

# GETTING STARTED IN CAMBODIA 2017

European Chamber of Commerce in Cambodia  
**BUSINESS GUIDE**





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## EUROPEAN CHAMBER OF COMMERCE IN CAMBODIA

EuroCham Cambodia exists to facilitate European business in Cambodia.

As the largest Western business network in Cambodia with 290 members, we represent the voice of the European business community in dialogue with the Royal Government of Cambodia, we provide research and market entry services, we go abroad to promote Cambodia as an investment destination, and we host popular networking functions that foster a support network among European companies. We particularly work with small and medium-sized enterprises (SMEs) which make up the vast majority of businesses that drive the economy.

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## About this book



RATANA PHURIK-CALLEBAUT  
EXECUTIVE DIRECTOR

We created *Getting Started in Cambodia* to provide practical advice to companies that have decided to invest in the Kingdom. The book's first chapter "Before you Arrive" offers important preliminary information about Cambodia; "Setting Up" explains Cambodia's various business entity structures, details the processes involved in their setup, and reviews government incentives, Special Economic Zones, and land management in the Kingdom; and the final chapter "Moving Forward" covers general business operations considerations in Cambodia such as tax rates, accessing capital, regulation, intellectual property, human resources, and dispute resolution.

If you are reading this book but aren't sure about whether or not to enter the Cambodian market, our Business Opportunities in Cambodia companion book provides a wealth of information for prospective foreign investors including chapters on Cambodia's political and economic landscape, trade agreements, major sectors of opportunity, and infrastructure. Please visit our offices for a free copy of the book, or it can be downloaded from our web site below.



Business guide:

*Business Opportunities Cambodia*

| [eurocham-cambodia.org/publications](http://eurocham-cambodia.org/publications)

*Many photos in this guide were generously made possible by the photography staff at the Khmer Times.*



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Photo by Sunny Merindo



# BEFORE YOU ARRIVE

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Arriving in a new country can be challenging, so we created this chapter as a basic orientation on currency, visas, and your options for accommodation, telecommunications and transportation.

It may be a relief to learn that understanding the Cambodian language is not a prerequisite for doing business here, and it is possible to set up your operations almost entirely in English.

Do pay particular attention to the section on visas as this is an area where we have seen confusion in the past. Ensuring that you enter the Kingdom on an E-Class Visa will prevent administrative delays as you settle in.



# 1. GOOD TO KNOW



As you settle into Cambodia, you'll find it is generally a very open and accessible environment. In urban areas you can expect to receive your change in a different currency to that which you paid with, and you may be surprised by the enthusiasm of the country's many tuk-tuk drivers!

“

Most Cambodians will likely begin conversation in English.

## Language

Khmer is Cambodia's official language and the mother tongue of the majority of the population. However, in urban areas and within the business community, most Cambodians will assume that you are not able to speak the language and will likely begin conversation in English. If conducting business predominantly within Phnom Penh, Siem Reap or Sihanoukville, being unable to speak Khmer will not be a hindrance, although you may require assistance with some administrative procedures. Within the provinces it may be more challenging to find English speakers and learning some introductory Khmer could prove beneficial.

## Accommodation

For those staying only for a short period of time, Cambodia is well-represented on the most common international hotel booking websites. Those seeking to settle in the country may consider hiring a letting or property agent.

## Money

Cambodia has a dual-currency system—in addition to the Khmer Riel (KHR), United States dollars (USD) are used and accepted nearly universally. Because the Riel is pegged to the US Dollar, the exchange rate has stayed at roughly 4000KHR to 1USD for over 10 years. Prices for goods and services are generally displayed in Dollars, though public services are always priced in Riel. As Cambodia does not have any coin currency, it is common to see cash transactions made with a mixture of KHR and USD (for example, a 2.50USD transaction may be paid with 2USD and 2000KHR). International ATMs are numerous in urban areas, though withdrawal fees can be expensive; if you are staying for an extended period it may be worthwhile to open a local bank account.



## Telecommunication

Cambodia has good mobile network coverage in both the cities and provinces. Major cell phone and data service providers include Mobitel, SMART, and Metfone. We recommended obtaining a local SIM card upon arrival as mobile rates in Cambodia are very inexpensive, and international roaming services can be costly within Cambodia.

- 1 **Metfone**  
| [metfone.com.kh](http://metfone.com.kh)
- Mobitel**  
| [mobitel.com.kh](http://mobitel.com.kh)
- Smart**  
| [smart.com.kh](http://smart.com.kh)

## Transportation

'Tuk-tuks' are a common form of transportation within urban areas—upon arrival try to occasionally ask colleagues about tuk-tuk fares between various points of interest in the city in order to become familiar with typical rates. While you're still learning, be sure to agree on fares with tuk-tuk drivers in advance to avoid disputes. There are also a number of metered taxi and private car companies available.

Phnom Penh is the country's transportation hub and has good road and bus routes to most other towns and to neighbors Thailand, Vietnam and Laos. A passenger rail route between Phnom Penh and the port town of Sihanoukville has recently re-opened and there are plans to renovate a Northern Line to connect to the Thai border. Cambodia has three international airports at Phnom Penh, Siem Reap and Sihanoukville which all offer direct flights to most major cities in Southeast Asia and the Far East. Presently, flights to Europe require a layover in the region's major aviation hubs.

## 2. GET THE RIGHT VISA



Entrepreneurs intending to register a business in Cambodia need to ensure that they hold the correct visa, as a typical T-class (tourist visa) obtained upon arrival will not enable you to register a business.

### The right visa

#### E-CLASS VISA (ORDINARY VISA)

Sometimes referred to as a business visa, an **E-class visa can be obtained prior to arrival from a Cambodian embassy or upon arrival at international airports.** Initially the E-class visa is only valid for 30 days, however it can be extended multiple times for periods of one, three, six or twelve months. An E-class visa is the most common type of visa used by foreign investors to register a business.

### Other visa types

#### T-CLASS VISA (TOURIST VISA)

Tourist visas are obtained upon arrival at Cambodia's borders and airports, and are intended for international visitors who will be staying for 30 days or less. Once in the Kingdom, a tourist visa can be renewed one time only for an additional 30 days. Holders of T-class visas are not eligible to register businesses in Cambodia.

#### K-CLASS VISA

K-class visas are free visas intended for individuals who were born in Cambodia or can provide documentary evidence demonstrating Cambodian heritage while entering the country on a foreign passport. These visas will be of interest to Europeans with Cambodian parents.

#### A,B,C AND D-CLASS VISAS

A,B,C and D-class visas are issued to foreign diplomats and officials.

#### CAUTION: E-CLASS VISA

Following the practice of many other countries, Cambodia now has an online application system for tourist visas called the e-Visa. Make sure that you avoid being confused by the name of this electronic system: the e-Visa system is applicable only to T-class tourist visas and **is not** the same as an E-class visa, which must be obtained upon arrival at an international airport, border, or Cambodian embassy. Those entering the Kingdom on a T-class visa cannot apply for an E-class visa within the country—in such cases they must physically leave the country and can then apply for an E-class visa upon re-entry.







## SETTING UP

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The Royal Government takes a proactive approach in facilitating Foreign Direct Investment (FDI) and is broadly considered one of the most business-friendly governments in the region.

Cambodia, unlike many ASEAN markets, places **no restrictions on the nationality of investors in a business entity**—it is entirely possible to register a 100% foreign-owned business and be subject to no additional limitations except the capacity to own land. Until recently the steps required to register a business in Cambodia were considered some of the most administratively burdensome in the region, though in response the Royal Government has been implementing important reforms aimed at streamlining the process.

This section provides an overview of the types of investment available, the registration process, and the ways in which certain projects can apply for special investment incentives.

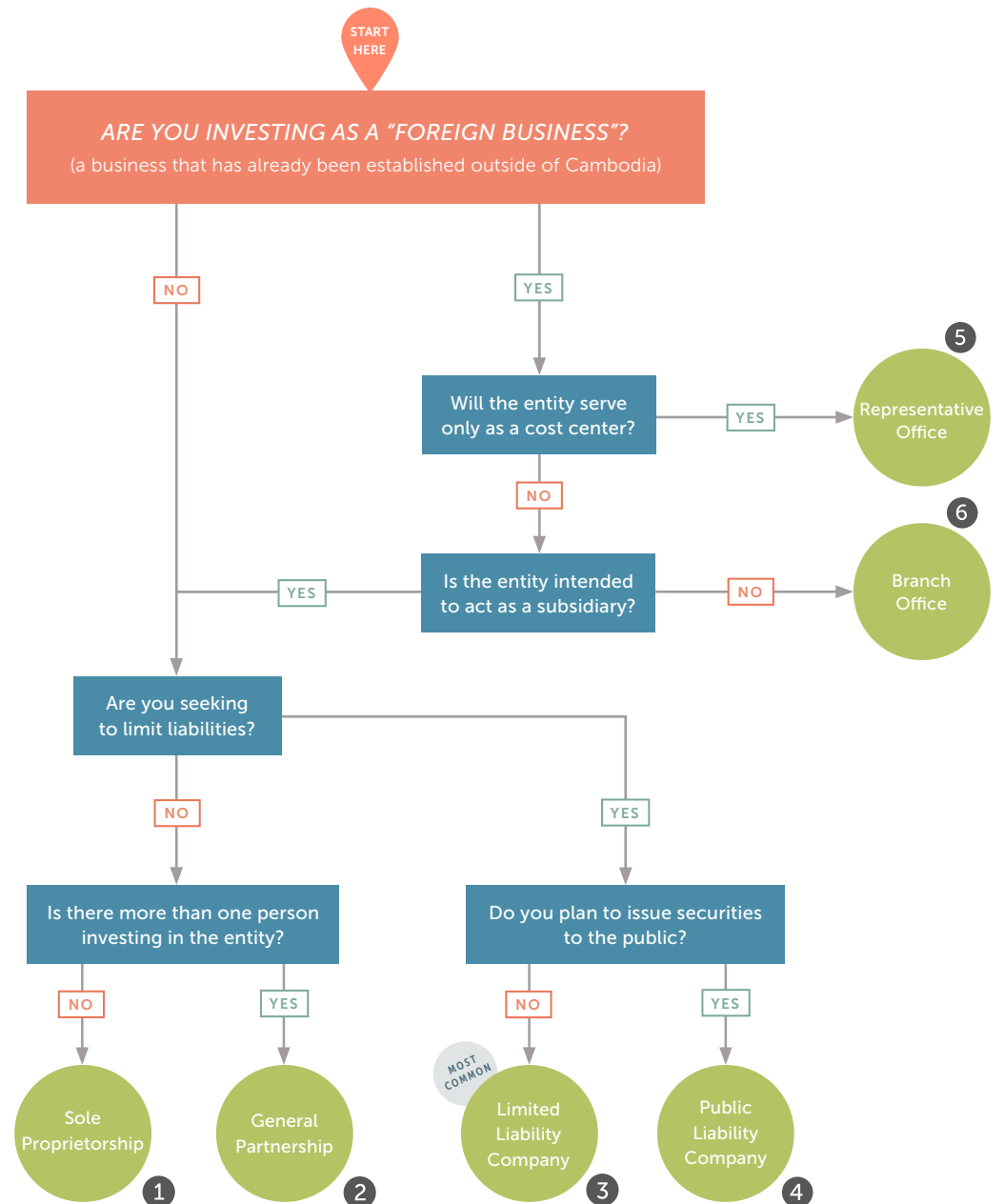
# 1. BUSINESS STRUCTURES



Business registration requirements in Cambodia will be different depending on what type of company you are seeking to establish. **Most foreign entrepreneurs creating a company in the Kingdom will do so under a 'Limited Liability Company' structure**, which limits the liabilities of shareholders to the capital invested in the company. Other business structures are available as well, including those applying exclusively to companies owned by a foreign parent company.

## What type of company structure is right for you?

Use this chart to determine the most appropriate business entity.





## Options for local companies & foreign subsidiaries

1

### SOLE PROPRIETORSHIP

A sole proprietorship is a business entity owned wholly by a single natural person, who takes exclusive personal responsibility for the full obligations and liabilities of the business.

2

### GENERAL PARTNERSHIP

A general partnership involves two or more natural persons who are the sole persons authorized to administer and bind the partnership and who collectively share full responsibility for the obligations and liabilities of the business. This business type is best-suited to professionals such as doctors, lawyers, accountants etc.

The law on Commercial Enterprises also allows for a 'limited partnership' in which there are 2 or more general partners as above in addition to one or more limited partners who contribute capital and are entitled to a share of profits but who are only liable to the extent of the sum of money or value of the property that they have agreed to contribute.

3

### LIMITED LIABILITY COMPANY

Creating an LLC is the most common option for entrepreneurs starting a business in Cambodia because it limits the potential liabilities of shareholders to their investment in shares. An LLC can have between 1 and 30 shareholders and the minimum capital is only 4m KHR (1,000 USD). The LLC may register one or more directors, who in turn appoint officers to manage the company.

**A parent company from overseas can create an LLC in Cambodia either as a wholly-owned 'subsidiary' or under shared ownership.** Under this corporate structure, the parent company is only potentially liable for the subsidiary's debts and liabilities up to the point of its subscribed capital in the subsidiary. Subsidiaries are free to engage in any business activities that are open to local companies but, as foreign-owned businesses, they are not permitted to own land.

Compared to a sole proprietorship or general partnership, registering an LLC requires a few additional documents. A Company Memorandum and Articles of Association will be required when registering at the Ministry of Commerce.

### MOST COMMON BUSINESS STRUCTURE

4

### PUBLIC LIMITED COMPANY (PLC)

A Public Limited Company (PLC) is a form of limited company that the law authorizes to issue securities to the public. Unlike private limited companies, it may have more than 30 shareholders. A Public Limited Company must have at least three directors who are elected by the shareholders for periods of two years.

Cambodia has a fledgling securities exchange, the Cambodia Securities Exchange (CSX). As of the end of 2016, the CSX had only four listed companies. So far, the majority of companies interested in listing have been state-owned, with some exceptions such as a Taiwanese garments manufacturer and the privately-held Phnom Penh Special Economic Zone. The CSX hopes to attract

SMEs in the future, and has introduced a 'Growth Board' with significantly lower minimum equity requirements.

# 51%

A business is considered to have "Cambodian nationality" if it has a registered office in Cambodia and 51% of shares are owned by Cambodian legal persons.



## Additional entity options for foreign companies

Overseas companies wishing to register a business in Cambodia can opt for any structure listed previously, which would constitute a 'subsidiary' of the overseas company. However, foreign companies also have two additional options:

5

### REPRESENTATIVE OFFICE

A representative office (RO) is an option available to a foreign parent company that wishes to engage in sales liaison and market research activities in Cambodia. The RO is not a separate legal entity from the parent company and is strictly limited in its business activities – it is intended only as a cost center and should not derive any income from its operations.

The activities that an RO may engage in are detailed in Article 274 of Law on Commercial Enterprise (LCE):

- 1 Contact customers for the purpose of introducing customers to its principal
- 2 Research commercial information and provide the information to its principal
- 3 Conduct market research
- 4 Market goods at trade fairs, and exhibit samples and goods in its office or at trade fairs
- 5 Purchase and keep a quantity of goods for the purpose of trade fairs
- 6 Rent an office and employ local staff
- 7 Enter into contracts with local customers on behalf of its principal

6

### BRANCH OFFICE

A branch office is a less restricted option for foreign parent companies – it can in practice engage in the same business activities as an LLC incorporated in Cambodia.

However, the branch office does not benefit from the limited liabilities afforded to an LLC or subsidiary. Responsibility for the debts and liabilities of the branch office are jointly held between the branch itself and the parent company, which makes it a more risky form of entity.

Anecdotally, we understand that investment projects by branch offices are unlikely to benefit from investment incentives, with the Development Council preferring to deal with locally-incorporated subsidiaries.

## 2. BUSINESS REGISTRATION PROCESS



The documentation and eligibility requirements differ for each form of business entity. Because private limited-liability companies (LLCs) are the most common company structure used by foreign investors in Cambodia, we outline the setup process below.

STEP

01

DEPOSIT THE  
LEGALLY REQUIRED  
INITIAL CAPITAL

STEP

02

RESERVE YOUR  
NAME COMPANY

STEP

03

REGISTER WITH  
MINISTRY OF COMMERCE

STEP

04

REGISTER WITH  
DEPT OF TAXATION

STEP

05

REGISTER WITH  
MINISTRY OF LABOR &  
VOCATIONAL TRAINING

### ITEMS YOU WILL NEED

- ✓ Company name in both Khmer and English
- ✓ Proof of company address (see page 22)
- ✓ Identification for Directors and Shareholders (passport, Khmer ID card)
- ✓ Certification of Incorporation of a parent company AND signed letter declaring that you have no criminal record
- ✓ Valid visa (not a T-visa)
- ✓ Company Memorandum and Articles of Association
- ✓ List of current staff (incl. gender and nationality)
- ✓ Bank account at ACLEDA, FTB, or Canadia to process application fees

## SETTING UP A LIMITED LIABILITY COMPANY

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### 01

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#### DEPOSIT THE LEGALLY REQUIRED INITIAL CAPITAL IN A BANK & OBTAIN DEPOSIT EVIDENCE

As a precondition of registering a business in Cambodia, companies must be able to provide a bank statement certifying a deposit of a minimum of 4M KHR (approx. 1,000 USD) at any authorized bank within Cambodia.

### 02

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#### RESERVE COMPANY NAME

You must first check that your proposed name for the company is not already taken within Cambodia. The fastest way to do this is within the new online business registration portal, though at time of publication this requires an ACLEDA bank account to make online payment. Applications can also be made at the Business Registration Department of the Ministry of Commerce.

Officials from the Ministry are instructed to reject any business registration applications with names containing 'Buddhist' or the names of some national heroes. Additionally an officer may reject a name that is obviously intended to mislead such as "Koca-Cola". Also note that the English iteration of the name must phonetically resemble the Khmer version

#### NOTE

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Certain business activities may require the company to acquire operational licenses from other Ministries such as Agriculture, Forestry and Fisheries, or Health.

### 03

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#### REGISTER WITH: MINISTRY OF COMMERCE

Register online (encouraged) or at the Business Registration Department of the Ministry of Commerce. You will need to provide a business name, business activities, intended number of employees, business address and contact information, information about the Director(s), and information about shares and shareholders.

The fee for incorporating a Private Limited Company, including reservation of the company name, is 1.72m KHR (approx. 430 USD) as of June 2016. The Ministry will review your application within 3 weeks, and if accepted, provide a Letter of Approval, Certificate of Incorporation, and a company seal.



#### Registration online

[businessregistration.moc.gov.kh/](https://businessregistration.moc.gov.kh/)

The Ministry of Commerce has produced an instructional video that explains the online business registration portal.

#### Search YouTube for:

***Business Registration Through Automation***

### 04

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#### REGISTER WITH: GENERAL DEPARTMENT OF TAXATION

Bring your Letter of Approval and Certificate of Incorporation along with your company's Memorandum and Articles of Association to one of the General Department of Taxation's seven district branches so they can provide you with a TIN (Tax Identification Number).

You will also need to register and pay a one-time Registration Tax and make the first of your company's annual Patent Tax payments.

### 05

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#### REGISTER WITH: MINISTRY OF LABOR & VOCATIONAL TRAINING

Submit a written declaration to Ministry of Labor before opening your doors. You must also notify the Ministry within 15 days each time you hire or terminate an employee, and (for companies with 8 or more staff) you must submit your internal employment terms and conditions to ensure they meet Cambodia's Labor Code within 90 days of opening. In the first few months of operation, all new businesses will be visited by a Labor Inspector to verify these steps have been completed.



## Reforms having an impact

In December 2015 the Ministry of Commerce launched an **online business registration portal**; this paperless system enables prospective businesses to search for a company name, pay registration fees online, and upload shareholder and board of directors' information. The previous system required representatives to physically go to the Ministry to complete registration procedures.

The online registration system was developed by Foster Moore International, the same consultancy that developed a New Zealand online registry that the World Bank's *Doing Business 2016* report ranked number one in terms of speed of starting a business.

While this report saw Cambodia's ease of registering a company move up only 5 places in comparison with other economies (from 185 to 180), the authors did note that *"Cambodia made starting a business easier by simplifying company name checks, streamlining tax registration and eliminating the requirement to publish information on the new company's incorporation in the official gazette."*

Overall, the 2016 edition of the report estimated that the entire process for creating a business in Cambodia (including registration with tax and labor authorities) typically takes around 87 days and costs approximately 795 USD. This is a marked improvement on the 2014 report which suggested values of 101 days and 1,325 USD.

## Business registration support

With the implementation of an online business registration system, the Ministry of Commerce has made it possible for entrepreneurs to navigate the business registration process independently. For guidance on registering a standard business structure, please feel free to contact EuroCham Cambodia.

More complex types of business structure may require specialized legal advice for processes such as preparing Memorandum of Association. Those unfamiliar with the system may encounter unexpected costs and delays without using outside assistance. In these cases, we recommend hiring a qualified local representative to ensure that the registration process proceeds smoothly. Our online directory contains a number of reliable legal service providers.



### Advisory services

Our online directory contains a number of reliable legal service providers:

[eurocham-cambodia.org/directory](http://eurocham-cambodia.org/directory)

## PROOF OF COMPANY ADDRESS



During registration, you will need these items to verify your company address:

- ① **Ownership deeds of a property held by a director**
- ② **A lease agreement on a commercial property**
- ③ **Immovable property tax payment by the lessor**

If leasing a commercial property, be sure to obtain proof of ownership from your lessor. If you are unable to obtain this document, or if you are only sub-leasing the property and unable to contact the actual owner, this will make the registration process more difficult. You will also need to obtain evidence of immovable property tax payment by the lessor as this may be required when registering with the General Department of Taxation.

Businesses who do not require physical office space as part of their day-to-day operations, or who are not ready to sign a lease agreement, nonetheless need to provide a valid company address to complete the business registration process. **"Virtual offices" are common in some countries but typically not accepted in Cambodia;** alternatively, consider sub-leasing a small area within an office as an inexpensive solution.

EuroCham will be happy to refer investors to providers of such services.



### 3. QUALIFIED INVESTMENT PROJECT (QIP)



The Royal Government of Cambodia takes a pro-active approach in encouraging foreign direct investment (FDI) by offering **incentives to foreign investors** via the Qualified Investment Project (QIP) scheme. Administered through the Council for the Development of Cambodia (CDC) and provincial/municipal investment sub-committees, the QIP scheme generally benefits larger investment projects.

The minimum investment threshold needed to qualify for QIP status varies by business activity:

BUSINESS ACTIVITY	MIN. INVESTMENT TO APPLY FOR QIP (USD)
100% export	\$ 100K
Animal feed	\$ 200K
Leather of metal, electrical goods, motor vehicles + parts + acces	\$ 300K
Food + Beverage, textiles, garments, footwear, furniture, paper products, rubber and plastics, traditional medicines, export cereals and crops	\$ 500K
Chemicals, cement, agricultural fertilizers, petrochemicals, modern medicines	\$ 1M
Construction of a modern market or trade centre	\$ 2M
Training and vocational educational institute	\$ 4M
International trade exhibition centre and convention halls	\$ 8M

#### Primary Benefits

Companies who successfully apply for QIP status can choose between two investment incentives:

1

#### PROFIT TAX HOLIDAY

Profit tax holiday grants the company exemptions from Tax on Profits and the Minimum Tax for a number of years after registering as a QIP. The initial 'Trigger period' shields new QIPs from paying profit taxes until they become profitable (up to a maximum of three tax years) and is followed by a 'Standard Three-year Period'. In some cases a discretionary 'Priority Period' of up to three additional years may apply so as to create a maximum total exemption period of 9 years. Foreign investors should however be aware of a clawback mechanism if seeking to repatriate profits (see page 26).

2

#### SPECIAL DEPRECIATION ALLOWANCES

QIPs who need to invest heavily in equipment for production or processing can make use of special depreciation allowances; 40% of the equipment investment can be offset against tax liabilities.

#### Additional Benefits

##### CUSTOMS DUTY EXEMPTIONS

QIPs can take advantage of customs duty exemptions on imported production equipment, construction materials, and, if your products are intended for export, production inputs. This can result in significant savings for industrial projects that import raw materials for processing.

##### SEZ VAT EXEMPTION

In addition to the aforementioned customs duty exemptions, **investors within Special Economic Zones receive a VAT exemption** (the VAT rate is 10% in Cambodia). As above, this applies to production equipment and construction materials for both domestic manufacturing and export-oriented QIPs. Export-oriented QIPs can also receive a VAT exemption on production inputs.





## WHO SHOULD APPLY FOR THE QIP SCHEME?

Cambodia's QIP scheme can provide considerable benefits to some foreign investment projects, but not all. **Applying for the QIP scheme requires a substantial financial investment** and may slow down an investment project since the QIP license takes approximately three months to be granted. A successful QIP applicant also incurs stricter regulatory requirements such as the obligation to use an external financial auditor and a requirement to seek authorization from the CDC to make any changes to company details (e.g. registered shareholders). As such, prospective investors should consider the following questions before applying:

### **Q** *When do I expect my business to become profitable?*

Some investment projects, particularly within the agricultural sector, are by nature long-term investments that become profitable only after a number of years. If you do not expect that your project is likely to be profitable within the tax exemption period (up to 9 years), then this incentive becomes less relevant.

### **Q** *Do I intend to repatriate profits or to reinvest them in Cambodia?*

This question is very important as Cambodia's Law on Taxation includes a clawback mechanism for companies who have benefited from the QIP tax exemption period and then seek to repatriate profits; such companies are subject to a 20% tax on dividend payments that other companies are not subject to, which in effect nullifies the Tax on Profit exemptions that they have enjoyed and renders this incentive as only a delayed tax. Thus the tax on profit exemption is more beneficial to companies that intend to reinvest profits back into Cambodia.



### **Q** *How big is my investment project?*

Depending on the specifics of your project, investors should budget for around \$6,000 to \$10,000 for the entire QIP application process including legal fees, and official fees to the Council for the Development of Cambodia. Smaller-scale investors, including those above the minimum \$100,000 capital investment threshold, may find that these fees make the QIP scheme less attractive.

### **Q** *Will I be exporting my products, and from where will I source my inputs?*

Due to the Royal Government's strategic desire to encourage export-oriented manufacturing, the QIP scheme is particularly beneficial for such investment projects. **An export-oriented QIP benefits from Customs Duty exemptions and, if based in an SEZ, VAT exemptions.** If you intend to manufacture for the Cambodian market or source your inputs within the country, the QIP scheme is less beneficial.

### **I** **Advisory services**

We strongly recommend businesses to take professional investment advice prior to embarking on a QIP scheme application. Our online membership directory contains a number of reliable investment advisory service providers:

**|** [eurocham-cambodia.org/directory](http://eurocham-cambodia.org/directory)



## 4. SPECIAL ECONOMIC ZONES



In 2005, the Royal Government launched an initiative to incentivize FDI by concentrating infrastructural and administrative resources through the creation of 'Special Economic Zones' (SEZ) throughout the country.

“

Each Zone is a secure, self sufficient area with dedicated utilities and administrative teams.

There are currently over 30 SEZs authorized throughout the country, though some are not yet in operation. Active SEZs are primarily located around Phnom Penh and near the international borders with Thailand and Vietnam. **Each Zone is a secure, self sufficient area with dedicated utilities and administrative teams.** SEZs tend to have reliable access to roads and ports. They also have independent power and water supplies to ensure continuous business operations.

**Investors within SEZs also benefit from streamlined customs and administrative procedures** due to the on-site presence of representatives from Customs, the Ministry of Commerce, and the Ministry of Labor and Vocational Training. The Royal Government seeks to provide each Zone a 'one-stop shop' to assist in troubleshooting and navigating the Kingdom's bureaucracy.

While it is not required to be a QIP in order to set up in an SEZ, investors within the SEZs would normally hope to qualify for QIP status and receive additional support during the application process from the SEZ's administrative teams.

16

number of active  
SEZs as of 2017



Photo by Sunny Merindo

## SPECIAL ECONOMIC ZONES



SEZ NAME	EST. YEAR	AREA (HA)	PROJECTS IN SEZ
SVAY RIENG PROVINCE			
① Manhattan Svay Rieng	2006	157	31
② Tai Seng Bavet	2007	99	27
③ Shandong Sunshell	2013	96	5
④ Dragon King Bavet	2012	106.5	4
⑤ Hi-Park	2013	263.13	1
⑥ Qi Lu (Jian Pu Zhai)	2017	179.72	1
PHNOM PENH			
⑦ Phnom Penh SEZ	2006	350	89
⑧ Kerry Worldbridge	2015	63	1
PREAH SIHANOUK PROVINCE			
⑨ Sihanoukville	2008	1113	109
⑩ Sihanoukville Port	2009	70	3
⑪ Sihanoukville 1 <sup>st</sup>	2006	178	3
KOH KONG PROVINCE			
⑫ Neang Kok Koh Kong	2007	335	5
KANDAL PROVINCE			
⑬ Goldfame Paksun	2007	80	2
⑭ Suvannaphum	2014	200	1
BANTEAY MEANCHEY PROVINCE			
⑮ Poi Pet O Neang	2006	467	5
⑯ Sanco Poi Pet	2013	66.5	10



## 5. MANAGING LAND & PROPERTY



Cambodia has an open investment regime without nationality restrictions on registering a company in the Kingdom —a 100% foreign-owned business entity can conduct business in Cambodia with nearly the same rights as a locally-owned company. **One exception to this rule is the right to own land**, which under the Kingdom's Constitution is reserved exclusively for Cambodian nationals and companies defined as having Cambodian nationality.



**GUILLAUME MASSIN**

Managing Director, Partner  
DFDL Cambodia

Vice-President

European Chamber of Commerce in Cambodia

President

Chambre de Commerce et d'Industrie France Cambodge

Q & A

Mr. Massin has extensive experience working on real estate matters within the Kingdom and was able to spend some time to discuss the options that foreign companies have in managing land in Cambodia.

**Q To begin with, which companies are considered to be 'foreign'?**

Under Cambodian law, a company is considered to be of Cambodian nationality if it has a registered office in Cambodia and Cambodian nationals own at least 51% of its shares. The same principle applies for a general partnership, whereby 51% of the ownership interest must be held by Cambodians in order to be considered a Cambodian entity. Companies that do not qualify for Cambodian nationality are not permitted to own land in Cambodia.

**Q Does this mean that foreign investors cannot own property in Cambodia?**

That's not quite the case. Cambodia's Constitution prevents foreigners from owning land, however **it is possible for foreigners to own residential or commercial properties that are not on the ground floor** of a property subject to certain conditions. For example, there is no reason that a company cannot take full ownership of an office within a commercial development provided that the office is on the second floor or higher. Such developments can be →



split into 'strata titles,' of which 70% can be foreign-owned. The land that the development sits on must still be owned by Cambodian nationals (either the developer or divided between the Cambodian strata-title owners), though applicable regulations provide sufficient levels of protection to the foreign investor to ensure that the property cannot be destroyed or replaced without their consent or an appropriate level of compensation.

**Q** *How common is it for foreign investors to seek to control land in Cambodia?*

For many companies, particularly those operating within the services sector, this isn't really an issue at all; the business model and strategy does not require them to own land within the Kingdom. Retail and service companies are more likely to lease an office space, which is relatively easy and no more difficult for a foreign company than a local company. And as we have discussed, they also have the option of purchasing property that is not on the ground floor.

**It is also permitted to enter into long-term leases that guarantee rights over land or property for an extended period of time.** Even within the industrial sector (where investors are planning to invest in factories or warehouses), a long-term lease can provide sufficient protection for the investment. One should also consider that land prices around the Phnom Penh area have been increasingly rapidly over the past decade and purchasing land now requires significantly higher levels of capital than was previously the case, so more investors are looking at leasing options.

Keep in mind that some investment projects do require some form of stake in and control over land in order to secure funding or to mitigate the risk of operational disruption. In such cases, mechanisms can be put in place to ensure that foreign investors can effectively manage land in Cambodia despite not being the owner.



Mechanisms can be put in place to ensure that foreign investors can effectively manage land despite not being the owner.



A joint venture with a Cambodian partner can be configured to provide layers of security to the foreign shareholder or its lender.

**Q** *What are the most common ways for foreign companies to protect their interests over land in the country?*

One option is to take a minority stake of up to 49% in a joint venture with a Cambodian partner. This joint venture company would then be eligible to own the land. This approach carries admin costs, registration fees, as well as a potentially high tax burden. However, it is one of the lowest-risk options because the company and its assets can be configured to provide layers of security to the foreign shareholder or its lender. An alternative option, one that is not available in most other Southeast Asian countries, is to have the joint venture company register a mortgage on the land, which in effect ensures that the asset cannot be transferred without the consent of the foreign shareholder or lender.

**Q** *What other options are available to foreign investors?*

There are no restrictions on foreigners or foreign entities acquiring control over land that is Cambodian-owned through a long-term lease agreement. Lease agreements of more than 15 years are quite common, particularly within the Kingdom's dedicated Special Economic Zones (SEZs). Investors can include provisions within the lease contract to ensure against the land being sold without the lessee's consent.

**Q** *Is it possible for foreigners to acquire Cambodian citizenship?*

A foreign national that acquired Cambodian citizenship would gain the right to own land, so this is technically another option. In practice it is quite difficult to obtain citizenship and would only really be a possibility for investors injecting the greatest amounts of capital into the country. For a typical European SME I wouldn't see this as a viable option as European companies usually do not register land directly in the name of an individual.

**Q** Are there any strategies that you would advise against?

A cheap but highly risky strategy that has historically been used by some foreign investors is to attempt to purchase land through a Cambodian ‘nominee’. Under this system, investors would approach a Cambodian landowner and sign a ‘trust agreement’ with them in which they agree to hold the land in their name. This practice is not recognized in Cambodia and therefore is not advisable.

Another important point is that investors must make sure that any land they intend to develop has been registered with the Ministry of Land Management, Urban Planning and Construction. Land that has not been registered will not be subject to the same legal protections which could result in investors losing control over the land without any legal recourse.

**Q** And any further recommendations?

Generally speaking, the Special Economic Zones (SEZs) represent quite a safe bet. Within these zones the landholder tends to be a development company with more of an international mindset and you are less likely to encounter problems. The Royal Government’s *Industrial Development Policy 2015-2025* places a strong emphasis on the development of the SEZs and I expect them to play an important role in attracting new FDI over the coming decade.

**Q** Should the issue of land ownership feature in a prospective investor’s assessment of Cambodia?

Provisions to limit land ownership to nationals of the host country are relatively common throughout the region, and Cambodia’s laws and its open investment regime provide enough flexibility to ensure that this is not a major issue for foreign companies provided that they take appropriate and prudent steps to protect their interests. ●



**Advisory services**

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Photo by Chor Sokunthea





Photo by Nick Sells



# MOVING FORWARD

The last section of this book serves as a reference point on a variety of topics that will be of relevance to your business over the first year of operation. This includes up-to-date information on **Cambodia's competitive taxation system** and a number of specific taxes to be aware of for financial planning. We also seek expert advice on Cambodia's banking system and the options you have when it comes to taking loans, listing stock, and repatriating profits. Additionally, we describe some of the key features of the Cambodian labor environment and some of the most important features of the Labor Law that you will need to plan for, as well as strategies to protect your intellectual property and methods to resolve corporate disputes.



# 1. TAXATION



Cambodia has one of the most competitive tax regimes in Southeast Asia. In the following pages we give a brief overview of the most common tax liabilities an SME can expect in Cambodia.

## FORMALIZATION OF THE ECONOMY



Until early 2016 Cambodia had two tax systems: the 'real regime' which requires taxpayers to file monthly and annual tax returns, be open to tax audits, and charge value added tax (VAT) to their clients, and the 'estimated regime' which was a legal but more informal method of tax calculation intended for smaller businesses. In practice, this 'estimated regime' was sometimes exploited by larger companies as a means to pay less tax than they would have done under the more stringent reporting requirements of the 'real regime', and was perceived by some foreign-owned businesses under the 'real regime' as a source of unfair competition.

The 2016 Law on Financial Management now requires all businesses to register under the 'real regime'. This is a major reform by the Royal Government as previously around 80% of businesses within the country participated only within the 'estimated regime'. This transition is a large component of the Royal Government's broader objective of formalizing the economy, which will help to create a more level playing field for foreign investors. In 2015, tax collection increased by 25% from the year prior, despite no increase in corporate tax rates. This demonstrates that the General Department of Taxation's efforts to better implement the Kingdom's tax requirements are bearing fruit.

## Patent Tax

When registering as a new taxpayer, the company must pay that year's patent tax in full if registering within the first half of the year. If registering in the second half of the year, half the normal fee is due. This is collected at the same time as Registration Tax.

For subsequent years, annual patent tax is collected each March and the amount due is based on total annual turnover (see table).

## Registration Tax ("VAT Tax")

During the business registration process, new companies having their official documents authorized by the General Department of Taxation are required to pay a one-time Registration Tax of 1m KHR (approx. 250 USD) prior to receiving a TIN.

### NOTE

Some online sources cite a figure of 285 USD for Patent Tax but this is outdated.

TIER	THRESHOLD (KHR)	THRESHOLD (USD)	PATENT TAX
Medium	250m—700m	62.5k—175k	400k KHR = 100 USD
Medium	700m—2,000m	175—500k	1.2m KHR = 300 USD
Large	2000m—10,000m or QIP status with revenue <2,000m	500k—2.5m	3m KHR = 750 USD
Large	10,000m+	2.5m+	5m KHR = 1,250 USD

## Tax on Profit / Minimum Tax

Annual income tax is payable through the Tax on Profit [TOP]. For most companies, TOP is calculated at a standard rate of 20%.

There are a few exceptions:

- Sole proprietorships and general partnerships are subject to a cumulative banded tax rate up to a maximum taxable profit of 150m KHR (approx 37,500 USD), after which they incur the 20% TOP rate
- A rate of 30% for companies extracting oil, natural gas, and natural resources
- Insurance companies pay different rates depending on the type of insurance
- QIP can benefit from lower TOP rates or exemptions subject to approval of the CDC

Expenses incurred through the tax year are deductible provided they are not indicative

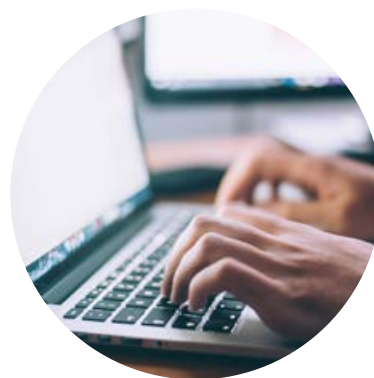
of 'abnormal management', are not related to personal needs, and did not provide any benefits to third parties. There are specific guidelines in place for permissible tax depreciation methods.

The Law on Taxation also provisions for a 'Minimum Tax' [MT], however as of the new *Law on Financial Management 2017* companies can obtain exemption from this tax provided they maintain proper accounting records and subject themselves to external auditing. For information, the MT rate is set at 1% of annual turnover (revenue), inclusive of all taxes except for VAT. In practice this is the rate paid by companies in a loss situation, as the MT is not payable where TOP payments exceed the MT calculation.

## Tax on Salary (TOS)

Employers are required to withhold income tax from salaries and other benefits paid to employees.

For taxation purposes, individuals are classified as 'resident' in Cambodia if their residence or principal place of abode is within Cambodia or the individual is present within Cambodia for more than 182 days in any 12-month period that ends within the applicable tax year. **Personal income tax rates vary between 0% and 20% dependent upon the level of personal income** as per the following table:



TAXABLE INCOME FOR THE MONTH (KHR) TIER	TAXABLE MONTHLY INCOME (USD)	PERSONAL INCOME TAX RATE (%)
<1,000,000	0 – 250	0
1,000,001 – 1,500,000	250 - 375	5
1,500,001 – 8,500,000	375 – 2,125	10
8,500,001 – 12,500,000	2,125 – 3,125	15
>12,500,000	3,125+	20

*Note that this is a cumulative progressive scale – a person earning 1,500 USD per month would not pay 10% of 1,500 but would pay 0% on the first 250 USD, 5% on the next 125 USD, and then 10% on the remaining 1125 USD.*

*A non-resident tax payer is an individual who does not meet the 'residency' criteria above but who has income generated in Cambodia. A non-resident tax payer is taxed at the flat rate of 20% on income from Cambodian sources.*

## Value-Added Tax [VAT] and Withholding Taxes

VAT is applicable to the supply of goods and services used for production, trading and consumption in Cambodia (including goods imported into Cambodia).

**The standard rate for activities not specifically detailed as VAT-exempt is 10%. Goods exported from Cambodia are subject to a zero-rate,** and certain business activities are also considered exempt.

Withholding tax is a mechanism to collect tax from products and services provided by businesses unregistered for VAT. Tax-compliant companies making payments for services rendered to individuals or companies that do not provide a valid VAT receipt are required to withhold a proportion of the agreed fee from the service provider and pay this as tax. For services, this rate is set at 15%. In most scenarios you will be required to pay either VAT or Withholding Tax on goods and services, depending upon the VAT status of the supplier.

For certain, specific transactions such as when renting a commercial property from a registered company, businesses can be required by Law to pay both VAT and Withholding Tax.

### Accounting & Financial services

A list of our members providing accounting and financial services can be found within our online directory:

**| [eurocham-cambodia.org/directory](http://eurocham-cambodia.org/directory)**

## Import Duties


**Most goods being imported into Cambodia are subject to import duties ranging between 0% and 35%.**

As an ASEAN member, Cambodia has since 2000 been implementing the tariff reduction schedule as agreed under the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area, and has committed to tariff reduction schedules as part of ASEAN's collective Free Trade Agreements with China, Australia, India, Japan, South Korea and New Zealand. Products originating from these countries of from within ASEAN may therefore receive more favorable rates at the point of import provided that a Certificate of Origin certificate can be provided.

## Export duties

Most goods can be exported from Cambodia duty-free.

The few exceptions include natural rubber, timber, precious stones and metals, seafood, and antiquities.

 Customs duties can be searched online by locating the *Customs Tariff of Cambodia 2017* search bar here:

**| [customs.gov.kh](http://customs.gov.kh)**

Useful information about import-export procedures can be found at the Cambodia National Trade Repository:

**| [cambodiantr.gov.kh](http://cambodiantr.gov.kh)**

## 2. FINANCING



Cambodia is a partially (yet highly) **dollarized economy** in which US Dollars are widely accepted alongside the Cambodian Riel (KHR). The banking system is considered relatively undeveloped compared to most other ASEAN markets, but it is growing rapidly. Some businesses, both foreign-owned and locally-owned companies, report that it can be difficult to obtain domestic financing at competitive interest rates. However, foreign investors in Cambodia do benefit from the absence of strong currency controls and easy repatriation of profits.



### Q & A



**DAVID SOK DARA MARSHALL**

*Partner, Mekong Strategic Partners*

Mr. David Sok Dara Marshall has over a decade of experience at one of the country's leading banks, and previously served as a board member of The Association of Banks in Cambodia. He kindly spent some time with EuroCham to discuss the different options available to foreign investors when it comes to financing their projects in the Kingdom.

**Q** *For foreign investors, is it more common for them to provide capital sourced from abroad or to seek domestic financing?*

Generally-speaking, I would expect that European investors who are able to secure financing from their home countries would find this to be a more cost-effective solution than trying to obtain start-up capital within Cambodia. Within Cambodia, a lot of banks have traditionally required the company to be able to offer land and buildings as securities, which naturally is more challenging for foreign-owned companies who do not have the right to own land under Cambodian land laws. This attitude has been changing somewhat in recent years and some banks, particularly those with an international management structure, are now more willing to look at other collateral options within the business and consider alternative securities such as floating debentures (commercial enterprise mortgages), movable asset financing or credit guarantees from a bank or parent company in your home country. →



**Q** — *So the major challenge to securing financing in Cambodia is the difficulty in satisfying the banks' need for security?*

Banks in emerging markets generally do perceive greater levels of risk with non-investment grade foreign investors, SMEs or commercial businesses, particularly those without immovable property assets. However, this issue of securities isn't the only reason that foreign investors may seek capital from their home markets—cost of borrowing is typically lower in Europe than in Cambodia. Major European banks who have been operating for a much longer period of time than most Cambodian banks may have a higher credit rating and therefore their cost of raising funds is lower, resulting in lower interest rates to borrowers. The difference in interest rates can be substantial.

**Q** — *For smaller and new companies who may not have the assets or credit ratings that banks would require, what financing options are available?*

In reality you're very unlikely to be able to secure a loan purely on the basis of an 'idea' or business concept—new businesses need to find their own sources of start-up capital and begin to demonstrate the viability and growth potential of the business before any bank will be prepared to provide you funding. If you do have a business model that you really believe in but don't have the necessary funds, you may be able to convince equity partners to invest in you. There are also some international hedge funds focusing specifically on SMEs that may take into account 'impact' criteria such as social or environmental benefits. Likewise, some venture funds may be prepared to accept a higher-than-usual level of risk in anticipation of higher return on investment. Other options are to seek personal financing in your home country based on your personal credit worthiness if you still have assets in your home country which you could leverage.

“

If you have a business model that you really believe in but don't have the necessary funds, you may be able to convince equity partners to invest in you

“

Cambodia is generally very accommodating to foreign investors

**Q** — *Should businesses be operating in US Dollars or Cambodian Riel?*

Both currencies are acceptable in Cambodia although **US Dollars account for roughly 90% of deposits and credits within the Cambodian banking system.** The exchange rate between the two currencies has proven to be very stable and foreign investors who report in Dollars avoid the risk of currency fluctuations impacting their profit margins—a concern in some other Southeast Asian markets. However, parent companies who report in Euros are still susceptible to EUR/USD fluctuations.

Your typical middle-class urban consumer will probably be thinking and transacting in US Dollars, whereas lower-value transactions are likely to be conducted in Riel. The Royal Government does not have a specific policy in place to force de-dollarization but **rather is encouraging greater adoption of the Riel;** there is recognition that this process needs to be gradual and the National Bank of Cambodia (NBC) has committed to avoiding the use of blunt administrative instruments to achieve this objective. A more recent measure was the NBC requiring all banks to have 10% of their loan portfolio in Riel by the end of Dec 2019. Public institutions use Khmer riel for transactions involving taxes, utilities, and government payroll. Furthermore, the NBC has recently implemented a “Fast Payment” national clearing system, solely for Khmer Riel, that enables real-time clearance of payments across banks for the first time. The Fast Payment system has recently gone live; and new businesses may wish get ahead of the curve by listing prices in both currencies.

**Q** — *Is it easy to repatriate profits earned in Cambodia?*

Cambodia is generally very accommodating to foreign investors when it comes to currency exchange and remittance of profits, with the Law on Investment guaranteeing investors the right to purchase foreign currencies through the banking system and remit them abroad. The Kingdom's laws do include a provision stipulating that the National Bank may implement exchange controls in the event of a foreign exchange crisis, though this right has never been exercised.



**Q** *What is the current state of the consumer lending market?*

Cambodia is currently experiencing rapid growth in consumer lending, much of which is being facilitated by the country's very active microfinance sector, specialised banks and increase appetite from commercial banks. To give you an idea of how fast this part of the market is growing, **between 2015 and 2016 loans for 'personal consumption' grew by 42.7%**. This trend can be significant for European investors in retail or providing services as there is now a much larger pool of viable customers with track records of repayment through the CBC. Issuance of credit cards increased as well from about 40 thousand at end of 2015 to 55 thousand by end of 2016.

Targeted micro-financing is a growing niche market with some institutions offering loans specifically for the purchases of particular durable goods such as household appliances and motorcycles. Some local businesses have established commercial ties with MFIs in order to provide financing solutions to potential customers and increase the pool of consumers who can realistically afford their products.

**Q** *The Cambodia Stock Exchange is now launching a 'Growth Board' aimed at young SMEs—could this be a viable option for European investors who have been successfully operating in the Kingdom and wish to expedite their expansion activities?*

The Growth Board has been designed to make it easier for smaller companies to participate in the Stock Exchange with a minimum shareholders' equity of 500,000 USD rather than the 7.5m USD required for the Main Board, though of course this figure would still be too high for many of the European SME ventures that we have seen in Cambodia to date. Listing on the Stock Exchange requires audited financial accounts demonstrating the economic potential of the business and the listing process itself takes a considerable amount of time and resources so this would be an option for companies with real long-term growth plans in Cambodia. At time of publication there had been no listings on the Growth Board though some SMEs have expressed interest and it is hoped that this could be a viable option for some investors over the coming years.

42%

42.7% year-over-year growth in consumer loans

**Q** *Why has lending growth been so rapid in recent years?*

Well for one you have to consider that these rates of growth are based on a lower starting point than in more economically developed countries, though there have been some innovations in the market that have facilitated greater activity on the part of lenders. In particular, the creation of the Cambodian Credit Bureau (CBC) in 2012 has really emboldened the MFI community—whereas previously individual credit applicants would be assessed in some cases informally, perhaps taking advice from authority figures within local communities, now lenders can get more reliable and historical data to assess the feasibility of these borrowers. The number of MFIs in the country increased from 10 in 2004 to 69 in 2015 and this was in part driven by the greater confidence provided by access to the CBC, not to mention higher returns in the MFI sector when compared to the banking sector. There was also a significant 'low base' effect with the MFIs and consumer lenders folding un-banked into the formal finance sector.

**Q** *In summary, what are the most important points that new European investors into Cambodia should be considering when it comes to financing?*

For European investors, **Cambodia offers significant opportunities in large part because of its demographic dividend and its low-base, high-growth economy.** The median age of Cambodia is 24 and about 65% of the total population are under 30. Cambodian people are coming to have higher levels of disposable income, they are tech savvy, they want to be modern, they consume, they are motivated, and most importantly they want to discover new things and enhance their lifestyles. With a strong micro financing sector and consumer finance options, far more Cambodians are now able to afford a greater range of products. Despite the fast and continued growth of the banking sector in Cambodia, obtaining domestic financing can be challenging for a new market entrant and any viable business plan for the country needs to incorporate due considerations of where the initial funding is going to come from. ●

**i** **Accounting & Financial services**

Companies in need of professional financial advice are invited to contact any of the firms listed within our online directory:

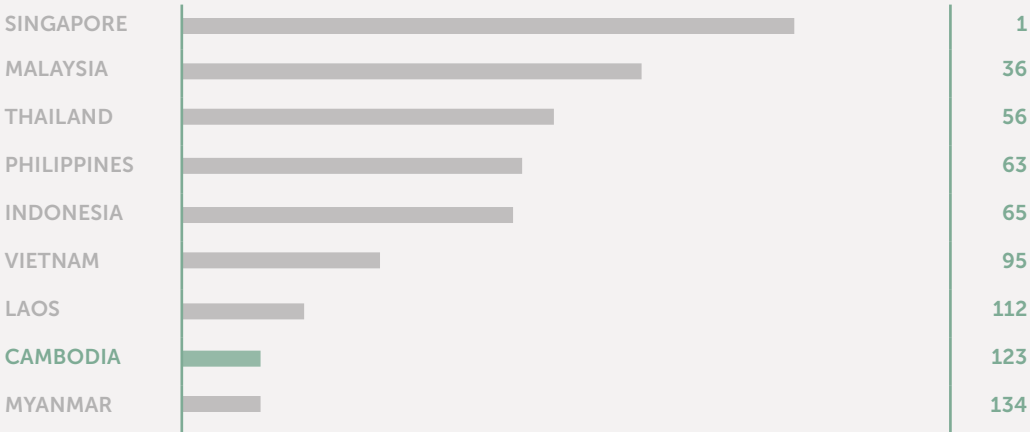
**| [eurocham-cambodia.org/directory](http://eurocham-cambodia.org/directory)**

# 3. HUMAN RESOURCES



The Cambodian work force offers a competitive advantage due to favorable demographics and comparatively low labor costs—but the availability of skilled workers with higher education is limited. Cambodia’s Labour Law grants employees certain inalienable rights that apply equally to all Cambodian and foreign staff in the country, regardless of where the contract is signed.

## HIGHER EDUCATION AND TRAINING GLOBAL RANKINGS 2015-2016



Source: World Economic Forum, The Global Competitiveness Report 2015-2016

### Skills

The latest Cambodia Socio-Economic Survey, conducted in 2012 by the National Institute of Statistics, reported that around 28% of the labor force had completed elementary education while only 2.8% had higher education beyond secondary school. Current education levels are low compared to regional competitors. In secondary and higher education as well as vocational training, there is a shortage of qualified teachers and the curriculum and teaching methods are frequently below regional standards. Many higher education institutions operate on a for-profit basis where commercial considerations can impact the quality of the education. Many capable students are deterred from pursuing higher education due to economic pressures on the family, particularly among poorer rural areas. There is a need for more focused vocational training, though some

NGOs have effective programs in place. However, things are changing quickly. Cambodia has a youthful population (the UNDP estimates that **over 65% of the population is under 30**) that is eager to learn. Facilitated by the rapid growth in internet penetration within the country, young people are increasingly international in perspective.

On the policy side, Cambodia is laying the foundations for a more competitive future with a focused effort on improving primary education. An effectively implemented government program supported by significant inputs from international donors has increased the proportion of Cambodian children receiving primary education. There have also been significant recent improvements in the availability and quality of vocational training programs that are increasingly harmonized with ASEAN standards.



Photo by Nou Sotheavy



Our members often report that the education system, up to and including the universities, does not necessarily provide graduates with the skills that employers need. **Businesses therefore need to be prepared to invest in their employees in order to help them be productive.**

Despite the perceived 'skills gap' that can be found within the country, there are multiple success stories of companies who have taken measures to provide training and ensure higher levels of employee retention and have in turn been rewarded with greater levels of productivity.



## Hiring foreign staff

Cambodian regulations require preference to be given to Cambodian nationals during the recruitment process, enforced through a quota system that limits the number of non-Cambodian nationals to 10% of employees hired by a company. However, the Law on Investment does allow companies to hire a greater proportion of non-Cambodian staff where the required qualifications or expertise is not available among the domestic workforce. In practice, businesses not reliant upon low-skilled workers are able to hire foreign managers, technicians and highly-educated employees with less difficulty than other regional markets.

It is the responsibility of the employer to secure an annual **work permit for all non-Cambodian staff** through the Ministry of Labor and Vocational Training (MLVT). This requirement has been much more thoroughly implemented in recent years and can cause problems for employers who do not have the necessary permits.

Naturally, employees are required to adhere to Cambodian immigration laws and obtain the applicable business visas and residence permits. Employees are also required to obtain a health certificate from the Ministry of Labor's Health Department to confirm they are physically able to fulfil their role and do not carry contagious diseases.

### NOTE

Businesses with staff vacancies may post on Cambodia's leading online jobseekers (ask anthony) websites including BongThom.com, CamHR, HRInc, Cambodia Recruitment Agency, Everjobs and Top Job Cambodia.

## WORK PERMITS

While the law requiring employers to obtain work permits on behalf of their foreign employees has been in place since 1997, there has in recent years been a stronger push towards enforcement and it has become all-the-more important for employers to ensure that they are compliant.



The MLVT has issued a set of English-language instructions for employers located here:

| [www.goo.gl/xT9pJE](http://www.goo.gl/xT9pJE)





Photo by Mai Vireak

## Wages

Wages in Cambodia are among the lowest in the region, and offer a particularly competitive advantage to businesses operating in labor-intensive sectors. The Royal Government is currently creating a **national minimum wage law for Cambodia**. Previously, only the labor-intensive garments industry had a formal minimum wage, though this served as an informal benchmark for other sectors.

Over the past five years, the minimum wage for the garments industry has been increased multiple times. As of January 2017 the legal minimum stood at 153 USD/month, compared to just 61 USD/month in 2010. The Royal Government has now committed to review the figure annually in consultation with trade unions and employer associations.

Due to the aforementioned lack of availability of management-level and high-skilled staff, principles of supply and demand enable the pool of candidates who do possess such skills and experience to command salaries higher than would be expected for comparable positions in nearby countries.



### Accounting & Financial services

Companies newly established within Cambodia may benefit from contacting the human resources and recruitment service providers within our membership directory:

[eurocham-cambodia.org/directory](http://eurocham-cambodia.org/directory)

## National holidays and Annual Leave Entitlement

Cambodia has a higher number of National Holidays than other countries in the region, and the holidays are set each year by the Ministry of Labor. **Employees cannot be required to work during national holidays** and are entitled to their regular salaries for those days. If holidays are on a Sunday, employees are entitled to be off work the following Monday. If employers need to continue operations during public holidays, employees can be requested to work on a voluntary basis—those who do so will be entitled to 200% of their regular wage for that day. In 2017 there are 27 national holidays.

Additionally, employees are entitled by Law to a minimum of 18 days per year of annual leave (1.5 days per month). Annual leave entitlement increases by one day for each three years of continuous service.

# 2017

**\$153/  
month**

MINIMUM WAGE

**27**

NATIONAL HOLIDAYS

**+**

**18**

ANNUAL LEAVE DAYS



## Types of contracts

The Labor Law distinguishes between Fixed Duration Contracts (FDC) and Unfixed Duration Contracts (UDC):

- An FDC is a fixed-term contract with specified start and end dates within a 2-year period of one another.
- Any contract without a fixed expiry date is classified as a UDC, and any employee who has been employed by the same employer for over 2 consecutive years is considered to be on a UDC regardless of the initial term of the contract.

The distinction between these contracts is significant when it comes to the notice period and severance payments due in the event of termination of the contract.

Note that Cambodia has no recognized legal status for interns. Interns who receive compensation during the internship must be treated as regular employees with all the applicable rights and benefits. In this case, if the intern is a foreigner, the hiring company will be required to apply for a work permit on their behalf.

However, if the internship is unpaid then the intern can be classified as a volunteer, in which case the Labor Law does not apply as the Labor Law applies only to individuals who have signed an employment contract in exchange for remuneration.

## Labor Law requirements

Labor Law requirements that employers should be aware of include:

1

### WORKING HOURS & CONDITIONS

As a member of the International Labour Organization (ILO), **Cambodia requires employers to adhere to health and safety requirements in line with the ILO's Promotional Framework for Occupational Safety and Health Convention (No 187) 2006** and its accompanying Recommendation (No 197). Adherence to these standards is monitored by the Ministry of Labor. Within the garments industry, all factories must agree to be monitored by the ILO's *'Better Factories Cambodia'* programme in order to obtain an export license.

A regular workday should last for eight hours, employees should not be expected to work longer than 48 hours per week, and they must be given at least one day off (a consecutive 24-hour period) each week. A workday (including overtime) may not exceed ten hours. For overtime, employees are entitled to 150% of their regular compensation, or 200% when overtime is at night or during weekly rest days.

While initiatives are in place to improve adherence, enforcement of some aspects of the labor code has historically been poor. Disputes over working conditions have been a common cause of labor disputes and caused some reputational damage to international brands who source from Cambodia.

2

### SICK LEAVE

Outside of the Labour Law yet enforceable through stipulations of the Labor Arbitration Council and a number of ministerial proclamations, employers are required to pay the following sick pay to employees who have provided confirmation of their illness from a qualified doctor:

- For up to one month of illness, 100% of regular wages and attendance bonuses
- During a second and third month of illness, 60% of regular wages and attendance bonuses

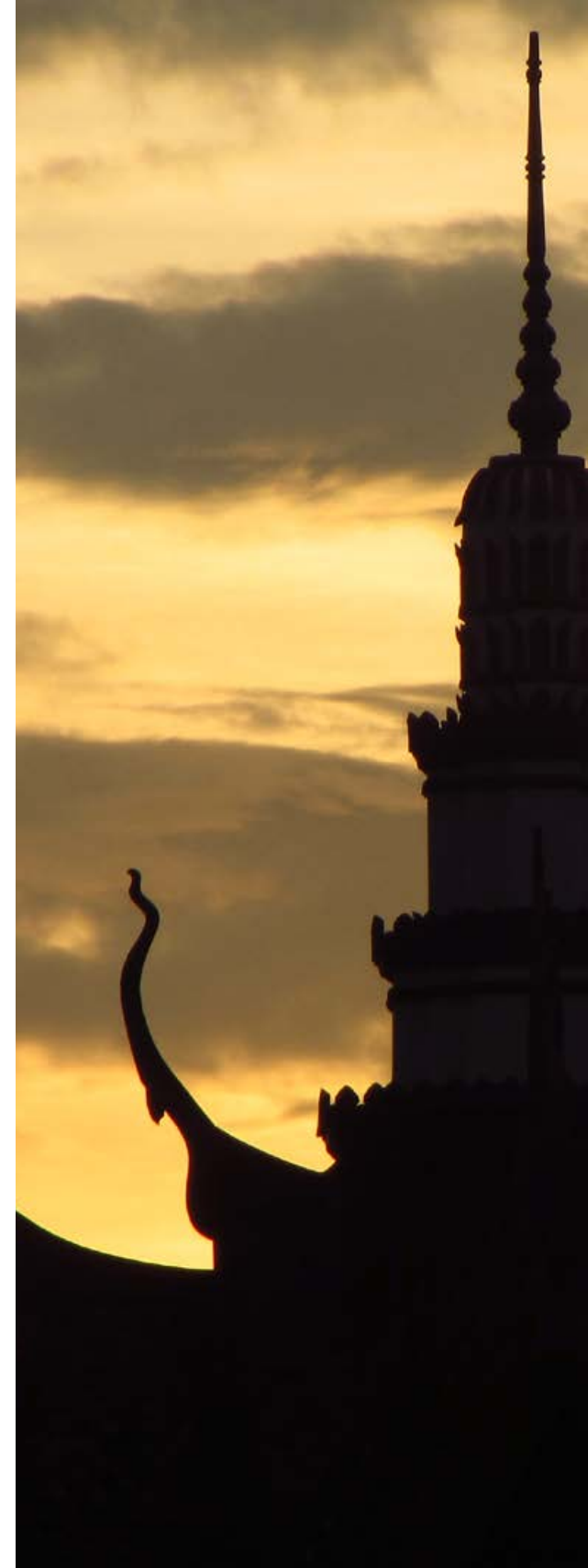
Beyond the third month, employers are not required to continue paying wages but must hold the position until the employee has been off work for a total of six months. Beyond that point the employer is entitled to terminate the contract.

3

### MATERNITY LEAVE

After one year of continuous service, female staff are entitled to 90 days of maternity leave when expecting a child. It is not stipulated when leave must begin (before or after the birth of the child).

The employee must be paid 50% of their regular salary during this period and there are protections in place to prevent termination of their contract on account of the pregnancy.





## TERMINATING A CONTRACT

The Labor Law stipulates the notice period and indemnities required if terminating an employee's contract for reasons other than serious misconduct. Terminating a contract for reasons other than serious misconduct can prove somewhat costly.

The duration of the notice period and severance payments due to employees depends upon the nature of the contract,

the reason for termination, and number of years of service.

For fixed-duration contracts (FDCs), **serious misconduct or mutual agreement is the only legitimate reason for terminating a contract** prior to its stated expiry date. **Employers must give notice if they do not intend to renew a contract** upon expiry.

CONTRACT TERM	TERMINATION	NOTICE REQUIRED	SEVERANCE DUE
6/12 months	Expiry and non-renewal OR mutual agreement	10 days	5% of salary for entire contract
6/12 months	Before expiry	10 days	100% of the salary for remaining term of contract + 5% of salary for entire contract
12/24 months	Expiry and non-renewal OR mutual agreement	15 days	5% of salary for entire contract
12/24 months	Before expiry	15 days	100% of the salary for remaining term of contract + 5% of salary for entire contract

For UDCs, employers are entitled to terminate a contract for any valid reason including economic considerations. The following notice periods and severance payments are due. If the employee resigns voluntarily, no severance payment is required.

TOTAL YEARS OF SERVICE	NOTICE REQUIRED (OR PAYMENT IN LIEU)	SEVERANCE DUE	
< 6 months	7 days	7 days of wages	●
6 months–1 year	15 days	15 days of wages	●
1–2 years	15 days	15 days of wages per year served	●●
2–5 years	1 month	15 days of wages per year served	
5–10 years	2 months	15 days of wages per year served	
10+ years	3 months	15 days of wages per year served	



## Rights of association

The Labor Law protects the right of private-sector employees to associate and to engage in collective bargaining, to join trade unions without requiring authorization, and to undertake strikes provided that certain preconditions have been met. Unions must register with the Ministry of Labour and Vocational Training. Employers are forbidden from terminating a contract or discriminating against employees on the basis of their labor associations.

Where labor disputes arise and direct negotiation has failed, disputes are referred to the Labor Arbitration Council which seeks to mediate between parties to find a solution. If attempts at arbitration fail, unions are required to undertake a secret-ballot vote among its members and to provide 7 days' notice to both employers and the Ministry of Labour and Vocational Training in order for a strike to be legal. In 2017, a Labour Court with legally-binding authority will be created.

Labor disputes are relatively common in Cambodia, particularly in the garments sector and especially around election years (the next general election will be in 2018). The garments industry is heavily unionized, with over 90% of trade unions within Cambodia operating within this sector.

Unions were traditionally somewhat fragmented with multiple unions covering one factory; though a new Trade Union Law (May 2016) lowered the threshold for a union to be recognized as 'Most Representative' so as to better facilitate bargaining between employers and employees.

### NOTE

Employers have the right to terminate a contract with no notice period and no severance payment in the event of serious misconduct. However, the employer has only a narrow window of 7 days after learning of the misconduct to dismiss the employee. If dismissing after 7 days of learning of the misconduct, the employer is required to adhere to the notice period and severance payments due that would be applicable in the case of termination for reasons other than serious misconduct.

Service periods are rounded to the nearest year, so 1 year and 5 months would require 15 days of wages but 1 year and 7 months would require 30 days.

Total severance due not to exceed 6 months of wages.

## 4. INTELLECTUAL PROPERTY RIGHTS



Cambodia is in a process of developing and implementing its intellectual property protection laws and processes towards its World Trade Organization commitments. The Royal Government has enacted a number of IPR laws based upon international norms including copyright protection and exclusive rights on trademarks, patents and geographical indicators that foreign investors may consider applying for.

It is important to note that **registration of patents and trademarks is on a first-in-time, first-in-right basis**. Accordingly, applying for trademark and patent protection should be considered even before products or services are sold in the Cambodian market.

Cambodia is a member of the World Intellectual Property Organization and the Paris Convention for the Protection of Industrial Property and is a party to the ASEAN Framework Agreement on Intellectual Property Cooperation.

This is important to know as several Cambodian IPR laws specifically state that international IPR treaties to which Cambodia has signed will trump domestic legislation in case of conflict.

While the body of IPR laws has been developed with World Trade Organization assistance and is broadly in line with international standards, enforceability can be problematic and in some industries such as garments, alcohol and pharmaceuticals, IPR infringement is rife.

As another valuable source of support to European SMEs, the European Union is co-funding the ASEAN IPR SME Helpdesk project which helps European SMEs to both protect and enforce their IPRs in or relating to ASEAN, through the provision of free information and services. These take the form of jargon-free, first-line, confidential advice on intellectual property and related issues, plus training, materials and online resources.



South-East Asia IPR SME Helpdesk

| [southeastasia-iprhelpdesk.eu](https://southeastasia-iprhelpdesk.eu)

SUPPORT TO  
EUROPEAN SMEs



MADRID  
PROTOCOL



Madrid Protocol

| [wipo.int/madrid](https://wipo.int/madrid)

As of 2015 Cambodia has been a signatory to the Madrid Protocol, a central tool administered by the World Intellectual Property Organization that enables companies to register their trademarks in 114 participating countries with just one application. This can be a cost-effective and convenient option for businesses seeking to protect their brands within multiple markets. Cambodia's participation in the Madrid Protocol makes it easier for

companies based here to secure their intellectual property when exporting abroad, while reducing costs for foreign businesses establishing a presence within the Kingdom.

Applying from a participating country, a company can file an application and pay one set of fees in order to secure their intellectual property rights in multiple markets.



## IPR INFORMATION

The diagram below provides the IPR information most commonly applicable to companies doing business in Cambodia.

	RELEVANT LAW	DETAILS	APPLICABILITY DURATION	WHERE TO REGISTER
<b>COPYRIGHT</b>	<b>2003</b> Law on Copyright and Related Rights	Rights of an organization or individual to works which such organization or individual creates or owns. "Work" means a creation of the mind in the literary, first artistic or scientific sectors, expressed in any mode or form.	<b>Moral rights</b> (except for publication rights): forever <b>Economic rights</b> : the author's life plus 50 years except for the copyrights to cinematographic works, photographic works and applied fine art works which will enjoy the protection of 50 years from the date of publication or formulation.	Rights apply at moment of actualization, though a Certificate of Registration can be obtained from the Ministry of Culture and Fine Arts.
<b>PATENT ●</b>	<b>2003</b> Law on Patents, Utility Models and Industrial Designs	An idea of an inventor, which permits in practice the solution to a specific problem in the field of technology.	20 years from date of registration. Patent holders may pursue civil infringement suits in pursuit of damages and may request criminal proceedings be taken against infringers. Government retains right to exploit patent for matters of public interest.	Department of Industrial Property within the Ministry of Commerce. Escalating annual maintenance fees.
<b>TRADEMARK (INC. TRADE NAME)</b>	<b>2002</b> Law on Marks, Trade Names and Acts of Unfair Competition	The designation of an organization or individual used in business activities in order to distinguish the business entity bearing such trade name from other business entities in the same business sector and area.	10 years from the date of registration. Renewable for successive 10 year periods without limit. Enables licensing contracts. Mark owners may pursue civil infringement suits in pursuit of damages and may request criminal proceedings be taken against infringers. May also request customs authorities to suspend clearance on alleged counterfeit goods.	Department of Intellectual Property within Ministry of Commerce.
<b>GEOGRAPHICAL INDICATORS</b>	<b>2014</b> The Law on Geographical Indications of Goods	A distinctive name, symbol or any other image that represents a geographical origin and identifies goods originating from that area as having a particular quality, reputation or other characteristic attributable to that area.	10 years from the date of registration. Renewable for successive 10 year periods without limit.	Ministry of Commerce with supporting Book of Specifications

● The law also provides for the registration of utility models, also known as 'petty patents', for lesser technological advances for a duration of 7 years only. However, as of 2014 none had been issued by the Cambodian authorities.

○ The Ministry of Commerce hosts a website containing a wealth of additional information on IPR protection in Cambodia:

**| [cambodiaip.gov.kh](http://cambodiaip.gov.kh)**

## 5. DISPUTE RESOLUTION



Cambodia's dispute resolution infrastructure is in the early stages of development. The Kingdom has historically ranked poorly in international comparisons for the enforceability of contracts and reliability of dispute resolution mechanisms. Recognizing the importance of this area in increasing investor confidence, the government is proactively working to enhance the options available to businesses in commercial disputes.

“  
Resolution  
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### Civil claims through the courts

Cambodia's 1993 constitution asserts the independence of the judicial system and forbids interference in the judicial process by executive or legislative agents. There is a clearly defined framework through which civil complaints can be submitted to applicable courts — first to one of the country's 23 municipal and provincial courts, though with opportunity to appeal a decision via a national-level Appeal Court and, ultimately, Supreme Court.

This being the case, foreign investors in Cambodia have traditionally been hesitant to pursue civil claims through the courts due to the perceived susceptibility of the judicial system to external influence. Furthermore, resolution of commercial disputes through the courts in Cambodia can prove both expensive and time-consuming.

We understand that there are plans in place to introduce a specialized commercial court system, though this initiative would take a number of years to implement.

### National Arbitration Center (NAC)

The Royal Government has acknowledged concerns from current and prospective investors and, after several years of preparation, launched the **National Arbitration Center (NAC)** in Phnom Penh in March 2013. In creating the NAC, the Royal Government has sought to increase confidence within the investment community by providing an alternative dispute resolution mechanism that is faster, cheaper and more reliable than the existing court system. With this objective in mind, the process for determining the structure and capacity of the NAC was undertaken in close collaboration with key business groups including the Cambodian Federation of Business Associations (CAMFEBA), the Garment Manufacturers Association of Cambodia (GMAC) and the Law, Tax and Governance Working Group of the Government-Private Sector Forum. Significantly, the seven members of the executive board were elected by the NAC's members rather than appointed by government.

The initiative has been perceived by the foreign investment community as a positive development. As of early 2017 the NAC is considering three commercial dispute cases involving Cambodian businesses. By demonstrating the competence and impartiality in these disputes, the centre hopes to secure its reputation within the business community and to begin to attract foreign-owned businesses to consider using its services.



## Alternative Dispute Resolution mechanisms

Despite the ongoing efforts of the Royal Government to provide dispute resolution mechanisms through the courts and arbitration institutions, some foreign investors at this stage choose to avoid these options and negotiate directly with the offending party. This strategy leads to mixed results, and it is important that any potential investor in the Cambodian market undertakes thorough due diligence processes regarding prospective business partners or key suppliers and purchasers.

Some businesses may prefer to include clauses within commercial contracts agreeing to seek arbitration services in nearby Hong Kong or Singapore in the event of a dispute. These areas are easy to travel to and are able to offer more experienced and professional arbitration services. **As a signatory to the New York Convention, Cambodia pledges to enforce arbitration cases resolved abroad** and EuroCham understands that this commitment is largely adhered to. However, the fees required by these international arbitration courts are very high and would only be worthwhile in the event of higher-value disputes in excess of 1m USD.

## Anti-Corruption Unit (ACU)

In matters relating to non-transparent practices conducted or solicited by public officials, EuroCham Cambodia has signed a Memorandum of Understanding with the Anti-Corruption Unit which commits to receive reports from EuroCham of such practices and to undertake due investigations to identify the source of the problem.

EuroCham is the first business association to have signed such a memorandum with the ACU and we see it as an important development enabling us the opportunity to raise issues of concern and contribute to the further improvement of the investment environment within Cambodia.



## SUPPORT FOR EXPORTERS

The EU is committed to further opening its market, especially to developing countries. A number of resources exist to assist Cambodian exporters to do business with the EU. The Commission's Export Help Desk is a free and user-friendly online service providing information on how to access the EU market: EU import requirements, tariffs (and preferences), customs documentation, rules of origin, and much more.



In addition to EuroCham, some European countries have trade offices or support services in Phnom Penh and the region which make a good starting point for companies from these countries.

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# Useful Contacts

## KEY CAMBODIAN GOVERNMENT AGENCIES

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### MINISTRY OF POSTS & TELECOMMUNICATIONS

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### MINISTRY OF PUBLIC WORKS & TRANSPORT

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### MINISTRY OF TOURISM

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### GENERAL DEPARTMENT OF CUSTOMS & EXCISE

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### GENERAL DEPARTMENT OF TAXATION

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### WORLD BANK (WB) – RESIDENT MISSION IN CAMBODIA

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# List of acronyms

<b>AA</b>	Articles of Association
<b>ACU</b>	Anti-Corruption Unit
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CBC</b>	Cambodian Credit Bureau
<b>CDC</b>	The Council for the Development of Cambodia
<b>CMA</b>	Cambodian Microfinance Association
<b>CSX</b>	Cambodia Securities Exchange
<b>FDC</b>	Fixed Duration Contracts
<b>FDI</b>	Foreign direct investment
<b>GI</b>	Geographical Indications
<b>ILO</b>	International Labour Organization
<b>IPO</b>	Initial Public Offering
<b>IPR</b>	Intellectual Property Rights
<b>KHR</b>	Cambodian Riel
<b>LCE</b>	Law on Commercial Enterprise
<b>LLC</b>	Limited Liability Company
<b>MFI</b>	Micro-Finance Institution
<b>MLMUPC</b>	Ministry of Land Management, Urban Planning and Construction
<b>MLVT</b>	Ministry of Labor and Vocational Training
<b>MT</b>	Minimum Tax
<b>NAC</b>	National Arbitration Center
<b>NBC</b>	National Bank of Cambodia
<b>NEC</b>	National Election Committee
<b>PLC</b>	Public Limited Company
<b>QIP</b>	Qualified Investment Project
<b>RO</b>	Representative Office
<b>SEZ</b>	Special Economic Zone
<b>SME</b>	Small and medium-sized enterprise(s)
<b>TIN</b>	Tax Identification Number
<b>TOP</b>	Tax On Profit
<b>TOS</b>	Tax On Salary
<b>UDC</b>	Unfixed Duration Contracts
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>VAT</b>	Value-added tax
<b>WB</b>	World Bank
<b>WTO</b>	World Trade Organization

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Founding Chapters

