

Foreign Agricultural Investment Country Profile

Cambodia



REGION	Southeast Asia
INCOME GROUP	Low income
POPULATION	15.1 million
TOTAL AREA	181 035 km ²
CAPITAL	Phnom Penh
LARGEST CITY	Phnom Penh
GNI PER CAPITA	US\$650
OFFICIAL LANGUAGE	Khmer
MAJOR EXPORTS	garments, timber, rubber, rice, fish, tobacco
MAJOR IMPORTS	petroleum products, cigarettes, gold, construction materials, machinery, motor vehicles, pharmaceuticals



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Acronyms

BIT	bilateral investment treaties
CIB	Cambodian Investment Board
CDC	Council for the Development of Cambodia
G-PSF	Government-private Sector Forum
CRDB	Cambodian Rehabilitation and Development Board
CSEZB	Cambodia Special Economic Zone Board
ELC	economic land concession
FDI	foreign direct investment
GDP	gross domestic product
ICSID	International Center for Settlement of Investment Disputes
MIGA	Multilateral Investment Guarantee Agency
NSDP	National Strategic Development Plan
PMIS	Provincial/Municipal Investment Sub-committee
QIP	Qualified Investment Project
RS	rectangular strategy
SLC	social land concession
UNCITRAL	United Nations Commission on International Trade Law
WTO	World Trade Organization

1 General information

1.1 Foreign direct investment (FDI) in Cambodia

Cambodia has attracted increasing amounts of foreign direct investment (FDI) since the end of the civil war in 1993. FDI grew from practically zero in 1990 to an average of US\$61 million in the first half of the decade and US\$216 million in the second half. FDI has increased significantly since 2004. The strongest years for Cambodia's FDI were 2007 and 2008 (US\$867 million and US\$815 million respectively).

FDI inflows and stock annual data (US\$ millions)

	Year									
	1990	1993	1995	1998	2000	2005	2006	2007	2008	2009
FDI inflows	...	54	151	238	149	381	483	867	815	533
FDI stock	38	125	356	1 199	1 580	2 471	2 954	3 821	4 637	5 169

Source: United Nations Conference on Trade and Development (UNCTAD) Stat

A sectoral breakdown of the investment projects, both domestic and foreign, approved by the Cambodia Investment Board (CIB) – an arm of the Council for the Development of Cambodia (CDC) – between 1994 and 2009 shows that in terms of projected fixed assets, investment has gone mainly into tourism (53 percent) and infrastructure and other (21 percent), followed by industry (20 percent, particularly garment manufacturing) and agriculture (6 percent), (CDC,2010).

Historically, neighbouring Asian countries have been the main investors in Cambodia, accounting for the largest share of FDI inflows and stock. Based on CDC data on the fixed assets of projects approved between 2000 and 2010, the top investor countries were: China (47.6 percent); South Korea (18.8 percent); the United States of America (5.2 percent); Thailand (3.6 percent); Vietnam (3.6 percent); Malaysia (3.5 percent); and Singapore (2.7 percent), (CDRI, 2011).

Cambodia shifted to a free-market economy in 1989 and began welcoming foreign investment thereafter, once a coalition government took over in 1993. The 1994 Law on Investment created a more favourable investment climate and required investors to submit their proposals to the newly established CDC for review and approval. The Law on Investment was amended in 2003 to further facilitate investment in hopes of spurring the local economy.

Low tax rates, investment incentives and a one-stop service for investment reflect the government's commitment to attracting foreign capital. Cambodia has opened its economy to foreign investment in all sectors and there are no sectors in which foreign investors are denied national treatment, except for land ownership.¹ In 1999, the Government initiated a dialogue mechanism – the Government-Private Sector Forum (G-PSF) – for consultation with the private sector on new government initiatives.

¹ UNCTAD Country Profile: http://www.unctad.org/sections/dite_fdostat/docs/wid_cp_kh_en.pdf

The forum also provides a mechanism for addressing issues or challenges faced by the private sector, including corruption and infrastructure.² In the World Bank's 2011 'Doing Business' report, Cambodia is ranked 147th out of 183 economies for its overall 'Ease of Doing Business'. The table below lists the 'Doing Business' (DB) rankings by each topic while the next table displays the Enterprise Surveys results for perceived constraints to firm investment in Cambodia.

Doing business rankings by topics

Topics	DB 2010 rank	DB 2011 rank	Change in rank
Starting a business	172	170	↑2
Dealing with construction permits	146	146	No change
Registering property	120	117	↑3
Getting credit	87	89	↓-2
Protecting investors	73	74	↓-1
Paying taxes	58	57	↑1
Trading across borders	126	118	↑8
Enforcing contracts	140	142	↓-2
Closing a business	183	183	No change

Source: World Bank, Doing Business: <http://www.doingbusiness.org/data/exploreeconomies/cambodia>

Top 10 business environment constraints for firms

Business Environment Constraints	Percentage of Firms
Corruption	24.08 %
Electricity	16.60 %
Political Instability	16.47 %
Practices Informal Sector	9.05 %
Crime, Theft & Disorder	6.26 %
Tax Rates	5.08 %
Access to Finance	4.93 %
Inadequately Educated Workforce	2.92 %
Licenses & Permits	2.82 %
Access to Land	2.78 %

Source: Enterprise Surveys <http://www.enterprisesurveys.org/Custom/Default.aspx>

² Invest in Cambodia: <http://www.investincambodia.com/>

1.2 Agriculture Sector and FDI

In 2009, agriculture in Cambodia accounted for 35 percent of GDP and in 2004 it constituted 40 percent of the country's employment. Despite a richness of natural resources and GDP growth averaging nearly 9 percent over the last ten years (prior to the global economic crisis), poverty remains high (Asian Development Bank, 2009). Between 2005 and 2007, 22 percent of the population was under-nourished³ while in 2007, 25.8 percent lived on less than US\$1 per day.⁴ Almost 80 percent of the population and 90 percent of Cambodia's poor people live in rural areas.⁵

Most of Cambodia's population depends on agriculture for its livelihoods, including sub-sectors such as livestock rearing, fishing and forest exploitation.⁶ Cambodian farming systems are largely subsistence oriented and most agricultural activity is based on low-input, rain-fed production systems, especially paddy rice production.⁷ Between 20 and 30 percent of landowners hold 70 percent of the country's land, while 40 percent of rural households occupy only 10 percent. Approximately 20 percent of rural households are landless and 25 percent own less than 0.5 ha.⁸

Cambodia has 17.7 million ha of land and 5.5 million ha are used for agriculture.⁹ The central plains lowland, which comprises 75 percent of the total land area, is used for food production while the upland areas are used for plantations (GTZ, 2009). Paddy rice is the dominant agricultural product and major staple food, followed by cassava, cattle meat, pig meat, vegetables and maize. As of 2009, paddy rice was grown on 2 675 000 ha, maize was grown on 213 000 ha, cassava on 157 000 ha, soybeans on 94 000 ha and vegetables on 77 073 ha.¹⁰

Agricultural value added in 2009 equalled US\$3.5 billion, an increase from US\$1.9 billion in 2005. The average growth rate for 2005–2009 was 7.6 percent.

In 2008, agricultural exports were worth US\$71 million, an increase from US\$37 million in 2005. Exports grew at an average 26 percent from 2005 to 2008. The share of agricultural exports in total exports in 2008 was 1.5 percent. In terms of value, Cambodia's main agricultural exports are maize, rubber, palm oil, soybeans and cigarettes.

Agricultural imports totalled US\$783 million in 2008, an increase from US\$423 million in 2005. The average growth rate of imports between 2005 and 2008 was 23.6 percent. The share of agricultural imports in total imports in 2008 was 12 percent. Cambodia's main agricultural imports in terms of value are cigarettes, sugar, beer, food wastes and distilled alcoholic beverages.

Cambodia's agriculture sector is growing, but suffers from constraints such as low labour productivity, low yields, variable water resources, inefficient land titling, inactive technology transfer, limited access to credit and inadequate rural infrastructure (CDC,2010).

³ World Bank, Cambodia: <http://data.worldbank.org/country/cambodia>

⁴ Business for Millennium Development, Country profiles: <http://b4md.com.au/country.php>

⁵ International Fund for Agricultural Development (IFAD), Rural Poverty Portal, Cambodia: <http://www.ruralpovertyportal.org/web/guest/country/home/tags/cambodia>

⁶ FAO, Gender and Land Rights Database, Cambodia Country Report: <http://www.fao.org/gender/landrights/report/>

⁷ FAO, AQUASTAT Cambodia Country Profile: <http://www.fao.org/nr/water/aquastat/countries/cambodia/index.stm>

⁸ FAO, Gender and Land Rights Database, Cambodia Country Report: <http://www.fao.org/gender/landrights/report/>

⁹ FAOSTAT: <http://faostat.fao.org/default.aspx>

¹⁰ FAOSTAT: <http://faostat.fao.org/default.aspx>

According to the CDC, between 2000 and June 2010, CIB approved agriculture investment projects with total fixed assets of US\$1.7 billion, of which US\$1.3 billion (78.4 percent) was FDI. Crops including rubber and acacia plantations comprised 72.1% of FDI, forestry 14.4 percent and others 13.5 percent. The largest investing countries in agriculture were Thailand (27.6 percent), China (22.5 percent), Vietnam (18.9 percent), South Korea (8.3 percent), Singapore (6.1 percent) and India (5.6 percent). For food processing, CIB approved investment projects with total fixed assets of US\$74.7 million between 2000 and June 2010, of which US\$21.5 million (28.7 percent) was FDI. The main sources of investment were Australia (45.3 percent), Canada (20.1 percent), Singapore (17.8 percent), Vietnam (7.9 percent), Thailand (5.6 percent) and China (3.3 percent).¹¹

Major national policies related to the agricultural sector include: the Rectangular Strategy (RS) for Growth, Employment, Equity and Efficiency Phase II, launched in 2008; the National Strategic Development Plan (NSDP) for 2009–2013; and sector-specific government strategies and plans such as the Strategy for Agriculture and Water 2006–2010 and the Agricultural Sector Strategic Development Plan 2006–2010. Enhancement of the agricultural sector is one of the four strategic growth rectangles of the RS. To this end, the RS has identified four objectives: (i) improving agricultural productivity and diversification; (ii) land reform and the clearing of mines; (iii) fisheries reform; and (iv) forestry reform. Private-sector development and employment is another strategic growth rectangle: one of its objectives is to strengthen the private sector and attract investment. An important part of this policy is establishing a favourable climate for developing the agro-processing industry.¹²

Infrastructure

Electricity: Cambodia's infrastructure, including the power sector, was severely damaged by years of war; Cambodia has no national grid. Provincial towns and cities have their own power-generation plants and distribution networks, with little interconnection. The plants are small and mainly fuelled by imported diesel, with high prices paid by consumers. The Government plans to triple Cambodia's energy output from 808 MW in 2009 to nearly 4 000 MW by 2020 (equal to estimated consumption), and supply 70 percent of the population with electricity (instead of the current 20 percent). There are 14 hydropower projects planned, five of which are already under construction.¹³

Roads: The rehabilitation and construction of a major national road network is almost completed. At the end of 2008, the network included 39 618 km of roads, including 2 119 km of single-digit national roads, 3 086 km of double-digit national roads, 6 413 km of provincial roads and 28 000 km of rural roads.¹⁴

Railways: Transportation of passengers and goods on railways in Cambodia is limited. Royal Railways of Cambodia and the private Toll Royal Cambodia have signed an agreement to form a new Railway Department. There are two rail lines: the Northern line runs between Phnom Penh and

¹¹ Cambodia Development Resource Institute. 2011. Foreign Investment in Agriculture in Cambodia (a report prepared for FAO's Policy Assistance Support Service).

¹² Rectangular Strategy for Growth, Employment, Equity and Efficiency Phase II: http://www.cdc-crdb.gov.kh/cdc/aid_management/Rectangular%20Strategy%20-%20Phase%20II.pdf

¹³ Invest in Cambodia, Power: <http://www.investincambodia.com/power.htm>

¹⁴ National Strategic Development Plan 2009–2013: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_145085.pdf

Sisophon for 338 km, and the Southern line runs between Phnom Penh and Sihanoukville Port for 264 km.¹⁵

Ports: Cambodia has three main international ports: Sihanoukville, the main deep-water seaport on the Gulf of Siam; Phnom Penh on the Mekong River; and Koh Kong near the border with Thailand, which is used only by smaller vessels.

Air Transport: Cambodia's ten airports include Phnom Penh International Airport, the country's largest airport, and Siem Reap International Airport, the second largest.¹⁶

For additional information on FDI in Cambodia, especially the agriculture sector:

UNCTAD Stat: <http://unctadstat.unctad.org/ReportFolders/reportFolders.aspx>

UNCTAD, FDI in Brief: http://www.unctad.org/sections/dite_fdistat/docs/wid_ib_kh_en.pdf

UNCTAD, Country Factsheet: http://www.unctad.org/sections/dite_dir/docs/wir10_fs_kh_en.pdf

Association of Southeast Asian Nations (ASEAN) FDI Statistics: <http://www.aseansec.org/18144.htm>

United States Department of State, 2011 Investment Climate Statement – Cambodia:
<http://www.state.gov/e/eeb/rls/othr/ics/2011/157251.htm>

GTZ. 2009. FDI in Land in Cambodia:
<http://www2.gtz.de/wbf/4tDx9kw63gma/gtz2010-0061en-foreign-direct-investment-cambodia.pdf>

World Bank, Private Sector at a Glance: http://devdata.worldbank.org/PSD/khm_psd.pdf

World Bank, Investing Across Borders:
<http://iab.worldbank.org/Data/Explore%20Economies/Cambodia>

World Bank, Business Environment Snapshot:
<http://rru.worldbank.org/BESnapshots/Cambodia/default.aspx>

¹⁵ National Strategic Development Plan 2009–2013: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_145085.pdf

¹⁶ World Bank, Transport in Cambodia: <http://go.worldbank.org/XUTCC2MWU0>

2 Information on specific areas

2.1 Legal and regulatory framework¹⁷

2.1.1 Major laws and regulations affecting foreign investment

Amendment of the Law on Investment, 2003 (amending Law on Investment, 1994)

http://www.jica.go.jp/cambodia/english/office/topics/pdf/14_Appendix-2.pdf

Cambodia's Law on Investment: defines important terms, including the Qualified Investment Project (QIP – an investment project that has received a registration certificate); establishes the CDC as a one-stop service;¹⁸ sets forth general procedures for investment; lists investor guarantees; creates incentives for investors; and allows for the relatively liberal employment of foreign nationals.

Sub-decree 111 on the Implementation of the Amendment to the Law on Investment, 2005

http://www.jica.go.jp/cambodia/english/office/topics/pdf/15_Appendix-3.pdf

Sub-decree 148 on the establishment and management of the Special Economic Zones, 2005

http://www.jica.go.jp/cambodia/english/office/topics/pdf/17_Appendix-5.pdf

This Sub-decree establishes Special Economic Zones as well as an investment climate that is conducive to increasing productivity, competitiveness, economic growth, export promotion and employment in order to reduce poverty. It defines procedures and regulations related to the establishment, management and coordination of all investment activities, including the Special Economic Zones.¹⁹

Law on Commercial Enterprises, 2005

<http://www.camcl.org/sub/laws/law%20on%20commercial%20enterprises%20in%20english.pdf>

This law streamlines the procedures for company registration. Once the CDC grants conditional investment approval to investors, enterprises must satisfy the obligations set by this law, especially the need to obtain licenses.

Law on Foreign Exchange, 1997

<http://www.nbc.org.kh/laws.asp?id=6>

This law prohibits any restriction on foreign-exchange operations, including transfers and international settlements. However, these transactions must be performed by a local bank.²⁰

¹⁷ This section provides information on laws and regulations recognized during the preparation of this paper and does not provide a comprehensive list of laws and regulations related to agricultural investment in Cambodia.

¹⁸ Sub-decree 149 on the organization and functioning of the Council for the Development of Cambodia (CDC): http://www.cdc-crdp.gov.kh/cdc/documents/Sub_Decree_of_CDC_149_english.pdf

¹⁹ The Cambodian Special Economic Zone Board was established as a branch of the CDC to monitor these processes.

²⁰ UNCTAD, An Investment Guide to Cambodia: <http://www.unctad.org/templates/webflyer.asp?docid=4229&intltemID=2703&lang=1&mode=toc>

Law on Amendment of the Law on Taxation, 2003

This law governs taxation in Cambodia, including the functions and management of taxation entities.

Labour Law, 1997

http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_isn=46560

Cambodia's progressive Labour Law supports strong worker protections. It provides the freedom to establish trade unions and the right to strike (which was not included in previous laws). The law also established the Council of Arbitration as a mechanism for resolving collective disputes.

2.1.2 Agriculture and related laws / regulations**Land Law, 2001**

<http://faolex.fao.org/docs/texts/cam27478.doc>

The Land Law aimed to overhaul the distribution and management of land in Cambodia, and protect property rights. This basic land legislation consists of Titles: (I) Private and public ownership; (II) Acquisition of ownership; (III) The regime of private ownership; (IV) Forms of ownership; (V) Immovable property used as surety; (VI) Cadastre; (VII) Penalty provisions; and (VIII) Final provisions.

Sub-decree on the mortgage and transfer of the rights to a long term-lease or an economic land concession, 2007

http://www.sithi.org/landissue/source/ELC/Sub-decree_Mortgage_transfer%20rights%20over%20long%20lease%20or%20ELCs.pdf

This sub-decree provides a mechanism for registering long-term leases and economic land concessions (limited to 10 000 ha).²¹

Sub-decree on the management and administration of the use of agricultural lands, 1985

<http://faolex.fao.org/docs/texts/cam43160.doc>

This sub-decree is divided into Chapters: (I) General provisions; (II) Use and administration of the lands; (III) Penalties; and (IV) Final provision. It provides for the rational use and administration of agricultural land, increased agricultural production and the rehabilitation of abandoned or uncultivated land. It also provides for families and individuals already working in the land or to whom abandoned or unused land shall be allocated.

Prakas on control and inspection of food safety of agricultural products, 2007

http://faolex.fao.org/cgi-bin/faolex.exe?rec_id=065941&database=faolex&search_type=link&table=result&lang=eng&format_name=@ERALL

This regulation (prakas) sets out the principles and measures for governing, inspecting/controlling and ensuring safety and food standards of all agricultural products which shall be used for making food for human consumption.

²¹ <http://www.elc.maff.gov.kh/en/news/12-elc-status.html>

Royal Kram NS/RKM/067/013 on promulgation of the Law on Standards of Cambodia

http://faolex.fao.org/cgi-bin/faolex.exe?rec_id=065942&database=faolex&search_type=link&table=result&lang=eng&format_name=@ERALL

This Law aims at covering all the activities related to the standardization, quality assurance and related activities within the whole territory of the Kingdom of Cambodia in order to improve the quality of products and services, to raise and rationalize production efficiency, to ensure fair and simplified trade, to rationalize product use, and to enhance consumer protection and public welfare.

Law on Seed Management and Plant Breeders' Rights, 2008

http://www.eapvp-forum.org/member/cambodia/pdf/cambodia_0723.pdf

This law allows plant breeders to register new plant varieties with the Ministry of Industry, Mines, and Energy; these varieties may be protected for 20 years.

Law on Environmental Protection and Management of Natural Resources, 1996

<http://faolex.fao.org/docs/html/cam19300.htm>

This law elaborates Cambodia's national environment policy, including national and regional environment plans, environmental impact assessment on the environment of projects and activities, natural resource management, monitoring, data collection and inspection, public participation in **relation with the environment**. It also prescribes penalties for offences defined in the law.

Sub-decree 72 on the environmental impact assessment process, 1999

<http://faolex.fao.org/docs/texts/cam27446.doc>

This law states that an environmental impact assessment must be conducted prior to implementation of every private and public project. All assessments must be reviewed by the Ministry of Environment prior to government approval and project implementation.

Law on Water Resources Management, 2007

<http://faolex.fao.org/docs/texts/cam75723.doc>

This law elaborates the rights and obligations of water users, the fundamental principles of water-resource management and the sustainable development of water resources. The Ministry of Water Resources and Meteorology is responsible for managing implementation of this law.

Decree 33 on fisheries management and administration, 1987

<http://faolex.fao.org/docs/pdf/cam1068.pdf>

This decree consists of 44 articles divided into Chapters: (I) Interpretation; (II) Exploitation of inland fisheries, aquaculture and processing of freshwater fishery products; (III) Exploitation of marine fisheries, aquaculture and processing of sea products; (IV) Competent authorities for addressing fishery law violations; (V) Penalties; and (VI) Final order. All kinds of fishing are subject to permits and may be allowed only on a small scale. Other provisions concern fishing equipment that is prohibited in inland fisheries.

Law on Forestry, 2002

http://forestry.gov.kh/Documents/Forestry%20Law_Eng.pdf

The Law on Forestry provides a framework for managing, harvesting, utilizing, developing and conserving forest resources in Cambodia. Its objective is the sustainable management of forests to

ensure their social, economic and environmental benefits. This includes the conservation of biological diversity and cultural heritage.

A comprehensive list of investment- and business-related laws and regulations can be found at: http://www.jica.go.jp/cambodia/english/office/topics/pdf/13_Appendix-1.pdf.

For more information on laws and regulations:

FAOLEX: <http://faolex.fao.org/>

Cambodian laws: <http://www.gocambodia.com/laws/>

World Bank, Doing Business Law Library: <http://www.doingbusiness.org/law-library/cambodia>

2.2 Registration and approval procedures

Foreign investors seeking investment incentives or guarantees must apply for investment project registration. The Government established the CDC in order to facilitate investment approvals and business start-up procedures. The CDC is a one-stop service for all investment projects valued between US\$2 million and US\$50 million. The Provincial/Municipal Investment Sub-committee (PMIS) reviews and approves provincial- and municipal-level projects with investment capital of less than US\$2 million. Under a 2008 sub-decree, the CDC must seek approval from the Council of Ministers for projects that involve: investment capital over US\$50 million; politically sensitive issues; exploration and exploitation of mineral and natural resources; environmentally unsound practices; long-term strategies; and infrastructure concessions (US Department of State, 2011).

The CDC has three operational arms:

- » the Cambodian Investment Board (CIB) – for private investment;
- » the Cambodian Rehabilitation and Development Board (CRDB) – for international assistance and public investment; and
- » the Cambodia Special Economic Zone Board (CSEZB) – for Special Economic Zones.²²

2.2.1 Investment application

The CIB is the operational arm of the CDC, and is responsible for reviewing proposals from all investors, both individual and corporate and both local and foreign. Investors must submit investment proposals to the CIB for approval along with an application fee of CR7 million (US Department of State, 2011). FDI projects that are eligible to receive incentives are known as Qualified Investment Projects (QIPs). The CIB evaluates applications, provides foreign investors with information and assists them in obtaining the authorizations required for setting up a business.

²² Cambodia's Special Economic Zones also provide a one-stop service for imports and exports, with government officials stationed on site to provide administrative services. Applications to establish factories within Special Economic Zones are reviewed on site along with all requests for administrative clearance, permits and authorization.

2.2.2 Approval process

There are two stages in the CDC and PMIS approval processes: first, the investment project must obtain a Conditional Registration Certificate; and second, a Final Registration Certificate is issued.

During the first stage, the CDC or PMIS reviews an investment proposal and approves or rejects it within three business days of submission. If the CDC or PMIS does not make a decision within three business days, the investment proposal will be registered by default and the CDC or PMIS must immediately issue a Conditional Registration Certificate. However, the CDC or PMIS can postpone the registration of a project related to the national interest or if it is environmentally sensitive.

If a proposal is accepted, the CDC or PMIS issues a Conditional Registration Certificate; if it is refused, a Letter of Non-Compliance is issued. The Letter of Non-Compliance must clearly state the reason for the denial and any additional information that would enable the CDC or PMIS to issue a Conditional Registration Certificate. The CDC must include the following details when granting a Conditional Registration Certificate: (i) a list of all required approvals, authorizations, licenses, permits and registrations for QIP approval; (ii) the ministries, departments or agencies responsible for issuing those documents; (iii) the applicant's tax-exemption status; (iv) the incentives that the QIP is entitled to; (v) recognition of the status of the legal entity that will be established by the QIP; and (vi) the investment guidelines and assessment criteria for each approval, authorization, license, permit and registration.

Business registration requirements depend on the field of business. The most common permits required by investors are:

- » company registration with the Ministry of Commerce (once a new company files articles of incorporation, the Commercial Registration Department issues a Certificate of Incorporation);
- » review and approval of construction plans by local authorities or the Ministry of Land Management, Urban Planning and Construction;
- » labour registration;
- » initial environmental impact assessment by the Ministry of the Environment;
- » tax registration with the Ministry of Economy and Finance; and
- » depending on the company's business, regulatory permits may be required from government ministries (Industry, Land, Tourism, Environment, etc.), (USAID,2007).

Once all approvals, authorizations, licenses, permits and registrations are obtained and requirements fulfilled, the CDC or PMIS issues a Final Registration Certificate within 28 days of the issuance of the Conditional Registration Certificate.

For more information about Cambodia's business procedures see:

Japan International Cooperation Agency (JICA). 2010. Cambodia Investment Guidebook:
<http://www.jica.go.jp/cambodia/english/office/topics/invest.html>

2.3 Tax schemes

The assessment of tax on profit is made according to the taxation system of the real regime, simplified regime or estimated regime. Tax payers' regimes shall be determined according to the form of the company, type of business and the level of turnover.²³

2.3.1 Tax registration and declaration

If the address of a business registered with the Ministry of Commerce is in Phnom Penh, the business must then register with the Large and Medium Tax Payers Bureau of Cambodia's Tax Department for a tax identification number. If the registered business's address is in one of the provinces or municipalities, the business must register with the provincial or municipal tax office.²⁴

2.3.2 Major taxes relevant to FDI

Profit tax

Profit tax is charged on a resident taxpayer's income from Cambodian and foreign sources. For non-resident taxpayers, this tax is assessed from Cambodian income only. The standard annual rate for corporate entities (companies that are registered in Cambodia) is 20 percent. A rate of 30 percent applies to profit earned through the exploitation of natural resources such as oil and gas.

Income tax on employment

Residents who derive income from services rendered within or outside Cambodia must pay personal income tax. Non-residents are liable for Cambodian income tax only on income earned in Cambodia. The rates are as follows:

Monthly taxable income (CR)	Tax rate (percent)
○ 0 to 500 000	0
○ 500 001 to 1 250 000	5
○ 1 250 001 to 8 500 000	10
○ 8 500 001 to 12 500 000	15
○ over 12 500 000	20
○ non-residents	20

Withholding tax

Any resident taxpayer making payments in cash or kind to another resident shall withhold and pay tax according to the following rates:

- » 15 percent on income received by individuals performing services such as management, consulting, royalties for intangibles, interest in minerals, oil or gas, and interest paid to an individual or enterprise (except interest paid to a domestic bank or savings institution);
- » 14 percent on payment to non-residents: interest, royalties, rent and other income connected with the use of property, dividends and payment for management or technical services;

²³ JICA, Cambodia Investment Guidebook, Chapter 3: http://www.jica.go.jp/cambodia/english/office/topics/pdf/07_chapter3.pdf

²⁴ <http://www.bnglegal.com/uploads/reports/Guide%20to%20Business%20in%20Cambodia.pdf>

- » 10 percent on income from the rental of movable and immovable property;
- » 6 percent on interest paid by a domestic bank to an individual resident with a fixed-term savings account; and
- » 4 percent on interest paid by a domestic bank or savings institution to an individual resident with a non-fixed term savings account.

Unused land tax

Real estate tax is levied on unused land, including land with abandoned buildings. The owner of the land must pay a fixed rate of 2 percent of the assessed value of the land.

Patent tax

A patent tax of approximately US\$30 is paid upon annual business registration; the first patent tax must be paid within 15 days of registration. Thereafter, the patent tax is payable annually on each business type and each location.

Value added tax (VAT)

The VAT rate in Cambodia is 10 percent. Enterprises (i.e. companies, importers, exporters and investment firms) providing taxable supplies of goods and services are required to register for VAT. Investment and import-export businesses must register for VAT before business operations commence.

Property transfer tax

Tax must be paid upon transference of ownership of real property and certain types of vehicles as a result of direct transfer or contribution of share capital to an enterprise; the tax rate is 4 percent of the transfer value.

Minimum tax

The minimum tax is separate from the tax on profit. Enterprises must pay 1 percent of annual turnover, inclusive of all taxes with the exception of VAT (BNG,2010). Minimum tax is applied only for the real regime, except for QIP during a tax holiday. If the profit tax amount exceeds 1 percent of annual turnover, the taxpayer pays only the tax on profit.

Import and export duties

Import duties are levied on a variety of products: tax rates are 0, 7, 15 and 35 percent. A complete list of tax rates is included in a book available from the Customs Department. Export duties vary, but are typically 10 percent.²⁵

2.4 Land procedures

Cambodian law recognizes three domains of land ownership: (i) state public property (including forests and protected areas); (ii) state private property (including residential and agricultural land); and

²⁵ JICA, Cambodia Investment Guidebook: <http://www.jica.go.jp/cambodia/english/office/topics/invest.html>

(iii) private property. All non-state land is considered to be private and may be used and transferred freely by private owners.²⁶

Land holding by foreigners

Cambodia's Investment Law does not treat foreign and domestic investors equally with regard to land ownership. Ownership of land by investors is limited to individuals with Cambodian citizenship or Cambodian entities. A company is considered a Cambodian entity if its place of business is registered in Cambodia and 51 percent or more of the company's shares are held by a person with Cambodian citizenship. However, various uses of land are permitted by investors, including concessions, long-term leases (15 years or more) and renewable short-term leases.

Land concessions

Concessions are primarily of two kinds: social land concessions (SLC) intended for the poor and displaced families for agricultural or residential use, and economic land concessions (ELC) which is a mechanism to grant state private land through a specific ELC contract to a concessionaire to use the land for agricultural and agro-industrial production.²⁷ The Ministry of Agriculture, Forestry and Fisheries has responsibilities and authority to grant ELCs.

2.5 Investment benefits and incentives

The Law on Investment affords incentives to investors, especially projects geared towards export. QIPs can benefit from attractive tax breaks from the CDC, and from various duty exemptions and employment allowances. Only projects over a certain size are eligible for QIP incentives, and investors wishing to take advantage of these incentives must apply to the CIB. QIPs within Cambodia's Special Economic Zones or Export Processing Zones benefit from the same incentives and privileges as other QIPs.

2.5.1 General incentives

Non-fiscal incentives

- » No nationalization
- » No requirement of local equity participation
- » No discrimination between foreign and domestic investors (except in land ownership)
- » No restriction on capital repatriation
- » Special accelerated depreciation for reinvestment of profit
- » No foreign-exchange control
- » No price control and quantitative trade restriction

²⁶ FAO, Gender and Land Rights Database, Cambodia Country Report: <http://www.fao.org/gender/landrights/report/>

²⁷ The 2001 Land Law states that "there may be several other kinds...whether or not related to rendering a public service," such as mining, port, airport, industrial development, and fishing concessions, and that "these do not fall within the scope of the provisions of this law" (Article 50).

Fiscal incentives

- » Profit tax exemption (trigger period of zero to three years, grace period of three years, priority period of zero to three years as determined by the Financial Management Law) – potentially, exemption can last up to nine years.
- » QIPs can select a profit-tax exemption or a special depreciation allowance.
- » Exemption from import duties (on construction materials, production equipment and input materials), (CDC,2010).

Sub-decree 111 of 2005 stipulates investment activities that are not eligible for incentives. These include:

- » all kinds of commercial activity, including import, export, wholesale and retail;
- » production and processing of wood products, including housing wood from natural forests, with a legal domestic supply source;
- » production of tobacco products;
- » production of food products and beverages with investment capital of less than US\$550 000;
- » production of chemicals and agriculture fertilizer with investment capital of less than US\$1 million;
- » production of animal feed with investment capital of less than US\$200 000;
- » agricultural production, including paddy farming on less than 1 000 ha, cash crops on less than 500 ha and vegetables on less than 50 ha;
- » livestock production, including cattle husbandry with less than 1 000 heads; dairy farming with less than 100 cows and poultry farming with less than 10 000 heads;
- » fresh water aquaculture on less than 5 ha and sea-water aquaculture on less than 10 ha;
- » freezing and processing of aquatic products for export with investment capital less of than US\$500 000; and
- » processing of cereals and agricultural products for export with investment capital of less than US\$500 000.

Consult Annex I of Sub-decree 111 ANK/BK for a full list of investment activities prohibited by law and investment activities ineligible for incentives:

http://www.jica.go.jp/cambodia/english/office/topics/pdf/15_Appendix-3.pdf

2.5.2 Incentives for the agriculture sector

Incentives for agricultural investment in Cambodia include:

- » zero tariff on importing agriculture inputs such as seeds, fertilizers, pesticides and agricultural equipment;
- » priority to QIPs in agriculture and agro-industry, with a tax holiday of three years and a possible total of nine years (as determined by Decree NS/RK/0609/009 of 2009); and
- » additional planned incentives for investment in processing facilities, rice milling for export and irrigation.²⁸

²⁸ JICA, Cambodia Investment Guidebook: <http://www.jica.go.jp/cambodia/english/office/topics/invest.html>

2.5.3 Investment guarantees and settlement of disputes

Investors are guaranteed against nationalization and price controls on goods produced and services rendered. They can also freely repatriate capital, interest and other.

Established in 2003, Cambodia's Arbitration Council, which comprises 30 independent arbitrators, is charged with resolving collective labour disputes.²⁹ The Law on Commercial Arbitration was enacted in 2006 to follow the United Nations Commission on International Trade Law (UNCITRAL) model for settlement of commercial disputes.³⁰ In 2001, Cambodia approved the United Nations Convention on the Recognition of and Enforcement of Foreign Arbitral Awards (the New York Convention), which empowers Cambodian courts to recognize and enforce arbitration awards made in other contracting countries. In mid-2009, the Ministry of Commerce established the country's first National Arbitration Centre, which allows businesses to bypass the court system and solve their commercial disputes independently through mediation.³¹

Cambodia is also a member of the Multilateral Investment Guarantee Agency (MIGA) and the International Center for Settlement of Investment Disputes (ICSID).

2.6 Restrictions and requirements

Under Cambodia's Law on Commercial Enterprises, investors are required to file an annual declaration with the Ministry of Commerce. Each foreign company must also have a legally competent natural person as a registered agent continually residing in Cambodia. However, companies are allowed to employ foreign nationals if skilled workers, managers or experts are needed and cannot be found in the domestic labour force.

Nearly all sectors of the economy are open to foreign investment, and only in a few sectors is foreign investment subject to conditions, local equity participation or prior authorization from authorities. Sectors and activities prohibited to investment projects concern national security, social safety and national economic necessity. They include the manufacturing of cigarettes, movie production, rice milling, exploitation of gemstones, publishing and printing, radio and television, manufacturing wood and stone carvings, and silk weaving (US Department of State, 2011). Sub-decree 111 on the Implementation of the Amendment to the Law on Investment specifies the investment activities excluded from incentives. as described in Section 2.5.1.

2.7 Investment opportunities

Cambodia offers a number of advantages to investors, including: a relatively competitive economy offered by liberal government policy on business, a location at the centre of Southeast Asia (with a

²⁹ Arbitration Council: <http://www.arbitrationcouncil.org/>

³⁰ Law on Commercial Arbitration. 2006. http://www.camcl.org/sub/laws/law_on_commercial_arbitration.pdf

³¹ Law on Commercial Arbitration. 2006. http://www.camcl.org/sub/laws/law_on_commercial_arbitration.pdf

deep-water port); low wages; and a progressive labour law (USAID, 2007). Through Cambodia's regional integration schemes, there is potential for investors to reach billions of customers. The population of the ASEAN region alone is roughly 560 million, while the ASEAN-China Free Trade Agreement covers 1.9 billion people.

Cambodia offers numerous investment opportunities in many sectors, including agriculture and agro-industry, infrastructure, energy, labour-intensive industries, export-oriented industries, oil and gas, mining, electricity and tourism. Investors in infrastructure, technological transfer and technical assistance are being welcomed in order to enhance agricultural productivity.³² The Government is also looking to develop rice exports and seeking investors willing to work with small farmers.³³

2.8 Investment and trade agreements

Cambodia is a member of several international and regional organizations that facilitate trade, and is active in regional initiatives such as ASEAN. Cambodia joined the World Trade Organization (WTO) in 2003 and is a contracting party to many ASEAN economic agreements, including the Framework Agreement on the ASEAN Investment Area.³⁴ Cambodia also accedes to the ASEAN Free Trade Area, the ASEAN Comprehensive Investment Agreement, the ASEAN-China Comprehensive Economic Cooperation Agreement, the ASEAN-Japan Comprehensive Economic Partnership Agreement, the ASEAN-Korea Comprehensive Economic Cooperation Agreement and other multilateral agreements.

Cambodia has also signed several bilateral trade agreements, but to date has not negotiated double taxation treaties with any countries.

Bilateral investment treaties (BIT)

BIT have been signed with: Austria 2004; China 1996; Croatia 2001; Cuba 2001; the Czech Republic 2008; France 2000; Germany 1999; Indonesia 1999; Japan 2007; the Democratic People's Republic of Korea 2007; the Republic of Korea 1997; Kuwait 2008; Lao People's Democratic Republic 2008; Malaysia 1994; the Netherlands 2003; Pakistan 2004; the Philippines 2000; Singapore 1996; Switzerland 1996; Thailand 1995; and Vietnam 2001.³⁵

³² Invest in Cambodia: <http://www.investincambodia.com/>

³³ Invest in Cambodia, Agriculture: <http://www.investincambodia.com/agriculture.htm>

³⁴ UNCTAD, Country Profile: http://www.unctad.org/sections/dite_fdostat/docs/wid_cp_kh_en.pdf

³⁵ UNCTAD Bilateral Investment Treaty Database: http://www.unctad.org/sections/dite_pccb/docs/bits_cambodia.pdf

2.9 Authorities and contact points

<p><i>Council for the Development of Cambodia (CDC)</i> Government Palace, Sisowath Quay Wat Phnom, Phnom Penh Tel: +855 23 981 154 Fax: +855 23 428 426 Email: cdc.cib@online.com.kh Website: http://www.cdc-crdb.gov.kh/</p>	<p><i>Cambodian Special Economic Zone Board (CSEZB)</i> Government Palace, Sisowath Quay Wat Phnom, Phnom Penh Tel: +855 23 99 23 55 Email: enquiry@cambodiasez.gov.kh</p>
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<p><i>Ministry of Land Management, Urban Planning and Construction</i> No. 771-773, Monivong Blvd., Phnom Penh Tel: +855 23 215 660 / 215 659 Fax: +855 23 217 035 / 215 277 Email: gdadmin-mlmupc@camnet.com.kh Website: http://www.mlmupc.gov.kh/mlm/</p>	<p><i>Ministry of Environment</i> No. 48, Sihanouk Blvd., Phnom Penh Tel: +855 23 427 894 Fax: +855 23 212 540 Email: moe-cabinet@camnet.com.kh Website: http://www.moe.gov.kh/</p>
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Appendices

Social and economic indicators

Population	
Total population (millions) (2010)	15.1
Population growth (annual percent) (2009)	1.7
Life expectancy at birth (years) (2009)	61.5
Rural population (percent) (2010)	77
Rural population growth (percent per year) (2009)	0.9
Employment in Agriculture (percent of total employment) (2001)	70.2
Unemployment (percent of total labour force) (2001)	1.7
Proportion of undernourished people in total population (percent) (2005–2007)	22
Dietary energy consumption (cal/person/day) (2005–2007)	2 245
Under 5 mortality rate (per 1 000) (2009)	87.5
Infant mortality rate (per 1 000 live births) (2009)	68
Adult literacy rate (2008)	77.6
UNDP Human Development Index (HDI) value (2010)	0.494
HDI rank (out of 169) (2010)	124
Land and input	
Country area (1 000 ha) (2009)	18 104
Land area (1 000 ha) (2008)	17 652
Agricultural area (1 000 ha) (2008)	5 555
Arable land (1 000 ha) (2008)	3 900
Permanent crops (1 000 ha) (2008)	155
Pastures (1 000 ha) (2008)	1 500
Forest area (1 000 ha) (2010)	10 094
Agricultural area – irrigated land (1 000 ha) (2008)	285
Share in total water (percent) use:	
- Agricultural (2006)	94
- Industrial (2006)	1.5
- Municipal (2006)	4.5
Fertilizer consumption (tonnes) (2008)	88 415
Tractors (number per 1 000 ha of arable land) (2008)	12
Economic	
Gross domestic product (GDP) (US\$ billions) (2009)	10.4
GDP per capita (US\$) (2009)	705.7
GDP growth (percent per year) (2009)	-1.9
Gross national income (GNI) per capita, Atlas method (current US\$)	650
Inflation, consumer prices (percent per year) (2009)	-0.7
Agriculture, value added (percent of GDP) (2009)	35.3
Value of agricultural exports (US\$ millions) (2008)	71
Share of agricultural exports (percent of total exports) (2008)	1.5
Value of agricultural imports (US\$ millions) (2008)	783
Share of agricultural imports (percent of total imports) (2008)	12
Crop production index (1999–2001=100) (2009)	202

Sources: FAO, World Bank, United Nations Development Programme (UNDP)

Agricultural production and trade data

Production of major agricultural commodities		
	Major crops (2008)	Value (international US\$1 000)
	Rice, paddy	1 914 066
	Cassava	384 030
	Indigenous cattle meat	81 721
	Major crops (2008)	Quantity (tonnes)
	Rice, paddy	7 175 473
	Cassava	3 676 232
	Maize	611 865
	Yield (2009)	Yield (hg/ha)
	Rice, paddy	28 358
	Maize	43 380
	Soybeans	14 574
	Cassava	222 738
	Sugar cane	269 230
	Livestock (2008)	Number of live animals
	Chickens	16 928 000
	Ducks	7 000 000
	Cattle	3 457 787
	Pigs	2 215 641
	Meat production (2008)	Quantity (tonnes)
	Pig meat	110 000
	Cattle meat	62 400
	Chicken meat	19 000
Imports of major agricultural commodities (2008)		
	Commodity	Value (current US\$1 000)
	Cigarettes	152 527
	Refined sugar	111 028
	Beer of barley	59 311
	Commodity	Quantity (tonnes)
	Refined sugar	314 344
	Non-alcoholic beverages	146 918
	Food wastes	100 275
Exports of major agricultural commodities (2008)		
	Commodity	Value (current US\$1 000)
	Maize	28 604
	Rubber, natural dry	17 941
	Palm oil	6 520
	Soybeans	6 509
	Commodity	Quantity (tonnes)
	Maize	311 572
	Soybeans	13 432
	Rubber, natural dry	8 283
	Palm oil	8 011

Source: FAOSTAT

Overviews of Cambodia:

FAO Country Profile: <http://www.fao.org/countryprofiles/index.asp?lang=en&ISO3=KHM>
FAO Country Brief: <http://www.fao.org/countries/55528/en/khm/>
Asian Development Bank Country Page: <http://www.adb.org/Cambodia/main.asp>
IFAD Rural Poverty Portal:
<http://www.ruralpovertyportal.org/web/guest/country/home/tags/cambodia>
World Bank Country Brief: <http://go.worldbank.org/P38U8YC0J0>
United States Central Intelligence Agency (CIA) World Factbook:
<https://www.cia.gov/library/publications/the-world-factbook/geos/cb.html>
United States Department of State Background Note: <http://www.state.gov/r/pa/ei/bgn/2732.htm>

Additional development data for Cambodia:

UNDP Human Development Indicators: <http://hdrstats.undp.org/en/countries/profiles/KHM.html>
World Bank, World Development Indicators: <http://data.worldbank.org/country/cambodia>
United Nations Millennium Development Goal Indicators: <http://unstats.un.org/unsd/mdg/Data.aspx>
World Bank, Cambodia at a Glance: http://devdata.worldbank.org/AAG/khm_aag.pdf
ASEAN, Statistics and Cambodia Profile:
<http://www.aseansec.org/22122.htm>; http://aanzfta.asean.org/uploads/stat/Cambodia_Profile.pdf
Asian Development Bank, Key Indicators:
http://www.adb.org/Documents/Books/Key_Indicators/2009/pdf/cam.pdf

Additional statistics on agriculture and production:

FAOSTAT (for statistics on agricultural production, trade, food supply, prices and agricultural resources): <http://faostat.fao.org>
World Bank, Agriculture and Rural Development Statistics:
<http://data.worldbank.org/topic/agriculture-and-rural-development>
United States Department of Agriculture (USDA), Agricultural Production, Supply and Distribution Database: <http://www.fas.usda.gov/psdonline/psdQuery.aspx>
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FAO, Food Security Statistics:
http://www.fao.org/fileadmin/templates/ess/documents/food_security_statistics/country_profiles/eng/Cambodia_E.pdf
FAO, Global Information and Early Warning System (GIEWS) on Food and Agriculture Country Brief:
<http://www.fao.org/giews/countrybrief/country.jsp?code=KHM>