



CAMBODIA COMPETITION LAW AND POLICY: A CIVIL SOCIETY PERSPECTIVE



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Cambodia Competition Law and Policy: A Civil Society Perspective

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Aware of the need to adopt a well-adapted competition law and policy to complement the economic development process in developing countries, the CUTS Centre for Competition, Investment & Economic Regulation (C-CIER) has taken up the current initiative, entitled "Advocacy and Capacity Building on Competition Policy and Law in Asia" (7Up2 Project), which covers Bangladesh, Cambodia, India, Nepal, Lao PDR and Vietnam.



Through various research-based advocacy and capacity building activities, the 7Up2 Project is aimed at promoting effective markets through competition policy and law. The present handbook "Cambodia Competition Law and Policy: A Civil Society Perspective" summarises the research findings under the project and makes appropriate recommendations for building up a competition culture in Cambodia.



During the past few decades, many developing countries have made great efforts to access the global market economy. Equal attention has been placed on the regulatory frameworks that will facilitate market-oriented development, notably competition law and policy. The importance of improving the welfare of the consumer and protecting their inter-

On their way towards market economies, developing countries need effective and well-adapted competition laws and policies.

ests has also necessitated the adoption of competition policy and law in developing countries. Consumers benefit from the liberalisation of the economy only if there is a fair deal of competition in the market.

Besides, a competition legislation is necessary for promoting trade efficiency in the economy. It also encourages research and

development (R&D) capacities as a way of competing among business rivals. However, to be effective and useful in the development process of the country,

competition law and policy must be well adapted to national circumstances, tak-

ing into consideration specific economic, social and cultural aspects. Such reform regarding competition must also be supported and promoted by competent and efficient local institutions. In addition, it must come as the result of wide public consensus and participation into the policy-making and implementation process.



7Up2 Project is an action-oriented program that, through research-based advocacy and capacity building activities, aims at promoting:

- Structures and actors able to advocate for the adoption of competition law and policy;
- Training facilities in project countries; and
- Meaningful dialogue between the civil society and governments.

It is the objective of the 7Up2 Project to accelerate the process towards well-adapted competition laws and policies in selected developing countries in Asia, namely Bangladesh, Cambodia, India, Lao PDR, Nepal and

Vietnam. This project has been initiated by the CUTS Center for Competition, Investment & Economic Regulation (CUTS C-CIER), a

developing country-based research-cum-advocacy group.

CUTS's mission is to pursue economic equity and social justice within and across borders by working with governments and empowering the people. The

The objective of the 7Up2 Project is to accelerate the process towards well-adapted competition laws and policies in developing countries and build the capacity of relevant stakeholders.

As a part of the 7Up2 Project, this publication provides an overview of the competition scenario in Cambodia; and presents recommendations to help moving the national agenda on competition policy and law in Cambodia forward.

The Landscape of the Cambodian Economy An Overview



As a developing country aiming towards a market economy system, Cambodia has initiated a wide range of reforms to liberalise its economy, participating regionally through its membership in the Association of Southeast Nations (ASEAN) and internationally through its accession to the World Trade Organisation (WTO).



The national economy remains comprised of a large informal sector. The private sector encounters many constraints to its development. In the absence of a legislation on competition, restrictive trade practices have prevailed, negatively affecting the legitimate interests and rights of consumer and business. Furthermore, there exist barriers to market entry, as notable in the very complicated and expensive business registration process in addition to the prominence of corruption in the country.



Cambodia at a glance

Situated on the Indochinese peninsula, the Kingdom of Cambodia is a relatively small nation of 181,035 square kilometres. The country shares its borders with Thailand to the north and the west, Vietnam to the east, and Laos to the north. To the south of Cambodia is the Gulf of Thailand.



<i>Country Name</i>	Kingdom of Cambodia
<i>Government</i>	Constitutional Monarchy
<i>Capital</i>	Phnom Penh
<i>Land Area (2003)</i>	181,035 sq km
<i>Population (2003)</i>	13.4 million
<i>Annual Population Growth Rate (1998-2004)</i>	1.80%
<i>Density (2003)</i>	74 per sq km
<i>Official Language</i>	Khmer
<i>Ethnic Groups</i>	Khmer (95%), Chinese, Vietnamese, hill tribes
<i>Religion</i>	Theravada Buddhism (97%), Islam, Christianity, Animism
<i>Literacy (2002)</i>	69.4 (15 years and above)
<i>Currency</i>	Riel (KHR), USD (common tender)
<i>Per Capita Income (2003)</i>	2.060 (USD)
<i>GDP (Gross Domestic Product) (2003)</i>	4.3 billion (USD)
<i>Total Export (2003)</i>	2 billion (USD)
<i>Main Export Destination (2003)</i>	United States (60%)
<i>Total Import (2003)</i>	2.8 billion US\$
<i>Main Import Source (2003)</i>	ASEAN, notably Thailand (27%)
<i>HDI Rank (2003)</i>	130 (of 177 countries)
<i>Population living under poverty line(1 USD/day)</i>	40%
<i>Life Expectancy (2002)</i>	54 years (average)



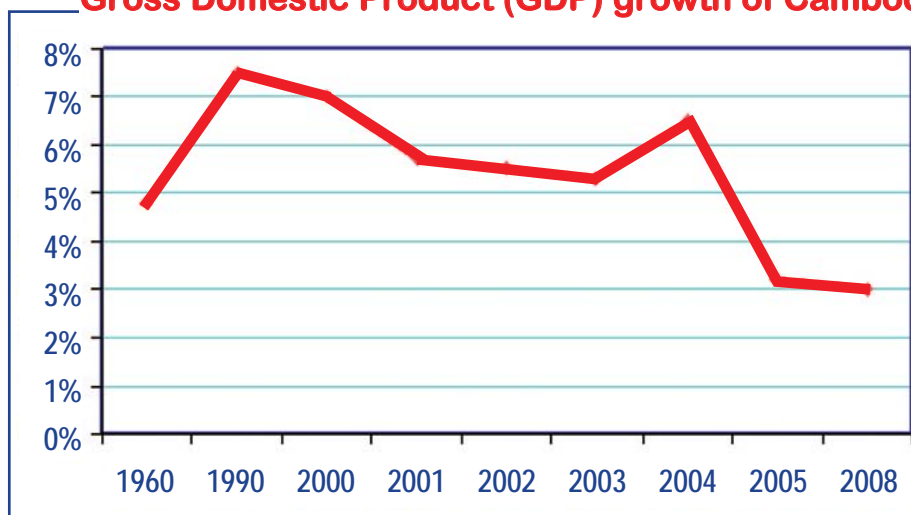
The Cambodian Economy

At the end of the 1980's the country began the process of transforming itself into a free market-oriented economic system despite its ongoing civil war. The support of the international community led to the 1991 Paris Peace Accord which unified parties in conflict, followed by the 1993 free and fair national election administered under the auspices of the United Nations Peace Keeping Process, or the United Nations Transitional Authority in Cambodia (UNTAC).

Towards a market economy system for Cambodia.

During those first years of liberalisation and reforms, economic growth was relatively strong, averaging at about 7 to 8 percent per year. However, the persistence of weak governance and the political crisis in 1997, compounded by the Asian financial crisis, led to a sharp economic slowdown. Despite the large number of investments in the garment industry since early 1997 and in the tourism industry since 1999, the total amount of foreign direct investment (FDI) flowing into Cambodia has continuously declined. As a result, Cambodia's gross domestic product (GDP) growth steadily slowed from 7 percent in 2000 to 5.3 percent in 2003.

Gross Domestic Product (GDP) growth of Cambodia



The Cambodian government has initiated a of its economy in the fields of trade, investment

1987: Abolition of the State Monopoly for Foreign Trade

— Until 1987 citizens were required to sell their products to the State.

1989: Foreign Investment Law

— Cambodia begins removing restrictions placed upon firms and individuals engaged in international trade.

1993: Constitution sets forth a clear-cut market economy system

— Cambodians are allowed to freely engage in trade.

1994: The Tariff Regime Reform

— Cambodia eliminates all quantitative restrictions on external trade.

1994: Investment Law

— Ends restrictions on foreign investment and creates incentives to attract investors.

1999: The ASEAN Free Trade Agreement (AFTA)

— With Cambodia's membership in the Association of South East Asian Nations (ASEAN), it agrees to gradually reduce most tariff rates by 2010.

2003: Accession to the World Trade Organisation (WTO)

— Cambodia commits itself to reduce tariffs on goods, open its service sector and protect Intellectual Property Rights.

2003: Modification of the Investment Law

— The Investment Law aims henceforward at providing a transparent, simple and predictable investment environment.

wide range of reforms to pursue the liberalisation and industrial and privatisation policies.

In addition, the government has focused on these measures to enhance investor confidence:

- privatisation of many state-owned enterprises;
- infrastructure improvements in transportation and communication;
- creation of Special Promotions Zone (SPZ) along the Cambodian-Thai border;
- encouraging foreign direct investment (FDI) and local investments.

Both domestic and external trade liberalisation policies have created positive impacts on trade flows in Cambodia, especially given the removal of quantitative restrictions. Liberalisation has

enabled competition among traders and has resulted in lower prices and

Impacts of the liberalisation process on Cambodian economy

a wider range of goods and services available in the market, thus benefiting the consumer. The investment regime does not discriminate against foreign investors and guarantees compensation in cases of expropriation. Moreover, the industrial and privatisation policy does not seem to favour the remaining state-owned enterprises, which appear to compete fairly in the market.

The special characteristics of Cambodian alluvial soils and the abundance of water for

Cambodia: an agriculture-based country

irrigation, together with a tropical monsoon climate, is favourable for agricultural development.

The agricultural sector

employs more than 70 per cent of Cambodia's labour force.

Industrial sectors contributed approximately 30 per cent to the gross domestic product (GDP) in 2004, but GDP will likely decrease in light of the elimination of the garment quota system, the main industry of the manufacturing base in Cambodia.





The Cambodian Market

The Cambodian market entails many factors which constrain the development of its private sector, including:

- complicated licensing procedures;
- lack of access to financial capital;
- poor access to social infrastructure, such as health care;
- limited access to vocational training;
- poor road and transportation conditions;
- high costs of electricity;
- competition with illegally imported products that evade taxation.

Domestic products, as a result, are not competitive with imported products in the same market.

Big challenges to the domestic market's competitiveness

The Cambodian market is made up of a vast majority of informal enterprises that are not officially registered with the Ministry of Commerce.

Market data is not systematically recorded by the government such that information about market structure is available only for a few sectors.

The 320 garment factories present in Cambodia represent the bulk of the country's manufacturing sector. Factories com-

Textiles, Apparel and Leather Industries

pete with each other fairly.

Since garment production is primarily for export, potentially anti-competitive practices are not likely to impact the Cambodian market.



Tobacco

The largest local producer, British-American Tobacco (BAT), possesses 43 per cent of the tobacco industry's market. Competition is tough among producers and importers.



Three companies provide fixed lines services in Cambodia, one of which is the Ministry of Posts and

Telecommunications

Telecommunications of Cambodia. Cellular telephone service is primarily provided by four companies. CamGSM Co, better known as Mobitel, is the leading mobile company in Cambodia.

Four companies, two of which are state-owned, are internet service providers. The private company Online has 45 per cent market share.

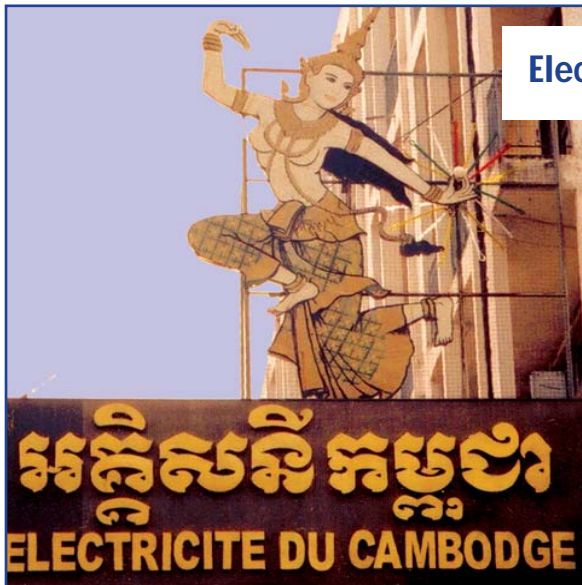
The Phnom Penh Water Supply Authority is the only state-owned company that provides water management, including clean water supply under the

Water and Sanitation

direction of the Phnom Penh City government. Sixteen licenses were awarded to private providers in some provincial and districts towns. Phnom Penh Waste Management Authority (PPWM) of the Ministry of Public Works and Transport provides garbage collection and liquid waste management services.

Railway transportation remains a state monopoly falling well below its potential as rail transportation is unpopular among Cambodians. The transportation market is comprised of private companies and a few state-owned companies.

Transportation



Electricity

The state-owned company, Electricité du Cambodge (EDC), is a monopoly controlling the generation, distribution and transmission of electricity in the country. However, there is also private sector participation in electricity generation and small-scale provision of electricity in some rural areas.

The banking system in Cambodia consists of fourteen commercial banks, three specialised banks and thirty-six microfinance institutions, nine of which are licensed. The State owns one commercial bank, the Foreign Trade Bank, and one specialised bank, the Rural Development Bank.

Banking

In spite of liberalisation efforts, certain laws and regulations still place restrictions on market entry, particularly regulations that impose quantitative restrictions on certain commodities or ones that reserve special rights for the State to monopolise service provision.

Barriers to market entry

In addition, business registration has often been cited as a barrier to entry to other competitors as it is very complicated. The high cost of registration and its time demands are

major obstacles to a new business operator that seeks to enter the market.

The lack of transparent and accountable administration is also a barrier to competition as corruption threatens to undermine fair deals among players in the market.

Moreover, weak institutions and governance structures are unfavourable to fair competition, in the protection of intellectual property rights, and against counterfeit goods.



In the absence of a legislation on competition, anticompetitive practices have prevailed in the markets and damaged con-

- collective price fixing;
- discriminatory dealing;
- collusive tendering;
- tied selling.

The prevalence of anti competitive practices

sumer interests and rights. According to a survey undertaken with fifty respondents in Cambodia on issues related to competition, the most prevalent anticompetitive practices are the following:

A high number of respondents agreed that sectors with greater market participation, such as petroleum, telecommunications, public utilities and garment manufacturing, are more prone to anticompetitive practices.

Common anti-competitive

Collective Price-Fixing: Instead of competing with each other, firms collude to fix prices in the market, which ensure highest profits.

Market Allocation or Sharing: Firms agree not to compete with each other and share markets between themselves.

Output restrictions: Firms agree to place limit on supplies. Given the lack of product diversity in the markets, consumers can be charged higher prices.

Bid-rigging or Collusive Tendering: Firms agree not to undercut each other by not offering the lowest bid.



“Refusal to deal” in the telecom market

In 2000, Mobitel, which owned 85 per cent of the mobile phone market, blocked customers of Camshin, a competitor, from reaching its customers. The problem was resolved after the Ministry of Post and Telecommunications intervened. The interconnection rates between the different service providers still remain high however.

practices in market

Tied-Selling: Firms force resellers, wholesalers or customers to purchase goods or services as a condition to obtaining other goods or services.

Exclusive Dealing: Producers force retailers to not deal with competing producers or distributors.

Refusal to Deal: Firms agree not to buy from or not to sell to a competitor.

Discriminatory Dealing: Firms charge different prices to different clients.

Another survey conducted by the World bank shows that other anti-competitive practices prevail such as:

- government collusion to limit access to the market or to suppliers;
- discriminatory subsidies from government;
- violation of copyrights, patents or trademarks;
- discriminatory duties and sales taxes payments, trade regulations, labour taxes and regulations.

Boater's collective price-fixing practice

Boat transportation services to Siem Reap, the most popular tourist attraction in Cambodia, are provided by eight companies. At one point, inter-competition resulted in very low prices that fell below profitable margins. After months of talks, these companies agreed to not compete with each other, to fix their service prices, and to share identical departure schedules.



According to "The Guidelines for Consumer Protection", adopted by the General Assembly of the United Nations in 1985 and amended in 1999, consumers in Cambodia should be entitled to:

- physical safety;
- promotion and protection of economic interests;
- standards for the safety and quality of consumer goods and services;
- distribution facilities for essential consumer goods and services;
- measures enabling consumers to obtain redress;
- education and information programmes;
- promotion of suitable consumption;
- measures relating to specific areas such as food, pharmaceuticals and water.

However, the display of thousands of unreliable and poor-quality products in various markets is proof that the guarantee of basic consumer rights is in its infancy in Cambodia. Only a limited number of products have been certified for quality standards. At the same time, the majority of consumers remain unaware of the safety and quality of available products.

The lack of basic consumer rights protections

Poverty is another problem that places severe limits on consumer rights; approximately 40 per cent of the population live below the poverty line of US\$1 a day.



The Cambodian government has made concerted efforts aimed at creating a more competitive environment in the country.

In the absence of a competition legislation, government policies have varied impacts on competition in specific sectors. Based on a study of sectoral policies in four areas, electricity, telecommunica-



tions, forestry and banking, some significant shortcomings become evident.

Laws relevant to consumer protection assure the quality and safety of products and services, and protect trademarks from unfair competition. However, ineffective and inefficient administration, given limited financial and human resources, is serious constraint to the enforcement of these laws.



The Role of Government Policies on Competition

The Cambodian government has given much attention to the issue of competition. Government policies reflect the importance of fair market competition to the national agenda.

The proposed law on competition is currently being drafted by the Ministry of Commerce with support from the United

The enactment of competition law, postponed due to recent political instability, is back on track.

Nations Conference on Trade and Development (UNCTAD) and other donor agencies.

Enactment of this law is part of the government's schedule of accession commitments to the World Trade Organisation (WTO).



The schedule for the ratification of competition law originally necessitated that it be passed by the National Assembly by March 2005. However, given the political instability followed by the elections of July 2003, the government's entire schedule has been delayed postponing the enactment of competition law.

In the absence of a national legislation on competition, other government policies play an important role. The government's sectoral poli-

cies, for instance, have become effective instruments in shaping the competition scenario in those sectors. Studying these policies is thus crucial to understanding the current competitive environment in Cambodia.



Overview

Electricity infrastructure, destroyed during the civil war in the 1970s, was developed and restored by Ministry of Industry. Provision of electricity is under the jurisdiction of the state-owned enterprise Electricité du Cambodge (EDC) in Phnom Penh and assigned to small private enterprises in each province.

Power generation capacities remain very low limiting the general supply of electricity. Accordingly, the cost of electricity is much higher than in neighbouring countries.

Electricity

Authority & Responsibilities

The Ministry of Industry, Mines and Energy (MIME) is responsible for overall guidelines, policies and strategies related to the electricity market.

The Electricity Authority of Cambodia (EAC) is responsible for:

- implementing MIME policies, strategies and guidelines in a transparent manner to ensure quality and sustainable provision of electricity;
- issuing licenses to entities that satisfy requirements to operate electric power utilities and to meet service obligations and conditions.
- evaluating and resolving consumer complaints.



Law & Regulation

Electricity Law (2001) aims to protect the rights of consumers, ensuring that customers are provided with reliable and adequate electric power services at a reasonable cost. In addition, the law promotes the privatisation of ownership to establish sectoral competition and to create favourable conditions for investment and growth of commercial operations in the electric power industry.

Moreover, electricity suppliers are required to be licensed by the authority granting them the right to supply electricity services.

Competition Issues

Arbitrary Licensing

— The absence of clear licensing criteria gives discretionary power to the authority, which may be arbitrary.

Monopoly Regime

— The law reserves special rights for the state-owned utility, Electricité du Cambodge (EDC). This seems to be contradictory to the initial aims of the Electricity Law that aims to establish competition.

Overview

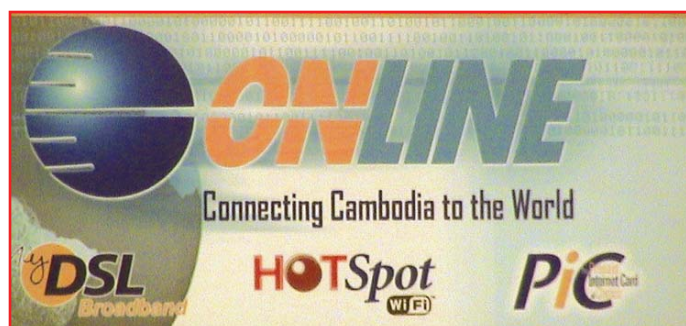
Telecommunications facilities were destroyed by the Khmer Rouge regime.

Only a limited number of people in Phnom Penh can afford the high costs of telephone and internet installation. The mobile phone market is competitive and very popular among the general public. In addition, mobile phone markets have been opened to private investment and competition, while simple payment methods and costs make it affordable.

Authority & Responsibilities

The Ministry of Posts and Telecommunications of Cambodia (MPTC) issues licenses to communication operators. There are no legal provisions that govern these licensing procedures.

Telecommunications



Law & Regulation

Legislation on telecommunications is currently under the jurisdiction of the MPTC.

Government policies on telecommunications require the:

- separation of functions and responsibilities in policymaking, regulation, ownership and share holding and network operations;
 - establishment of a national telecommunications state enterprise;
 - introduction and implementation of regulation to compel telecom companies to share infrastructure;
 - liberalisation of telecom services; development of human resources; and promotion of telecom service in remote rural areas.
- Telecommunications service providers are required to have licenses issued by the MPTC.



Competition Issues

Arbitrary Licensing

- In the absence of regulation, licensing decisions appear haphazard and discretionary.

Lack of independent regulators

- In addition to its role as a policymaking and regulatory body, MPTC operates and controls the country's fixed wire network. These multiple roles can create conflicts of interest for competition.

Overview

In the 1960s, forests covered 73 per cent of total land. Between 1979 and 1992, forested areas have declined due to ineffective management of forest resources. The forest products industry exhibits a similar trend.

Forestry is important for socio-economic development. In the early 1990s, rubber and forestry comprised 10 per cent of GDP.



Forestry

Authority & Responsibilities

The Ministry of Agriculture, Forestry and Fisheries (MAFF) is responsible for policies related to forest management.

The Forestry Administration of the MAFF manages forest and forest resources; controls the harvesting, transportation and selling of forest products and by-products; and issues licenses and permits.

The Ministry of Environment (MoE) is responsible for environmental protection and natural resources management in protected areas.

Law & Regulation

Law on Forestry (2002) ensures the appropriate utilization of forest resources with the aim of:

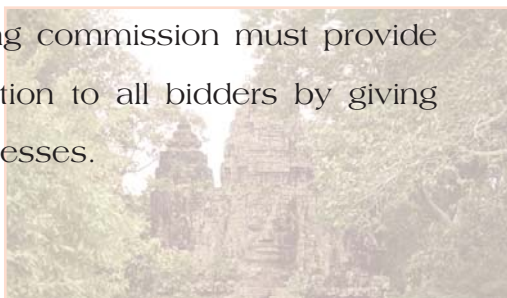
- reserving forest products for domestic consumption;
- protecting biodiversity and endangered species;
- ensuring participation of local communities in the forest management.

Permits issued by the MAFF or the Forestry Administration are required in all forestry related activities. The type of permit depends on the activity.

Competition Issues

The potential for fair competition

- The forest concession bidding commission must provide equal opportunities and consideration to all bidders by giving timely public notice of bidding processes.



Overview

Cambodia is a cash-based economy. Protracted political turmoil and civil war have reduced people's confidence in the banking system. This has resulted in a large amount of cash outside of government control, and diminished saving holdings in banks.

Cambodia has a highly dollarised economy. Dollarisation began between 1991 and 1995 and has continued to prevail.

The banking sector encounters many constraints. They include:

- the high cost of information and lack of legal infrastructure to support the enforcement of financial contracts;
- lack of clients' financial information;
- lack of a proper collateral valuation system.

Authority & Responsibilities

The National Bank of Cambodia (NBC) issues licenses; regulates; and supervises banks, financial institutions and other relevant establishments such as auditors and liquidators.



Law & Regulation

There are no significant regulations in the field of banking.

Reform programmes aim to create a competitive, integrated and efficient banking system that effectively mobilises savings, and has a reliable payment system and safety guarantees.

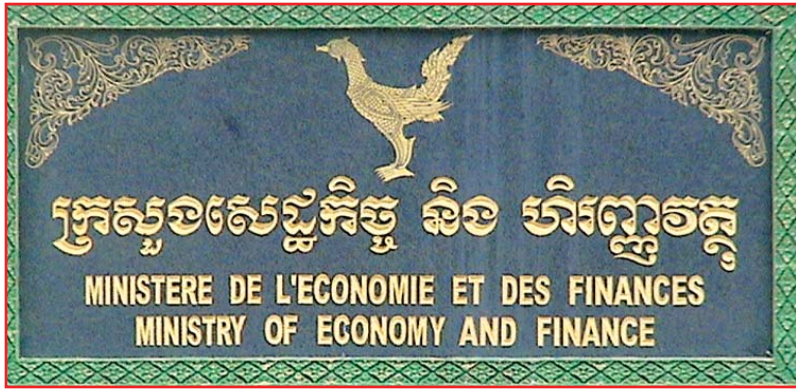
In 2000, the NBC conducted a bank re-licensing program requiring the increase in capital requirements.

Banking

Competition Issues

Lack of regulation on mergers and acquisitions

— There are no regulations governing mergers and acquisitions (M&A), nor on business diversification that allows banks to expand their activities in other businesses.



Consumer Protection Policies

Cambodia does not have specific consumer protection legislation. Existing laws and regulations related to consumer protection cover two areas:

- the quality and safety of products and services;
- the protection of marks and trade names against acts of unfair competition.

The Ministry of Commerce (MoC), the Ministry of Industry (MoI) and the Ministry of Economy and Finance (MEF) are involved in the field of consumer protection.



Law on the management of quality and safety of products and services

assures the safety and quality of products and services to the benefit of consumers. It also has measures against false advertising or anti-competitive behavior.

Mandates

— Products, goods and services must:

- list ingredients, composition, user guidelines, manufacturing and expiration date in addition to requirements in Khmer;
- provide accurate information on the **Quality and safety of products and services** composition or configuration of products, goods, or services;
- have obtained prior authorisation following an inspection have usage guidelines in Khmer during initial stages of commercialisation;
- provide proof of inspection or record of prior examination upon request from inspectors;
- not disseminate commercial advertisements that are deceitful, misleading or false, or otherwise cause consumer confusion over the quality and safety of products, goods and services;
- not be falsified.

— This law encourages products or services display labels, helpful in improving production performance, enhancing the quality of domestic products, and facilitating consumer choice.

Prakas No. 963

Industrial product registration by the Ministry of Industry ensures that industrial products are labelled in accordance with national standards and to prevent counterfeit goods production.

Mandate

- Products must be registered with the Ministry of Industry prior to being commercially available.

Terminology

Prakas - a type of regulation issued by any ministry.

The hierarchy of the Cambodian laws:

Constitution

Kram = law

Kret = decree

Anukre = sub-decree

Prakas = declaration

Sarachor = circular

Prakas No. 329

Food Safety and Labelling

Mandates

- Prohibits the importation, circulation, sale, and retail displays of food products devoid of appropriate trademarks or labels;
- product name, source, date of manufacturing, date of expiration, ingredients, usage instructions (when applicable), license from appropriate authorities must be in evidence prior to product circulation.

Prakas No. 335

Product expiry date

Mandate

- Food expiry date must be noted on all products.



The law against acts of unfair competition on marks and trade names also protects consumer interests. It allows consumers the right to choose any product or service on the basis of fair information.

Law concerning marks, trade names, and acts of unfair competition

protects marks and trade names registered in Cambodia and to prevent unfair competition in the creation and the utilisation of marks and trade names.

Trademark protection against acts of unfair competition

Mandates

- A provider can not misrepresent its goods and services with the goods or the services of a competitor;
- prohibits false allegations in the course of trade to discredit the goods or the services of a competitor;
- bars public deception regarding the nature or the characteristics of the goods or services.

Competition issues

Current legislation on quality control and anti-competitive behaviours appear to have provided consumer protections. However regulatory or legal enforcement is relatively weak.

The government has most recently committed to a variety of reforms including judiciary reform and a fight against corruption. The success of these reforms rests upon the government's will and commitment.



A field survey was undertaken with the objective to gauge public major perceptions regarding competition-related issues. The survey findings show that a large majority of respondents do not possess a clear grasp of competition issues. Nevertheless, anticompetitive practices, such as barriers to entry and collective price-fixing were found to be quite prevalent in the country.



Many respondents acknowledged the need for a competition legislation as well as for the creation of an independent and strong competition authority. Whereas Cambodia does not hitherto have any competition legislation, the Constitution and the current government agenda provide room for policy-makers to advocate in the field of competition law and policy.

The survey

The focus of the field survey was to evaluate the public awareness and gauge their perceptions regarding competition-related issues.

The respondents

This questionnaire survey was administered to 50 respondents in Cambodia. The respondent breakdown is as follows:

- 20 per cent business community,
- 10 per cent high-ranking policy-makers,
- 20 per cent consumers.

The questions

For the purpose of simplicity, the questions were structured in a multiple choice manner. No subjective questions were asked but additional information provided by the respondents was recorded.

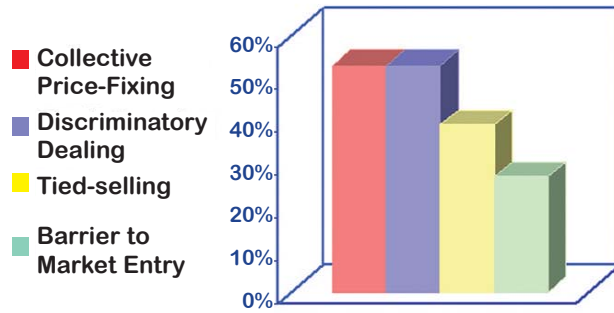


What is public awareness about competition-related laws in Cambodia?

“**A**re you aware of any laws or regulations related to competition in Cambodia?”

A large majority of respondents did not have a clear grasp of the concept of competition regulation. Even those who chose to answer affirmatively about its need were not able to cite the law that prevents anti-competitive practices. However a large number of consumers, businessmen and policymakers pointed out that anti-competitive practices are prevalent in Cambodia.

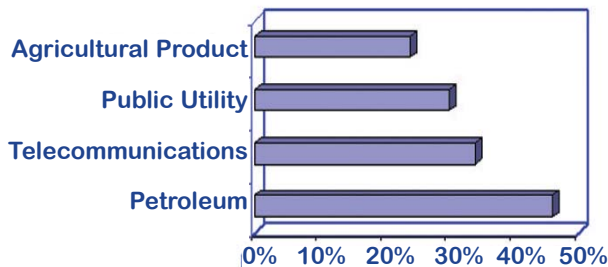
“What are the most prevalent anti-competitive practices in market?”



Raising barriers to entry and collective price fixing were identified as the most common forms of anticompetitive practices prevalent in the country.

“Which are the most affected sectors by anti-competitive practices in Cambodia?”

A large number of respondents agreed that sectors with greater market prominence such as petroleum, telecommunications, public utilities and garments are considerably more plagued by anti-competitive practices.



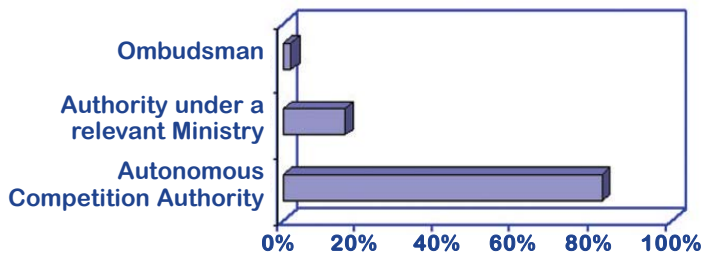
How are competition legislation and authority in Cambodia viewed?

“Do you think that a comprehensive law should be enacted to check such practices?”

95 per cent of total respondents thought that comprehensive competition legislation should be enacted in Cambodia.

94 per cent of the respondents agreed that "business efficiency and consumer welfare" should be the main objectives of such competition legislation.

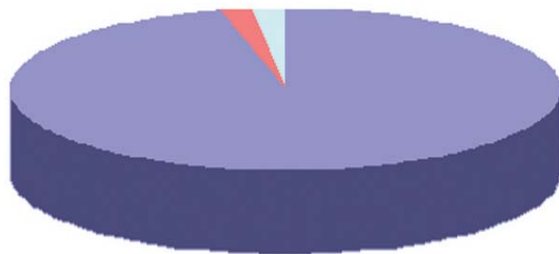
“**W**hat kind of competition authority would you like to have in Cambodia?”



A large majority of respondents agreed that a competition authority should be autonomous and independent from politics and unembedded from any institution.

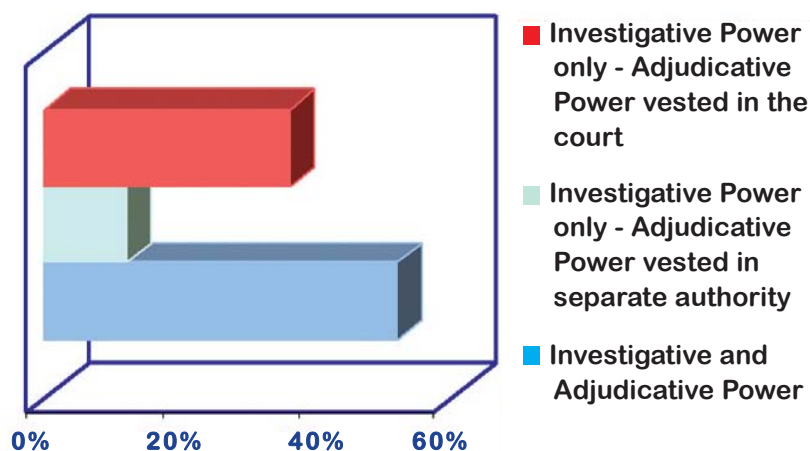
Respondents strongly believed that a strong and competent competition authority should be set up on a permanent basis.

“**D**o you think that the Competition Authority shall be involved different stakeholder groups in its functioning?”



■ Yes ■ No ■ No Answer

“**W**hat kind of powers should the competition authority have?”



52 per cent of the respondents thought that a competition authority should have both investigative and adjudicative powers.

A large majority of respondents also indicated that such a competition authority should:

- deal with both anti-competitive practices and consumer protections;
- take part in the affairs of advocacy and publicity of competition-related issues;
- monitor market position of dominant firms, as well as mergers and acquisitions processes.



What about intervention capacities of policymakers?

Whereas Cambodia has not hitherto had any competition legislation, the Constitution provides room for policymakers to intervene in the field of competition and consumer protection.

Article 62: The State is required to monitor and help solve production matters, protect the price of products of farmers, crafters, and find a marketplace for them to sell their products.

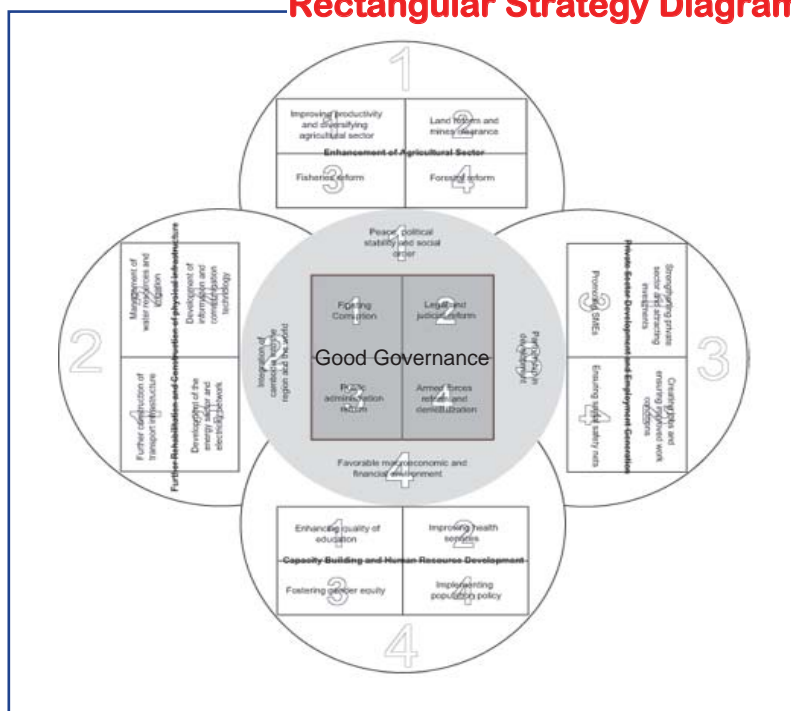
Article 63: The State is required to respect market management in order to guarantee a better standard of living for its people.

Article 64: The State is obligated to ban and severely punish those who import, manufacture or sell illicit drugs, counterfeit and expired goods which affect public health.

Furthermore, legislation related to competition has become part of the Four Pillars of the Government's "Rectangular Strategy". The government has committed to promote private sector access to international markets. In the process of fulfilling World Trade Organisation (WTO) membership commitments, competition reform has become a government priority.

There is an institutional demand for policy-makers to discuss and advocate for competition legislation implementation.

Rectangular Strategy Diagram





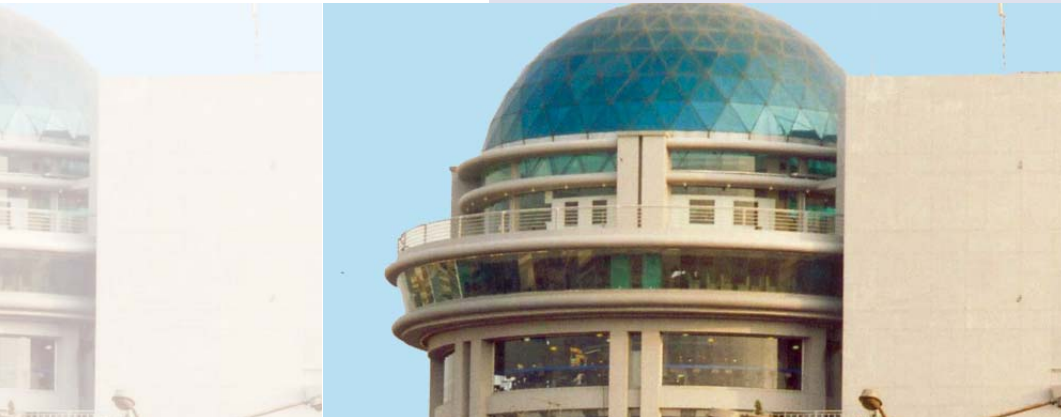
Toward an Effective Competition Policy and Law in Cambodia

Step 1: Enhance awareness about competition issues

Efficient competition policy requires the wide consultation of informed public

Step 2: Create a well-adapted competition regime

A clear and well-adapted Competition Law is the key to Cambodia's development.



Step 3: Enforce competition legislation

Good governance and independent institutions are indispensable to fair competition.

What to do?

How to do?

Step 1: Enhance awareness about competition issues

- Information dissemination on Competition Law and competition issues that advance progress in Cambodia

Distribute ‘Cambodia Com Society Perspective” widely

Trainings on:
 "Well-adapted competition
 "Current competition regime

Step 2: Create a well-adapted competition regime

- Enacting Competition Law
- Review competition sectoral policies

Drafting and ratification of Law

Systematic data collection sector
 Assessment of sectoral

Step 3: Enforce competition legislation

- Good governance
- Autonomous and authoritative body on competition
- Consumers representation
- Competition Law dissemination

Implement the Governance

Establish an independent

Creation of independent association

Publishing and distributing

By Whom? For Who?

petition Law and Policy: A Civil

For: Policymakers
Attorneys and judges
Business community
(including SMEs)
Civil Society
Consumers
Media
Students

policy, law and authority"
and consumer protection

Step 1

the Cambodian Competition

By: The Ministry of
Commerce (MoC) and
The Parliament

(e.g. market composition) by

By: independent experts

policies on competition

For: Business community
Civil Society
Media

Step 2

Reform Programme

By: Government
Ministry of Commerce
Public Administration

competition authority

Cambodian consumers

synopsis of Competition Law

By: Consumers
Civil Society

Step 3

During the past few decades, many developing countries have made great efforts to access the global market economy. Equal attention has been placed on the regulatory frameworks that will facilitate market-oriented development, notably competition law and policy. To be effective and useful in the development process of the country, competition laws and policy must be well adapted to national circumstances taking into consideration specific economic, social and cultural aspects.

It is the objective of the 7Up2 Project to accelerate the process towards well-adapted competition laws and policies in developing countries and build the capacity of relevant stakeholders. As a part of the 7Up2 Project, this publication provides an overview of the competition scenario in Cambodia: and presents recommendations to help moving the national agenda on competition policy and law in Cambodia forward.

