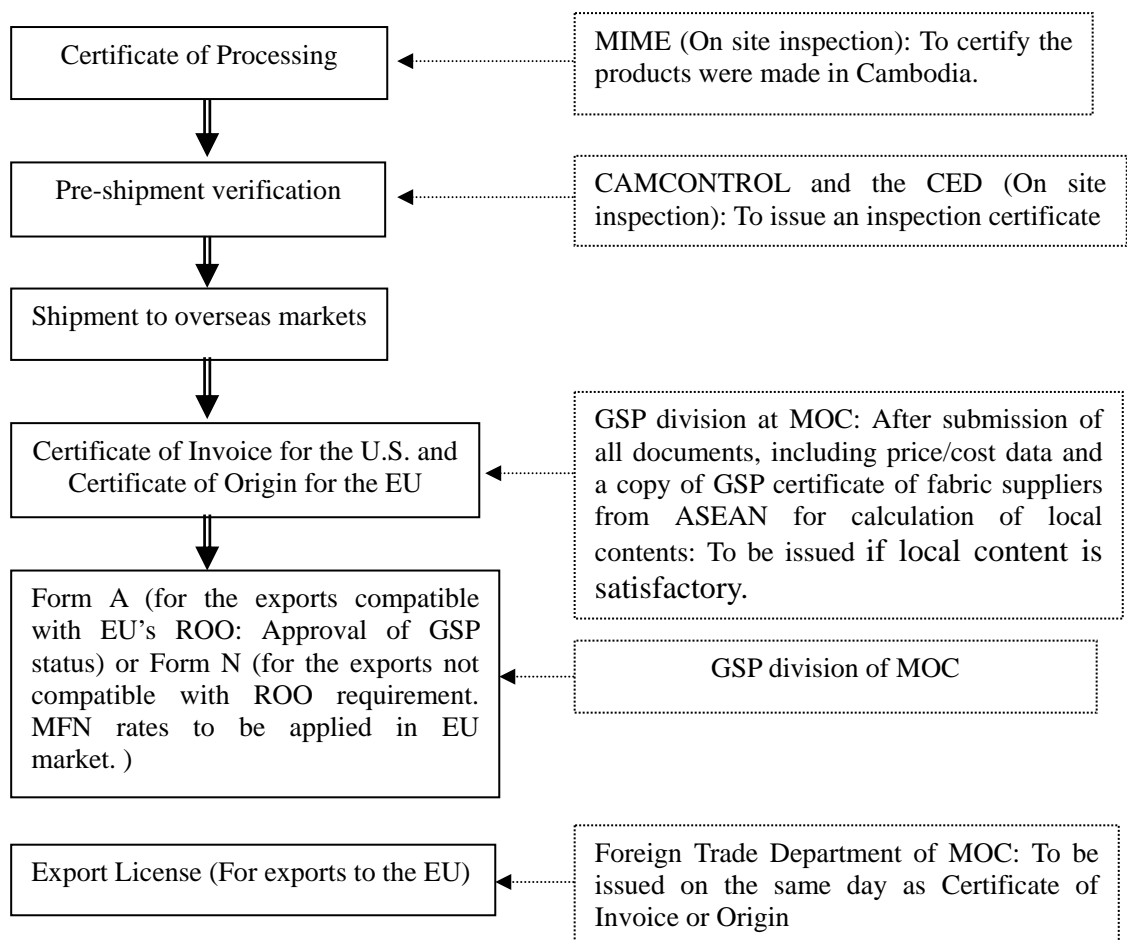
The garment exports from Cambodia to the U.S.A. has been excluded from the GSP because it was deemed sensitive items and, under a bilateral agreement, twelve categories of garment made in Cambodia are currently subject to the quantity control (export quota).

In the EU market, on the other hand, Cambodia is approved tariff and quota free access under the Everything-But-Arms Initiative (EBA), which is part of the GSP program of EU to LDC and was put in effects and applied to Cambodia in February 2001.

In order to enjoy this privilege, Cambodia must satisfy the rules of origin (ROO) requirement. The ROO requires at least 40% contents of the exported products have to be of the country's own input but, under the special waivers, certain textiles products from Cambodia are allowed to have cumulative origin with ASEAN countries or EU. In order to prove that the fabric originates from another ASEAN member states, the garment exporters in Cambodia are required to show the ASEAN fabric suppliers' GSP certificates. Since the Cambodian garment industries use more fabric and accessories from other countries than ASEAN members, the utilization rate of GSP scheme to the EU market remains very low (only a little bit of over 10% of the total garment exports to the EU).

If the fabric is imported from non-ASEAN or non-EU suppliers, the garment producer must keep the 'full makeup' rule. For this, Cambodian government requires exporters to show the evidence that locally input is bigger than the imported fabric or yarn cost.

The export licensing procedures of garment is as shown below:



### (3) Exports Restriction

As the measures to restrict the exports, the licensing requirements are currently

applied to the following products.

- Garment (By quota to the US, Conditional to obtain Export Visa)
- Footwear (By license to the EU)
- Processed wood products (By license for furniture, wooden handicrafts etc. Logs and unprocessed timber exports are prohibited.)
- Rice (By quota), Live animals (By license)
- Fish (Export monopoly to a public enterprise)
- Pharmaceuticals and medical materials

Export tax of 10% is required for such products as Live Animals, Fish (Fresh, chilled or fillet), Raw or Processed Leather and Semi- or Processed Woods.

#### **(4) The Law on Customs**

The current Law Regulating Duties on Exported and Imported was enacted in 1989 and the amendment of the Law was drafted in 1997. Although the English version has not yet been available to date, it is said that the draft Law on Customs has already been sent to the Council of Ministers for its review. It aims to provide the legislative base for the modern customs operation and meet the international commitments and standard. It also strengthens the CED powers for inspection and seizure of the goods.

### **E.2.5 Business Environment**

#### **(1) Company-related Laws**

##### *1) Law on Commercial Enterprises*

Law on Commercial Regulations and the Commercial Register of 1995 deals only with the registration procedures of the merchants or other form of commercial entities, mainly of small scale. Law on Commercial Enterprises of 2000 covers much wider area regarding to the rights, obligations and activities of business firms.

##### *2) Law on Corporate Accounting, Audit and Accounting Profession*

This Law has just been adopted in July 2002, aiming at the introduction of an international accounting practice into Cambodia. The former accounting regulation was vague and unclear so that it had been difficult for tax office to audit precisely the tax statement submitted by the enterprises.

#### **(2) Restriction on Business**

Cambodia declared to employ the market-oriented economy at an early stage of recovery process following the Paris Treaty and there is no legal or institutional restriction in Cambodia with regard to the competition and price setting in

business. Due to the recent modification of a regulation regarding the trading activities, there became no limitation for anybody to start, engage and stop the business operation in any business area, including export-import but except in those prohibited or restricted for private sector or foreign investor, as long as being conformable with Cambodian laws and regulations.

The relevant regulations are as follows

*1) Circular of October 14, 1994 on The Adoption of the Market Economy:*

- No governmental restriction on the price of goods sold
- Admittance of free competition among traders
- Guarantee of free move of goods

*2) Prakas (Ministerial Order) of MOC on The Trading Activities of Commercial Companies (January 25, 2000):*

- To liberate the trading activities for foreign companies, subject to the company registration with MOC.
- Trading activities shall not be entitled to investment incentives.

**(3) Taxation System**

*1) Taxation system of Cambodia*

It varies according to the regime, namely, real regime, simplified regime, estimated regime. Although they are decided by the form of the companies, type of business activities and the level of sale, most of the liability companies will be defined as “real regime”.

2) *Current Tax Scheme*

**Table E-1 Current Tax Scheme of Cambodia**

Tax	Rate
Profit Tax	20% (unless investment incentive rate of 9% or 0%)
Minimum Tax	1% of turnover
Withholding Tax	15% (5-10% for certain activities) of payment
VAT	10%
Turnover Tax	2% of the turnover (Only for non-real regime taxpayers)
Import Duty	Varies (4 bands – 0,7,15,35%)
Export Duty	Varies (Mostly 10%)
Salary Tax	5% to 20% of salary, 20% of fringe benefits A flat rate of 15% for non-residents.
Specific Tax on Certain Merchandise and Services	2%: Air transportation to abroad, telecommunication to abroad 10%: Beverage, tobacco, hotel, entertainment, large automobiles, motorcycles from 125 cc upwards 20%: Petroleum products, automobile up to 2,000 cc 30%: Automobiles and parts more than 2,000 cc
Tax on House and Land Rent	10% of the relevant rental fees
Registration Tax on Land and Vehicles	4% on the registration of ownership of real property, either as a result of direct transfer or a contribution of share capital to an enterprise (The purchaser or transferee) Prohibited to issue certificates of ownership of land until the registration tax has been paid.
Tax on Unused Land	2% on the assessed value of unused Committee for Evaluation of Undeveloped Land, in cooperation with municipal and provincial authorities, decides whether a plot is “unused” and the amount of tax liability.
Fiscal Stamp Tax	Varies (For official document, certain advertising postings and signage)
Patent Tax	Nominal (For initial business registration)

3) *Import Duties*

The number of tariff bands was reduced from 12 to 4 in April 2001 and the import duties currently being applied are now 0, 7, 15 and 35%.

**Table E-2 Cambodia’s Tariff Rate in 2002**

Tariff Rate (%)	Number of Item	Share (%)
0	297	4.4
7	2,758	40.4
15	1,936	28.4
35	1,832	26.9

The highest 35% rate is applied to the excisable consumer goods and inputs for infant industries. 15% is applicable to the capital goods and 7% is mainly for inputs for domestic production. The materials for garment industry fall in this category. As the result of the tariff bands reshuffling, the import weighted average rate fell from 15.4% in 2000 to 14.2% in 2001.

According to the ICS Report under IF, “the customs operates two valuation schemes for the purpose of calculating dutiable values for imports and exports of goods.” One is on the fair market value (FMV), whereby the valuator (SGS) uses international prices to determine the dutiable value. The other is basing the

pre-determined, minimum or fixed dutiable values set by MIME for certain goods. For these goods, the customs duties, excise tax and VAT are calculated based on administered prices. When these pre-determined values are higher than SGS evaluation value based on FMV or CIF value, SGS is required to use the pre-determined minimum values. Such commodities as pre-determined values are applied include: Automobiles, motorcycles, cooking oil, cement and petroleum products including gasoline of which administered price was fixed at \$320/ton at a time of ICS.

#### **(4) Banking**

Law on Banking and Financial Institutions was enacted in 1999 and it was hoped this Law would serve to improve the financial facilities, strengthen the base of financial institutions and make it easier for the investors to get business finance in Cambodia. The minimum capital of banks is currently set as about \$12.5 million (Riel 50 billion) by Article 16.3 of the Law, 5% of which amount have to be maintained with the National Bank of Cambodia as guarantee deposit. Due to this regulation, an article of Cambodian Daily dated on December 19, 2002 says that the capital of Cambodian banks increased approximately \$128 million in last two years and they now hold the assets of \$575 million, together with deposit in customer accounts.

#### **(5) Intellectual Property**

The Law concerning Marks, Trade Names and Acts of Unfair Competition (“Law on Trademark”) was enacted in February 2002. It is said that the Law is quite comprehensive and include the procedures for registering trademark, the right provided, licensing, infringement, etc.

The Law on Patent has yet been enacted to date although it was expected to pass the National Assembly by the end of 2002.

#### **(6) Labor Law**

Currently effective Labor Law was enacted in March 1997. It has 396 Articles and is deemed to be very comprehensive in its scope. The Law provides a wide protection of laborers’ rights and offers generous working conditions. The major regulations of the Law are as follows.

- Forced labor: Forced or compulsory labor is absolutely forbidden. (Article 15)
- Internal regulation: Every employer, who employs at least eight workers, shall always establish an internal regulation of the enterprise. (Article 22)
- Working hours: The number of hours worked by workers of either sex cannot exceed eight hours per day, or 48 hours per week. (Article 137)
- Work shift: When the work schedule consists of split shifts, the enterprise’s

management can normally set up only two shifts, one in the morning and the other in the afternoon. (Article 138)

- Overtime: If workers are required to work overtime for exceptional and urgent jobs, the overtime hours shall be paid at a rate of **fifty percent** higher than normal hours. If the overtime hours are worked at night or during weekly time off, the rate of increase shall be one **hundred percent**. (Article 139)
- Paid leave: All workers are entitled to paid annual leave at the rate of **one and a half work days per month of continuous service**. (Article 166)
- Children work: The allowable minimum age is set at **fifteen years**. The minimum allowable age for any kind of employment or work, which, by its nature, could be hazardous to the health, the safety, or the morality of an adolescent, is **eighteen years**. (Article 177)
- Maternity leave: Women shall be entitled to a maternity leave of **ninety days**. After the maternity leave and during the first two months after returning to work, they are only expected to perform **light work**. During the maternity leave, women are entitled to **half of their wage**. (Article 182 & 183)
- Safety: All establishments and work places must be set up to guarantee the safety of workers. Machinery, mechanisms, transmission apparatus, tools, equipment and machines must be installed and maintained in the best possible safety conditions. (Article 230)
- Employment opportunity: Any person looking for employment can request to be registered with the **Placement Office of the Ministry in charge of Labor** or with the **employment office** of his province or municipality. (Article 258)
- Foreign labor: No foreigner can work unless he possesses a work permit and an employment card issued by the Ministry in charge of Labor. (Article 261)
- Union: Workers and employers have, without distinction whatsoever and prior authorization, **the right to form professional organizations** of their own choice for the exclusive purpose of studying, promoting the interests, and protecting the rights, as well as the moral and material interests, both collectively and individually, of the persons covered by the organization's statutes. Professional organizations of workers are called "**workers' unions**". Professional organizations of employers are called "**employers' associations**". For the purposes of this law, trade unions or associations that include both employers and workers are forbidden. (Article 266)
- Right to strike: **The right to strike and to a lockout are guaranteed**. It can be exercised by one of the parties to a dispute in the event of rejecting the

arbitral decision. (Article 319)

### **(7) Land-related Laws**

“The National Committee for Land Use Planning and Urbanization for Areas Surrounding Phnom Penh, Towns and Provinces in the Kingdom of Cambodia” was formed under the Decision signed by two prime ministers dated at October 18, 1993, aiming to establish a land use master plans, control constructions, plan reserved areas for development, maintain protected land areas, determine areas for social activities including residential, commercial areas and allow the set-up of sub-committee of the provinces and towns under a direct supervision of the Governors.

Land Law was first promulgated in 1992 and was amended in August 2001 (2001 Land Law). 2001 Amendment to the Land Law especially aims to determine the regime of ownership for immovable properties in Cambodia for the purpose of guaranteeing the rights of ownership and other rights related to immovable properties. It also intends to establish a modern system of land registration that guarantees the rights of people to own land.

The Amendment Law appointed the Ministry of Land Management, Urban Planning and Construction to be responsible for issuing titles related to the immovable properties and managing the cadastral administration of immovable properties belonging to the State.

The major clauses of the Amendment Land Law include:

- No person may be deprived of his ownership, unless it is in the public interest. An ownership deprivation shall be carried out in accordance with the forms and procedures provided by the law and regulations and after fair just compensation in advance. (Article 5)
- Any regime of ownership of immovable property prior to 1979 shall not be recognized. (Article 7)
- Only natural or legal entities of Khmer nationality have the right to ownership of land in Cambodia and a foreigner who falsifies national identity to become an owner of land in Cambodia shall be punished. (Article 8)
- Any entering into possession of properties in the public and private property of the State, through any means, that occurs after this Law comes into effect, is null and void. (Article 18)
- Possession of immovable property, which was recognized since 1989, may constitute a right in rem over immovable property and may lead to the acquisition of ownership by the holder of the property. (Article 29)
- Any person who, for no less than five (5) years prior to the promulgation of

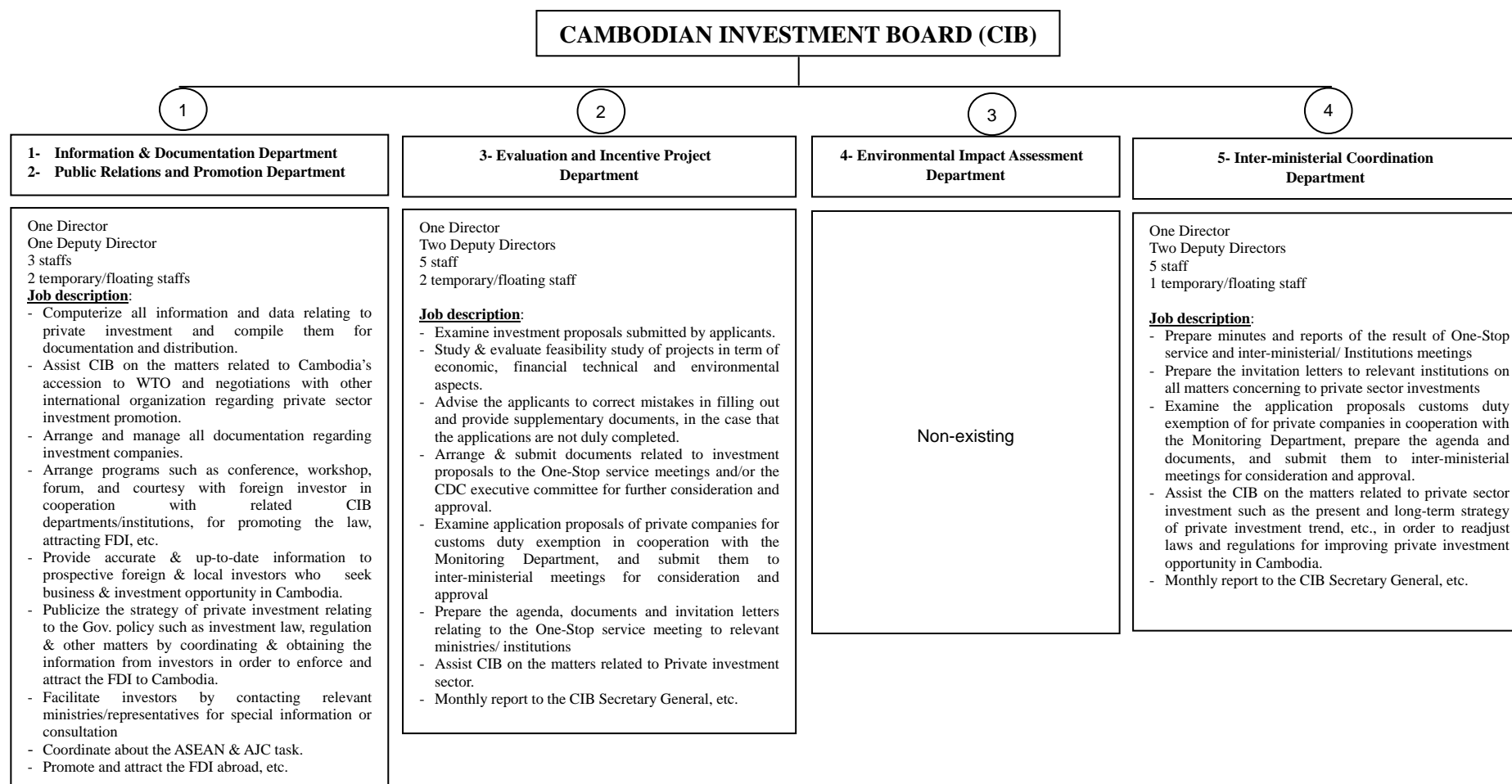


the Law, enjoyed peaceful, uncontested possession of immovable property that can lawfully be privately possessed, has the right to request a definitive title of ownership. (Article 30)

- In order to transform into ownership of immovable property, the possession shall be unambiguous, non-violent, notorious to the public, continuous and in good faith. (Article 38)
- After the Law comes into force, any new occupant without title to an immovable property shall be considered as an illegal occupant. (Article 34)
- While waiting for the possession to be transformed into full ownership, possession in compliance with the Law constitutes a right in rem over the immovable property. The title is evidence of possession but is not in itself a title of ownership and is not indisputable. The titles of possession shall only constitute definitive and indisputable title of ownership of the property in the absence of any dispute as to the ownership of the property at the time of the land register is created. In case of a disputed claim, the determination of the lawful possessor of the property shall be based on the additional investigation of all relevant evidence. A title of possession to a property is one kind of evidence but is not in itself determinative. (Article 40)
- The Cadastral Committee shall make decisions on the disputes over an immovable property between possessors. (Article 47)
- The transfer of ownership can be enforceable as against third parties only if the contract of sale, exchange and/or gift is registered with the Cadastral Registry Unit. (Article 65, 70 & 81)
- Land concessions areas shall not be more than 10,000 hectares and maximum duration is limited to ninety-nine years. (Article 59 & 61)
- There are two types of land leases: lease for an indefinite period of time and a definite period of time. A lease for a definite period of time includes a short-term lease with an option to renew and a long-term lease for 15 years or more. A long-term lease constitutes a right in rem over immovable property and such right may be assigned for valuable consideration or transferred by succession. (Article 106 & 108)
- Immovable property may be put up as surety by its owner to secure the payment of a debt by way of mortgage or pledge. (Article 197)
- Ownership of immovable property shall be guaranteed by the State and, for this purpose, the Cadastral Administration under the supervision of the Ministry of Land Management, Urban Planning and Construction shall have the competence to identify properties, establish cadastral index maps, issue ownership titles, register lands and inform all persons as to the status of a

parcel of land in relation with its nature, size, owner and any relevant encumbrances over such parcel. (Article 226)

According to an information source of JST, it has been expressed by Cambodian government in a workshop held in Tokyo in November 2002 that all the land in Phnom Penh would be designated as State-owned lands and no private ownership would be admitted. Only the possession certificates on buildings can be issued. Future deprivation may be targeted by this arrangement for urban planning of the capital city.



**Figure E-6 CIB Organization & Job Description - 1**

5	6	7	8
<b>6- Strategic Planning Department</b>	<b>7- Legal Procedure and Investment law Department</b>	<b>8- Project Monitoring Department</b>	<b>9- Administration Department</b>
<p>One Director 1 staff</p> <p><b>Job description:</b></p> <ul style="list-style-type: none"> <li>- Initialize the present and long-term strategy for private investment in coordination with related departments, especially Legal procedure and Investment Law Dept. in order to readjust laws &amp; regulations for improving private investment opportunity in the Kingdom of Cambodia.</li> <li>- Prepare the strategy and action plans in order to promote and to attract the prospective investors, based on the global orientation, for improving requisite economic foundation, competitiveness, information &amp; knowledge driven process</li> <li>- Assist the CIB on the matters relating to drafting Industrial Zone Law and regulations, etc.</li> <li>- Assist the preparation of suitable incentives and facilities to attract identified industries and the factory location's plan.</li> <li>- Collect all information and data relating to the BOT/ BOOT and compile them for documentation and distribution</li> <li>- Evaluate all the request of applications for customs duty exemption of private companies relating to the construction materials.</li> <li>- Monthly report to the CIB's Secretary General.</li> </ul>	<p>One Director Two Deputy Directors 2 staff 1 temporary/floating staff</p> <p><b>Job description:</b></p> <ul style="list-style-type: none"> <li>- CIB's legal advisor, on all matters pertaining to the laws, regulations and other bilateral agreements in the national and international frameworks relating to the CIB function</li> <li>- Coordinate, with relevant authority, conciliation on all the disputes regarding the investment companies for proper settlement</li> <li>- Study and draw up laws, regulations, conventions, bilateral and multilateral agreements within the scope of CIB function</li> <li>- Initialize the present and long-term strategy of private investment trend in coordination with related departments, especially Strategic Planning Department, in order to readjust laws and regulations for improving private investment opportunity in Cambodia</li> <li>- Record Investment Company in the registered book of the CDC and deliver the investment license certificates to the potential and activated investors</li> <li>- Check up and give approbation on the company memorandum and the articles of association</li> <li>- Arrange the company request on shareholders transfer, changes of name and factories locations and also give notice of canceling investment license to inactive investment projects</li> <li>- Follow-up with Monitoring Dept. on the non-active companies and regulate the notices for the cancellation or deletion from the CDC's registered companies</li> <li>- Collect all information and data relating to private investment and compile them for documentation and distribution</li> <li>- Assist the CIB on the matters related to Cambodia's accession to WTO and negotiations with other international organizations regarding the private investment sector</li> </ul>	<p>One Director Two Deputy Directors 8 staffs 4 temporary/floating staffs</p> <p><b>Job description:</b></p> <ul style="list-style-type: none"> <li>- Monitor and follow up investment projects after approval for the full-term of the incentives given</li> <li>- Check the compliance with the investment application &amp; tax exemption as granted in Master List by CIB/CDC. This assignment is preceded by verification on site at the following phases: <ul style="list-style-type: none"> <li>a)- <u>Phase 1</u>: when the investment project is approved: Check the project location and its characteristics as approved by CIB/CDC.</li> <li>b)- <u>Phase 2</u>: when incentive applied for the 1st time: The project implementation (location, construction, and importation of machinery, raw materials, etc.)</li> <li>c)- <u>Phase 3</u>: For the successive incentives awards: The compliance of investor with all requirement as stipulated in the agreement letter to allow investment and grant incentives such as: <ol style="list-style-type: none"> <li>1) Construction</li> <li>2) M/C &amp; equip.'s importation</li> <li>3) Employment's number</li> <li>4) Production capacity</li> <li>5) Quantity of raw materials and/or semi-finished products</li> <li>6) Products' % to be exported</li> <li>7) Real consumption of raw materials &amp; accessories imported under incentives awards</li> </ol> </li> </ul> </li> <li>- Monitor the implementation of project approval, &amp; gather the feedback on problems encountered during implementation</li> <li>- Follow-up with Legal Procedures Dept. the non-active companies and regulate the notices to process their cancellation or deletion from CDC's registered companies</li> <li>- Collect data of investment activities and performance to allow assessing the national policy and the efficiency of CIB organization structure and productivity</li> </ul>	<p>One Director Two Deputy Directors 2 staffs 4 temporary/floating staffs</p> <p><b>Job description:</b></p> <ul style="list-style-type: none"> <li>- Manage the staff &amp; engage in general administration in the CIB's framework</li> <li>- Record all letters in registered book, make copies and send letters, notification, circulation and others out to the respective destinations</li> <li>- Receive all application proposals for investment projects and for customs duty exemption of private companies, and deliver them to relevant departments such as: <ol style="list-style-type: none"> <li>a) Evaluation &amp; Incentives Project Dept.</li> <li>b) Inter-ministerial Coordination Dept.</li> </ol> </li> <li>- Administer the CIB's immobility and distribute office materials and technical tools to all the CIB's departments</li> <li>- Organize programs related to conference, workshop, forum, courtesy and others with investors and delegations, etc.</li> <li>- Submit monthly brief report to the Secretary General of the CIB</li> <li>- Assist CIB on the matters related to private sector investment, etc.</li> </ul>

Figure E-6 CIB Organization & Job Description - 2

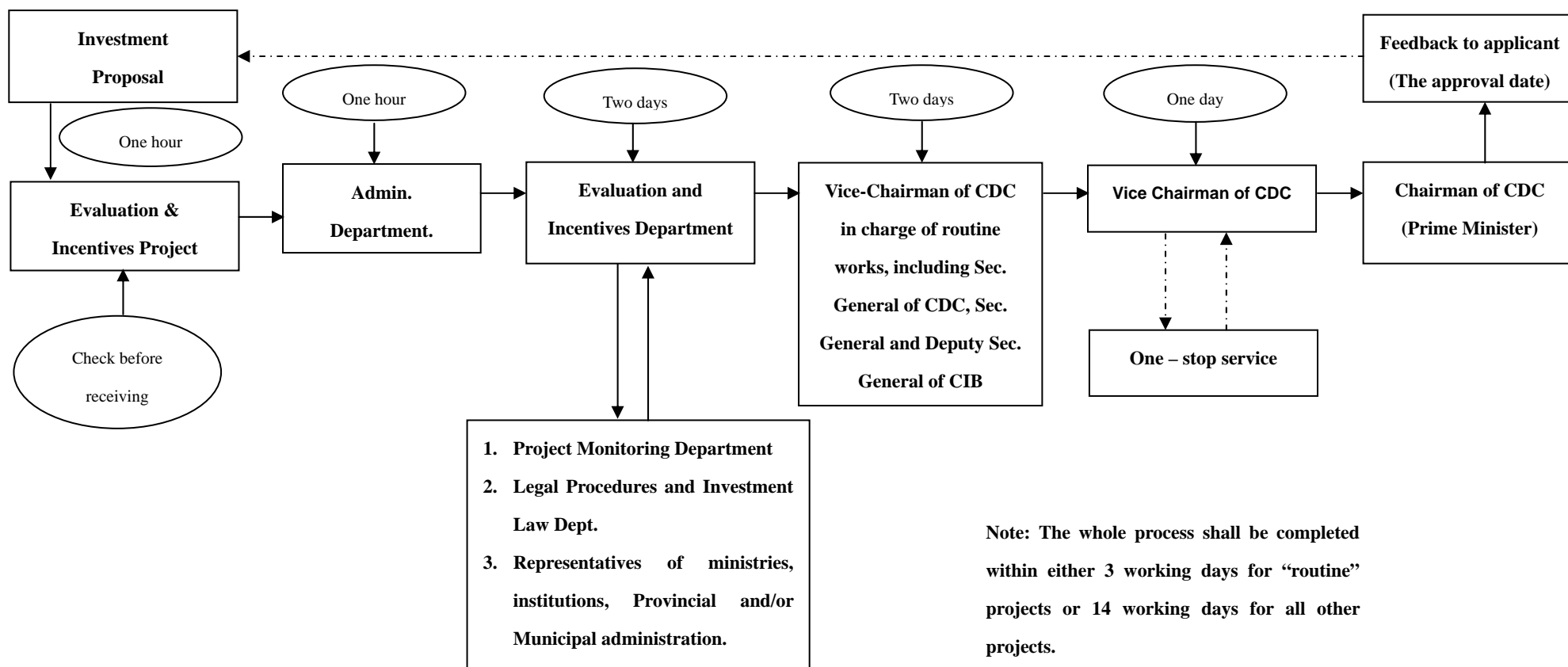


Figure E-7 Investment Project Application Process

**Table E-3 Comparison Table of 1994 Law on Investment and Draft Amendment Law on Investment**

	<b>1994 Investment Law</b>	<b>Amended Law on Investment (Draft dated on March 29, 2002)</b>
The Object	All investment projects made by investors who are Cambodian citizens or foreigners	All Qualified Investment Projects (QIP): Investment project which has received a Final Registration Certificate
The Council for the Development of Cambodia (The CDC) (The one-stop service organization)	The CDC is the one-stop service organization for managing private investment.	Same as left
<b>Investment Procedures</b>		
(The organization to be applied for)	The CDC	The CDC
(Application and approval procedures)	<ul style="list-style-type: none"> <li>- Submit an investment application to the CDC for review and decision</li> <li>- The CDC shall provide a response as to its decision to all investors/applicants within a period of forty-five (45) days maximum following the date of submission of the complete investment application.</li> </ul>	<ul style="list-style-type: none"> <li>- The CDC shall issue, within three (3) working days after the receipt of Investment Proposal (IP), a Conditional Registration Certificate (CRC) or a Letter of Non-Compliance (LNC).</li> <li>- If the IP contains all the information required and the proposed activity is not in the Negative list, the CDC shall issue the CRC.</li> <li>- The CRC shall specify the approvals, authorizations, clearances, licenses, permits or registrations required for the QIP to operate.</li> <li>- The CDC shall also confirm the incentives that the QIP is entitled and the legal entity, which undertake the QIP.</li> <li>- The CDC shall obtain all of the licenses listed in the CRC on behalf of the Applicant. All government entities responsible shall issue such document no later than the 28<sup>th</sup> working day from the date of the CRC.</li> <li>- The CDC shall confirm the CRC within 28 working days of its issuance by issuing a Final Registration Certificate (FRC).</li> </ul>
<b>Investment Guarantee</b>		
(Non-discriminatory treatment)	Investors shall be treated in a non-discriminatory manner, except for ownership of land.	Same as left
(Non nationalization policy)	The RGC shall not undertake the nationalization policy.	Same as left
(No price control)	The RGC shall not impose price control on the products or services.	Same as left
(Foreign currency)	The RG shall permit investors to purchase foreign currencies and to remit abroad for the discharge of financial obligations.	Same as left
<b>Investment Incentives</b>		
(Eligible fields)	Investments in such important fields as: <ol style="list-style-type: none"> <li>1) Export-oriented with minimum 80% export of the total production</li> <li>2) Investment in a Special Promotion Zone (SPZ) as shall created by law</li> <li>3) Tourism industry,</li> <li>4) Labor intensive industry, processing industry and agro-industry</li> <li>5) Physical infrastructure and energy</li> </ol>	All the QIP, subject to obtaining from the CDC an annual certificate of compliance
(Corporate tax reduction)	Reduced corporate tax of 9%	Corporate tax of 20% after the expiration of the tax holiday period
(Corporate tax exemption)	<ul style="list-style-type: none"> <li>- Corporate tax exemption period up to 8 years starting from the first year the projects derives its first profit</li> <li>- The period is decided according to the Criteria Matrix for Incentives.</li> <li>- Corporate tax exemption for reinvested profit</li> </ul>	<ul style="list-style-type: none"> <li>- Corporate tax exemption (Trigger period + 3 years + n years)</li> <li>- Trigger period: To be the first year of profit or 3 years after earning the first revenue, whichever earlier</li> <li>- The QIP, entitled to corporate tax exemption, shall not be entitled to claim any special depreciation under the Law on Taxation.</li> <li>- No tax exemption for reinvested profit</li> </ul>
(Other tax exemption)	Non-taxation on the distribution of dividend, profits or proceeds of investments, whether transferred abroad or distributed in the country	Deleted

(Import duty exemption)	<ul style="list-style-type: none"> <li>- Construction materials</li> <li>- Means of production</li> <li>- Equipment</li> <li>- Semi-finished goods</li> <li>- Raw materials</li> <li>- Spare parts</li> </ul> <p>(For Tourism industry, labor-intensive industry, processing industry, agro-industry, physical infrastructure and energy industry, the 100% exemption incentive is authorized only in the construction period and the first year of commercial operation.)</p>	<p>Domestically oriented QIP:</p> <ul style="list-style-type: none"> <li>- The production equipment</li> <li>- Construction materials</li> </ul> <p>Export oriented QIP:</p> <ul style="list-style-type: none"> <li>- The production equipment</li> <li>- Construction materials</li> <li>- Production input materials</li> </ul> <p>Supporting Industry QIP:</p> <ul style="list-style-type: none"> <li>- The production equipment</li> <li>- Construction materials</li> <li>- Production input materials</li> </ul>
(Export tax exemption)	100% exemption of taxes and duties for the export of products, if any	A QIP shall be entitled to 100% exemption of export tax, except for activities specially mentioned in the Law on Customs.
(Other fiscal incentives)	<ul style="list-style-type: none"> <li>- 5-year loss-carried forward (1997 Law On Taxation Article 17)</li> <li>- Accelerated depreciation</li> </ul>	5-year loss-carried forward (Law on Taxation)
(Employment of foreign workers)	<p>Permission to bring in Cambodia foreign nationals</p> <ol style="list-style-type: none"> <li>1) Management personnel and experts</li> <li>2) Technical persons</li> <li>3) Skilled workers</li> <li>4) Souses and dependents of the above persons</li> </ol>	To obtain visas and work permits for foreign managers, technicians, skilled workers and their spouses and families as authorized by the CDC and in compliance with the Immigration and Labor Laws.
(Incentives to SPZ or EPZ)		Same incentives and privileges as other QIPs.
(Transfer of the rights)	Prohibited	The rights, privileges and entitlements of a QIP may not be transferred or assigned to any third party except by acquisition or merger.
<b>Land</b>		
(Ownership)	To be vested in natural persons with Cambodian citizenship or Cambodian entities	Same as left
(Use period)	Long-term lease up to 70 years (renewable)	<ul style="list-style-type: none"> <li>- Unlimited long-term lease</li> <li>- Limited short-term lease (renewable)</li> </ul> <p>The concession of the public owned land for up to 99 years</p>
(Right regarding the real and personal property on land)	No description	Investor to have the right to own and pledge as security the real and personal property on the land.
<b>Employment Practices</b>		
(Freedom to hire workers)	Investors are free to hire Cambodian and foreign nationals of their choosing	Same as left.
(Remittance of wages)	Foreign employees to be allowed to remit abroad their wages and salaries after payment of tax	Same as left
<b>Disputes and Dissolution</b>		
(Amicable settlement)	Any dispute to be settled amicably through consultation between the parties in dispute.	Any dispute to be settled amicably through consultation by the Council, the investors and any other party involved.

(Further treatment)	If failed to reach an amicable settlement within two months, the dispute shall be brought for: 1) Conciliation before the Council 2) Refer the matter to the courts 3) Refer to any international rules as mutually agreed by the parties	If failed to reach an amicable settlement within two months from the date of first written request to enter such consultations, the dispute shall be brought for: 1) Conciliation before the Council 2) Adjudication by the courts 3) Resolution by arbitration in or outside of Cambodia under international rules as agreed by both parties
(Cease of activities)	It shall inform the Council through letter stating the reason of such a decision and signed by the investor's authorized directors.	It shall inform the Council through letter stating the reason of such a decision and signed by the investor or his attorney-in fact.
(Dissolution of the company or stop of activities)	<ul style="list-style-type: none"> <li>- In the event of a proposal for dissolution of a company without judicial procedures, to provide proof to the Council that the QIP has settled its potential creditors, suitors and claims from the Ministry of Economy and Finance.</li> <li>- Once the resolution allowed officially, the investor can transfer the remaining proceeds of its assets oversea or use them in Cambodia.</li> <li>- In case the dissolving company had used the machineries and equipment, imported duty-free for less than five years, the company shall pay the applicable duties.</li> </ul>	<ul style="list-style-type: none"> <li>- If an investor intends to stop the activity of its QIP without judicial procedures, to provide proof to the Council that the QIP has settled its debts, including any complainants and claims from the Ministry of Economy and Finance.</li> <li>- Same as left</li> <li>- Same as left</li> </ul>
Minimum Investment	Varies according to the type of industries	Not required
<b>Transitional Provisions</b>		
(Eligibility as QIP)	Investments authorized under the previous "Law on Investment" and its Sub-Decree shall be subject to the same benefits and obligations as stated under this Law.	All investments authorized under the Law on Investment in 1994 and its implementing sub-decree shall be considered to be QIPs subject to this Law and Sub-Decree.
(Treatment of 9% tax rate)		QIP entitled to a tax on profit rate of 9% before the promulgation of this Law and which has commenced the investment activity shall be entitled to 9% tax rate for five years commencing from the tax year after the promulgation of this Law.
(Treatment of tax holiday status)		A QIP entitled to an exemption of tax on profit before the promulgation of this Law, and whose entitlement has been confirmed in writing by the Council, shall continue to be entitled to that tax exemption.
(Withdrawal of privileges and incentives)	If the promoted company violates or fails to comply with the conditions, the Council shall have the right to withdraw the privileges and incentives granted to him.	Same as left



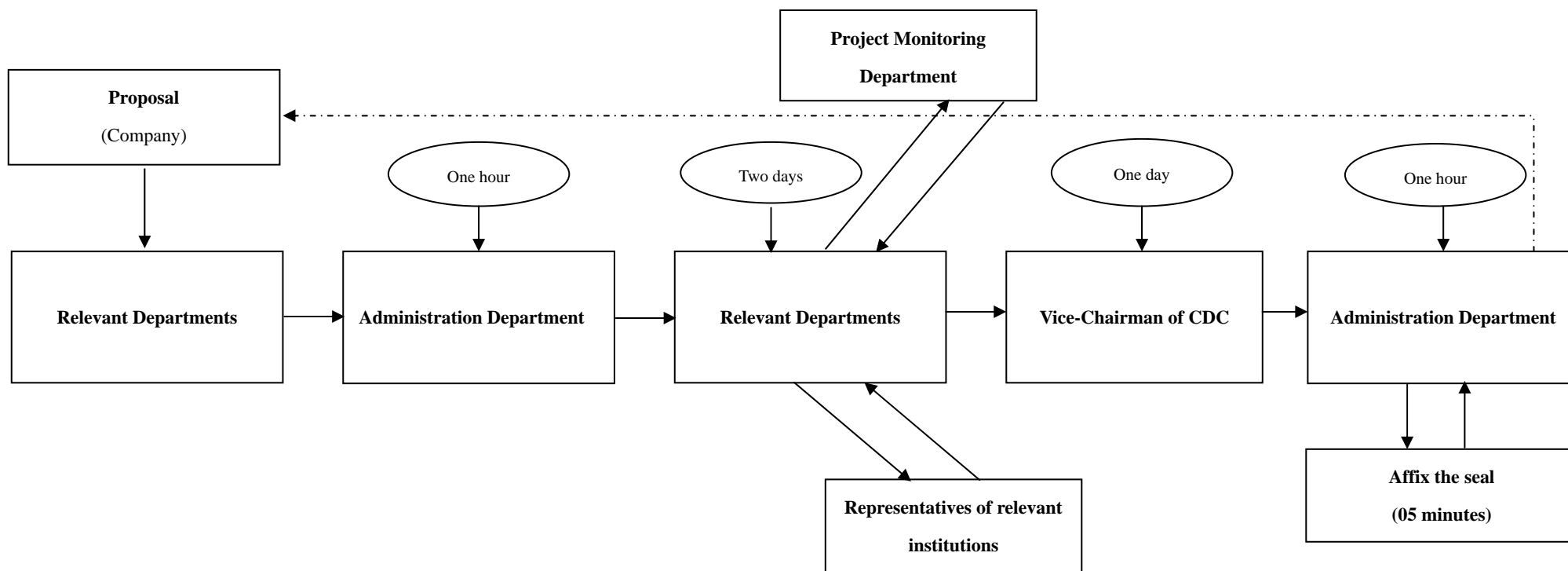


Figure E-8 Proposal Settlement Procedure for Customs Duty-Exempt Import “ Import of machinery, equipment, raw materials “  
(Within 3 working days)

### **E.3 OVERVIEW OF PRESENT CONSTRAINTS OF LEGAL AND INSTITUTIONAL FRAMEWORKS IN CAMBODIA**

#### **E.3.1 Vulnerability of Cambodian Legal and Institutional Frameworks**

There are two aspects of the vulnerability of the Cambodian legal frameworks. One is that relates to the frameworks themselves and the other is the enforcement power of the legal frameworks.

As reviewed in Chapter E.1 and E.2, Cambodian legal system still lacks various important laws and regulations for investment and business. Even a Civil Code and its Suing Procedural Regulations are still under a drafting process. Amendments to Law on Investment, Law on Taxation and Customs Code, and new laws relating to the protection of intellectual rights have not been promulgated yet. Many international donors have been assisting the government to draw up the laws and regulations but some of them are still waiting for the adoption of the National Assembly and the others are still in a preparatory process.

The more critical problems that the Cambodian government confronts seem to rest in its enforcement power of the existing laws and regulations. Due to the rather weak administrative strength and overlapped distribution of powers, the different and discretionary interpretation prevails among the governmental organizations, which tends to create confusion in private sector. Judiciary system is also rather weak so that dispute settlement needs time and, as the judiciary judgments are sometimes discretionary, the enforcement of court judgment is vulnerable. There are many people to point out that the many of the governmental officials try to make use of their enforcement authority of the laws and regulations for their own private interests by charging unofficial fees and charges.

For attracting FDI and promoting private sector investments and business, the legislation of key laws has to be expedited and, at the same time, law enforcement practice has to become transparent, non-discretionary and fair so that the image of the country as a whole may be improved.

#### **E.3.2 Private Sector Investment and FDI**

##### **(1) Draft Amendment to the LOI**

As reviewed in Chapter E.2.2, the 1994 LOI is currently the only law in Cambodia regulating and guiding the private investment including FDI. Contrary to the written stipulations of 1994 LOI, it is pointed out in the ICS Report that “vast majority of LOI-approved firms failed to be granted tax holidays, domestically oriented LOI-approved firms failed to get the CDC approval for import duty exemption in the first year of operation, decision-making on the investment approval and granting incentives tend to be discretionary and it contributes to ‘hidden’ transaction costs, and the government alters the ‘rule of the

game' and imposes additional costs on business through issuing Prakas". .

In view of such vulnerability and constraints of 1994 LOI, Draft Amendment to the Law on Investment (hereinafter referred to as "Draft LOI") has been drafted with the aims of introducing the principles of "Simplicity, Predictability and Non-discretion" into the process of investment licensing and incentives approvals.

Some of the features of Draft LOI are as follows.

- To adopt the automatic approval system of the investment projects unless they are among the fields prohibited or limited to the private or foreign capitals
- To complete approval procedures within 28 days.
- To specify the approvals, authorizations, clearances, licenses, permits or registration necessary for the investors to operate and to notice the relevant governmental offices
- To confirm the incentives to be provided to the investors in the investment approval.
- To obtain all of necessary licenses required for investment on behalf of the investment applicant (The CDC to act as One-Stop Shop)
- No requirement for the minimum investment amount
- To issue the investment license or approval to a project, not to an investor
- To approve unlimited lease of land and admit the right to own and pledge as security the immovable property on the land (The Land Law of August 2001 admitted the right.)
- To approve the transfer of the rights, privileges and entitlements of a QIP (a Qualified Investment Project) to a third party
- To clearly state the CDC's role as a mediator in disputes
- To introduce the resolution by arbitration in or outside of Cambodia under international rules as a final settlement measure

Draft LOI, at the same time, proposes to introduce the new provisions considerably limiting the fiscal incentives entitled to a QIP. ICS Report writes that, during the course of drafting the Law, there were two different opinions appeared among the government officials. The one was for limiting the fiscal incentives because they thought, comparing those in the neighboring countries, the current incentive scheme was too generous to the investors and the country had been losing the opportunities to raise the tax revenue. The other was against for reducing the fiscal incentives because they thought, if it had to happen, the country might not only fail to attract the new prospective FDI providers but also lose the existing investors and force them to relocate their investments.

All of these will benefit to make the investment climate of Cambodia more favorable to the international standard of business practices and serve as advantages in attracting FDI.

The Draft LOI intends to introduce such modified or new fiscal incentives scheme to be provided to the QIPs as:

- Unified rate of 20% as tax on profit, applicable at national level to most of private firms regardless whether they are the QIPs or not.
- Automatic provision of corporate tax exemption, of which period is currently decided according to Criteria Matrix for Incentives, of minimum 3 years or a special depreciation under the Law on Tax (40% depreciation of tangible assets in the first year operation is being proposed under the Amendment Draft Law on Taxation.).
- Import duty exemption and export tax exemption remain almost same as in the stipulations of the LOI.

On the other hand, it aims to abolish such fiscal incentives currently being given to the investments enterprises under LOI as:

- Tax exemption for reinvestment profit
- Tax exemption on the distribution of dividend, profits or proceeds of investments, whether transferred abroad or distributed in the country
- Accelerated depreciation except the case described above.
- Special treatment of the incentives to apply to the SPZ

Regarding the incentives, some say that the international investors put more emphases on the non-fiscal aspects of total investment climate and incentives when they choose investment locations. The non-fiscal incentives are said to include simple, predictable and non-discretionary process of investment approval, incentive provision, transparent practice of various licensing, taxation or customs clearance. The others say that the fiscal incentives are more important factors for attracting FDI. They have to be at least on the equal level to or had better to be more generous than those offered by the neighboring countries. The answer to the arguments seem to be that it is not a matter of straight choice of policy but both non-fiscal and fiscal incentives are urgently needed in a country like Cambodia for the following reasons.

- Cambodia is well behind the neighboring ASEAN countries in the FDI attraction efforts. In addition to it, other ASEAN member countries have also started loosing the existing FDI or failing to attract new FDI, as China has been quickly emerging as a “ Factory of the World” and absorbing overwhelming FDI into the country, to China.
- Because of its unhappy and unsettled past history, Cambodia has not

succeeded yet to reassure the investors' confidence as being an investment location.

- Cambodia lacks of resources, except relatively cheaper labor, to attract FDI and suffers from weak and expensive investment infrastructures including legal framework, power or transport cost. Furthermore, the country is reputed to its inability to control smuggling and corruption.
- Cambodia's domestic market is limited in its size and volume and, therefore, the foreign investment may only be expected in the exports industries by using imported materials for the middle term.
- Considering the situation of Cambodia as described above, it may be difficult for Cambodia to attract in near future the global or large-scale firms or the firms in the industrial sectors of high value-added to locate in the country.
- The prospective investors to Cambodia may only be from the small- or medium-scale firms with lower profit-generating abilities, which tend to be very sensitive to the short-term profitability and transparent institutional scheme due to their limited business resources.

According to the recent movement of market and trade integration such as AFTA, FTA between ASEAN and China, Japan or ROK, Cambodia seems to have not much time left to become an independent commodities producing country. Avoiding that Cambodia falls into a market of other countries and remaining as an exporting country, all the possible measures to attract FDI have to be urgently adopted. For all of these reasons, the best of both fiscal incentives and non-fiscal incentives have to be offered.

## **(2) The CIB Organization and Assignments**

The CDC is a sole entity for managing the private investments in Cambodia and the CIB of the CDC is directly in charge. The CIB has 8 Departments with Environmental Impact Assessment Department abolished. As of October 2002, there are 7 Directors, 11 Deputy Directors, 26 staffs and 14 temporary/floating staffs in 8 departments. Among them, the bigger departments are "Evaluation and Incentive Project Department" with total 8 members, "Inter-ministerial Coordination Department" with also total 8 members and "Project Monitoring Department" with total 15 members.

The main jobs of the Evaluation and Incentive Project Department are:

- Examine investment proposals submitted by applicants.
- Study and evaluate feasibility study of the projects in term of economic, financial, technical and environmental aspects.
- Arrange and submit documents related to investment proposals to the

One-Stop service meetings and/or the CDC executive committee for further consideration and approval.

- Examine application proposals of private companies for customs duty exemption in cooperation with the Monitoring Department, and submit them to inter-ministerial meetings for consideration and approval

By the Draft LOI, the investment project approval will be issued automatically within 28 days unless the project falls in the Negative List category or the application documents are not complete. The investment incentives will be provided automatically according to the predetermined conditions. In this context, the future job of the Department will be limited to more or less the application documents handling. The whole process of the investment project approval is expected to become more transparent and non-discretionary without any evaluation involved for approving the investment project and providing the incentives. Many problems pointed out by the existing investors, relating to the current procedures for its unpredictability, non-transparency and discretionary character, may be solved when the Draft LOI comes in practice.

The major job of the Inter-ministerial Coordination Department is facilitating the “One-Stop Shop” function of the CIB under the current LOI and the role of this department will become even more important because the Draft LOI also expects the CIB to function as “One-Stop Service Shop” in terms of obtaining all the relevant and necessary licenses, approvals and/or permits on behalf of the investors. Therefore, the reshuffle of the manpower distribution between the Evaluation and Incentive Project Department and this Department will be inevitable. Two departments may be integrated into one new department as a customer service window to the investors.

Legal Procedure and Investment Law Department mainly acts as the CIB's legal advisor and deals with legal matters relating to the CIB's activities. It is also in charge of initializing the present and long-term strategy for the private investment in coordination with relevant departments, especially Strategic Planning Department of the CIB, in order to readjust laws and regulations for improving private investment opportunity in Cambodia. For enactment of LIZ or SPZ Law, this Department may be suitable to become an administrative section for preparation of such enactment. Their jobs include:

- Coordinate, with relevant authority, conciliation on all the disputes regarding the investment companies for proper settlement
- Record Investment Company in the registered book of the CDC and deliver the investment license certificates to the potential and activated investors
- Check up and give approbation on the company memorandum and the articles of association
- Arrange the company request on shareholders transfer, changes of name and

factories locations and also give notice of canceling investment license to inactive investment projects

- Follow-up with Monitoring Dept. on the non-active companies and regulate the notices for the cancellation or deletion from the CDC's registered companies

Conciliation on the disputes relating to the FDI is a very important part of investment climate. Full time conciliation board shall be arranged under the CDC, being independent from the CIB. This Department can participate in such a conciliation board as a member. An approbation on the company's memorandums and the articles of association by this department seems not be appropriate either. If the company registration has to be made with MOC under the current regulations, it would be more appropriate for MOC to be in charge of approbation on the company's memorandums and the articles of association. To secure neutrality, the setting-up of an independent organization for registering the companies, trademarks and other intellectual rights is recommendable.

After the investment is approved and the operation starts, the Project Monitoring Department will become the most familiar department with the FDI. The department will:

- Monitor and follow up the investment projects after approval for the full-term of the incentives given
- Check the compliance of the actual investment activities with the investment applications and tax exemption scheme as granted in the Master List issued by the CIB. This assignment is preceded by verification on site at the following phases:
  - a) Phase 1: when the investment project is approved: Check the project location and characteristics are as approved by the CIB or not.
  - b) Phase2: when incentives applied for the first time: Check the project implementation (location, construction, and importation of machinery, raw materials, etc.)
  - c) Phase 3: For the successive incentives grant: The compliance of investors with all the requirements as stipulated in the agreement letter to allow investment and grant incentives such as:
    - i) Construction
    - ii) Machinery and equipment 's importation
    - iii) Employment's number
    - iv) Production capacity
    - v) Quantity of raw materials and/or semi-finished products

- vi) Products' % to be exported
  - vii) Real consumption of raw materials & accessories imported under incentives awards
- Monitor the implementation of project approval and gather the feedback on problems encountered during implementation
  - Follow-up with Legal Procedures Dept. the non-active companies and regulate the notices to process their cancellation or deletion from CDC's registered companies
  - Cooperate with relevant departments and institutions to conduct monitoring & auditing activities on the investment enterprises, in order to enforce compliance with intended use of imports and to avoid leakage

As shown above, under current regulations, the Project Monitoring Department is responsible to monitor the execution of the duty-free import of the investors. For this purpose, the Department asks the investors to submit a Master List, which shows the 12-month import plan of production materials and machinery and equipment to be used in the operation. The investors, thereafter, will submit the quarter-year execution reports of the planned importation. The Department monitors the executing situations of the planned import volume and assesses whether such import execution is appropriate or not, by estimating the materials consumption basing on the production capacities of the investors. The Department reserves the right to ask the investors to modify the applied import plans if it thinks the applied plans are not appropriate. This is one of the measures to prevent the leakage of the collection of duties and taxes on the excess volumes, which may be resold to the domestic market.

When the investors need the amendment on the initial import plans, which may be required due to the changes in the particular orders or markets in general, they are able to do so when they submit the quarter-year report. Then again, the Department will judge whether such amendment application is appropriate or not, basing on the assumption of the investors' production capacities, and gives approvals to the investors on the amendment of duty-exempted import of such designated period when the application is deemed appropriate. The whole process of such assessment and approval, in both cases, is expected to complete within 3 working days.

It may not be workable to try to prevent the leakage of import duties by estimating the possible excess basing on the production capacities of the investors. The real excess may be able to calculate only if the details of orders are clear so that the details of the required materials also become clear. Unless matching the orders and the required inputs, the precise control of possible leakage of import duties cannot be achieved. Regarding the materials, which will be input to the rather simple process like garment industry, it may be possible to make estimation of the



possible excess by applying current method. But regarding the products such as chemicals or machinery, which requires more complicated process, it may not be realistic to estimate the possible excess amount of the materials basing on the capacities of the production facilities. There are such variable factors as fluctuations in the consumption unit of the materials, the production efficiency, and the kind of auxiliaries needed, etc., according to the type and kind of the products.

These procedures seem to be unrealistic from the viewpoint of actual business situation of the garment industries as well, which face the frequent changes in the consumers' preferences. The markets trend changes often, in every seasons and every years, and the miss-order or order rejections happen occasionally so that the correction work is inevitable. As most of these garment factories locating in Cambodia currently engage in sewing work of the garment with rather longer lead-time, the application of such complicated import approval procedures have not been decisive obstacles for the industries.

The more serious problem of this regulation is that the recent trend in the field of more fashionable garment, which consequently brings more value added, requires the Quick Response System (QR). The QR system can be realized only when the flexible and quick procurement of the main materials and such auxiliaries as sewing thread, buttons, zippers, ribbons, etc., the shorter lead-time operation, the flexible working conditions and the quicker delivery systems are secured. If Cambodia hopes to promote and improve its garment industries and to maintain its competitiveness in the global garment markets even after 2005, the introduction of such QR system would be a minimum condition. For this purpose, this control method on the duty-free import basing on the pre-applied volume seems to have to be altered.

The Project Monitoring Department lacks of sufficient capacities to monitor all the investment projects so that there are considerable number of non-monitored companies exist (It is said that only 60% of the investment enterprises are being monitored by the Department.). While those companies may keep enjoying the advantage as the CDC's registered companies, there may be leakage of tax collection or incompliant practice in duty-free import. Among the non-monitored companies, there may exist many non-active companies, which have to be cancelled or deleted from the CDC registration. In order to strengthen the power to enforce the laws and regulations, the monitoring abilities and capacities on the post-approved situations of the investment projects, the scope of department's jobs has to be streamlined and the number of facilities, especially computer systems, and the officials may have to be increased.

### **E.3.3 Special Promotion Zone (SPZ)**

Through a review of the Draft LIZ dated at October 2, 2002, it became clear that the Draft LIZ proposed to reduce the fiscal incentives down to the same level of

the Draft LOI, while the rate of tax on corporate profit applied to the IZ developer(s) is set to be 0%.

Although the detail management structure of Industrial Zone Administration (IZ Administration) is not clearly mentioned in the Draft, it is proposed that the IZ Administration will be set up as a department under the CIB, the head of IZ Administration will have a status equal to a Department Director of the CIB and other administration composition will be selected by relevant ministries basing upon the request of the CIB. Thus, the CIB will control and operate the IZ in Cambodia.

In the several provisions of the Draft, no clear differentiation is stated on its application between General Industrial Zones, which is a same customs territory as the other areas of the country, and Export Industrial Zones and Free Trade Areas, which are different customs territories. Furthermore, except for the routines, the existing laws and regulations seem to supersede the decisions of the IZ Administration even in the Export Industrial Zones or Free Trade Areas.

If this Draft LIZ will have to be applied for establishing so-called SPZ in Cambodia, there shall be some arguments needed.

- Firstly, whether the fiscal incentives, which are defined to entitle to all the QIPs locating in the SPZ under the Draft LOI, will be attractive enough to FDI and competitive with those of other developing countries? Whether could the mere provision of cheap lands or sufficient infrastructures be an enough attraction to FDI? When the country has such vulnerability as described in the previous chapters, some special treatment in the fiscal fields may also be required for increasing the attraction of the SPZ. When ATFA and other FTA scheme are to emerge as reality in the area, it does not seem appropriate to expect that the provision of exemption of import duties and export taxes as fiscal incentives may remain as effective tools to attract FDI for a long-time future. Tax system reform program has been just begun to study in the relevant governmental sections. What if the rate of tax on profit is raised to over 20% in near future? Following the rule that a unified tax rate has to be applied to all the investors in the country, will the new higher tax rate be applied to the investors in the SPZ as well? It may be more workable and attractive to guarantee the fixed preferential rate to all the investors locating in the SPZ, at least for certain fixed period.
- Secondly, is it an only possible and best way to set up IZ Administration (or “SPZ Authority” in context of this Report) as one department of the CIB? According to Anu-Kret (Sub-Decree) on the Organization and Function of the CDC of June 26, 1995, it assigns to the CIB the role and responsibility of initiating and coordinating the management of special development zones (or “SPZ” in this Report) under Article 15. 5. Although what “initiating” and “coordinating” exactly mean is not certain, the Sub-Decree may expect

the CIB only to make plans of SPZ and coordinate the relevant ministries and government institutions for implementing such plans. The other provisions assign to the CIB the roles and responsibilities of serving as the “one-stop service” mechanism for investment licensing, studying the competitive advantage of Cambodia, promoting the private sector investment projects, and identifying and recommending on drafting, amending the laws and other regulations for creating favorable conditions to private sector investments. These are more or less the assignments relating to the licensing and planning activities and, therefore, it may be more appropriate to interpret that the Sub-Decree does not expect the CIB will take up the practical business operation such as the operation of SPZ. Besides, considering the capacities and available human resources of the CIB, it would be recommendable for a new and separate organization to be established for facilitating and operating SPZ.

- Thirdly, can the management of SPZ turn to be efficient, transparent and autonomous enough if the CIB sets out the basic rules, tries to manage the operation of SPZ, and the IZ Administration deals only with routines in the SPZ? In this way, it may not be possible to abolish the bureaucratic approaches for FDI, which have a long time been a target of complains of FDI, and may invite too much interference of the government over the operation of the SPZ. The key for the success in operating such special zones remains in how the autonomous, transparent, efficient and flexible decisions and actions on the operation of the zones can be secured. To meet the investors’ request and create effective and favorable business environment in the SPZ would be the only one way for success. In this context, it would be ideal for a new, separate, integrated and autonomous organization, which will be practical to business, to be established.
- Fourthly, if the existing laws and regulations have to be applied, as they are, to the business activities even in the SPZ, what would make the SPZ special? It has been so many times pointed out by the private FDI, who already locate in the country, that the bureaucratic layers are too many, the hidden official costs are too high, and the discretionary decisions and treatment by the government officials are big obstacles for freer and more efficient business operations in Cambodia. Taking these into consideration, the effective counter-measures for such complains may need to be introduced to the SPZ? It seems to be required that, some limit or alteration on the existing laws and regulations shall be set forth, at least, to the different customs territory parts of the SPZ so that it would streamline the complicated processes of customs clearance, taxation, licensing, approvals, etc. Fundamental changes in the policy toward the SPZ would be inevitable for letting the zones work as intended.
- Fifthly, Draft LIZ seems to anticipate the creation of traditional Export

Industrial Zones and Free Trade Areas. The idea might come out too early when the possibility of setting-up of the SPZ was first discussed in 1960's but it seems to be too late to discuss and examine the realization of such concept now. There have been many arguments about the effectiveness of enclosed special zones such as EPZ or FTZ as a tool of promoting domestic industries. Although enclosed EPZ might bring in new jobs and realize certain level of technology transfer, it has been pointed out that it did not work as the effective tool to create backward linkage with local industries. Considering the current situations of Cambodia and learning from the past experiences in other countries, to adopt non-traditional or new concept of SPZ to Cambodian may be advisable. If it has to be done, a new law has to be established and such a law would substitute the legal and institutional aspects that the Draft LIZ proposes.

The current trial of the RGC to set up the special zones could be the first and the last of the kind. In this meaning, the wider, more careful and integrated discussions are urgently called for.

#### **E.3.4 Foreign Trade**

As reviewed in the Chapter E.2.4, there are some import/export restrictions or obstacles in Cambodia.

In **import procedures**, they include:

- Pre-shipment Inspection (PSI)
- Control of the duty-exempted import by a Master List

In **exports field**, there are obstacle and restrictions such as:

- GSP and Quota system for the garment exports
- Cumbersome exports documentation and duplicate physical inspection by the governmental sections
- Monopoly of the fish exports by a public corporation (The monopoly status of the public corporation has been cancelled in September 2002 and any private corporation is now able to engage in fish exports, subject to the export license issued by the Ministry of Agriculture, Forestry and Fisheries. Information on this change in fish exports system became known by the JST in December 2002. )
- Exports licenses on some commodities

The problems common in export/import include:

- Time-consuming and non-transparent customs clearance procedures
- CAMCONTROL's functions

**(1) PSI**

PSI was introduced by a contract made between the RGC and SGS (Societe Generale de Surveillance SA, a private company) in October 2000 and the contract was extended in October 2002 for another one year. It originally aimed to implement the rational valuation of duties and taxes on the imported commodities. The introduction of such system itself shows the CED's weakness in capabilities and abilities to handle the imports and exports procedures properly. The problems in which the CED is involved include the non-transparent and discretionary treatment of customs clearance works. PSI was expected to help preventing or solving those problems as well. Although PSI has been proved to lessen the problems at the gateway of import and to smoothen the flow of goods, it is after all a time-consuming and costly procedure. In order to eliminate PSI and return to an autonomous customs, the capacity buildings and reform of the CED is compulsory.

**(2) Master List**

As examined above, the control method for the duty-exempt import using a Master List is inflexible and, in many cases, unpractical. Facing the changeable markets, it is extremely difficult (almost impossible) for the importers to prepare detail import plan for 12 months, or even three months, in advance. Although the processing time of the import application or the amendment of a plan has been shortened to 3 working days, the current system remains as an obstacle for the freer business and export activities. As far as the major export products of Cambodia remain in the garment and footwear, it may be somehow effective. Nevertheless, when such major export products are diversified to other fields, it will become extremely difficult for such a small number of staffs of the Monitoring Department to acquire all the necessary knowledge on the market, products and technologies (techniques) of all kind of the products in all kind of the fields and calculate the appropriate import amounts.

If this regulation has to continue, there will be always "negotiations" involved to get the import permits from the Department because the investors or exporters will have to anticipate and prepare the possible changes in the markets and, consequently, inflate the List.

**(3) GSP and Quota System for the Garment Exports**

Although approximately 60% of Cambodian garment exports were made under the Quota or GSP schemes in 2000, the process of getting exports permits remained being complicated and time-consuming as previously reviewed.

Although the problems of faked Cambodian labels made by other countries have largely been solved by introducing the electronic visa identification system to the US (ELVIS) and EU, MIME and MOC (GPS and Export License related divisions and CAMCONTROL) and the customs still insist to keep implementing separate

physical inspection at factories before shipment. It is explained that MIME does so in order to verify the garments have been made in Cambodia and CAMCONTROL to monitor the quality and quantity and assure the reliability of products. In practice, it is hard to imagine how MIME can prove the products have been made in particular factories in Cambodia without remaining in the factories all the time during the manufacturing process and how CAMCONTROL can assure the products' quality or quantity with a limited knowledge on the markets, products and technologies. This may be a typical case of unnecessary and duplicated commitment or interference of the governmental agencies. Such separate physical inspection by five agencies may be understood to create more opportunities to enforce the exporters to pay the unofficial fees.

The quota distribution system of the RGC is said to be rather fair with 80 per cent of the quota to be allocated, according to the export records and production capacity, to the garment manufacturers operating in Cambodia since 1998, 10 per cent can to the exporters as a reward for current export achievement and the remaining 10 per cent to be auctioned to all the garment producers through bids.

The garment export industry in Cambodia, most of which are FDI, is suffering from the unofficial charges or hidden costs. It takes place almost every time when the exporters seek for the approvals or permits such as the approvals for duty-free import of materials and equipment, import customs clearance, labor inspection, acquisition of export licenses and approvals and export customs clearance, etc. At an interview with private business association, it was pointed out that the 10 to 15% of the total production cost of garment are occupied by such unofficial charges and fees or hidden costs.

On top of these, the government levies three different tax and fees on garment exports. The first is "visa" fee, which started when the government introduced ELVIS for its garment exports under the U.S. export quota and the exports to EU. Visa free amounts to the most among three fees and tax. The second is minimum turnover tax on the quota exports to the U.S. and the third fee is 0.1% inspection fee of CAMCONTROL on the imported fabrics and exported garments. Although they have different names, they seem to be a kind of exports taxes, which put obstacles on the exports activities. This complicated and duplicated charging system of various fees has to be streamlined to achieve smooth and less-costly exports.

#### **(4) Export Restriction on Fish Exports**

According to ICS Report, the former process of fish exports in Cambodia was as follows:

- 1) Fishermen deliver the fishes to the landing sites and sell to traders
- 2) Traders transport to one of 5 Export Distributors

- 3) Export Distributors collect 4% commission with no service
- 4) Export Distributors sell to KAMFIMEX for exports without physical delivery
- 5) KAMFIMEX sells to Export Distributors and gives license to export
- 6) Export Distributors sell to Thai wholesalers who deliver to Bangkok for re-export or Thai domestic market
- 7) Export Distributors transport fishes across Thai border and pay fee of \$25 per ton to KAMFIMEX
- 8) Exporter Distributors pay 10% export tax to the CED of the RGC

The Ministry of Agriculture, Forestry and Fisheries (MAFF) had been granting a monopoly right for exports of fish to a state owned company called KAMFIMEX so that there was only one official exports channel and the fish exports had to follow the above process. The same report indicates the export price of fish remained about 35% of the retail price of fish sold in Phnom Penh, which implied the return to the fishermen was very limited and low. This low return on the labor of fishermen expedited unofficial direct export on the open waters. Shrimp export of 1,200 tons per year to Hong Kong was also said to manage in KAMFIMEX leased factories.

As described before, the KAMFIMEX's monopoly status has been cancelled in September 2002 and anybody can export fishes as long as he holds the export license issued by the MAFF. KAMFIMEX became a non-state owned enterprise and is still engaging in the fish exports. Two other companies still work with KAMFIMEX but they do so not on the compulsory base but on the voluntary base.

The problem of restriction on fish exports now became almost non-institutional and the remaining bottleneck for promoting fish exports of Cambodia may remain in its distribution system and supply problems. As the export license is still required, some informal charges or hidden cost may stay on. Together with the 10% exports tax payable to the CED, these hidden cost may push up the intermediate margins and down the real income of fishermen and, therefore, fishermen prefer to sell the fishes directly to Thai or Vietnam merchants through informal channels. This deems to be a real reason for the shortage in supply of raw fishes, by which the fish processing or packing industries are difficult to be promoted in Cambodia.

#### **(5) Other Export Restrictions**

Although the prohibition of rice exports was abolished in 1995, an export quota has been applied as a security measure of food. The MAFF issues approvals, reviewing the maximum export amount limitation set by the RGC, and the MOC provides export license. Besides it, logs have also been prohibited to export

since 1995 and an export tax is levied on the exports of semi-processed woods.

The exports procedure of rice, in which MAFF approves and MOC provides export license, is one of the typical examples of duplication of the authority of government organizations.

#### **(6) CAMCONTROL's Inspection for Exports/Imports**

CAMCONTROL was established in 1983 with reference to a similar organization in Vietnam and the Sub-Decree regulating the roles of CAMCONTROL was issued in 1986.

CAMCONTROL, which is the Cambodian Import-Export Inspection and Fraud Repression Department of the MOC, has 430 staffs, 5 offices, 13 branches and 56 posts (check-points) and maintains four sections, namely, inspection, technical, laboratory and administration.

According to a senior officer of CAMCONTROL, its main functions are as follows:

- Authority on food safety: To check the safety, labels (expiry date, etc.) and other relevant matters of foods and related products, excluding drugs, which are imported, exported or sold domestically.
- Commercial inspection service: To check as a third party the damage of the imported goods and issue certificates for insurance claim. This service is subject to fees.
- Enforcement of compliance to the requirement: To check the compliance to the requirement, which is assigned by the Ministry, such as for the case of garment exports to the GPS requirement and of duty-free import of fabrics to the CIB approval requirement. They say this is partly within the legal control work and, at the same time, partly within the service work. Consequently, they claim to be naturally entitled for some charges.

To enforce CAMCONTROL's activities, there is "Circular of October 14, 1994 on The Adoption of the Market Economy", which guarantees free move of goods in Cambodia and, at the same time, stipulates that the State should regulate and monitor the quality of goods and assure the reliability of measurements. "Law on the Management of Quality and Safety of Products and Services", which was promulgated in May 2000, also helps to strengthen the CAMCONTROL position.

In practice, CAMCONTROL cuts in various trading activity scenes for executing so-called "inspecting and monitoring" work and it causes repeated complaints by the private sector as raising the hidden cost or unofficial government charges. For example, subject to the "fees", CAMCOTROL officials visit garment factories before shipment for physical inspection on the "quantity and specification" of exporting garments, by which they say they could provide satisfactory data on products' origin without placing obstacle to the smooth flow of goods. They also



check the label of the false products. However, there is no persuasive explanation given on the reasons how they could assure the quantity and specification of garment products in such a short time, whether the physical inspection would be only one possible way to pursue the purpose and why the officers of MIME and CAMCONTROL have to visit factories together.

On top of this pre-shipment inspection, another cargoes inspection will be carried out at the shipping ports, subject to charges equivalent to 0.1% of exports and imports value and, again, the payment of another unofficial charges is said to require for expediting such inspection.

In any case, it would not be possible for merely one individual organization to assure the quality or measurements of all sorts of goods. To improve such products assurance system and provide meaningful roles to the system, several organizations specialized in each field may have to be set up. Advanced-approval system by examination of samples may be effective and practical ways to secure smooth commodity flow and reduce the unofficial costs.

#### **(7) The CED and Customs Clearance Procedures**

There have been continuing complaints about the Cambodian customs that its customs clearance procedures were too bureaucratic and time-lengthy. It is said that to clear 40 ft container from the customs would take approximately one week for imports and more than 10 days for exports. This is said partly because of the limited manpower of the CED and partly because of the unclear and duplicate job assignment among several border control agencies. Even so, the reality is that the customs clearance time is unpredictable unless the negotiation is involved.

The CED has been working on the drawing up of its reform programs for 2002-2008 and is currently implementing them. For these reform programs, various donors such as IMF and UNDP are subsidizing or closely assisting under TCAP (“Technical Cooperation Action Plan”, which started in October 2001) scheme. The reform programs include:

- Enhancement of revenue collection: preventing smugglings, utilizing electronic means to observe the tax obligation of large companies, etc.
- Implementation of New Law on Customs (by the end of 2002)
- Improvement of trade statistics collection system and revenue analysis: acquiring the necessary computer hardware and software (by May 2002, delayed) and capacity building training to the customs officers
- Restructuring the customs tariff and adoption of AHTN (ASEAN Harmonized Tariff Nomenclature): Conversion of national tariff nomenclature to AHTN and reduction of un-weighted average tariff rate to 15% (by the end of 2003)
- Modernization and simplification of customs procedures: Adoption of new

simplified customs procedures, improvement and expansion of the Green Lanes (by the end of 2003)

- Implementation of Post Clearance Audit (PCA) practice: (by the end 2003)
- Strengthening to enforcement capacity to combat smugglings and customs frauds: restructuring of Anti-smuggling Office, establishing Customs Marine Team, strengthening the enforcement teams of the operational offices (by the end of 2003, the more emphases on the hardware)
- Implementation of information technologies (IT) and customs automation:
  - a) Developing an IT framework
  - b) Assessing the customs automation system
  - c) Preparing the legal basis for IT application
  - d) Implementing the pilot automation project at Head Quarter, Sihanoukville Port and Dry Ports (by the end of 2003)
  - e) Expanding the customs automation to cover Pochentong Airport, Export and Excise (petroleum) (by 2006)
  - f) Introducing TC scan at Sihanoukville (1<sup>st</sup> quarter of 2002)
  - g) X-ray devices at Pochentong Airport (2002-2003)
- Restructuring departmental organization and human resource development (HRD): 2002-2003

Among the above programs, the implementation of new Law on Customs, a reduction of un-weighted average tariff rate to 15%, modernization and simplification of customs procedures (adoption of new simplified customs procedures, improvement and expansion of the Green Lanes) and the implementation of PCA practice and IT system are more important for promoting the trading activities.

As stated before, to supplement and improve provisions of the current Law on Import and Export Duties of 1989, the Draft Law on Customs was first written in 1997. It is said that the Draft Law aims at providing the legislative base for the modern customs operation and meeting the international commitments and standard, and strengthening the CED powers for inspection and seizure of the goods. As it is said, if a new Law puts more emphases on the provision of more power to be given to the CED for inspection and seizure of the goods, it may work out to disturb the goods flow in the routine and normal trading. It has to be coupled with the modernization and simplification of customs procedures, including the adoption of PCA scheme, and the introduction of IT system, which enables the simplification of customs clearance procedures.

In the computerized customs clearance procedures, the following improvement

can be expected.

- Accumulation of the efficient and sufficient profiles of importers and exporters can be made.
- By utilizing such profiles, the expansion of Green Lanes and the adoption of PCA will become possible.
- By reducing the number of physical inspections, the investors may be able to expect the faster flow of cargoes and the less financial loads.
- A data pass between the CED and other governmental offices such as Tax Department and the CDC will become easier, transparent and non-discretionary, which enables to eliminate duplicate reporting by the investors and document handling by the governmental officers, and, consequently, it may lead to the automatic approvals on duty-free import of materials and automatic refund of VAT to the exporters.

Although the computerized customs clearance procedures may produce such improvement and advantages, it will be more important for HRD programs to the CED personnel to be carried out as programmed. The Indonesian government introduced the computerized customs clearance system in 2000 with the expectation of solving the corruption problems committed by the customs officers. The computerization was expected to work out as the system dividing between the customs officers and the traders and avoiding human and personal contacts. As a result, Indonesian government acknowledged that the mere introduction of computerized system was unable to solve the problems and started to examine the establishment of the surveillance committee over the customs activities. Thus, it is vital that the introduction of automatic system and human training has to be carried out simultaneously.

The large discrepancy between the exported amount or value on Cambodian trade statistics and those of the ITC statistics of the United Nations, which is made basing on the importing countries statistics, can be often found. This kind of discrepancy is believed to have occurred because of under-valued or volume in customs declaration of the exporters. This kind of problems cannot be taken care by the computerized system either. The profound reasons for the under-volume or under-value declaration, which can be to try to avoid the unofficial costs or charges, would be the target to be solved.

Although the trials for reforming the institutional frameworks of the CED itself and strengthening the CED capacities are being carried out, there would be other problems left, regarding the time-consuming customs clearance procedures. Prime Minister's Sub-Decree of July 2001 regulates that the CED, CAMCONTROL and the Border Police are to take parts in the customs clearance works. Accordingly, each of them has been placing their own separate inspection and levying their own service fees, official or unofficial, to the

importers/exporters. This duplicate structure in the customs clearance process causes high charges and the unpredictability in customs clearance time. According to a port authority source, customs' documentation fees amount to \$150 per one container, while the port charge remains at \$87. The fees levied by CAMCONTROL and Border Police are to be added up on this amount and, finally, customs clearance fees in Sihanoukville becomes almost two times higher than major ports in the region. The Port Authority of Sihanoukville (PAS) indicates that the transportation fee of one 40ft container from Sihanoukville to Phnom Penh may cost \$500, while these from Singapore to Sihanoukville costs only \$350. For exports, it is said that the costs to transport one 40ft container from Phnom Penh to Sihanoukville and load on a ship would be approximately \$850 and other hidden costs of \$150-200 would be needed.

ICS Report writes, "The pratique committee that greets each vessel comprises about 10 people, representing the port, CED, Immigration, Police and KAMSAB (Kampuchea Shipping Agency and Broker: a public company authorised to handle shipping and customs brokerage within Sihanoukville and Phnom Penh Ports.). The size of the pratique committee appears to be unnecessarily large and involves agencies with little interest in the cargo carried or health conditions on board. The size could be explained by the reported practice of each member of the committee receiving an informal payment of \$20. Although the port is able to handle vessels 24 hours a day, informal payments are necessary to encourage customs and immigration services to operate beyond 5pm (suggested to be \$200-\$300 per vessel)."

Although an Inspection Committee exists in Sihanoukville Port, PAS has been a mere chair-organization with no practical authority and the other four members, the CED, CAMCONTROL, Border Police and KAMSAB, have been consulting to each other and deciding the customs clearance procedures for practice.

In the fifth Government-Private Partnership Forum in August 2001 and sixth Forum in August 2002, such situation of customs clearance process at major ports became the target of complaints by the private sectors. As a countermeasure to tackle this problem, the MEF and the CDC agreed on August 14, 2002, to give PAS an authority for monitoring the actual situations and proposing the improvement measures. PAS has been implementing the monitoring work and trying to solve the problems through the meetings with the Customs Clearance Committee, which consists of the CED, CAMCONTROL, Border Police and KAMSAB. PAS also expressed its intension to gather wide opinions from the users of the Port, majority of which are private importers and exporters.

A single-stop customs inspection among the GMS (Great Mekong Subregion) countries is now under study. GMC countries are trying to unify the customs declaration forms and procedures for inspection. A pilot-testing single-stop inspection will soon be implemented among Cambodia, Laos, Thailand and Viet

Nam. The real problem here would be the distribution of powers among the different organizations in the same country. One ministry may find difficult to consign their authority to other ministry. It may take time to realize the integrated and smooth single-stop inspection system among the GMC countries.

### **E.3.5 Business Environment**

#### **(1) Import duties**

As reviewed before, Cambodia reduced tariff bands down to four, namely 0%, 7%, 15% and 35%, and the weighted average rate fell to 14.2% in 2001. Among them, rate of 7% is being applied to the inputs for domestic production including the materials for garment industry. In 2000, duty-exempted and dutiable imports of textiles were about 280 million U.S. dollars and less than 8 million U.S. dollars respectively and the collected import duty from textile imports was only slightly over half a million U.S. dollars. It does not seem reasonable or appropriate to maintain such intricate bureaucratic procedures in order to collect such a small amount of import duty. The monitoring and control system on duty-exempt import of textiles starts from the import approvals by the Monitoring Department to complicated and time-consuming customs clearance. All of them works to raise the institutional costs of the government and to weaken the competitiveness of Cambodian garment industry by forcing them to bear such institutional costs in ways of paying formal or unofficial fees and charges.

The other problem of import duty scheme of Cambodia is that the RGC puts priority on use of pre-determined dutiable values, which tend to be higher than market values, for calculating import duties, excise taxes and VAT. To apply the higher pre-determined value to gasoline pushes up the retail price of gasoline through inflating the values of customs duty and VAT. This encourages the smuggling of gasoline and it is estimated around 70% of gasoline consumed in Cambodia are smuggled from Thailand. Use of such pre-determined values for calculating duties and taxes is not consistent with WTO rules, which require use of invoice values or actual paid-values as bases for such calculations.

#### **(2) Taxation**

One of the profound defects in Cambodia's tax scheme is that it lacks of double taxation preventive agreement. Without such agreement, the FDI may have to pay the taxes in their mother countries on the profit distributed on tax exempt base in Cambodia or may not be able to deduct the taxes paid in Cambodia from the tax amount payable in their home countries.

Second problem is in the reimbursement procedures of VAT for exporters. The exporters are not supposed to bear VAT on their imported materials to be used in the their production of export commodities, exporting products and other materials to be purchased from domestic markets. According to the regulations of the RGC, VAT, once paid upon purchasing the domestic products, is to be

refund when the final products, which contain such domestic products, are exported. In practice, to get refund of those VAT is time-lengthy process waiting for the decision of Tax Department, which may not come out ever. This can be serious obstacle when the RGC intends to promote regional economies by introducing the SPZ scheme, which will be a different customs territory. Every time the goods cross the border of FZ, except for direct exports case, payment of VAT would be required under promises of refunding upon the exports of final products. If the goods have to come in and out of the FZ several times for processing to final products, whole process would become very complicated and there might occur the problem of double taxation and the refund, in any case, would be requested to settle at the earliest convenience for lessening the capital loads.

Third problem arises from taxation on the large companies. The tax relevant sections of the RGC have formed the Large Taxpayer Unit (LTU) and are trying to strengthen the tax collection from the large companies. This is partly because the tax collecting abilities and capacities of the RGC are limited and not strong enough so that the tax collection efforts tend to concentrate on the easier targets, which are larger companies. Heavily depending on the import duties revenue, which may have to reduce due to the adoption of AFTA scheme, it is inevitable for the RGC to widen taxation base to other taxable areas for increasing its revenue so that they can meet the condition of expenditure/revenue ratio set by IMF. Nevertheless, it would not be fair if only the larger firms will become targets for the tight tax collection, while the middle and small scale firms may escape from such tax obligations and most of the individual persons also will not become the subject to bear taxes. This trial of strengthening LTU may produce the negative effects to FDI promotion.

Under the Article 28 of the currently effective Law on Tax, the real regime taxpayers have obligation to make prepayment of the Tax on Profit. Most of the Investment Enterprises, who have been registered and granted investment incentives with and by the CDC, are FDI providers and they fall in this regime. On the other hand, even if they are entitled to tax exemption period, it only starts from the first year when they record profits from their operation. Hence, Investment Enterprises would be subject to the prepayment of Tax on Profit until such tax exemption period commences. Besides the prepayment of Tax on Profit, there is Minimum Tax of 1% on turnover amount, of which rate of tax is same as the prepayment of Tax on Profit, to be levied on the real regime firms. As a consequence, Investment Enterprises have to pay monthly the amount equal to 1% of the previous month's turnover as prepayment of Tax on Profit and, at the end of a year, such paid amount will be converted to Minimum Tax and goes to the national treasury. Many have been pointing out that this practice was quite contradictory to the principles of LOI but, to date, the Tax Department has not changed their idea and kept collecting prepayment of Tax on Profit. If

Investment Enterprises refuse the prepayment, the Tax department would claim that such Investment Enterprises are not compliant with the investment license and may appeal to cancel the privileges previously provided.

Under the Draft LOI and Draft amendment of Law on Tax, the tax obligations of QIPs for Minimum Tax and Prepayment of Tax on Profit are proposed to abolish.

### **(3) Labor Relations**

Although Cambodian Labor Law is very generous for the labors and complies with an international standard of limitation on child labor, one of the problems is that the Law requires time-consuming administrative procedures, which may not have meaningful effects. Such stipulations include:

- Every employer must make the declaration to the Ministry in charge of Labor each time when hiring or dismissing a worker. This declaration must be made in writing within fifteen days at the latest after the date of hiring or dismissal.
- The internal regulations shall be visaed by the Labor Inspector. This visa shall be issued within a period of sixty days.
- Every person of Cambodian nationality working as a worker for any employer is required to possess an employment card. The employment card is drawn up and issued by the Labor Inspectors. The issuance of employment card shall be subjected to a fee.
- Before being used, all the pages of the payroll ledger must be numbered and initialed by the Labor Inspector.

Under the quota agreement, Cambodia is expected to comply with labor standard for being approved higher quota percentage in the garment exports to the U.S. The U.S.A. will decide at its discretion an increasing ratio, following the assessment of Cambodian labor conditions. Such assessment is carried forwards by on-site inspection in Cambodia. European GSP also requires the similar conditions for admitting the GSP status. To clear such assessment, the RGC set out relatively higher minimum wage, compared to the neighboring countries, for the workers in garment and footwear factories and offered generous working conditions as seen above.

The governmental actions conformable to such the preferential scheme of trade as US Quota or EC GSP may work to improve in the short term the trading environment of Cambodia but may create in longer term the counter result because of its higher manpower cost.

According to the Synthesis Reports on the Working Conditions Situation in Cambodia's Garment Sector, prepared by ILO upon request from the Governments of Cambodia and the United States of America, although the enterprises' compliance to the labor code of Cambodia has been constantly

improved, the misunderstanding or ignorance of the provisions of labor code on both sides of employers and employees sometimes cause the labor disputes and would lead to illegal strikes.

#### **E.4 ISSUES TO BE ADDRESSED IN MASTER PLANS**

##### **E.4.1 Legal and Institutional Frameworks for Private Sector Investment**

###### **(1) LOI and SPZ**

The RGC is now trying to improve overall investment climates of the country by amending 1994 LOI. Draft LOI aims to implement the simpler and more transparent, non-discretionary and predictable principles to regulate FDI and private investments as a whole, with hopes to promote these investments in Cambodia. In order to raise the tax revenue simultaneously, Draft LOI also proposes to limit and reduce the current various fiscal incentives, which includes the limitation of incentives to the SPZ.

Under hard competition among the ASEAN countries and China for attracting FDI, Cambodia must provide more favorable conditions for FDI to win the race. More incentives, better administrative procedures, freer environment for business activities and more sufficient provision of infrastructures would be needed for this purpose. If it is difficult to realize and provide such a frameworks at national level, it may be worthy to introduce them to the area-wise and multi-functioned special zones, which is to be implemented in the designated areas.

###### **(2) Restructuring and reshuffle of the CIB's organization, procedures and assignment**

Since the CIB is responsible for regulating and promoting the private sector investments in Cambodia, it is given the vast authorities and rights, starting from the approvals of the investment projects, provision of incentives, assurance of compliance with requirements for duty-free imports and monitoring activities of the investment enterprises. With the possible promulgation of an amended LOI, the organization of the CIB has to be restructured, the role and assignment of each department has to be reshuffled. At the same time, some of the administrative procedures have to be improved, in order to comply with the principles of Amendment to the LOI.

##### **E.4.2 Restrictions on exports**

To promote trading activities of Cambodian, restricted conditions on exports have to be improved. Typical restrictions are found in the following cases.

- Garment exports procedures
- Restrictions on fish exports (Although the monopolized exports right of a state-owned company was cancelled, exports tax of 10% remains valid.)



- Lengthy and costly customs clearance procedures

These restrictions create the obstacles for smooth flow of goods, rise in total cost and opportunities for claiming unofficial charges or fees and, consequently, weaken the competitiveness of Cambodian exports industries.

In order to improve these situations and promote trading activities, legal and institutional reform in the troubled areas is urgently needed.

#### **E.4.3 Improvement of business environment**

In the taxation area, the following movement and tendency are prominent.

- LTU (Large Taxpayers Unit) is being strengthened to widen tax base and raise the tax revenue.
- Import duties will keep decreasing due to the implementation of CEPT.
- A ratio of VAT in the total revenue has been increasing and is expected to keep rising.
- Corporate tax and salary tax still remain as minor sources of tax revenue.
- The administrative cost for collecting import duties in some areas is too high and not rationally justified.

Together with the problems of refunding VAT for exporters, the more efficient and reasonable taxation system has to be sought out.

The current Law on Labor provides wide protection for laborers and more limitation on employers. Unions are free to form and the Law protects them. Being lack of Labor Court, they altogether became the causes for frequent labor disputes. The fact that the USA uses the improvement conditions in labor environment as a tool for deciding the bonus increase percentage in the garment export quota surely encourages the employees for more demands. Such labor practice may create in the future the serious obstacles in attracting the FDI in other fields than the garment industry.

The Law on Labor gives strong powers to Labor Inspectors and the scope of authorities of Labor Inspectors is also wide. Although solid control is necessary especially in labor field, the provision of too much power to Labor Inspectors may create too much interference in the business activities.

### **E.5 STRATEGIES FOR LEGAL AND INSTITUTIONAL FRAMEWORKS: MASTER PLANS**

#### **E.5.1 Establishment of SPZ**

While the establishment of SPZ has long time been discussed since 1960's but yet realized in Cambodia, AFTA frameworks and Chinese-led FTA conception between ASEAN and China emerged and progressed. Under such circumstances,

there has been less and less time left for Cambodia to become to enable to contribute in the exports within ASEAN or such FTA scheme and keep an equal position to other member countries of ASEAN.

Considering the current situations of Cambodia, as reviewed before, and learning from the past experiences in other countries, to adopt non-traditional or new concept of SPZ, as a strategic tools to win the FDI attraction race and maintain the status as producing country, may be advisable to Cambodian.

This approach seems especially important when the government expects the regional development through industrial development. The key point would be to examine how to promote FDI, as a core sector, and invite local private sector investments, as receivers of technology transfer from and suppliers of necessities to the core zone (Free Zones, which consists of export processing areas, free trade areas and free logistics centers) altogether. One of the possible answers may be the implementation of concept of the area-wise SPZ, which houses FDI and export industries mainly in enclosed Free Zones and invites local industries mainly to the non-closed area of SPZ (Promotion Zones), by providing sufficient infrastructure, improved administrative control, better labor relations and enough fiscal and non-fiscal incentives.

In Cambodia, the legal system is fragile and the proper enforcement of laws and regulations is not prevailing. Administrative control is often discretionary and non-transparent. In the area designated as the SPZ, such problems will be tried to solve by the following measures:

- All the issuance of licenses, approvals or permits and administrative controls in the SPZ will be carried out under the firm initiatives, guidance and supervision of a newly established and independent Authority.
- The investment approval will be issued by the same manners as stipulated in the Draft LOI.
- The proper enforcement of laws and regulations will be closely watched.
- Transparent and non-discretionary administrative control system, including different, simplified, predictable and transparent customs clearance procedures, will be introduced.
- The fiscal and non-fiscal investment incentives, although they may differ in the nature and degree, will be provided both to the areas in and out of the Free Zones in the SPZ.
- All the necessary charges and fees to locate and engage in business or production will be clearly stated and disclosed to the public.
- The SPZ Authority will be responsible to create amicable labor relations and to assist in settling the labor disputes.

The first SPZ is recommended to install in Sihanoukville in view of its strategic

location with only one deep-water port in the country.

### **E.5.2 Enactment of the SPZ Law**

According to quick review of the Draft IZ, the proposed provisions are deemed not sufficient and enough to establish the area-wise SPZ, which contains different customs territories and the SPZ Authority as expected to act as an independent and flexible agency regulating and managing the private investment projects, mainly by the FDI.

The intended SPZ Authority has to be more independent from the existing governmental sections in order to secure the transparency in policy making and management of operations. It has to ensure the accountability and provide the prospective investors with accessibility to the needed information. It shall be equipped with simpler and transparent structures and offer the time saving and less-costly institutional procedures.

In order to set up such new SPZ Authority, the enactment of new SPZ Law, which aims to give wider coverage and introduce new management system, is called for. The new SPZ Law will have to maintain the consistency with the existing policy and legal frameworks and so the relation between the Draft LOI and the new SPZ Law has to be carefully examined.

In this context, the scopes of fiscal incentives to be provided to the investors will be the subject for discussion. The Draft LOI proposed to eliminate the introduction of preferential corporate tax rate and considerably limit the scopes of fiscal incentives, while the SPZ Law will be expected to provide as much incentives as possible. Such incentives may include the preferential rate of corporate tax, tax holidays, accelerated depreciation, no remittance tax, deduction of training expenses from the taxable incomes, etc.

The new SPZ Law shall provide the clear definition of two different areas of the SPZ, namely Free Zones as a different customs territory and other non-free zones areas of SPZ.

It will also stipulate the structure of the SPA Authority and basic principles of administrative procedures and management.

### **E.5.3 The reform of the CDC**

#### **(1) Integration of Evaluation and Incentive Project Department and the Inter-ministerial Coordination Department**

In case of promulgation of the Draft LOI, the roles of Evaluation and Incentive Project Department will be considerably reduced and the importance of the Inter-ministerial Coordination Department seems to increase. Under the Draft LOI, the approval on investment project and the provision of incentives will become automatic. There will be no need to evaluate the proposed investment

projects and to weigh and calculate the tax holiday period. The Department may become a mere window to receive the investment applications and check the completion of necessary documents. At the same time, there will be no inter-ministerial “One-stop” meeting because there will be no evaluation to be required for approving the investment projects. The more important functions that the CIB is expected to carry out will be the “One-stop” shop for arranging the approvals, licenses and permits necessary for the investors to operate. Hence, it is proposed to create, by integrating these two departments, the “One-Stop Investment Service Center” to serve the investors continuously from receiving the investment application and providing the necessary licenses and permits to consultation during the follow-up period.

## **(2) Abolishment of a Master List**

Although the approval time for a Master List amendment has been shortened to 3 working days, it will be better if such unpractical measures can be abolished. It has to be changed to the on-spot application system with automatic approval, if the application is appropriate. For this modification, the computerized system of the CED will have to be utilized. It enables the CIB to check the actual import/export records of the investors-exporters on the computers and, then without delay, to issue the import permits.

Accounting the vast majority of Cambodian exports is generated from garment exports, most of the routine duty-free imports seem to be occupied by such materials as fabrics and auxiliaries for garment production. If 0% rate of import duty is applied for these commodities, the benefits will not be limited to lessen the work volume of the Project Monitoring Department but to reduce the workload of the CED and CANCONTROL at the port site.

The garment manufacturers can freely import necessary materials at any time without applying for the duty-free import to the CIB. This will enable the garment manufacturers to pursue the timely and flexible production of garment and to avoid to keep excess inventory of the materials and, therefore, the competitiveness of Cambodian garment industry will be strengthened.

Since PSI is not applicable to the fabric imports, the customs clearance procedures may become simpler and easier, which may result in bearing less unofficial cost. If the flow of material fabric and auxiliaries becomes free with no duty payment obligation, so-called “textile converters” may become easier to locate the offices and keep the stocks in warehouses located in the SPZ. If the Advanced Import System, under which the exporters can export the fabrics and auxiliaries before they receive orders, is allowed in the country, there will be more promising opportunity appeared to this end. Besides, the possible negative impact on domestic industries would be only limited to minimum, as there are only nominal domestic garment industries existed. On the contrary, as the fabric or other auxiliary materials for garment becomes available at cheaper price and freely, the

promotion of garment manufacturers of domestic capital may become feasible. With all of these strengths, Cambodia may turn to be the major garment-manufacturing center in the region. What the RGC may lose for this would be only about half a million dollars, which are said to collect as customs duty on textiles in 2000.

Even if the material flow becomes freer and cheaper, however, the reform of customs clearance procedures and the deletion of unofficial costs will be the minimum requirement for establishing QR system in the country.

### **(3) Strengthening of the Monitoring Capacity of the Project Monitoring Department**

As reviewed before, the Project Monitoring Department currently lacks of capabilities for monitoring the Investment Enterprises with only the coverage of 60%. Expecting the possible reduction in its workload due to the enactment of the Draft LOI and the proposed abolition of duty free import of fabric controlled by a Master List, the Department has to enhance the monitoring capacities and concentrate on monitoring works over the Investment Enterprises or projects by introducing more IT equipments. In this way, it can collect and provide more effective information used for administering the non-active Investment Enterprises or projects and formulating the country's policies towards FDI promotion.

### **(4) Establishment of Conciliation Board**

In the Draft LOI, the CDC is expected to provide effective and efficient conciliation functions to the investors, especially for FDI. Under the current structure of the CDC, the Legal Department of the CIB is supposed to be in charge of providing conciliation services. As mentioned before, it is uncertain if the Legal Department can offer enough services with such a limited number of staffs. The CDC may have to seek for the possibility for setting up more solid and powerful conciliation board with wider bases, in order to provide more effective conciliation and to gain the confidence of the investors.

### **(5) Establishment of Synthesis Commercial Registration Office**

According to the investment application procedures, the Legal Department of the CIB will give approbation on the company memorandum and the articles of association of the prospective investors, although the investors have to register such investment company with MOC. There is duplication of the process and it may cause discrepancy in interpretation of company memorandum and the articles of association between the Legal Department of the CIB and the MOC. The process had better to be modified so that the more neutral organization can give the final interpretation. Establishing new neutral and independent organization in charge of all sorts of commercial registration, including the registration of

trademarks or intellectual rights, is recommendable.

#### **E.5.4 Reform and Strengthening of the Garment Exporters Association**

Current procedures applied to the garment exports are complicated and the duplication of mandates of job assignment among the governmental agencies is observed. Due to this duplicate assignment, the unnecessary physical inspections are carried out and it provides the opportunities for requesting the payment of unofficial charges or fees.

In Japanese past experiences, the textile manufacturers and traders established the textile exports association for controlling the textile exports in quantity and quality. Such association also provides with the quality guarantees. Likewise, in order to avoid going through the complicated and time consuming current procedures for exports licensing, the organization of similar nature is recommended to create under the initiative of the existing Garment Manufacturers Association of Cambodia.

The representatives of MOC, CED, CAMCONTROL, MIME (if necessary) and garment manufacturers-exporters will form an exports association and such garment exports association would be responsible for monitoring the quality, compliance with export contracts and managing diligent trade behaviors, and issuing necessary licenses and certificates. Only with the permits and certificates of such exports association, the exporting cargoes go through the green lanes at a port without any physical inspection. Thus, the customs clearance will be expedited and become cheaper. Instead, the exports association shall be responsible to make up and maintain the profile database of the member companies and assure the legitimacy of the garment exports and material import by the members.

#### **E.5.5 Deletion of Exports Restriction**

Having vast territorial sea and rivers and lakes, the fishing seems to have bright future as natural resource base industry. According to the Department of Fisheries of MAFF, the current annual fishery quantity of Cambodia is said to be around 400,000 tons, of which 350,000 tons come from fresh water and remaining 50,000 tons from seawater.

Due to the informal estimate, seawater fishery may reach to total 100,000 tons per year but the half a total quantity is exported directly and informally to Thailand and Vietnam. Although it is pointed out that the lack of high-speed boats and insufficient fish ports facilities are the reasons for such informal exports, the low margin level of fishermen's income may be another reason.

In a formal exports channel, intermediate margins of traders and distributors plus 10% export tax will be deducted from the gross export price and the remaining would be the net income of fishermen. The fees, formal or informal, for export

license will be included in the intermediate expenses and deducted from the income of fishermen. In order to promote fisheries and official exports of fish in the country, the margin level for fishermen.

The first measure for achieving this purpose shall be to delete the requirement of exports license or the exports tax of 10%. MAFF says that the purpose of requiring exports license is the prevention of excessive fishery and protection of fish resource and the CED also says the purpose of levying exports tax on fish is to protect fish resource. Institutional duplication has to be dissolved so as to help to increase the net income of fishermen.

#### **E.5.6 Improvement of Customs Clearance Procedures**

The most vital thing to be introduced for improving the customs clearance process would be the implementation of One-stop Inspection. Currently, the CED, CAMCONTROL and Border Police carry out their own physical inspection at their discretion, which causes time delay and additional unofficial costs. By implementing the One-stop Inspection scheme, there will be much improvement in shortening the clearance time and less opportunity to be asked for unofficial charges. PAS is now examining the establishment of the “One-stop Inspection” building at the port yard, which will house the CED, CAMCONTROL, Border Police, KAMSERVE and PAS. The importers and exporters will be expected to go through the same building only once for customs clearance.

Such physical improvement may bring much improvement in customs clearance procedures but the expected effect will be a limited one unless the duplicate mandates among the each organization will be integrated. For physical inspection, one-time inspection will have to be realized.

Secondly, the powers of PAS have to be more strengthened so that the CED and CAMCONTROL will have to be obeyed to the work orders issued by PAS. Since PAS was designated as an autonomous port by Prime Minister’s Sub-Decree, it may make sense PAS controls all the governmental agencies stationed there, at least in the field of loading and unloading of cargoes, and customs clearance works.

Thirdly, PSI made by SGS has to be given more authority so that, as long as the sealing of containers remains unbroken, the cargoes must divert to the green lanes. This enhancement of authority of SGS’s PSI can only be attained by the decision or order of high ranked government officers.

Fourthly, to supplement the weakness of the CED’s capacities, ensure to prevent the illegal behavior such as smuggling, under-value or under-quantity declaration, improve the flow of cargoes in the ports, reduce documentation and expedite the document flow, the introduction of computerized customs clearance system has to be realized. This system will have to be geared for enabling the implementation of PCA, which will become possible only by building up of the profile database,

and expanding the green lanes treatment. The computerized customs clearance system serves not only to the above objectives but also to the overall improvement in investment and trading environment of the country, by enabling the simpler control on duty-free import or VAT refunding. For this, the RGC may consult with international donors for funding and dispatch of experts in the concerned fields.

#### **E.5.7 Improvement of Taxation Scheme**

Among the tax-related problems in Cambodia, the reshuffle and reform of the current taxation system would be the most urgent matter. Heavily relying on the customs duty and VAT, range of taxpayers and taxation basis have to be widened. Although the governmental tax-related agents incline to concentrate its tax collection efforts on large-scale taxpayers, the efforts will have to be oriented to medium sized firms and individual persons. A reshuffle of whole tax system must be sought out in order to adjust the balance of tax burdens among various taxpayers and reassess the appropriate tax rates. Such reform has to be planned in view of the promotion of FDI and domestic investment at the same time.

Some of the possible measures to raise tax revenue may be as follows:

- VAT collection has to be strengthened.
- Through the implementation of new Accounting Law, the corporate tax has to be collected beyond the differences of tax regimes.
- Taxable minimum line of personal income tax and the rate of tax on salary have to be re-examined.
- Taxation on personal capital gains has to be sought out.

Problem regarding the VAT refund may be solved by the introduction of computerized customs clearance system. On the occasion of planning such computer system, the Tax Department of MEF will be encouraged to participate positively.

Double taxation preventive agreement has also to be sought to conclude with as many countries as possible.

#### **E.5.8 Improvement of Labor-related Regulations**

Considering the possible termination of Multi Fiber Agreement in 2004 and the possible emergence of FTA between ASEAN and China, Cambodia would have to be cautious to implement the labor policies, which aims only to meet the condition for widening the garment exports under the export quota and GPS scheme. For maintaining its competitiveness, which mainly comes from rather cheaper labor cost, there shall be certain ceiling to be set for the wage increase and pro-laborer frameworks. Although it may be difficult to lower the level of the current remuneration arrangement in especially garment and footwear industries, there



must be thoughtful consideration taken before any more change to raise the standard of working conditions.

Labor Inspector seems to have excessive rights to control and interfere the normal business practice. In this context, some of the stipulations of Labor Law, which do not have significant meanings, may be deleted to lessen the bureaucratic procedures.

## **E.6 PROPOSED PROJECTS AND IMPLEMENTATION PROGRAM FOR LEGAL AND INSTITUTIONAL FRAMEWORKS**

### **E.6.1 Computerization of Customs Clearance Procedures**

#### **(1) Background**

The CED currently operates the customs clearance work manually. The manual method obviously delays the customs clearance process, allows the leakage of the possible taxation, makes the trade statistics incorrect, forces the investors (exporters and importers) to deal with the duplicated documentation work (for example, the VAT refund procedures) and reporting to the relevant government sections. The human contacts unavoidably occurred by the manual method is said to allow the request for the unofficial charges and fees during the course of customs clearance.

In 1998, the CED started to examine the possibility of introducing ASYCUDA (Automated System to the Customs Data), which is a package software developed by UNCTAD, to apply to the customs clearance and once updated the introduction plan in 2000. The CED finally gave up the introduction plan because of the budgetary constraint.

Although the CED is now working on the installation plan of computer systems with assistance of UNDP under Technical Cooperation Action Plan (TCAP), the scope of installing such computer system is said to be limited to a general use at inside of the CED. As of October 28, 2002, UNDP started the recruit of IT Development Officer in Cambodia for strengthening the advisory and planning activities to the CED in the field of IT development. According to the Reform Program 2002 – 2008 of the CED, they plan to develop and implement the Customs Automation System in between 2002 and 2006.

Among ASEAN member countries, Singapore, Malaysia, Thailand and Indonesia have already installed the computerized customs clearance system. Those systems are believed to contribute considerably to facilitate cargo reporting, shorten the customs clearance time, value customs duty and tax precisely, establish the traders profile, realize effective Post Clearance Audit (PCA) scheme, produce more accurate trade statistics and make revenue analysis easier. The problem of unofficial cost arise in the customs clearance process would not be solved by simply installing the computerized system (by avoiding human

contacts) but the computerization of the customs clearance process would bring enormous benefits to both the investors and the RGC.

## **(2) Objectives**

The computerization of customs clearance procedures has the following objectives:

- Simplifying the customs clearance operation
- Harmonizing with PSI scheme
- Enabling the advance cargo reporting
- Eliminating unnecessary physical inspection by establishing Database of traders
- Widening the PCA opportunities
- Realizing smooth flow of goods
- Providing the investors with the opportunities for planned and rationalized operations, which promote the trade activities
- Avoiding duplicate documentation among the relevant governmental sections
- Preparing accurate trade and revenue statistics in time so that they could contribute to well-planned policy making

## **(3) Outline of the Program**

### *1) Sector to be covered by the new computerized system*

The computerized system is to be installed in the CED, including Head Quarter and main boarder gates such as Sihanoukville Port, Phnom Penh Airport and major gates (3- 4 places as the first stage)

### *2) Systems*

ASYCUDA, EDI or self-development software

Necessary hardware

### *3) Contents of the System*

Customs declaration systems for exports and imports

Selection system of automatic approval for customs clearance

Preparation for intelligent audit

Database for PIA

Preparation and supply of Profile data

Application to handle bond-related procedures

Application to handle customs duties, excise taxes and VAT

Application to handle VAT refund

Application to handle the investors' reporting to the CDC

Automatic preparation of trade statistics and revenue statistics

#### **(4) Implementation Organization**

The CED, Ministry of Economy and Finance (MEF) would conduct the implementation of the system, with cooperation of the Tax Department, MOC, MIME and other relevant ministries.

Outside software consultants with good knowledge of computerization of customs operations and computer hardware engineers would also participate.

Local software houses would have to be involved for preparing the future maintenance work.

#### **(5) Expected Inputs**

ASYCUDA is said to cost US\$2 to 2.5 million. In case of self-developed software, the estimated cost would vary according to the scope of work.

Hardware cost is subject to the estimation.

#### **(6) Implementation Schedule**

2003: Research on the current procedures and required scopes of the system. Future needs and requirements have also to be studied. Outline the desirable system and estimating the expected cost of implementation including the hardware. Complete basic system design.

2004: Complete system design and start programming

2005: Complete programming and test run. Start formal operation by the end of year

### **E.6.2 Dispatch of Experts from Japan for Facilitating the Legal and Institutional Framework of the SPZ**

#### **(1) Background**

The RGC has long been considering the introduction of special economic zone (in Cambodia, called as "Special Promotion Zone" since 1994) to promote FDI and activate national and regional economies. In SEDP II, the establishment of the SPZ is one of the policy targets and its intention has been repeatedly reported in its implementing report.

In spite of its strong will and policy, there has not been any legal framework provide for establishing such SPZ, except for the Sub-Decree of 1995 on the appointment of Stung Hav Industrial Zone. The real purpose, legal and

institutional framework, preferential treatment provided to the investors to locate in the Zone, detailed rules on the business activities of the investors or the licensing and approval procedures have never been seriously examined. This might be due to the lack of experiences and capacities in the RGC for implementing such a policy.

Among ASEAN members, some countries already succeeded in the economic take-off by utilizing the similar scheme for quite a while. China also introduced “one country-two schemes” policy some twenty years ago. For attracting FDI and letting market-oriented economy works in the country, they introduced so-called “Economic Special Zones” and recorded remarkable success.

Those countries are still very much in need of FDI for their economic growth and there can be seen the hard competition among the Asian countries to promote FDI in own country. China is making over-all success in such competition again and the other Asian countries now seem to concentrate their efforts to the selected field where they think they still keep the competitiveness over China. In view of such tendency, there is not much time left for Cambodia and the country shall start serious efforts on implementing the attractive SPZ to promote FDI. To assist such efforts of the RGC, it is recommendable that the RGD would invite from outside some specialists with experiences and knowledge of implementing the legal and institutional framework for the similar zone.

## **(2) Objectives**

- Promote FDI in Cambodia
- Present and give advise to the RGC officials in charge regarding the development concept of the SPZ
- Coordinate the interests among relevant governmental sections
- Streamline the investment procedures and licensing process necessary for the exports-imports activities by utilizing the SPZ
- Being consulted about the measures of the operation management of the SPZ
- Facilitate the formation of legal and institutional framework for the SPZ
- Assist the RGC officials in drafting the law and regulations regarding the SPZ
- Cooperate with the RGC for fund raising

## **(3) Outline of the Program**

- Number of Specialists: Each one specialist for forming legal and institutional framework

- **Duration of Dispatch:**

Minimum for two years: Until the development planning will be completed with the enactment of the SPZ Law.

Another one year for assisting in drafting of Sub-Decree on the Implementation of the Law (After the promulgation of the SPZ Law)

Above dispatch will be implemented intermittently according to the work schedule and necessity.

**(4) Implementation Organizations**

The CDC will be the main governmental sector for implementing the project. The MOC, MIME and other relevant ministries shall cooperate with the CDC.

**(5) Implementation Schedule**

2003: Study on the desirable concept of the prospective SPZ. Form the initial concept plan of legal and institutional framework, together with the incentive plans to be provided to the investors in the SPZ. Draft the Law.

2004: Coordinate the interests among the relevant sections. Facilitate the promulgation of the Law.

2005: Assist in searching for the financing source to establish the SPZ. Start drafting the Sub-Decree on the Implementation of the Law.

Appendix F  
Special Promotion Zone

**THE STUDY ON  
REGIONAL DEVELOPMENT OF  
THE PHNOM PENH-SIHANOUKVILLE GROWTH CORRIDOR  
IN THE KINGDOM OF CAMBODIA**

**Appendix F Special Promotion Zone**

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## **APPENDIX F LEGAL AND INSTITUTIONAL FRAMEWORKS OF THE SPZ IN CAMBODIA**

### **F.1 THE SPECIAL PROMOTION ZONES**

The Special Promotion Zones (SPZ) of Cambodia is an special economic zones (SEZ), which originally means any specific and clearly delineated area, designated by the authority from time to time, where the different economic principles, taxation systems, FDI treatment and/or institutional procedures are applied for the promotion of investment including FDI, foreign trades, especially exports, and inflow of up-to-date technologies, and consequently aims to increase employment and develop regional and national economies.

The principal mechanism would be that, when it seems to be difficult to implement such different principles, systems or procedures nationwide at once, they might be first tried in the SPZ. After the workability and effectiveness of such different principles, systems or procedure being confirmed, they would be extended nationwide. By this way, the SPZ would contribute to the country where the government enables to aim to actively encourage, promote, induce and accelerate a sound and balanced industrial, economic and social development as a whole.

### **F.2 THE CONCEPT OF THE PROPOSED SPZ**

#### **F.2.1 Basic nature of the SPZ in Cambodia**

The SPZ in Cambodia shall be developed, as much as possible, into an autonomous, decentralized, self-reliant and self-sustaining industrial, servicing, commercial/trading, agro-industrial, tourist/recreational, financial and investment center with minimum government intervention, which is derived from lessons learnt from the recent experiences in Asian countries including China. To employ such concept is extremely important when the current regulations and procedures of the central government have been being claimed as obstacles for freer economic activities and weakening the competitiveness of Cambodian export industries. When other developing countries are rushing to deregulate and trying to make procedures simpler, it is not appropriate from the viewpoint of competitiveness that Cambodia alone keeps the traditional measures to control private sector business, especially trades. To overcome this vulnerability and ensure the credibility of private sector investors in the SPZ, it has to be decentralized, try to lessen the interference of a central government, realize transparent management and operations, and offer flexible and quicker response to the investors' requests.

#### **F.2.2 Location of the SPZ**

The location and geographic dispersion of the SPZ shall be identified in LSPZ or the succeeding Sub-Decree. The location has to be decided through a system of

prioritization and conform to the following criteria.

- (1) The proposed area must be identified as a regional growth center in the medium-term development plan authorized by the central government;
- (2) The existence of required infrastructure in the proposed SPZ, such as roads, telephones, port, railways, etc., and the suitability and capacity of the proposed site to absorb such improvements;
- (3) The availability of water source and electric power supply for use of the SPZ;
- (4) The existence of vacant lands available for industrial and commercial development and future expansion of the FZ as well as of lands adjacent to the FZ available for development of residential areas for the SPZ workers;
- (5) The availability of skilled, semi-skilled and non-skilled trainable labor force in and around the SPZ;
- (6) The area must have a significant incremental advantage over other area in the Kingdom of Cambodia and its potential profitability can be established; and
- (7) The area shall be strategically located.
- (8) The SPZ Authority shall provide the detailed feasibility and engineering study to find out such conformity.

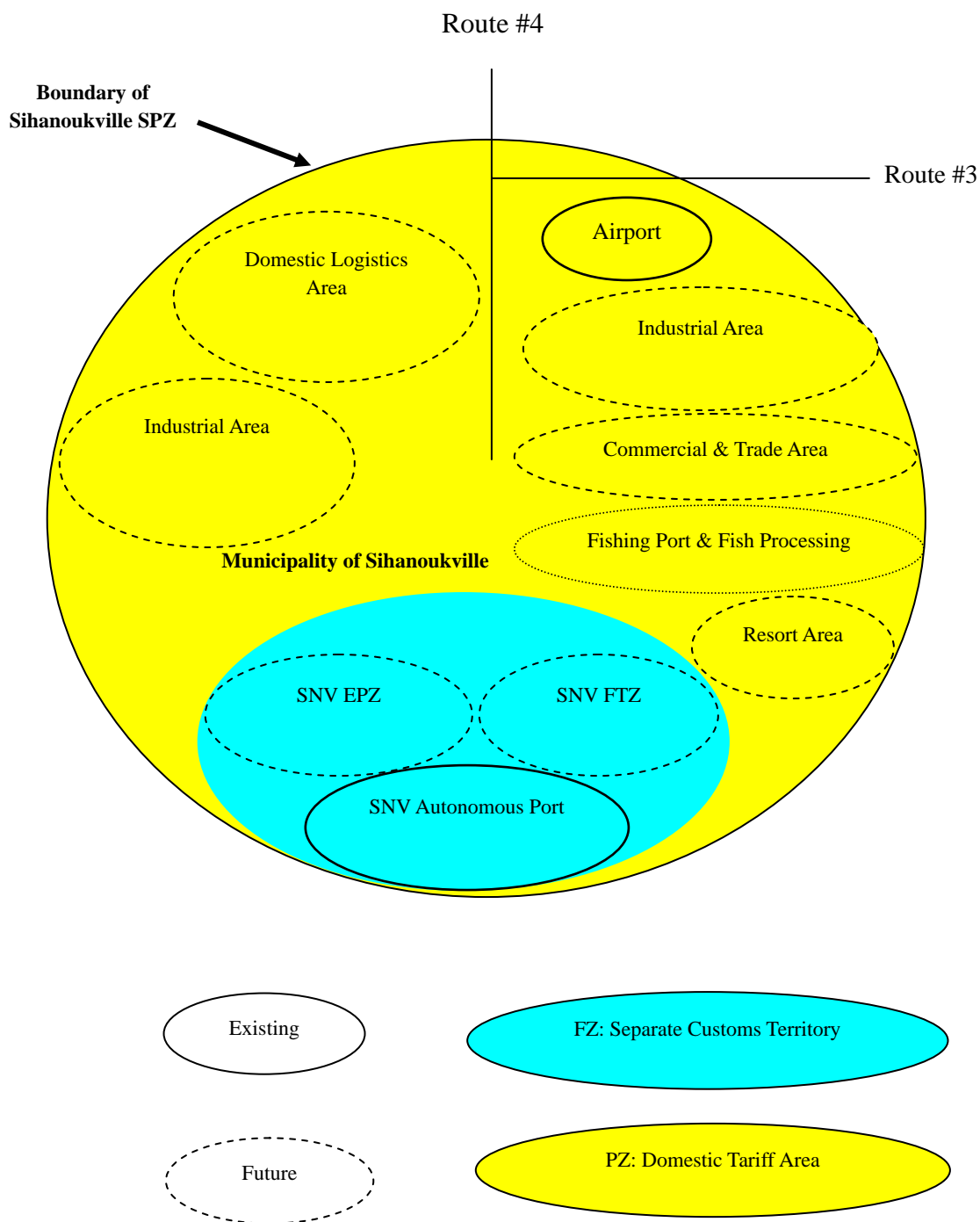
### **F.2.3 Basic structure of the SPZ in Cambodia**

The proposed SPZ in Cambodia shall be divided into Promotion Zone (PZ) as domestic tariff area and Free Zone (FZ) as a separate customs territory.

PZ is designated as promotional area for the industrial, servicing, commercial/trading, agro-industrial, tourist/recreational, real estate and financial development for general purposes. PZ has multi-purposes to function as a receptor of spillover effects of FZ, to support and supply to the business activities in FZ and to develop various industries of especially domestic capitals by utilizing and basing on the accumulation effect. In order to support this development, preferential fiscal and non-fiscal privileges will be granted to the authorized investment enterprises.

FZ is a fenced-in area and shall provide the functions as export processing zones (EPZ), free trade zones (FTZ) and/or free ports (FP). FZ is basically designated as an export-oriented production base but also utilized for the processing of high-value materials, which are subject to the high duties and taxes. It houses duty-free wholesalers/retailers, and export-related traders and service providers. The authorized investment enterprises in FZ will be granted even wider preferential fiscal privileges, which include the duty-exempt imports of raw materials, inputs, capital goods and/or commodities. However, movement of these imported goods from FZ to non-FZ area in the country shall be subject to import duties and relevant taxes.

The schematic drawing of the proposed SPZ in Cambodia is shown below, taking Sihanoukville as an example.



**Figure F-1 Cambodian SPZ (Special Promotion Zones) Scheme  
(Initial Concept of Sihanoukville SPZ)**

### **F.3 PRINCIPLES OF SPZ ESTABLISHMENT**

In order to implement the SPZ scheme described above, overcome the current constraints of Cambodia and improve the investment climates for FDI and local private investment, some basic principles have to be introduced into the SPZ in Cambodia. They will include the following:

#### **Basic Principles in SPZ Establishment**

- Secure the transparency both in policy making and operations
- Keep the ultimate independence in respect of the principles of economic operations, systems, institutions and/or organizations
- Ensure the accountability to the investors
- Provide the investors with an accessibility to information required
- Maintain the consistency with the existing policy framework

### **F.4 LEGAL BASE FOR THE SPZ**

A new legal base shall be established in line with the above principles, to introduce the SPZ scheme which consists of Promotion Zones (hereinafter referred to as “PZ”) as domestic tariff area and the Free Zones (namely, export processing zones, free trade zones and/or free logistics centers: hereinafter collectively referred to as “FZ”) as separate customs territories, and to set up a new and independent organization for operating the planned SPZ.

The proposed SPZ scheme will need to receive utmost confidence from private sector investors, both foreign and domestic, regarding its solidity, consistency, stability and sustainability. In addition to it, the establishment of separate customs territory in the SPZ will place a certain limitation on the country’s ultimate sovereignty. The proposed SPZ scheme, therefore, shall be adopted basing on the broad consensus of the national assembly, which is believed to represent the general will of the country. In this context, Sub-Decree deems not to be appropriate as a legal base for such SPZ because it can be issued by the Prime Minister or the Council of Ministers even without the consensus of the national assembly and, consequently, a legal base necessary for the proposed SPZ shall be a new Law. Besides, a law also has the strongest legal enforcement power only after the Constitution in Cambodia. Such a new law may be named as the “Law on Special Promotion Zone” (hereinafter referred to as “LSPZ”).

### **F.5 PURPOSES OF THE LSPZ**

A new LSPZ should be enacted for the following purposes:

### **Objectives of LSPZ**

- Clarify purpose and objectives of the SPZ
- Declare the establishment and nature of the SPZ
- Identify the SPZ zones or areas and/or requirements to be designated as the SPZ
- Define the legal status and functions of the SPZ
- Adopt its own economic and financial principles
- Establish the governing structures of the SPZ
- Define the operational rules and procedures and provide investment incentives

The LSPZ also aims at offering the following system and facilities among others, to attract foreign and local private investors and activate the economic activities in the SPZ and its hinterland:

### **Systems and Facilities offered by LSPZ**

- Full range of investment incentives including fiscal incentives such as preferential rate of corporate profit tax, tax holidays, special depreciation, etc. and non-fiscal incentives
- A simpler and predictable license provision system
- Smooth, transparent and efficient customs clearance procedures
- A transparent fee and charge system for the services rendered by the CAPZA
- Transparent and freer land leasing and use system
- Flexible labor relations and use of foreign labor
- Limited interference from the central government and other governmental agencies
- Economic freedom based on the market economy principle
- Freer transaction of foreign currencies
- An adequate accounting system

## **F.6 THE SPZ AUTHORITY- STRUCTURE**

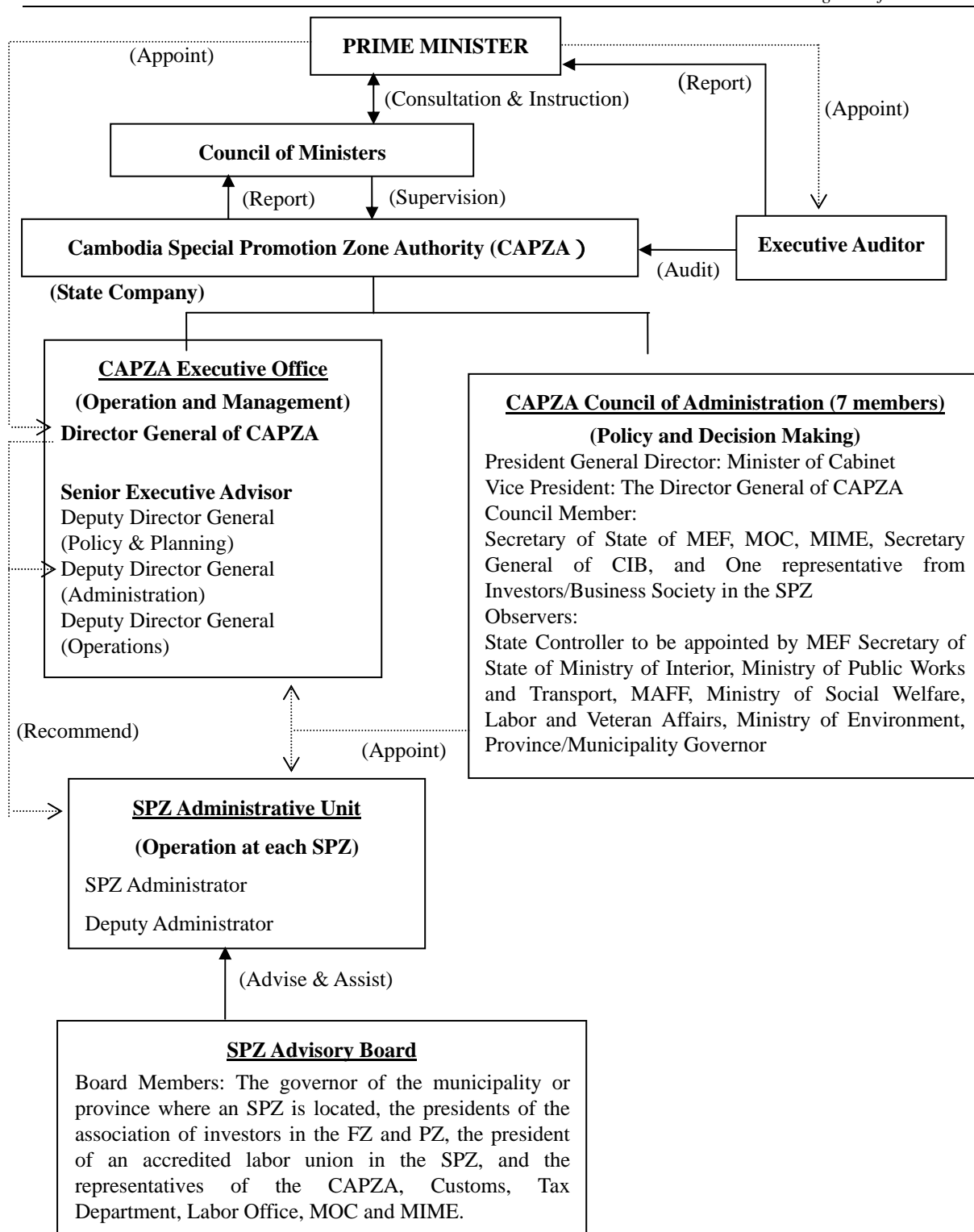
As a governing body of the SPZ, the Cambodian Special Promotion Zones Authority (CAPZA) will be established. The CAPZA will be an autonomous and independent public corporation, which is to be under a guidance of the Council of Ministers. The CAPZA shall keep its own account and be responsible for its profit and loss. The profit generated from its operation shall be taxable.

The CAPZA will have the Council of Administration (hereinafter referred to as the “Council”) as policy and decision making organization. The Council will be chaired by Minister of the Cabinet as a president general director, supported by a director general of the CAPZA who is a vice president. The Council will have other five members, totaling seven members of the Council as stipulated by the KRAM of June 17, 1996, on the General Statute of Public Enterprises. The other five chairs of the Council member will be taken by the secretary of states of the MEF, MOC, MIME, a secretary general of the CIB and a representative of investor/business society of the SPZ. Other relevant ministries will dispatch observers and the governor of a province/municipality where an SPZ locates also will have a seat as an observer.

For management of the CAPZA and operation of each SPZ, it will have a CAPZA Executive Office, which will be led by a Director General, who can be a private person, regardless of his/her nationality. The director general will be supported by three deputy directors general, who will be in charge of policy and planning, administration and operations.

At the SPZ site, the CAPZA will set up the SPZ Administrative Unit, which will be in charge of day-today operations of the SPZ. The Administrative Unit will be managed by a SPZ Administrator and his/her deputy, who will be given advises and assistance by the SPZ Advisory Board. The Advisory Board shall discuss about the problems on routines, desirable countermeasures and the requests to the CAPZA. It will have a representative of investors, labor unions, local government, the CAPZA, relevant ministries as its members.

The organization chart of the CAPZA is shown below and the job description of each unit of the CAPZA and the rights and responsibilities of a person in charge are explained in the attached “Draft Sample of Law on the Special Promotion Zones (Cambodia)”



**Figure F-2 Organization of the Cambodia Special Promotion Zones Authority (CAPZA)**

## **F.7 INSTITUTIONAL FRAMEWORK OF THE CAPZA**

### **F.7.1 Management of the CAPZA**

The director general of the CAPZA is recommended to invite from the outside of

the current governmental circle, because his/her experience and knowledge in private sector will be valuable to deal with the private sector investors.

For this reason, he/she may be a private person, regardless of nationality, with sufficient experiences in a similar field and to be reputed to be fair and serene character. He/she is also expected to show a strong leadership to overcome the existing constraints for implementing new concept of specially promoted economic and industrial zones and secure the practical and flexible zone operation to meet the business needs of the investors located in the zones. To strengthen his/her abilities, he/she shall be allowed to maintain directly contact with the Prime Minister to have his opinion regarding the preferential treatment, procedures, management, operation and/or other institutional matters of the zones.

### **F.7.2 Officials of the CAPZA**

The officials of the CAPZA may be transferred or dispatched from the relevant sections of the government or institutions. Upon taking up the positions in the CAPZA, transferred officers would cease to be public servants. Those dispatched officers from the customs, tax office, MOC or other relevant governmental sections as to be specified by Sub-Decree, shall maintain their status as public servants but be expected to observe and follow the rule and regulations set by the CAPZA.

Private persons, including foreign nationals, with appropriate abilities, experiences and expertise would also be invited to take up the positions, even at higher ranks.

Salaries and wages of the CAPZA officers and employees, including transferred officers, shall be determined independently by the CAPZA without referring to the public servant salaries standard. It is recommendable to offer the generous remunerations to the officers and employees of the CAPZA but the strict obedience to the CAPZA rules and regulations would be compulsorily requested. Failure to observe this principle by the officers and employees may lead to the immediate dismissal from their job positions.

For those officers dispatched from the relevant ministries or other governmental institutions, the special allowances on top of the regular remuneration as governmental officers shall be payable so that they can enjoy generous standard of income. It may serve to prevent the corruptions or to reduce the claims for their requesting for the unofficial charges or fees.

The CAPZA may offer additional allowances to its officers and employees, depending on their performances.

### **F.7.3 The income of the CAPZA**

The CAPZA shall expect its income from the charges and fees levied on the various services rendered by the CAPZA to the investors located in the SPZ. The Services rendered by the CAPZA may include: service on the provision of one-stop shop center regarding the investment approvals, registration of new



companies, issuance of various licenses and approvals, employee training service charges, security service charges,

The CAPZA may expect other income generated from the supply of utilities, waste disposal and treatment services or land and building leasing, as the case may be.

Those charges, fees and rents will be determined by the CAPZA and set at the competitive level. They are to be clearly disclosed to the public and printed for circulations.

#### **F.7.4 Functional Units at the SPZ Site**

The CAPZA shall keep its own functional units, which provide or arrange to be provided by the relevant authorities the legal and institutional service such as licensing, issuing the permits or approvals, customs clearance and tax valuation on the basis of transparent and non-negotiating principles.

##### **(1) One-stop Shop Center**

The CAPZA will establish the One-Stop Shop Center. All the necessary licenses, permits and/or approvals for the operation and business activities in the SPZ can be obtained through this Center, subject to the payment of service fees. For facilitating these activities of One-stop Shop Center, the officers from relevant ministries shall be dispatched and stationed at the SPZ.

##### **(2) Customs Clearance Unit**

The CAPZA Customs Clearance Unit shall deal with the customs clearance procedures for the cargoes into or out from FZ, through the documents inspection in principle, by utilizing the computerized system. Such documents inspection shall be done solely at the inside of FZ. The customs clearance unit of the CAPZA, which consists of the customs officers dispatched by the MEF but being under a control of the CAPZA, will create the database of the investors (importers and exporters) profiles and apply the post-clearance audit (PCA) system, if necessary. By adopting such a green lanes policy, the CAPZA will be able to secure the smoother in- and out-flow of cargoes and products.

For PZ enterprises, the CAPZA customs clearance unit will also be in charge of clearing incoming and outgoing cargoes. In any case, the unit shall try to minimize the physical inspection and assure not to block the smooth flow of cargoes. When the unit accumulates the enough profile data on the PZ enterprises, the PCA system will have to be applied to all PZ enterprises.

Inspection measures shall be determined in accordance with the rules set by the CAPZA and a single customs officer may not be able to decide.

##### **(3) Taxation Unit**

The CAPZA also maintains its own Taxation Unit, which is responsible for valuing tax, collecting various taxes, providing tax refund services and other tax-related services to the investors to locate in the SPZ.

By placing the dispatched officers from the Tax Department of the MEF under a direct supervision of the CAPZA, more transparent and quicker tax valuation and refund will be expected to secure. At the same time, by letting them concentrate only to the SPZ enterprises, more effective, accountable and proper tax collection will be attained.

As described in Chapter 3.9.5 (3), the exporters are not supposed to bear VAT on their imported materials to be used in their production of export commodities, exporting products and other materials to be purchased from domestic markets. VAT, once paid upon purchasing the domestic products, is to be refund when the final products, which contain such domestic products, are exported. In the SPZ, such VAT amount, levied upon purchasing the domestic products, shall be kept in books and actual payment will not be involved. When the final products are exported, the corresponding VAT amount is erased from the VAT record book. The computerized customs clearance shall be installed for this purpose as well.

#### **(4) Labor Relation Unit**

The CAPZA will also establish the Labor Relation and Employment Office (hereinafter referred to as “Labor Office”) and appoint its own Labor Inspectors under the agreement with the Ministry of Labor.

The Labor Office prepares a Master Employment Contract, which will be used for all the staffs and workers in the SPZ. It will be written in Khmer language and contains all the requirements provided under the Law on Labor and LSPZ, as amended, other relevant issuances of the national government. A master employment contract shall be made into a format with which detailed terms and conditions of employment of each staff member or worker can be clearly described.

The Labor Office shall arrange and provide explanatory seminars on the contents and interpretation of employment contract to all the new staffs and workers so that the unnecessary disputes between employers and employees, caused by misunderstanding or ignorance, or illegal strikes can be avoided. Employers’ diligence to such a master employment contract and actual working conditions will be inspected periodically by the CAPZA Labor Inspector.

The Labor Office will also act as a placement office where job seekers can register their careers and intentions and employers can look for the candidates for employment. For this purpose, The Labor Office may keep the file of prospective staffs and workers who will be selected through screening placed according to the rules and regulations set by the CAPZA. The Labor Office may charge the introduction service charge on employer side when they conclude employment contracts with such registered job seekers but is prohibited to charge and collect any fees from the staffs or workers. Besides the employers are guaranteed to freely hire any person from anywhere.

For human resource development purpose, the Labor Office will arrange and

provide skill development workshops or other job-training seminars for the staffs and workers in the SPZ. When employers bear the attendance fees, the Labor Office shall issue the certified receipt of such attendance fees and, by presenting it to the Taxation Unit, employers are allowed to deduct a half of such fees from the tax on profit.

It also acts as a conciliation and mediation center for labor-related issues and/or disputes. When any dispute comes up relating to the labor relation between employers and employees, the Labor Office shall act as the first hand to conciliate and mediate. For pursuing this function, the Labor Office shall keep close contact with the tripartite conciliation body, which consists of representatives of the Ministry of Labor, investors and laborers and is set up as attached to the CAPZA Executive Office.

#### **(5) SME Promotion Unit**

The financing scheme, which targets solely at the promotion of SMEs and may be called as a SME financing scheme, may be arranged and provided by the CAPZA to the SPZ-registered SMEs. The small to medium amount of facilities purchasing or operating capital can be borrowed by SMEs, either directly from the CAPZA or from the commercial banks. In the latter case, the credit guarantee will be provided by the CAPZA, together with the central government's back guarantee, to the commercial banks to facilitate such borrowings. As the source fund for the direct finance of the CAPZA, two-step-loan (TSL) may be arranged by the central government. In order to realize such SME financing scheme, the CAPZA Executive Office will discuss and coordinate with the MEF.

SME Promotion Unit, upon introduction of such SME financing scheme into the SPZ, will try to find the prospective borrowers and place on them various training on proper accounting and effective management. Only qualified SMEs in such training will be entitled to use SME financing scheme.

#### **(6) Telecommunication Unit**

Telecommunication Unit shall be responsible to examine and promote IT environment in the SPZ. Among them, Broadband corresponding facilities have to be introduced at the earliest possible occasion. It shall provide the telecommunication services at internationally competitive prices.

#### **(7) Security and Fire-fighting Unit**

The CAPZA will establish its own security forces and fire-fighting units so that, unless so requested by the CAPZA, general police or boarder police will not be allowed to interfere the normal operation of the investors.

#### **(8) Infrastructure Unit**

The Unit shall make plans for supplying the adequate and sufficient infrastructures to the SPZ at the internationally competitive prices and maintain the necessary facilities.

**(9) Overall arrangement of functional units at the SPZ site**

The staffs of functional units at the SPZ site may be concurrent with those having same responsibilities and being in similar positions of the CAPZA Head Quota at the first stage of the SPZ development. The staffs of the functional units at the SPZ site will be gradually appointed as full-time staffs according to the degree of development of the SPZ.

**F.8 RELATED REFORM IN PROCEDURES AND TAXATION SCHEME**

**F.8.1 Inspection**

In case that physical inspection is carried out for the customs, taxation, labor or other purposes, the CAPZA will consider not disturbing the normal operation of the investors. For this, the CAPZA will form a team of inspectors, even from the different authorities, to complete physical inspection at one time. Any physical inspection can be carried out subject to the prior approval of the CAPZA management.

Inspection on the export products, which will be made at the factories of the SPZ enterprises, will be carried out by a group of relevant officers only one time and the container will be sealed. In such manner, said inspection will be final before shipment.

**F.8.2 Taxation scheme**

**(1) Taxation on capital gain generated from the transaction of lands in the SPZ**

Although there exists no capital gain taxation in Cambodia at this moment, it is recommendable to introduce it by limiting only to the SPZ. Upon implementation of the SPZ scheme, it can be expected that the speculation money may flow into the SPZ area and consequently the price of lands may increase to the extent the advantage of proposed fiscal incentives may be absorbed and disappeared.

The tax rates shall be varied according to the period of ownership of the lands. The proposed rates are:

50% for the ownership of 5 years or less

25% for the ownership of 10 years or less

10% for the ownership of more than 10 years

**(2) Import duty on the materials for garments and footwear**

The amount of import duty collected from the textiles has been only around half a million dollars. At the same time, it has been long time claimed by the garment manufacturers that the bureaucratic arrangement to allow them to import the garment materials exempt of duty were too complicated, time-consuming and costly. If the reason for such procedural arrangement is for only differentiating between the duty-free import and taxable import of textiles and preventing the

leakage of collecting duty and the consequence of such regulations and procedures results only at half a million dollars, it does not seem to be paid off.

For rationalizing the procedural cost both on the importers and government side and improving the competitiveness of the garment industry, the application of 0% rate import tax for garment and footwear materials and auxiliaries is recommendable.

By this way, the garment and footwear manufacturers can freely import any kind of materials at any time they need so that they can meet the customers request more flexibly and in shorter time. It will for sure lead to the strengthening of the competitiveness of the country's garment and footwear industries because the ability to respond the requirement for shorter-period shipment, which many buyers think very vital nowadays, will be especially improved. If they can meet such requirement, they may be able to cut into the higher products range, which will bring more value added. As a result, the country may be able to attract more garment and footwear manufactures and, therefore, the industries' competitiveness will be strengthened and may overcome the constraints, which may increase after 2004.

#### **F.9 FISCAL INCENTIVES TO BE GRANTED TO THE SPZ ENTERPRISES**

The tables of the proposed fiscal incentive scheme, which would be granted to the SPZ enterprises, are attached below.

As the enterprises to locate in PZ may also be expected to come from the garment and footwear industries, by utilizing the application of 0% rate of import duty on their materials, the simplified procedures on licensing and inspections to be provided within the SPZ and the advantageous location for import/export, the extensive incentives shall be granted to these enterprises in FZ as well.

Special depreciation will be an effective measure to offer, in order to attract the capital-intensive industries, which Cambodia is in need to facilitate the technology improvement.

In order to aim the capital accumulations and promote more investment, the corporate tax on reinvested profit is recommended to be exempt.

Human resource development has to be encouraged in the SPZ for realizing the technology transfer and substituting the foreign personnel at the earlier stage. For this purpose, the training allowance is proposed to apply to the SPZ enterprises.

The whole idea will be that the SPZ shall aim to facilitate and promote the private investment as much as possible, by offering the freer business environment and the cheapest cost as possible in the first place. With this, the SPZ may be able to assure the accumulation of various industries and improve their competitiveness. If the more enterprises come, the wider taxation base the SPZ can expect. The tax elimination or reduction cost shall be paid off in a medium to long range of period in the SPZ.

**F.10 DRAFT SAMPLE OF LAW ON THE SPECIAL PROMOTION ZONES**

Draft Sample of Law on the Special Promotion Zones is attached hereto. The Sub-Decree, which will provide the detailed rules and regulations on the activities of CAPZA and its each functional unit, specific procedures of customs clearance and tax evaluation and collection, etc. in the SPZ, shall be separately prepared at the time of implementation of the Law on SPZ.

**Table F-1 Proposed Fiscal Incentive Schemes for Investment Enterprises/Projects/Persons in SPZ**

Description of Fiscal Incentives	FZ (Free Zone)	PZ (Promotion Zone)	2002 Draft Amendment Law on Investment
Corporate Tax	10% (5% for FZ developers)	15%	20%
Tax Holiday	Trigger period + 3 years + n year	Trigger period + 3 years + n year	Trigger period + 3 years + n year (Trigger period: 1 <sup>st</sup> year of profit or 3 years after earning first revenue, whichever sooner) (n year: Tourism 1 year, Plantation agriculture and heavy industry 2 years, Infrastructure and large plantation agriculture 3 years)
Special Depreciation	40% in the first year operation on production equipment	40% in the first year operation on production equipment	40% in the first year operation (In case of using the entitlement of tax holiday, a QIP shall no be entitled to claim any special depreciation.)
Corporate Tax on Reinvestment of profits	Not applicable	Not applicable	No description (Applicable as proposed in the Draft of Amendment Law on Taxation)
Corporate Tax on Distribution of dividends and profits	Applicable	Applicable	No description (Applicable as proposed in the Draft of Amendment Law on Taxation)
Duty free import	Production equipment, construction materials and production input materials (On the part of production input materials, which will has been used for the products sold to the domestic market, import duty shall be levied at a time of delivery to the outside of FZ.)	Production equipment and construction materials	Export QIP and Supporting QIP: Production equipment, construction materials and production input materials Domestic-oriented QIP: Production equipment and construction materials
Minimum Tax	Not applicable	Not applicable	Not applicable
Pre-payment of Tax on Profit	Not applicable during tax holiday period	Not applicable during tax holiday period	Not applicable during tax holiday period
Loss carry-forward	5 years	5 years	No description (5 years as stipulated in Law on Tax)

Withholding tax on salary for expatriates	10%	10%	No description (20% as stipulated in Law on Taxation)
Tax on house and land rent	Not applicable	5%	No description (10% as stipulated in Law on Taxation)
Value Added Tax	Exempt for exporting products, imported materials to be used in the production of export commodities and other materials to be purchased from domestic markets, which are deemed as imported materials, transactions within FZ (VAT, to be payable for the imported materials, shall be kept in books and actual payment will not be involved. When the final products are exported, the corresponding VAT amount is erased from the VAT record.)	Exempt direct exports & indirect exports (For indirect exports, VAT amount payable shall be kept in books and actual payment will not be involved. When the final products are exported, the corresponding VAT amount is erased from the VAT record book.)	No description (10% as stipulated in Law on Taxation)
Training Allowance	Half a training expenses provided to Cambodian citizens can be deducted from the Tax on Profit	Ditto	No description
Capital Gain Tax on Land (New to be introduced. Capital gain from the sale of land to be calculated separately in case of corporation. The personal owner of land shall also be subject for taxation.)	None	50% for the ownership of 5 years or less 25% for the ownership of 10 years or less <i>10% for the ownership of more than 10 years</i>	No description

\*QIP: “Qualified Investment Project” proposed under 2002 Draft Amendment LOI

\*Cambodian taxes: No local tax, No remittance tax, No property tax



**KINGDOM OF CAMBODIA**  
***NATION – RELIGION- KING***

- Referring to....
- Referring to.....
- Referring to.....

**HEREBY PROMULGATE**

The Law on The Special Promotion Zones enacted by the National Assembly on the ... of ... 200x at its ..th plenary session of the ... legislature and entirely approved by the Senate on its form and legal concepts on the ... of ... 200x at its ... th plenary session of the ... legislature and include the following provisions:

**LAW ON THE SPECIAL PROMOTION ZONES**

***CHAPTER I***

***PURPOSES AND OBJECTIVES; ESTABLISHMENT  
AND NATURE OF SPECIAL PROMOTION ZONES;  
COORDINATION WITH OTHER SIMILAR SCHEMES***

***Article 1. Title***

This Law shall be known and cited as “Law on the Special Promotion Zone of the Kingdom of Cambodia”.

***Article 2. Declaration of Policy***

It is the declared policy of the Royal Government of Cambodia (hereinafter referred to as “RGC”) that aims to actively encourage, promote, induce and accelerate a sound and balanced industrial, economic and social development of the country in order to provide jobs to the people, increase their productivity and their individual and family income, and thereby improve the level and quality of their living condition. For this purpose, the RGC shall establish the special promotion zones

in suitable and strategic locations in the country and thereby attract effectively legitimate and productive foreign and domestic investments.

### **Article 3. *Purposes, Intents and Objectives***

The purpose, intent and objective of this Law is as follows:

- (a) To establish the legal framework and mechanisms for the planning and monitoring of the special promotion zones;
- (b) To transform selected areas in the country into highly developed, industrial, commercial, services, tourist, agro-industrial, investment, and financial centers, where highly trained workers and efficient services will be available to commercial enterprises;
- (c) To promote the flow of investors, both foreign and domestic, into the special promotion zones which would generate employment opportunities and establish backward and forward linkage among industries in and around the special promotion zones;
- (d) To provide foreign exchange earnings by promoting exports;
- (e) To stimulate the repatriation of Cambodian capital by providing attractive climate and incentives for business activities;
- (f) To promote industrial, servicing and financial cooperation between the Kingdom of Cambodia and industrialized countries through modernized industries that will upgrade the country's industrial sector and improve productivity by utilizing new technological and managerial know-how; and
- (g) To vest the part of the special promotion zones on certain areas thereof with the status of a separate customs territory within the framework of the Constitution and the national sovereignty and territorial integrity of the Kingdom of Cambodia.

### **Article 4. *Definition of Terms***

For purposes of this Law, the following definitions shall apply to the following terms:

- (a) "Special Promotion Zone" (hereinafter referred to as "SPZ") - a selected area which has the potential to be developed into industrial, tourist/recreational, commercial, servicing, agro-industrial, investment and financial center. An SPZ shall contain Promotion Zone (hereinafter referred to as "PZ") as domestic tariff area and Free Zone

(hereinafter referred to as “FZ”) as separate customs territory. FZ shall have the functions as export processing zones (hereinafter referred to as “EPZ”), free trade zones (hereinafter referred to as “FTZ”) and/or free logistics centers (or free port as it may be called, hereinafter referred to as “FP”). Enterprises within the SPZ shall be granted preferential fiscal and non-fiscal treatment.

(b) “Promotion Zones” (PZ) – a domestic tariff area within the SPZ, which is designated as promotional area for the industrial, servicing, commercial/trading, agro-industrial, tourist/recreational, real estate and financial development for general purposes. The authorized investment enterprises will be granted preferential fiscal and non-fiscal privileges.

(c) “Free Zones (FZ)” - a fenced-in area which is a separate customs territory and shall provide the functions as export processing zones (EPZ), free trade zones (FTZ) and/or free ports (FP). FZ is basically designated as an export-oriented production base but also utilized for the processing of high-value materials, which are subject to the high duties and taxes. It houses duty-free wholesalers/retailers, and export-related traders and service providers. The authorized investment enterprises in FZ will be granted even wider preferential fiscal and non-fiscal privileges, which include the imports of raw materials, inputs, capital goods and/or commodities. However, movement of these imported goods from FZ to non-FZ area in the country shall be subject to import duties and relevant taxes.

(d) “export processing zones” (EPZ) - a specialized industrial area located physically and/or administratively outside customs territory, predominantly oriented to export production. Enterprises located in EPZ are allowed to import raw materials, inputs and capital goods free from the import duties and relevant taxes. However, movement of these imported goods from EPZ to non-FZ area in the country shall be subject to import duties and other relevant taxes.

(e) “free trade zones” (FTZ) - an isolated policed area adjacent to a port of entry where imported goods may be unloaded for immediate transshipment, stored, repacked, sorted, mixed, processed, assembled, sold and/or bought for wholesale or retail purpose, or otherwise manipulated without being subject to import duties and relevant taxes. However, movement of these imported goods from FTZ area to a non-FZ area in the country shall be subject to duties and taxes.

(f) “free logistics center or free port” (FP) - an isolated policed area near to a port of entry where imported goods may be unloaded for immediate transshipment or stored, repacked, sorted, mixed, or otherwise manipulated without being subject to import duties and relevant taxes. However, movement of these imported goods from FP a

non-FZ area in the country shall be subject to duties and taxes.

#### **Article 5. *Establishment of SPZ***

To ensure the viability and geographic dispersion of the SPZ through a system of prioritization, the whole Sihanoukville municipality, except two national park and one forest management and water conservation areas, is initially identified as the SPZ, subject to the criteria specified in Article 6:

These areas shall be developed through any of the following schemes:

- (i) Private initiative;
- (ii) Local government initiative with the assistance of the national government;
- (iii) National government initiative; and
- (iv) The mixed scheme of the above

The meters and boundary of the SPZ are to be delineated and more particularly described in a Sub-Decree to be issued by the Prime Minister of the RGC, upon the recommendation of the Cambodian Special Promotion Zones Authority (hereinafter referred to as “CAPZA”), which shall be established under this Law, in coordination with the relevant governmental organizations.

#### **Article 6. *Criteria for the Establishment of Other SPZ***

In addition to the SPZ identified in Article 5 of this Law, other areas may be established as a SPZ in a Sub-Decree to be issued by the Prime Minister of the RGC, subject to the evaluation and recommendation of the CAPZA, based on a detailed feasibility and engineering study which must conform to the following criteria:

- (a) The proposed area must be identified as a regional growth center in the medium-term development plan authorized by the central government;
- (b) The existence of required infrastructure in the proposed SPZ, such as roads, telephones, port, railways, etc., and the suitability and capacity of the proposed site to absorb such improvements;
- (c) The availability of water source and electric power supply for use of the SPZ;
- (d) The existence of vacant lands available for industrial and commercial development and future expansion of the FZ as well as of lands adjacent to the FZ

- available for development of residential areas for the SPZ workers;
- (e) The availability of skilled, semi-skilled and non-skilled trainable labor force in and around the SPZ;
  - (f) The area must have a significant incremental advantage over other area in the Kingdom of Cambodia and its potential profitability can be established; and
  - (g) The area shall be strategically located.

Other areas, which do not meet the foregoing criteria, may be established as a SPZ: Provided, That the said area shall be developed only through local government and/or private sector initiative, and without any financial exposure on the part of the national government: Provided, further, That the area can be easily secured to curtail smuggling activities: Provided, finally, That after five (5) years the area must have attained a substantial degree of development, the indicators of which shall be formulated by the CAPZA.

***Article 7. SPZ to be a Decentralized Industrial, Servicing, Commercial/Trading, Agro-Industrial, Tourist/Recreational, Financial and Investment Community***

Within the framework of the Constitution, the interest of national sovereignty and territorial integrity of the Kingdom of Cambodia, the SPZ shall be developed, as much as possible, into a decentralized, self-reliant and self-sustaining industrial, servicing, commercial/trading, agro-industrial, tourist/recreational, financial and investment center with minimum government intervention. Each SPZ shall be provided with transportation, telecommunications, and other facilities needed to generate linkage with industries and employment opportunities for its own inhabitants and those of nearby towns and cities.

The SPZ shall administer itself on industrial, economic, tourism, financial and investment development, and such other matters within the exclusive competence of the national government.

The SPZ may establish mutually beneficial economic relations with other entities within the country, or, subject to the administrative guidance of the Council of the Ministers, the Ministry of Commerce (hereinafter referred to as “MOC”), the Ministry of Economy and Finance (hereinafter referred to as “MEF”), the Ministry of Industry, Mine and Energy (hereinafter referred to as “MIME”), the Ministry of Foreign Affairs (hereinafter

referred to as “MFA”) and the Ministry of Interior (hereinafter referred to as “MOI”), with foreign entities or enterprises.

Foreign citizens and companies owned by non-Cambodian citizens in whatever proportion may set up enterprises in the SPZ, either by themselves or in joint venture with the Cambodian nationals in any sector of industry, international trade and commerce, services within the SPZ. Their assets, profits and other legitimate interests shall be protected: Provided, That the SPZ through the CAPZA may require a minimum investment for any SPZ enterprise in freely convertible currencies: Provided, further, That the new investment shall fall under the priorities, thrusts and limits provided for in this Law.

**Article 8. *FZ to be Operated and Managed as Separate Customs Territory***

The FZ in an SPZ shall be managed and operated by the CAPZA as a separate customs territory.

The CAPZA is hereby vested with the authority to issue certificates of origin for products manufactured or processed in each SPZ in accordance with the prevailing rules of origin, and the pertinent regulations of the MOC and the MIME.

**Article 9. *Defense and Security***

The defense of the SPZ and the security of its perimeter area shall be the responsibility of the RGC in coordination with the CAPZA. Military forces sent by the RGC for the purpose of defense shall not interfere in the internal affairs of any of the SPZ and expenditure for these military forces shall be borne by the RGC. The CAPZA may provide and establish the SPZ’s internal security and firefighting forces.

**Article 10. *Immigration***

Any investor within the SPZ whose initial investment shall not be less than two hundred fifty thousand dollars (\$250,000), his/her spouse and dependent children under eighteen (18) years of age shall be granted permanent resident status by the CAPZA within the SPZ without any need of special authorization from the MOI.

The CAPZA shall issue working visas renewable every two (2) years to foreign executives, engineers, technicians, workers and other aliens, possessing highly technical skills, which no Cambodian citizens within the SPZ possesses, as certified by the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (hereinafter referred to as “MOL”), or strong and appropriate workability to fill up the vacant positions in the SPZ enterprises, as approved by the CAPZA. The names of aliens granted permanent resident status and working visas by the CAPZA shall be reported to the MOI within thirty (30) days after issuance thereof.

## **CHAPTER II GOVERNING STRUCTURES**

### **Article 11. *The Cambodian Special Promotion Zone Authority (CAPZA)***

There is hereby created a public corporation to be known as the Cambodian Special Promotion Zone Authority (CAPZA) attached to the Council of the Ministers.

The CAPZA shall have CAPZA Council of Administration (hereinafter referred to as “CAPZA Council”) for its policy making. The CAPZA Council shall be composed of seven (7) members as follows: Minister of Cabinet as a President General Director, the Director General of the CAPZA as a Vice President and, as a CAPZA Council members, the Secretaries of State of the MEF, the MOC, the MIME, Secretary General of Cambodian Investment Board (hereinafter referred to as “CIB”) and one representative from Investors/Business Society in the SPZ. In case of the unavailability of the Minister of Cabinet to attend a particular CAPZA Council meeting, the Director General of the CAPZA shall act as Chairman.

The CAPZA shall have a director general, who shall act as a Chief Executive Officer (hereinafter referred to as “CEO”) of the CAPZA in the CAPZA Executive Office, managing the CAPZA’s functional units under his direct instruction. The director general will be with the rank of minister who shall be appointed by the Prime Minister. The director general shall be of proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least twenty (20) years relevant working experience preferably in the field of management or public administration. The director general shall not always be a government person but a private person, regardless of his

nationality, with respectful careers in private sector.

The director general shall be assisted by three (3) Deputy Directors General each for policy and planning, administration and operation, who shall be appointed by the CAPZA Council of Administration, upon the recommendation of the Director General. The deputy directors general shall be with proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least fifteen (15) years relevant working experiences in each assigned fields. The deputy directors general shall not always be government persons but private persons, regardless of their nationalities, with respectful careers in private sector.

One (1) Senior Executive Advisor for strategic planning and supervision on the implementation of policy and planning, administration and operation for and of the SPZ, who shall be appointed by the CAPZA Council upon the recommendation of the director general, shall assist the director general. The senior executive advisor shall be of proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least more than twenty (20) years working experience preferably in the field of planning and/or management of equivalent special promotion zones.

There shall be one (1) Executive Auditor, who shall be appointed by the Prime Minister, to audit the CAPZA as a whole. The executive auditor shall be of proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least more than fifteen (15) years working experience preferably in the field of auditing, planning and/or management. He shall be responsible and entitled to make direct and periodical report to the Prime Minister of the RGC, regarding the management, policies and operations of the SPZ.

Members of the CAPZA Council, except the director general, shall receive a per diem of not less than the amount equivalent to the representation and transportation allowances as the members of the CAPZA Council and/or as may be determined by the MEF: Provided, however, That the per diem collected per month does not exceed the



equivalent of four (4) meetings.

**Article 12. *Functions and Powers of the CAPZA Council of Administration***

The CAPZA Council shall have the following functions and powers:

- (a) Set the general policies on the establishment and operations of the SPZ;
- (b) Review proposals for the establishment of the SPZ based on the set criteria under Article 6 and endorse to the Prime Minister the establishment of the SPZ. Thereafter, it shall facilitate and assist in the organization of said entities;
- (c) Regulate and undertake the establishment, operation and maintenance of utilities, other services and infrastructure in the SPZ, such as heat, light and power, water supply, telecommunications, transport, toll road and bridges, post services, etc., and to fix reasonable and competitive rates, charges and fees thereof;
- (d) Fix and collect the reasonable and competitive land leasing rates, service charges or other necessary charges or fees from the investment enterprises in case they may locate at the premises developed by the CAPZA or from the developer in case they are in charge of developing land, buildings or other necessary facilities basing on sub-leasing rights from the CAPZA;
- (e) Approve the annual budget of the CAPZA and the SPZ development plan;
- (f) Issue rules and regulations to implement the provisions of this Law in so far as its power and functions are concerned;
- (g) Exercise its powers and functions as provided for in this Law; and
- (h) Render annual reports to the Prime Minister and the National Assembly.

**Article 13. *General Powers and Functions of the CAPZA Executive Office***

The CAPZA Executive Office has the following powers and functions:

- (a) To operate, administer, manage and develop the SPZ according to the principles and provisions set forth in this Law;
- (b) To accept and evaluate the investment plans, and provide the investment licenses in the SPZ
- (c) To register, regulate and supervise the enterprises in the SPZ in an efficient and decentralized manner;
- (d) To coordinate with local government units and exercise general supervision over

the development plans, activities and operations of the SPZ and the like;

- (e) In coordination with local government units concerned and appropriate agencies, to construct, acquire, own, lease, operate and maintain on its own or through contract, franchise, license, bulk purchase from the private sector and build-operate-transfer scheme or joint venture, adequate facilities and infrastructure, such as light and power systems, water supply and distribution systems, telecommunication and transportation, buildings, structures, warehouses, roads, bridges and other facilities for the operation and development of the SPZ;
- (f) To create, operate and/or contract to operate such agencies and functional units or offices of the CAPZA as it may deem necessary;
- (g) To adopt, alter and use a corporate seal; make contracts, lease, own or otherwise dispose of personal or real property; sue and be sued; and otherwise carry out its duties and functions as provided for in this Law;
- (h) To coordinate the formulation and preparation of the development plans of the different entities mentioned above;
- (i) To coordinate with the Council of the Ministers, the MEF, the MOC, the MIME, the MOI and other relevant ministries and the local government units for policy and program formulation and implementation; and
- (j) To monitor and evaluate the development and requirements of entities in subsection (a) and recommend to the appropriate authorities the location, incentives, basic services, utilities and infrastructure required or to be made available for said entities.

#### **Article 14. Powers and Functions of the Director General**

The director general shall be the overall coordinator of the policies, plans and programs of the SPZ, being a CEO of the CAPZA. As such, he shall provide overall supervision over and general direction to the development and operations of the SPZ. He shall determine the structure and the staffing pattern and personnel complement of the CAPZA and establish regional offices, when necessary, subject to the approval of the CAPZA Council.

In addition, he shall have the following specific powers and responsibilities:

- (a) To safeguard all the lands, buildings, records, monies, credits and other properties and rights of the SPZ;

- (b) To ensure that all revenues of the SPZ are collected and applied in accordance with its budgets;
- (c) To ensure that the investors/enterprises and employees of the SPZ are properly discharging their respective duties;
- (d) To give such information and recommend such measures to the CAPZA Council, as he shall deem advantageous to the SPZ;
- (e) To submit to the CAPZA Council, the ongoing and proposed projects, work and financial program, annual budget of receipts, and expenditures of the SPZ;
- (f) To represent the SPZ in all its business matters and signs on its behalf after approval of the CAPZA Council, all its bonds, borrowings, contracts, agreements and obligations made in accordance with this Law;
- (g) To acquire jurisdiction, as he may deem proper, over the protests, complains, and claims of the residents and enterprises in the SPZ concerning administrative matters;
- (h) To recommend to the CAPZA Council the grant, approval, refusal, amendment or termination of the SPZ franchises, licenses, permits, contracts, and agreements in accordance with the policies set by the CAPZA Council;
- (i) To require owners of houses, buildings or other structures constructed without the necessary permit whether constructed on public or private lands, to remove or demolish such houses, buildings, structures within sixty (60) days after notice and upon failure of such owner to remove or demolish such house, building or structure within said period, the director general or his authorized representative may summarily cause its removal or demolition at the expense of the owner, any existing law, decree, executive order and other issuances or part thereof to the contrary notwithstanding;
- (j) To take such emergency measures as may be necessary to avoid fires, floods and mitigate the effects of storms and other natural or public calamities;
- (k) To prepare and make out plans for the physical and economic development of the SPZ, including zoning and land subdivision, and issue such rules and regulations which shall be submitted to the CAPZA Council for its approval; and
- (l) To perform such other duties and exercises such powers as may be prescribed by the CAPZA Council, and to implement the policies, rules and regulations set by the CAPZA Council.

**Article 15. Administration of Each SPZ**

Except for privately-owned, managed or operated SPZ, each SPZ shall be organized, administered, managed and operated by the SPZ Administrative Unit composed of the following:

- (a) The administrator who shall be appointed by the CAPZA Council upon recommendation of the director general; and
- (b) One (1) deputy administrator to be appointed by the CAPZA Council upon recommendation of the director general.

An SPZ advisory body shall be created with the following members:

- (1) The governor of the province where the SPZ is located;
- (2) The presidents of the association of investors/enterprises in the FZ and PZ
- (3) The president of an accredited labor union in the SPZ; and
- (4) The representatives of the CAPZA, Customs, Tax Department, Labor Office, MOC and MIME.

A SPZ advisory body, except for executing routine powers and functions of CAPZA under a guidance of the CAPZA Executive Office, shall have the following functions:

- (i) Advise the SPZ management on matters pertaining to policy initiatives; and
- (ii) Assist the SPZ management in setting problems arising between labor and any enterprise in the SPZ.

Privately owned, managed or operated SPZ shall retain autonomy and independence but shall be monitored by the CAPZA for the implementation of incentives and operations for adherence to the law.

#### **Article 16. *Personnel***

The remunerations and other emoluments of the director general and deputy directors general of the CAPZA shall be determined separately from the manner and procedures as for the ministers and secretaries of state of the central government, including the performance bonus which shall be paid according to the profit records and upon the agreement of the members of the CAPZA Council. The remunerations and other emoluments of senior executive advisor shall be separately fixed by the CAPZA Council upon recommendation of the director general with the approval of the Council of the Ministers.

The CAPZA Council shall provide for an organization and staff of officers and employees of the CAPZA, and upon recommendation of the director general with the approval of the Council of the Ministers, appoint and fix the remunerations and other emoluments: Provided, That the CAPZA Council shall have exclusive and final authority to promote, transfer, assign and reassign officers of the CAPZA, any provision of existing law to the contrary notwithstanding: Provided, further, That the director general may carry out removal of such officers and employees.

All positions in the CAPZA shall be governed by compensation, position classification system and qualification standards approved by the director general with the concurrence of the CAPZA Council based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable or better with the prevailing compensation plans for the central government officers and shall be subject periodic review by the CAPZA Council no more than one (1) time in every year without prejudice to yearly merit reviews or increases based on productivity and regulations on compensation, position classification and qualification standards.

The CAPZA officers and employees including all Members of the CAPZA Council shall not engage directly or indirectly in partisan activities or take part in any action, except to vote.

**Article 17. *Investigation and Inquiries***

Upon a written formal complaint made under oath, which on its face provides reasonable basis to believe that some anomaly or irregularity might have been committed, the CAPZA or the administration of the SPZ concerned, shall have the power to inquire into the conduct of enterprises or employees of the SPZ and to conduct investigations, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidences: Provided, That to arrive at the truth, the investigator(s) may grant immunity from prosecution to any person whose testimony or whose possessions of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by him or under the authority of the CAPZA or the administrator of the SPZ concerned.

**Article 18. *Prohibition Against Holding Any Other Office***

The director general, deputy directors general, administrators, officials and staff or assistants of the CAPZA shall not hold any other office or employment within or outside the CAPZA during their tenure. They shall not, during their tenure, directly or indirectly, practice any profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the CAPZA or the RGC, or any subdivision, agency, or instrumentally thereof, including any government-owned-controlled corporation, or its subsidiary.

**Article 19. *Disbursement of Funds***

No money shall be paid out of the funds of any SPZ except in pursuance of the budget as formulated and approved by the CAPZA.

**Article 20. *Full Disclosure of Financial and Business Interest***

Every member of the CAPZA Council, the director general, the deputy directors general, and their staff shall, upon assumption of office, make full disclosure of their financial and business interests.

**CHAPTER III  
OPERATIONS WITHIN THE SPZ**

**Article 21. *Development Strategy of the SPZ***

The strategy and priority of development of each SPZ established pursuant to this Law shall be formulated by the CAPZA, in coordination with the MEF, the MOC and the MIME: Provided, That such development strategy is consistent with the priorities of the RGC as may be outlined in the medium-term development plan of the government.

It shall be the policy of the government and the CAPZA to encourage and provide incentives and facilitate private sector participation in the construction and operation of public utilities and infrastructure in the SPZ.

**Article 22. *Survey of Resources***

The CAPZA shall, in coordination with appropriate authorities and neighboring provinces, immediately conduct a survey of the physical, natural assets and potentialities of the SPZ areas under its jurisdiction.

**Article 23. *Provision of Fiscal Incentives***

CAPZA approved business enterprises operating within the SPZ, both foreign and domestic, shall be entitled to the fiscal incentives as provided for under this Law and the Sub-Decree regarding the rules and regulations to implement this Law.

**Article 24. *Applicable Fiscal Incentives to the enterprises in FZ***

Enterprises located in FZ and persons working thereof shall be entitled to the following fiscal incentives.

- (a) Tax on profit: 10% except for the exploration and exploitation of natural resources, timber, oil, mines, gold and precious stones which shall be set in separate laws. 5% for the FZ developers.
- (b) Tax holiday: Trigger period + 3 years + n year
- (c) Special depreciation: 40% on the production equipment in the first year of operation
- (d) Corporate tax on reinvestment of profits: Not applicable
- (e) Duty free import: Production equipment, construction materials and production input materials (On the part of production input materials, which will have been used for the products to be sold to the domestic market, import duty shall be levied at a time of delivery to the outside of FZ.)
- (f) Minimum tax: Not applicable
- (g) Prepayment of Tax on Profit: Not applicable during the tax holiday period
- (h) Loss carry-forward: 5 years
- (i) Withholding tax on salary for expatriates: 10%
- (j) Tax on house and land rent: Not applicable
- (k) Value Added Tax: 0% for exports and transaction within FZ
- (l) Training allowance: Half a training expenses borne by FZ enterprises for Cambodian citizens can be deducted from the Tax on Profit
- (m) Export duty: Not applicable

**Article 25. *Applicable Fiscal Incentives to the enterprises in PZ***

Enterprises located in PZ and persons working thereof shall be entitled to the following fiscal incentives.

- (a) Tax on profit: 15% except for the exploration and exploitation of natural resources, timber, oil, mines, gold and precious stones which shall be set in separate laws. 5% for the FZ developers.
- (b) Tax holiday: Trigger period + 3 years + n year
- (c) Special depreciation: 40% on the production equipment in the first year of operation
- (d) Corporate tax on reinvestment of profits: Not applicable
- (e) Duty free import: Production equipment and construction materials (On the part of production input materials, which will have been used for the exported-products, import duty shall be refunded at a time of exports.)
- (f) Minimum tax: Not applicable
- (g) Prepayment of Tax on Profit: Not applicable during the tax holiday period
- (h) Loss carry-forward: 5 years
- (i) Withholding tax on salary for expatriates: 10%
- (j) Tax on house and land rent: 5%
- (k) Value Added Tax: 0% for direct exports and indirect exports (For indirect exports, VAT amount payable shall be kept in books and actual payment will not be involved. When the final products are exported, the corresponding VAT amount is erased from the VAT record book.)
- (l) Training allowance: Half a training expenses borne by FZ enterprises for Cambodian citizens can be deducted from the Tax on Profit
- (m) Export duty: Not applicable

Capital Gain Tax on Land shall be introduced and levied on the transaction of lands at the rates as follows.

- (1) 50% for the ownership of 5 years or less
- (2) 25% for the ownership of 10 years or less
- (3) 10% for the ownership of 10 years or more

#### **Article 26. Domestic Sales**

Goods manufactured by an FZ enterprise shall be made available for immediate wholesale or retail sales in the domestic market, subject to payment of import duties and corresponding taxes on the raw materials and other regulations that may be adopted by the CAPZA Council.



However, in order to protect the domestic industry, there shall be a negative list of industries that will be drawn up by the CAPZA. Enterprises engaged in the industries included in the negative list shall not be allowed to sell their products locally. Said negative list shall be regularly updated by the CAPZA.

The CAPZA, in coordination with the Customs Department of the MEF, the MOC and the MIME shall jointly issue the necessary implementing rules and guidelines for the effective implementation of this section.

#### **Article 27. *Applicability of Banking Laws and Regulation***

Existing Law on Banking and Financial Institutions shall apply to banks and financial institutions to be established in the SPZ and to other SPZ-registered enterprises. Among other pertinent regulations, these include those governing foreign exchange and other current account transactions (trade and non-trade), local and foreign borrowings, foreign investments, establishment and operation of local and foreign banks, foreign currency deposit units, offshore banking units and other financial institutions under the supervision of the National Bank of Cambodia.

#### **Article 28. *After Tax Profits***

Without prior approval of the National Bank of Cambodia, after tax profits and other earnings of foreign investments in enterprises in the SPZ may be remitted outward in the equivalent foreign exchange through any of the banks licensed by the National Bank of Cambodia in the SPZ: Provided, however, That such foreign investments in said enterprises have been previously registered with the National Bank of Cambodia.

#### **Article 29. *Eminent Domain***

The areas comprising an SPZ, FZ or PZ may be expanded or reduced when necessary. For this purpose, the government shall have the power to acquire, either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the SPZ for:

- (a) Consolidation of lands for zone development purposes;
- (b) Acquisition of right of way to the SPZ, FZ or PZ; and

(c) The protection of watershed area and natural assets valuable to the prosperity of the SPZ.

If in the establishment of a publicly-owned FZ, any person or group of persons who has been occupying a parcel of land within the FZ has to be evicted, the CAPZA shall provide the person or group of persons concerned with proper disturbance compensation, a home lot in the relocation site and preferential employment in the project being undertaken.

**Article 30. *Leases of Lands and Buildings***

Lands and buildings in each FZ may be leased to foreign and domestic investors from the CAPZA with approval of the CAPZA Council for a period of fifteen (15) years or more as a long-term lease, further renewable on case by case, as provided for under Article 106 of 2001 *Law on Land*. According to the provision of Article 106 of the 2001 Law on Land, the CAPZA shall approve the acquisition and determine the period of such leasehold to foreign investors. The leasehold right acquired under long-term contracts may be sold, transferred or assigned, subject to the conditions set forth by and with approval of the CAPZA.

Foreign investors in PZ shall freely make land leasehold contract for indefinite or definite period and short or long in case of definite period. Domestic investors in PZ shall also freely purchase or make land leasehold contracts.

**Article 31. *Land conversion***

Any of agricultural lands, forest lands, construction lands, industrial lands and/or communication lands in the SPZ may be converted for industrial, commercial, residential, and other purposes different from their original classifications, subjects to the conditions and procedures set forth the CAPZA and according to the relevant laws and regulations.

**Article 32. *Transport and Transport Register***

Private transport and related business including private container dry ports and track terminals may operate freely in the SPZ, subject only to such minimum reasonable

regulations of local application, which the CAPZA may prescribe.

The CAPZA shall, in coordination with the Ministry of Public Works and Transport, maintain a transport register for each SPZ as a business register of convenience for internationally transporting tracks and issue related certification.

Tracks of all sizes, descriptions and nationalities shall enjoy access to the dry ports or terminal facilities of the SPZ, subject only to such reasonable requirement as may be prescribed by the CAPZA in coordination with the appropriate agencies of the RGC.

**Article 33. *Protection of Environment***

The CAPZA, in coordination with the appropriate agencies, shall take concrete and appropriate steps and enact the proper measure for the protection of the local environment.

**Article 34. *Termination of Business***

Investors in the SPZ who desire to terminate business or operations shall comply with such requirements and procedures, which the CAPZA shall set, particularly those relating to the clearing of debts. The assets of the closed enterprises can be transferred and the funds can be remitted, as in the same form of currencies as invested, out of the SPZ subject to the rules, guidelines and procedures prescribed jointly by the National Bank of Cambodia, the Cambodian Investment Board (hereinafter referred to as “CIB”) and the CAPZA.

**Article 35. *Approval and Registration of Business Enterprises***

Business enterprises, which wish to make investments within a designated SPZ, shall receive the investment approval and register with the CAPZA to avail of all incentives and benefits provided for in this Law. Such investment approval procedures shall be made in conformity with the rules and regulations provided for under the Law on Investment but through the CAPZA.

**Article 36. *One Stop Shop Center***

The CAPZA shall establish a one-stop shop center for the purpose of facilitating the approval on the intended investments, registration of new enterprises, the acquisition of import/export license and other license and/or permits necessary for the business activities in the SPZ. Thus, all appropriate government agencies that are involved in registering, licensing or issuing permits to investors shall assign their representatives to the SPZ to attend to investors' requirements.

## **CHAPTE IV INDUSTRIAL HARMONY IN THE SPZ**

### ***Article 37. Labor and Management Relations***

Except as otherwise provided in this Law, labor and management relations in the SPZ shall be governed by the existing Law on Labor. Employees and personnel in the SPZ enterprises shall receive salaries and benefits and shall enjoy working conditions not less than those provided under the Law on Labor and other relevant laws, issuances, rules and regulations of the RGC.

### ***Article 38. Promotion of Industrial Peace***

In the pursuit of industrial harmony in the SPZ, a tripartite body composed of one (1) representative each from the MOL, labor sector and business and industry sectors shall be created in order to formulate a mechanism under a social pact for the enhancement and preservation of industrial peace in the SPZ within thirty (30) days after the effectuation of this Law.

### ***Article 39. Master Employment Contracts***

The CAPZA, in coordination with the MOL, shall prepare a master employment contract in Khmer language for all SPZ enterprises staff members and workers. The terms of which provide salaries and benefits not less than those provided under this Law, the Law on Labor, as amended, other relevant issuances of the national government. Such a master employment contract can be arranged and made into a format with which detailed terms and conditions of employment of each staff member or worker can be clearly described.

**Article 40. *Percentage of Foreign Nationals***

Employment of foreign nationals hired by the SPZ enterprises in a supervisory, advisory, technical capacity or those who fill up the job vacancies in order to operate the facilities to the full extent shall not exceed ten percent (10%) of its workforce without the express authorization of the MOL.

**Article. *Migrant Worker***

The CAPZA, in coordination with the MOL, shall promulgate appropriate measures and programs leading to the expansion of the services of the SPZ to help the local governments of nearby areas meet the needs of the migrant workers.

**Article 42. *Incentive Scheme***

An additional deduction equivalent to one-half (1/2) of the value of training expenses incurred in developing skilled or unskilled labor or for managerial or other management development programs incurred by the SPZ enterprises and offered to Cambodian citizens in the SPZ can be deducted from the Tax on Profit.

The CAPZA, the MOL and the MEF shall jointly make a review of the incentive scheme provided in this section every two (2) years or when circumstances so warrant.

**CHAPTER V  
NATIONAL GOVERNMENT AND OTHER ENTITIES**

**Article 43. *Relationship with the CIB***

The CAPZA shall determine the development goals for the SPZ within the framework of national development plans, policies and goals, and the director general of the CAPZA shall, upon approval by the Council of the CAPEZA, submit the SPZ plans, programs and projects to the CIB for inclusion in and as inputs to the overall private sector investment development plan.

**Article 44. *Relationship with the Local Government Units***

Except as herein provided, the local government units comprising the SPZ shall retain their basic autonomy and identity. The provinces, municipalities, districts and villages shall operate and function in accordance with the Constitution of the Kingdom of Cambodia.

**Article 45. *Relationship of CAPZA to Privately Owned FZ***

Privately owned FZ shall retain their autonomy and independence and shall be monitored by the CAPZA for the implementation of rules, regulations and incentives.

**Article 46. *Transfer of Resources***

The relevant functions of the CIB over the licensing of private investments, foreign and domestic, into the SPZ, provision of incentives to and monitoring the activities of the SPZ enterprises shall be transferred to the CAPZA.

**CHAPTER VI  
MISCELLANEOUS PROVISIONS**

**Article 47. *Funding***

The funding of the CAPZA shall come from the following:

- (a) The annual subsidies and/or appropriations of the national government;
- (b) The proceeds from the rent of lands, buildings, and other properties of the SPZ concerned;
- (c) The proceeds from fees, charges and other revenue-generating instruments which the CAPZA is authorized to impose and collect under this Law;
- (d) The proceeds from bonds which the CAPZA authorized to float both domestic and abroad; and
- (e) The advance rentals, license fees, and other charges which the CAPZA is authorized to impose under this Law and which an investor is willing to advance payment for.

**Article 48. *Applicability of National Law***

National laws shall prevail vis-à-vis the SPZ rules, regulations and standards, unless

there is a clear intent in this Law, other laws of the National Assembly or Sub-Decree to vest the SPZ specific power and privileges not otherwise allowed under existing laws.

**Article 49. *Authority of the Prime Minister to Advance Initial Funding***

Subject to existing laws, the Prime Minister of the Kingdom of Cambodia is hereby authorized to advance out of the savings of the Prime Minister's Office such funds as may be necessary to effect the organization of the SPZ which shall be reimbursed by the CAPZA at reasonable term and condition.

**Article 50. *Non-Applicability on Areas Covered by Other Special Laws***

This Law shall not be applicable to industrial zones, export processing zones, free trade zones and areas to be created under other special laws, and governed by authorities constituted pursuant thereto.

**Article 51. *Ipsa-Facto Clause***

All privileges, benefits, advantages of exemptions granted to an SPZ under this Law, shall ipso-facto be accorded to the SPZs to be created under this Law.

**Article 52. *Separability Clause***

The provisions of this Law are hereby declared separable, and in the event one or more of such provisions or part thereof are declared unconstitutional, such declaration of unconstitutionality shall not affect the validity of the other provisions thereof.

**Article 53. *Interpretation/Construction***

The powers, authorities and functions that are vested in the CAPZA and the SPZ concerned are intended to establish decentralization of government functions and authority as well as efficient and effective working relationship between the SPZ, the central government and the local government units.

**Article 54. *Repealing Clause***

All laws, sub-decrees, orders, decisions, circulars and provincial dekas and/or administrative regulations which are inconsistent with the provisions of this Law, are hereby amended, modified, superseded or repealed accordingly.

**Article 55. *Implementing Rules and Regulations***

The MOC; MEF; CIB; MIME; MOL; MOI; Ministry of Planning; Ministry of Environment; Ministry of Public Works and Transport; Ministry of Land Management, Urban Planning and Construction; Ministry of Tourism; Ministry of Rural Development; Ministry of Agriculture, Forestry and Fishery; Municipality of Sihanoukville; Port Authority of Sihanoukville; the CAPZA and the Ministry of Justice shall formulate the implementing rules and regulations of this Law within ninety (90) days after its promulgation. Such rules and regulations shall be proclaimed as Sub-Decree on the day of formulation and take effect within fifteen (15) days after its proclamation.

**Article 56. *Effectuation***

This Law shall take effect on 10<sup>th</sup> day in Phnom Penh and 20<sup>th</sup> day throughout the country from the issuance date of Royal Decree, which proclaim the promulgation of this Law.