



# FEED THE FUTURE

The U.S. Government's Global Hunger & Food Security Initiative



## CAMBODIA RATE Country Summary

This document presents the findings of the Regional Agricultural Trade Environment (RATE) assessment conducted in the ASEAN region in 2012 by the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) Project.



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# CAMBODIA

## Regional Agricultural Trade Environment (RATE) Assessment Country Summary

USAID Maximizing Agricultural Revenue through Knowledge, Enterprise Development and Trade (MARKET) Project

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[www.nathaninc.com](http://www.nathaninc.com)

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*On the cover: A Woman harvesting water spinach*  
Photo credit: Nathan Associates Inc.

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## **RATE COUNTRY SUMMARY—CAMBODIA**

This country summary sets forth general findings from the RATE assessment conducted in Cambodia in August 2012. In addition to desk research, assessors conducted a series of interviews pertaining to the country's agriculture sector, including with government officials, producer associations, owners of small, medium, and large agricultural and trading enterprises, trade service-providers, women's business groups, non-government organizations (NGOs), foreign investors, university representatives, a research institute, a cooperative, international donors, the banking and lending community, and others. Interviews and observations took place in and near Phnom Penh. In all, the team consulted approximately 60 stakeholders in Cambodia.

### **What is RATE?**

The Regional Agricultural Trade Environment (RATE) assessment is a tool designed to examine the agricultural trade enabling environments of countries in a particular region, with the objective of identifying a range of legal and institutional reforms that will help the region and individual countries become more efficient in their approach to trade.

In recent years, the international community has committed to a variety of multicountry initiatives that emphasize the collection of benchmark information. Such benchmarks allow participating countries to compare their economic and business environments to others. The accepted use of such benchmarks helps countries identify relative areas of strength and weakness and to track evolution in those rankings over time. Examples include the World Economic Forum's Global Competitiveness reports, the International Finance Corporation's Doing Business reports, and the United States Agency for International Development's (USAID) BizCLIR (Business Climate Legal and Institutional Reform) and AgCLIR (Agribusiness Climate Legal and Institutional Reform) reports.

Building on such initiatives—USAID's BizCLIR and AgCLIR, in particular—the ASEAN RATE inquiry has been conducted for Member States of the Association of Southeast Asian Nations (ASEAN) under the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) project funded by USAID. RATE builds a knowledge base for addressing the priorities of USAID's Feed the Future initiative, which aims to increase investment in agriculture and rural development as both a lever for combating food insecurity and an engine for broader economic growth, prosperity, and stability.

RATE collects certain quantitative and qualitative information across relevant agriculture value chains in ten topical areas critical to trade in agricultural products sector, namely (1) the conditions for enterprise formality; (2) access to finance; (3) infrastructure; (4) intellectual property; (5) competition; (6) non-tariff barriers; (7) trade facilitation; (8) gender; (9) transparency and accountability; and (10) food security. Each RATE country assessment, set forth in a separate detailed, country-specific presentation and reported through a series of Country Summaries, benchmarks the national enabling environment for agribusiness and agricultural trade by identifying the private sector priorities, key market constraints, and successful national initiatives in support of agricultural trade in individual ASEAN Member States.



## INTRODUCTION

Although Cambodia is one of Asia's smallest and poorest economies—in ASEAN only Burma's per capita purchasing power is lower—changes in its environment for business and trade since the turn of the millennium have been rapid and dramatic. Insiders and outsiders alike are increasingly recognizing the country's economic potential as a range of new investment and infrastructure projects evince growing confidence and opportunity. Cambodia's situation at the heart of a regional market incorporating Vietnam, Southern China, Thailand, and Laos, as well as ASEAN more broadly, bodes well for its agricultural value chains, including rice, aquaculture, livestock, and spices. A member of the World Trade Organization (WTO) since 2004, Cambodia has enacted a number of commerce-friendly laws. For example, the country allows up to 100 percent foreign ownership in most sectors.

Notwithstanding these advances, the majority of Cambodia's 15.2 million people continue to work in low-productivity, subsistence agriculture, although the industrial and service sectors (garments and tourism most prominent among them) now provide more than 40 percent of jobs and account for 64 percent of GDP (Figure 1). Agriculture and food security remain of critical concern, with the country's most vexing political and economic issues centering on land, infrastructure, access to finance, and human capacity. Indeed, institutions charged with implementing policy and legal changes tend to lack resources and awareness of best practice in governance and accountability.

**Figure 1. Representative Statistics Pertaining to Agricultural Trade: Cambodia**

Population (2013)	15.2 mn
Agriculture as % of GDP (2012)	36
Services as % of GDP (2012)	39.7
Industry as % of GDP (2012)	24.3
% of population engaged in agriculture (2010)	55.8
Exports (all sectors, 2012)	\$5.79 bn
Imports (all sectors, 2012)	\$7.84 bn
% of women participating in agriculture sector (2011)	57
Female/Male literacy rate (%) (2009)	65.9/82.8
Female labor participation rate (women over 15, 2011)	79
Prevalence of under-nourishment (2011) (% of population)	17
Percent of children underweight (2011, % of children under 5)	29
% of workers informally self-employed or informal wage-earners (2000 est.)	70

SOURCES: CIA Factbook; World Bank;



## TOPICAL SUMMARIES

For each ASEAN Member State surveyed by RATE, assessors asked approximately 150 questions—around 15 per topic—related to the legal framework, implementing institutions, supporting institutions, and social dynamics of each of the ten topics studied by the assessment. This section summarizes the answers to these questions by setting forth the primary issues, opportunities, and challenges associated with each topic.

### The Informal Economy

Throughout Southeast Asia, recent generations have witnessed a transition from economies grounded in informal activity—mostly agriculture and casual trade—to more formal and clearly defined relationships between enterprises and the regulating authority of government. Formalization begins with registration with one or more government agencies, and can result, in theory, in a number of advantages, among them better access to finance, more opportunities to participate in higher-value pursuits, greater ability to enforce contracts, and even the benefits of a strengthened community tax base. For many informal producers, processors, and traders, however, registration with national or local authorities often means assuming the costs of formal tax collection and licensing interventions, without immediate or obvious tangible benefits. Enterprises typically remain informal because they perceive formalization as too costly, too complex, and not worth the effort. As long documented by the World Bank's *Doing Business* initiative, however, persistent, widespread enterprise informality undermines improvements to productivity and quality, access to markets, and economic growth.<sup>1</sup>

When producers, processors, and traders assume the various aspects of enterprise formality, their businesses can grow and their goods can circulate more freely, within and across borders, enhancing food security.

Enterprise informality is by far the norm in Cambodia, particularly in agricultural communities, where 57 percent of people work in subsistence farming and related activities.<sup>2</sup> About two-thirds of the national GDP is derived from informal business and informally employed workers.<sup>3</sup> In most small and medium-sized enterprises (SMEs) there is little sense that formalization is a worthwhile use of time and money. Even donors that work with SMEs do not usually encourage them to take on the expense of formalization because the process is widely considered cumbersome, expensive, and corrupt.

Although Cambodia's Company Law was received in 2005 with considerable optimism, it cannot yet, in practice, be said to unequivocally support formal entrepreneurship, particularly the kind that emerges at the grassroots. As of 2012, the minimum capital requirement for a Cambodian Private Limited Company was four million riels (about US\$1,000), which generally must be paid in cash. As documented in *Doing Business in 2013*, the number of procedures, length of time, and costs of formalizing an enterprise remain

<sup>1</sup> See World Bank, *Doing Business in 2013* (2012), and accompanying literature at [www.DoingBusiness.org](http://www.DoingBusiness.org).

<sup>2</sup> National Institute of Statistics (2009). Cambodia Socio-Economic Survey 2009. Accessed at: <http://www.nis.gov.kh/nada/index.php/catalog/30>

<sup>3</sup> International Labor Organization, *Handbook on Decent Work in the Cambodian Economy* (2006) (estimating the value of the informal economy as 63% of GDP); Helsinki University of Technology, *The Hidden Role of the Informal Economy: Is the Informal Economy Significant for Phnom Penh's Development?* (2008) (estimating the value of the informal economy as 80% of GDP).



significantly in excess of international and even regional best practices, and Cambodia ranks near the bottom in the world (175 out of 185 countries surveyed) for Starting a Business. In fact, as explained in a 2010 report by the IFC, most business owners are not certain what constitutes legal registration of their business: “Often SMEs are only licensed to operate by relevant ministries at the provincial and/or municipal level, and only regulated by local authorities.”<sup>4</sup>



***The informal economy is predominant throughout Cambodia.***

Although procedures to register with the MOC have been somewhat streamlined, launching a formal business in Cambodia may attract demands from government officials for facilitation fees. According to many representatives of the business community, registration with the MOC, if it is to take place in a timely fashion, requires payment of an “informal fee”—often in the hundreds or thousands of dollars, depending on the size of the new business. Improvements are being made: Cambodia’s new Anti-Corruption Law, which took effect in early 2012, aims to discourage such payments, including through such tactics as cameras placed in public offices, posting of formal fees, and prosecution of public servants caught taking bribes.

### **Access to Finance**

Producers, processors, and traders seek finance for a variety of purposes: for operations; to bridge the gap

A variety of safe and accessible opportunities to access finance helps producers, processors, and traders cope with supply and demand risks, strengthen their enterprises, and contribute to food market stability.

<sup>4</sup> IFC Advisory Services, “Understanding Cambodian Small and Medium Enterprise Needs for Financial Services and Products,” (November 2010).

between production of goods and receipt of payment for them; for capital purchases, farming equipment or storage facilities; to cover swings in supply and demand conditions; or to launch a processing enterprise.<sup>5</sup> In many instances, they are disappointed. The risks involved in lending are often too great for banks and other lenders to assume. These risks include ambiguous and highly disputed land rights, weak property registration systems, limited forms of collateral, inadequate financial infrastructure, and risks particular to agriculture, such as seasonality and geographic clustering. The risks may also include a weak appreciation of how credit works among those who seek to borrow.

Cambodia is, for most people, a dollarized economy, but also one that relies on barter in the rural areas. Banks are available to support larger domestic and foreign investors, but are of limited relevance to most farmers and SMEs in the agriculture sector.

In 2010, the banking system in Cambodia consisted of 27 commercial banks, 6 specialized banks, 20 licensed microfinance institutions (of which two were licensed, microfinance deposit-taking institutions), and 26 registered rural credit operators. Total assets in the banking system as of September 2010 were valued at approximately \$6.3 billion. In January 2008, Standard & Poor's issued its first-ever risk assessment of the banks, awarding them a 'B+/B' rating with "stable" outlook (comparable to banks in Venezuela, Bolivia, Ukraine, and Jamaica).<sup>6</sup>

Donors are a common source of financing for farmers and small agricultural enterprises in Cambodia. The priority of most donors—including multilateral and bilateral donors, NGOs, and social enterprises—is poverty alleviation and food security. Thus, a great many projects support direct transfer of inputs, equipment, or services to individual farmers and farmers' groups. A frequent "off the record" conversation in Cambodia among donors and their partners warrants formal consideration; namely, does the ready availability of inputs and services by way of donors reduce incentives for others to engage in private enterprise, or otherwise create an unhealthy dependence on donor funds? Even the country's many donors do not agree on the answer to this question.

Microcredit is widely available in Cambodia; in 2011 the country had about 1.4 million active borrowers with loan values amounting to US\$1.6 billion.<sup>7</sup> In addition to formally licensed microfinance institutions is an abundance of unregistered small service providers and hundreds of informal credit schemes. The availability of funds for "even the poorest farmers in the poorest regions," as one donor says, is considered an accomplishment by some, while others note that that interest rates of 2-3 percent per month have not declined in eight years, thus showing little change in the costs and risks that lenders assume. Microfinance institutions have been planning to incorporate specialized financial products for agriculture, such as credit for building small-scale irrigation facilities. Microcredit opportunities can be found especially in the earlier links of agricultural value chains and often involve informal cooperatives or savings funds for groups of people living in the same communities.

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<sup>5</sup> See USAID/Enabling Agricultural Trade, Agribusiness Commercial Legal and Institutional Reform project, *Lessons from the Field: Getting Credit* (2011).

<sup>6</sup> U.S. Department of State, Bureau of Economic, Energy and Business Affairs, Investment Climate Statement (2011).

<sup>7</sup> MIX Market, Microfinance in Cambodia, Country Profile, available at <http://www.mixmarket.org/mfi/country/Cambodia>.



***Microcredit is widely available in Cambodia but few financial services are available***

In contrast to the wide availability of microcredit, there is a dearth of financial services for slightly larger agricultural enterprises. Most entrepreneurs finance their businesses using their own resources, including savings and the support of family and friends. These entrepreneurs are rarely considered strong candidates for bank loans and are reluctant to pay interest rates of 14-17 percent per year. Other mechanisms for finance, including value-chain credit and contract farming, are used informally, with little confidence on the part of lenders in their ability to enforce debts.

Cambodia has two key institutions associated with promoting better access to finance, a collateral registry and a credit bureau. Enacted in 2007, Cambodia's Secured Transactions Law allows security interests to be created and filed with a collateral registry hosted by the MOC. All banks require collateral and their preferred type is immovable collateral: land or buildings. In some circumstances, banks will accept movable property (equipment) but this is much less common. A single agreement may create security in collateral that arises in the future, saving the expense and formalities of amending contracts. Notwithstanding the progressiveness and simplicity of the law, use of the collateral registry since its

creation has proven weak. Banks and other lenders resist securing their loans with moveable property, because they doubt that, upon default, they would have any luck locating and seizing the collateral.

After a lengthy planning process that began in 2008, the Cambodian Credit Bureau (CCB) was launched in Phnom Penh in March 2012. Significantly supported by the IFC, CCB aims to centralize loan information from Cambodia's banks and microfinance institutions. It also aspires to speed loan-processing times, decrease interest rates for borrowers with positive credit histories, and prevent over-indebtedness.

## Infrastructure

A nation's success in agricultural trade, whether domestically or in regional or international markets, is generally only as good as the ability of its producers to get their products to the next stop on the value chain—that is, to local markets, distributors, and processors, as well as to storage facilities, warehouses, and ports. Producers and processors also need access to inputs that are transported over long distances, including seed, feed, fertilizer, and equipment. To support commerce that extends beyond the farm gate, governments must invest in and maintain a supporting infrastructure that incorporates transport, water, power supplies, and telecommunications. To ensure that societies obtain value and satisfying results from the infrastructure in which they invest, the process of procuring government contracts to supply national and local infrastructure should be as accountable and transparent as possible.

Strong markets for agricultural products need public facilities that support production, processing, and trade, such as roads, rail, ports, wholesale markets, storage facilities, and access to communications and information.

As a result of years of internal conflict and a relative lack of investor confidence, Cambodia lacks the infrastructure needed to support a thriving trade in agricultural commodities. Critical issues include poor irrigation facilities and the high cost of electricity and transport. In recent years, the government has devoted a great deal of attention to developing public-private partnerships to finance infrastructure projects. Investors have been slow to gain confidence in Cambodia as a destination for funds, but those with risk tolerance increasingly see it as providing the type of lucrative opportunities once found in Thailand.

With donor support, Cambodia is working to improve its irrigation networks. In addition to large investments in restoring reservoirs, the most cost-effective irrigation projects involve the rehabilitation of long-abandoned canals. Canals can make an enormous difference in a farmer's livelihood. Farms with access to irrigation are able to grow at least two season's worth of rice each year, increasing the commercial availability of rice.





***Rehabilitation of abandoned canals and improvements to irrigation systems are positive developments for Cambodia’s agricultural economy.***

In recent years, Cambodia has focused on improving its road system. According to a 2010 news report, “Cambodia is halfway through a road-building spree with 10 projects totaling 1,173 kilometers, or 730 miles, of pavement still under way,” and 11 additional roads under negotiation.<sup>8</sup> Sources of finance for these roads vary, with Western donors such as the Asian Development Bank employing more rigorous—but substantially slower—procurement procedures than Chinese investors, who have financed many new roads all over Cambodia. In fact, some donors refuse as a matter of policy to become involved in Cambodia’s infrastructure projects because the government resists following consistent public bidding processes. Another concern is that, in exchange for allowing Chinese investors to build Cambodian roads, the Chinese are extracting resources under terms not widely understood by the public.

Companies that carry their goods to and from Cambodia’s borders complain about the high cost of transport. Fuel prices in Cambodia are higher than in neighboring countries, and trucks encounter multiple roadblocks as they cross trade routes. The roadblocks reportedly charge up to \$30 to release

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<sup>8</sup> New York Times, “Cambodia Takes to the Roads in Building Spree” (January 18, 2010).

trucks and will hold them back for days if they do not pay. National and local institutions are beginning to engage to reduce the solicitation of these fees.

One of Cambodia's greatest transport resources is its rivers, including the Mekong and the Tonle Sap, which provide valuable inland waterways for farmers and their crops. However, flows in the Mekong can be variable, thus constraining river transport on this important artery. Cambodia participates with its neighbors, Lao PDR, Thailand, and Vietnam, in the Mekong River Commission for regional and transboundary economic and environmental cooperation regarding use of the river basin's resources.

A new port is being constructed near Phnom Penh to replace the current one, which is congested and lacks adequate facilities. The new port, which is substantially (and not transparently) funded by Chinese investors, will be much bigger than the current facility, and will offer container and bulk services. Port traffic in and out of Cambodia is expected to grow, and the new port will offer a gateway to Ho Chi Minh City. In addition to the already active agricultural trade between Vietnam and Cambodia, this improved access will allow Cambodia to link to other markets.

### **Intellectual Property Rights**

Intellectual property (IP) is increasingly viewed as a key factor in development. Intellectual property is a branch of law that protects intangible property such as inventions, new plant varieties, geographical indications, and trademarks and protects against dishonest business practices. An effective IP system makes markets more predictable and reduces investment risk. This benefits

local producers and better positions a country to attract foreign investment, as international investors give substantial weight to IP protection in their decisions on where to locate their business investments.

Investment in a vibrant food economy is enhanced by systems supporting the recognition and protection of new plant varieties, and of patents, trademarks, and copyrights used in connection with equipment, products, and services.

In 2002 and 2003, Cambodia enacted a series of IP laws as part of its efforts to join the WTO, which occurred in 2004. The laws were drafted with significant consultation with the World Intellectual Property Organization (WIPO) and other international authorities. Cambodia's IPR framework now consists primarily of a Law on Patents, Utility Model Certificates, and Industrial Design (January 2003); a Law on Marks, Collective Marks, Trade Names, and Acts of Unfair Competition (February 2002); and a Law on Copyright and Related Rights (March 2003). In 2006, the government adopted a sub-decree for the implementation of the trademark law and a declaration for the implementing the patent law. Although Cambodia has enacted a number of laws relating to phytosanitary measures and seeds, it has not yet enacted legislation to protect new plant varieties, nor has it passed laws to protect integrated circuit layout-designs or laws relating to encrypted satellite signals. The country is a member of only two international agreements on intellectual property, neither of which facilitates international protection of marks, inventions, industrial designs, or new plant varieties.

Trademarks are registered in a special office in the Ministry of Commerce and patents are registered at the Ministry of Industry, Mines, and Energy. According to one private sector representative experienced in registering trademarks, the size of the informal payment determines how long it takes get a trademark. A large payment, it is said, can secure a mark in one month; with a small bribe it takes six months; and, with no payment it takes one year.

Despite Cambodia's recent efforts to modernize its IP laws, the agriculture community has not shown interest in IP, which is routinely ignored by producers, processors, and traders. IP counterfeiting and piracy are pervasive throughout the industrial, service, and agricultural sectors. Counterfeiting includes the sale of goods that counterfeit domestic and foreign trademarks, including pharmaceutical products. Inadequate legislation prohibiting acts of unfair competition reportedly impedes enforcement. Lack of IPR enforcement will likely become an important problem for Cambodia.

Like other least developed country members of the WTO, Cambodia was obliged to follow the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) since July 2013. TRIPS requires compliance with a comprehensive set of minimum requirements relating to the acquisition, maintenance, and enforcement of rights. Failure to meet these requirements can result in the institution of a dispute under the WTO and if not promptly remedied, complaining WTO Members can seek compensation.

## Competition

Competition is at the heart of any successful market economy. True competition promotes economic efficiency, consumer choice and welfare, and overall economic growth and development. Competition forces companies to work as efficiently as possible and offer the most attractive array of price and quality options in response to consumer demand, rather than conspiring as cartels to fix prices or to block other companies' entry into the market.

Cambodia is one of five ASEAN Member States that does not have a law on competition (the others are Burma, Brunei, Laos, and the Philippines). Over the past decade, USAID has significantly supported competition law and policy in ASEAN and its member states, chiefly through the ASEAN Competition and Consumer Protection Program (ACCP). Through the program, ASEAN and individual member states received technical assistance from the U.S. Federal Trade Commission and the U.S. Department of Justice in developing sound competition policy and law (CPL), consumer protection policies, and associated enforcement capacity. A 2011 USAID-sponsored evaluation found ACCP to have been very effective, especially in Vietnam, and that ACCP helped institutionalize competition policy and law as "a key objective" in ASEAN and garnered interest and created multilateral pressure for the adoption of



***Legal protection of new plant varieties is weak given the current regulatory environment.***

Competition compels producers, processors, and traders to be more efficient and innovative and to offer the most attractive array of price and quality options in response to consumer demand.



international best practices in competition policy and law. On the other hand, evaluators of the ACCP program concluded that Laos and Cambodia may not yet have reached the level of development necessary to sustain and enforce a meaningful competition policy and law regime.<sup>9</sup>

As of 2012, a draft competition law is nonetheless taking shape with support of the Asian Development Bank. The draft law aims to prevent price-fixing, barriers to market entry, and other cartel-type behavior by companies. A consumer protection law is also in line for drafting and enactment, but it does not rank among the country's legislative priorities, according to interviews. Another draft law, one that aims to outlaw "dumping"—that is, the flooding of domestic markets of products below the market value or even the cost of production in the home countries of the foreign companies that sell them—was said to be "in the works" as of March 2012.

Cambodia's environment for trade in agriculture can be characterized as generally competitive. Among the few state-owned enterprises are rubber plantations, an agricultural inputs supply company, and infrastructure enterprises, including the Phnom Penh Water Supply, the Electricity Authority of Cambodia, and the Rural Development Bank.<sup>10</sup>

Conditions for foreign investors are generally hospitable, given the rights of foreign companies to hold 100 percent interest in their Cambodia-based companies and to own some types of real property (though not land). Still, foreign investors have noted a need for more transparency and increased enforcement of existing laws and regulations.<sup>11</sup>

In the rural areas, Cambodian farmers, transporters, and traders compete mostly on price, and, increasingly, on quality. Price information is generally available to both buyers and sellers, although smallholder farmers are less likely to access price information. Having price information is not the only requirement for increased competition; in many communities there may be a dearth of enterprises that compete with one another to purchase the agricultural products. Cambodia's Agricultural Marketing Office (AMO) collects wholesale agricultural price information three times weekly in 21 markets in the country. This information is broadcast on local FM radio and is accessible through the Food Security and Nutrition website and SMS-messaging.

Although Cambodia may appear at first glance to be one of ASEAN's more competitive business environments, true competition in the economy is hampered by public corruption and lack of institutional transparency. Competition-inhibiting corruption is notorious with respect to land concessions, referred to by one researcher as a "dark box." Under Cambodia's 2001 Land Law, the government is allowed to make use of all "private state land" and to lease up to 10,000 hectares to a company for as many as 99 years. This allowance has led the government to engage controversial land deals that have enriched public officials and prevented consideration of other, more economically efficient uses of the land. Public

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<sup>9</sup> See William M. Butterfield, et al., "Outlawing Monopoly: A Programmatic Evaluation of USAID's ASEAN Competition and Consumer Protection Program from a Development Perspective" (USAID/Regional Development Mission for Asia, September 2011).

<sup>10</sup> U.S. Department of State, Bureau of Economics, Energy and Business Affairs, Investment Climate Statement (2011).

<sup>11</sup> Ibid.

domain acquisition of land used by the poor (for their homes, businesses, farms) has been a source of intense public confrontation for years.

Also related to competition, Cambodia’s company law establishes a framework for corporate governance that reflects international best practices of transparency and accountability. These rules are generally adhered to by Western private investors, while disregarded by most domestically formed companies. Cambodian businesses rarely build corporate governance best practices into their strategies and fall short on accounting and auditing standards.

## Nontariff Barriers

Although the formal definition of what constitutes a “nontariff barrier” (NTB) varies according to the source, NTBs are generally viewed as government-imposed or government-sponsored measures—other than tariffs—that are used to protect a domestic industry from international competition. A great many measures can be interpreted as an NTB, ranging from restrictions on food imports due to food safety considerations, to business licensing requirements that are especially difficult for outsiders to fulfill, to outright quotas. For the purposes of agricultural trade, NTBs may include import restrictions on inputs, sanitary and phytosanitary (SPS) regulations, animal and plant health standards, food safety standards, business licensing procedures, labeling and packaging requirements, and constraints on trade in services. Some of these are sanctioned by the world trade community through agreements, while others can be challenged by trade partners as restrictive of trade.

Markets function more efficiently when trade is managed through transparent tariffs and legitimate health and safety measures, rather than via more opaque quotas, licenses, and other barriers.

According to the U.S. Foreign Commercial Service, “the Cambodian government has eliminated most non-tariff barriers to trade.”<sup>12</sup> The Cambodian market is relatively hospitable to imports of agricultural inputs, including seed, fertilizer, equipment, and others. Food imports similarly have little trouble entering the country.

In fact, Cambodia’s regime for maintaining food safety at the borders is especially weak—the country undoubtedly needs *greater* food-safety controls and *higher* standards for food imports. Cambodia adopted a Law on Standards in 2007 to improve the quality of products, services, and management; raise and rationalize production efficiency; ensure fair and simplified trade; rationalize product use; and enhance consumer protection and public welfare. Several government bodies and agencies share oversight and control over these standards. However, state institutions are largely perceived as ineffective and corrupt, particularly at the borders. A study by the Food and Agriculture Organization (FAO) found that most of the cross-border trade in animals is informal.<sup>13</sup> Cambodia would benefit from a stronger food safety system: rumors abound about Vietnamese traders dumping diseased livestock in the Cambodian market and Cambodians reported having significant concerns about food imports from China.

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<sup>12</sup> U.S. Foreign Commercial Service, *Doing Business in Cambodia: 2013 Country Commercial Guide for U.S. Companies* (2013).

<sup>13</sup> Food and Agriculture Organization, ADB and OIE. Study on Cross-Border movement and market chains of large ruminants and pigs in the Greater Mekong Sub-Region (2009).

One mechanism that, over the long-term, may bolster the effectiveness of Cambodia’s border agencies is the ASEAN Single Window (ASW) initiative, which aims to integrate national single windows (NSWs) of member states into a region-wide platform with a single point of submission of trade data (i.e., documentation) and information, a single and synchronous processing of data and information, and a single decision-making point for customs clearance and release of cargo. However, Cambodia lags far behind most of the other member states in constructing and implementing its NSW, so the country is not yet able to take advantage of shared regional practices and standards at the border.

Perhaps Cambodia’s most notorious government-imposed barrier against formal trade is its opaque system of business and investor licensing. Domestic and foreign investors alike report that the process of obtaining licenses, including import licenses, through the Council for the Development of Cambodia (CDC) carries a great number of hidden and informal fees for the “one-stop-shop” services that the agency provides. Notwithstanding a legal and regulatory regime that is welcoming of foreign investment, an opaque system of “pay to play” dissuades many investors, who are usually bound by their own countries’ prohibition against corrupt practices in foreign states, from entering the Cambodian market.

### Trade Facilitation

Prudent and effective international trade facilitation requires the provision of high-quality, transparent government services at the border, including predictable and consistent procedures by customs agencies, health and agriculture inspectors, immigration agencies, and others. Governments throughout the world increasingly recognize that capable and responsible trade-related operations, including fast and efficient clearance processes at the border, are a prerequisite for development. Because of their greater perishability, foods in particular require efficient trade regimes and border crossings. Food security is enhanced when cross-border flows of products are “facilitated” to minimize time spent by food-related cargo in trade, thus reducing both physical losses and costs.

The volume and efficiency of markets improve when procedures and controls governing the movement of goods across borders are transparent, accessible, and consistently administered by customs agencies and other key border agencies, including port authorities, health agencies, quarantine services, and immigration.

After joining the WTO in 2004, Cambodia enacted a new Customs Law in 2007. The text of that law and its accompanying regulations is generally available online to potential importers and exporters. Pursuant to the law, the government has encouraged the use of a single administrative document system and one-stop service mechanism (or an NSW) to facilitate trade and risk management. As of late 2012, Cambodia was preparing to implement its NSW service.<sup>14</sup> Under the one-stop-service mechanism, there is, in theory, only one inspection by the interministerial body and customs procedures are fewer and more facilitative, involving less bureaucracy and paperwork to serve investors. In 2009, Customs launched the Automatic System for Customs Data (ASYCUDA) operations at the Sihanoukville Autonomous Port,

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<sup>14</sup> ANZ Royal Bank and Cambodian Development Research Institute, “Cambodia Outlook Brief,” 2012, No. 3.

Phnom Penh International Airport, the Phnom Penh Dry Port, and the Exports Office and Excise Department, to facilitate customs procedures as part of one-stop service implementation.<sup>15</sup>

The major border agencies in Cambodia are the Customs and Excise Department (CED), a division of the Ministry of Finance, and the Ministry of Commerce’s Cambodia Import-Export Inspection and Fraud Repression Department (CAMCONTROL). CAMCONTROL is responsible for most SPS controls and consumer and fraud protection. Since 2007, both agencies have undertaken significant capacity-development, usually with the support of international donors. With the introduction of certain risk-management practices, clearance times have steadily gotten faster, as documented since 2004 by the World Bank’s *Doing Business* initiative.

According to both international measures and anecdotal reports, however, a great deal of work remains to be done. *Doing Business in 2013* report ranks Cambodia 118 out of 185 countries surveyed for Trading Across Borders, with the number of days spent importing and exporting goods (26 and 22, respectively) registering as among the highest in ASEAN. The relatively slow clearance times encourage informal trade, and smuggling over Cambodia’s borders with neighboring countries is commonplace. Freight forwarders report that there is no document that they may file *without* an accompanying facilitation fee—in an amount that has gone *up* since the enactment of the Anti-Corruption Law. One importer of food ingredients contends he has calculated the costs of importing and transporting one container from the Phnom Penh port to his manufacturing facility as \$480, only \$50 of which constitutes a published, formal fee. All other charges, he averred, are paid “under the table” to CED, CAMCONTROL, and other officials encountered en route.

## Gender

As underscored by USAID’s 2012 Gender Equality Policy, gender equality and female empowerment are “fundamental to the realization of human rights and key to effective and sustainable development outcomes. Although many gender gaps have narrowed over the past two decades, substantial inequalities remain across every development priority worldwide—from political participation to economic inclusion—and remain a significant challenge across all sectors in which USAID works, particularly in low-income and conflict-affected countries and among disadvantaged groups.”

Strengthening educational and economic opportunities for women can lead to more robust and equitable economic growth.

To an extent greater than a number of its neighbors, Cambodia’s legal framework supports gender equality. Under the Constitution of Cambodia (adopted in 1993), the state recognizes human rights, including women and children’s rights, and formally abolishes all forms of discrimination against women. The Constitution also requires that citizens of either sex receive equal pay for equal work and states that “the work by housewives in the home shall have the same value as what they can receive when working outside the home.” In practice, however, there is no real means of valuing household work in the manner suggested by the Constitution.

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<sup>15</sup> See USAID/*Southeast Asia Commercial Legal and Institutional Reform (SEACLIR) – Cambodia* (Trade in Goods chapter, 2007). See also Dr. Kun Nhem, Deputy Director General of Customs, “Status and Challenges of Single Window and Paperless Trade Implementation in Cambodia” (2009).



Cambodia is recognized for its relatively progressive legal conditions for women. The OECD ranked Cambodia 12<sup>th</sup> out of 86 countries surveyed in its 2012 Social Institutions and Gender Index, which looks specifically at issues of discriminatory social institutions, including early marriage, discriminatory inheritance practices, violence against women, son preference, restricted access to public space, and restricted access to land and credit.<sup>16</sup> The Constitution states that all citizens are entitled to the right to ownership, including rights to land ownership. Both women and men are equally entitled to have ownership over property.

Cambodia's Law on Contracts and Other Liabilities states that women and men have equal rights to enter into contracts of loan, mortgage, and financial credit. Women enjoy rights equal to those enjoyed by men in bank loan agreements, as well as rights to collateral, rental, and sale of their private property. Married men and women must have agreement from their spouses to enter into contracts related to joint property.



***Women enjoy a comparatively inclusive agricultural environment in Cambodia.***

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<sup>16</sup> By comparison, other ASEAN countries reviewed ranked as follows: Philippines, 11; Thailand, 25; Indonesia, 32; Viet Nam, 42. OECD, Social Institutions and Gender Index (2012).

One aspect of finance that somewhat detracts from the interests of women concerns the matter of building a credit history through formal credit bureaus. In Cambodia, microfinance institutions do *not* provide information to private credit bureaus or public credit registries. Thus, microfinance borrowers, who are often women, miss out on this possible opportunity to build a credit history and improve their chances for obtaining larger loans in the future.

Although Cambodia's rate of female economic participation has long been higher than the rates in several countries of the region, women's work is usually informal, often unsafe or unhealthy, and poorly paid, particularly in the rural areas. Although nearly equal numbers of boys and girls enter primary school, female dropout rates are reportedly higher than those of males, particularly at the secondary and university levels. In the past, because of cultural norms that considered women to be caregivers, daughters tended to receive less education and often only completed primary school, while sons were provided with more opportunities for study. Although the legacy of this norm still affects Cambodian society, particularly in the form of a major literacy gap, the education gap is improving. Still, female attendance in university programs pertaining to agriculture is low. At the Royal University of Cambodia's faculty of agriculture, an estimated 5 percent of its 5,000 undergraduates are women, while 10 percent of approximately 100 master's students are women.

### **Transparency and Accountability**

When discussed in terms of governance, the term “transparency” pertains to the free and full availability of critical information to the public. “Accountability” refers to the authority which citizens confer to those they elect to govern on their behalf, such that it is always limited, provisional, temporary, and subject to recall through regular elections or other arrangements.

In the absence of transparency and accountability, corruption ensues. In the popular definition long espoused by Transparency International (TI), corruption is “the abuse of entrusted power for private gain.” As TI has long maintained, corruption hurts everyone who depends on the integrity of people in a position of authority. Thus, issues of transparency, accountability, and corruption are relevant in all sectors of an economy, including within public and private institutions involved in the agriculture sector.

Transparency and accountability in all aspects of agricultural trade—including production, processing and trade—facilitate increases in regional and international cooperation and trade.

Unfortunately, little is truly transparent in Cambodia's systems of governance, public financial management, and the role of the government in private-sector activity. In Transparency International's 2011 Corruption Perceptions Index, Cambodia ranked the third lowest among all the ASEAN Member States, 157 out of 176 countries surveyed. Many businesses, large or small, face the near-mandatory practice of paying government officials to provide public services. Stories of funds intended for public projects being systematically diverted into the pockets of government officials abound, and bags of rice are reportedly still used as the ‘currency by which farmers may gain the favor of local government officials.

After years of parliamentary deliberation, a new Anti-Corruption Law entered into force in 2012. The law bans bribery, including “speed payments” that are the mainstay of interacting with most (though not all) national and local government officials. Some business leaders express optimism that enforcement of the new law will curb corrupt practices but do not expect it to eradicate corruption. The national

anticorruption agency has forcefully publicized the new law and threatened rigorous enforcement against powerful and remote government officials alike. In many government offices, cameras reportedly will be installed to discourage bribe solicitation. Already, an assortment of officials has been arrested for corruption—among them, a powerful land administrator—and workers for national and local agencies are well aware of the change.

Nonetheless, Cambodia’s longstanding practices will not disappear overnight. There is no indication that the most prominent area where government transparency and accountability is lacking—land concessions—will be tackled as a corruption issue. In response to the government’s unabashed seizure of certain titled property in 2011 the World Bank cut back on most of its work in Cambodia, determining that corrupt practices are too endemic to justify further investment. In the wake of the new Anti-Corruption Law, many businesses reported that the informal cost of filing a document or otherwise seeking government action has simply gone up. In other words, rather than avoiding the risk of soliciting bribes, many officials have just raised the price.

## Food Security

Cambodia’s policy framework for food security is straightforward but integration of that policy into laws and regulations is far less so. To cope with its recent history of food insecurity and widespread rural poverty, Cambodia instituted a strategic framework on food security and nutrition (2008-2012) that updated earlier policies. As summarized in the framework, improving food security and nutrition is an important priority and essential for achieving Cambodia’s Millennium Development Goals.

Food security exists when all people, at all times, have physical and economic access to sufficient, safe, and nutritious food to meet food preferences and dietary needs for active and healthy lives.

In addition, Cambodia’s National Strategic Development Plan 2006-2010 states that food security and nutrition is a key goal “to ensure that poor and food insecure

Cambodians, by 2010, has substantially improved physical and economic access to sufficient, safe and nutritious food at all times to meet their dietary needs and food preferences for an active and healthy life.” Although there is strong political interest in addressing food security broadly, Cambodia does not have national laws or regulatory instruments that “comprehensively address and mainstream food security and nutrition,” according to the strategic framework. In particular, the strategic framework calls for “improved regulation and enforcement of standards and laws regarding production and sale of fortified processed foods for better nutrition.”<sup>17</sup>

Notwithstanding the absence of a legal framework that directly addresses food security, national policy and government efforts—along with a “peace dividend” resulting from the Cambodia’s emergence from many years of conflict—have resulted in a significantly improved environment over the past decade. In 2000, nearly half of Cambodia’s children suffered from chronic or a combination of chronic and acute protein-energy malnutrition. By 2005 the rate of acute protein-energy malnutrition was halved, according to the strategic framework. Other products, too, have been nurtured as important components of the environment for food security, including soybeans, maize, livestock, and fish.

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<sup>17</sup> Council for Agriculture and Regional Development, Strategic Framework for Food Security in Cambodia (2008-2012).



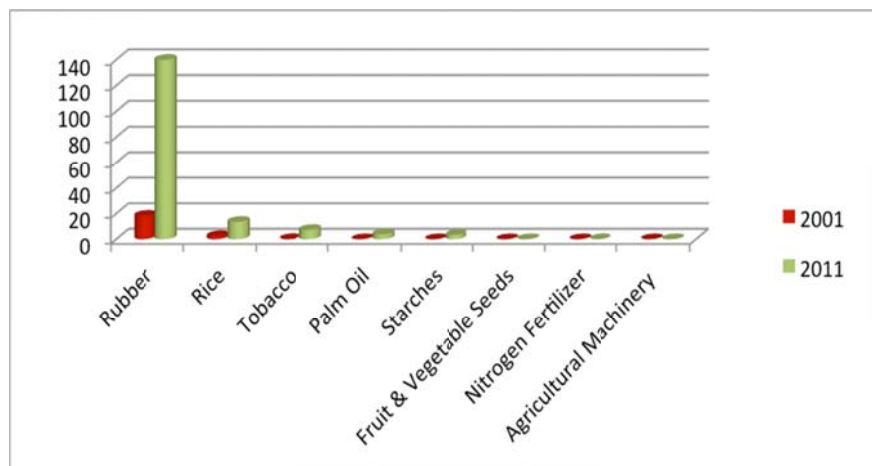
Still, rates of rural poverty in Cambodia are among the highest in the region and many Cambodians are far from food-secure. According to the International Fund for Agricultural Development, “two-thirds of the country's 1.6 million rural households face seasonal food shortages each year.”<sup>18</sup> The Global Food Security Index, a private survey of food security, ranks Cambodia 89<sup>h</sup> out of 107 countries surveyed. As primary challenges, the Index emphasizes that the Cambodian government does not invest significantly in research and development, so Cambodia cannot fully capitalize on the opportunities that new varieties can provide. The Index also finds that the country's agriculture-related infrastructure is weak. The Index further states that food quality and food safety conditions in Cambodia are especially poor.<sup>19</sup> For its part, the FAO is concerned that Cambodia's food security is deeply affected by climate change and volatile prices for agricultural products. Also, on a national and regional basis, many stakeholders regard Cambodia's preparedness for a “disaster in food security” as insufficient.<sup>20</sup>

As in most ASEAN Member States, rice is the main commodity implicated in the state's formal engagement in food security. Rice productivity has risen substantially over the past generation, due in large part to the Cambodia Agricultural Research and Development Institute's (CARDI) introduction of new plant varieties and training of farmers by many donors. The government is supporting the production and export of milled rice through its Policy Paper on Paddy Rice Production and Rice Export from 2010. Figures 3 and 4 present summary data on Cambodia's major agricultural exports and imports, including rice.

In addition, both the government and Cambodian citizens consider Cambodia's fisheries to be a crucial component of the country's food security and economic development. Fish has long represented a critical source of protein in the country, and Cambodia even serves as a resource for entrepreneurs from other ASEAN Member States seeking to learn more about aquaculture. A 10-year strategic framework for fisheries incorporates the objective of

poverty reduction and economic development. According to government representatives, the pillars of the strategy include fishing, aquaculture, and strengthening of post-harvest conditions (i.e., through better storage). In 2011, aquaculture production in Cambodia reportedly grew by about 20 percent.<sup>21</sup>

**Figure 3. Cambodia's Major Agricultural Imports from ASEAN Member States, plus Exports of Key Inputs, 2001-2011 (US\$ millions)**



<sup>18</sup> IFPRI Food Security Portal – Cambodia (2012).

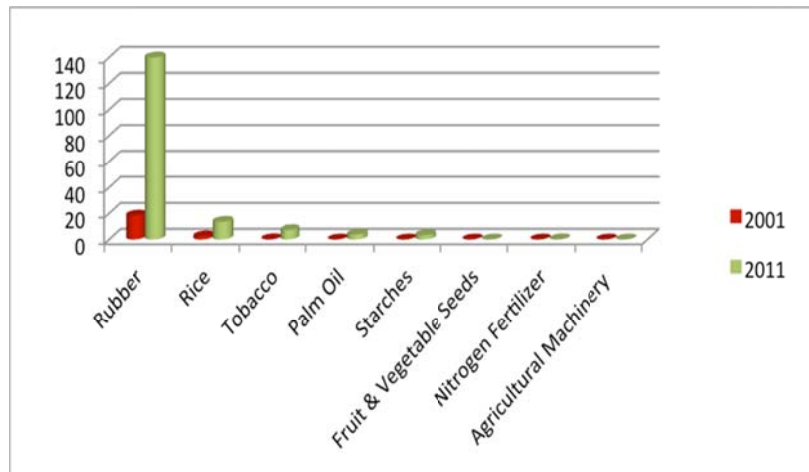
<sup>19</sup> Global Food Security Index, Country Report, Cambodia (2012).

<sup>20</sup> FAO, *Cambodia and FAO Achievements and Success Stories* (2011).

<sup>21</sup> The Cambodia Herald, “Cambodia's aquaculture production rises 20 pct in 2011” (June 29, 2012).

A number of government ministries and agencies—including MAFF, the Ministry of Water Resources and Meteorology, the Ministry of Rural Development, and the Ministry of Women’s Affairs—and several development partners are expected to be engaged in food-security cooperation and coordination. The Council for Agriculture and Rural Development (CARD) is mandated to manage food security as a cross-cutting issue for the government. In 2003, a food security forum was established and in 2004, a technical working group on food security and nutrition; members of both are government institutions and development partner agencies. The technical working group formulates national policies and strategies for food security and monitors implementation progress—thus suggesting possible duplication of or overlap with CARD’s mandate. Policy coordination among ministries remains thin on taking constructive action to mitigate the adverse effects of climate change on food security.

**Figure 4. Cambodia's Major Agricultural Exports to ASEAN Member States, plus Exports of Key Inputs, 2001-2011 (US\$ millions)**



## CONCLUSION

Cambodia operates substantially below its agricultural potential as a result of the many legal and institutional factors discussed in this report. Most of Cambodia’s arable land is not used. Land tenure problems, including the absence of formal registration or titles, make it difficult to acquire and farm land profitably. Irrigation facilities are poor and electricity provision is intermittent. At the same time, river transport possibilities are underused. Access to finance is lacking for small and medium agricultural enterprises, while interest rates on loans remain high. Slow clearance times and inefficient procedures at borders encourage illegal trade. Corruption impedes transactions involving public officials and facilitation fees are ubiquitous in and harmful to agricultural trade.

At the same time, recent changes in Cambodia’s legal and regulatory environment for business and trade have strengthened the country’s ability to participate in regional and international markets. Though lagging in productivity and workforce capacity, the country’s place at the heart of a vibrant regional market provides a great many opportunities to strengthen its agricultural value chains. Lessons learned from other ASEAN Member States—both positive and negative—will be especially important as Cambodia aims to emerge finally from the conflict and poverty that the country suffered over generations.