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TRANSPARENCY
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Cambodia



CORRUPTION PERCEPTIONS IN CAMBODIAN SMALL AND MEDIUM ENTERPRISES

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**CORRUPTION
PERCEPTIONS IN
CAMBODIAN SMALL AND
MEDIUM ENTERPRISES**

Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. Through more than 100 chapters worldwide and an international secretariat in Berlin, Transparency International is working relentlessly to turn this vision into reality.

Transparency International Cambodia is the Cambodian chapter of Transparency International. Officially founded in 2010, we work with institutions and individuals at all levels to fight corruption and promote integrity in Cambodia.

A project led by a research team of Destination Justice

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Foreword

"In order to have peace, one needs to share his meat with the tiger." In quoting this old Khmer saying, one interviewee surveyed as part of this study hinted at the alarming reality of business practices in Cambodia. To survive, Small and Medium Enterprises (SMEs) cannot avoid giving tea money to public officials, who they perceive as powerful predators higher up in an imaginary food chain rather than protectors.

Corruption hurts business and the pain is particularly acute for SMEs, whose limited resources make them more vulnerable to bribery and unofficial payments.

SMEs in Cambodia have long been operating in the shadows, often running operations that are half formal-half informal, leaving the door open to all forms of corruption. This is a bottleneck for their growth as it limits their access to capital and new markets, often making them incapable of competing on a regional level. This research was conducted to explore how Cambodian SMEs — the backbone of the economy — perceive corruption and understand its effects.

A major finding is that most SMEs have very limited knowledge of the legal framework they operate in and rarely know the official fees they are supposed to pay for public services. As a result, many find it difficult to identify the costs that corruption inflicts on them. Yet, to be able to run a clean business one must know their rights and — just as importantly — their obligations. To overcome this knowledge gap it is crucial that information on the legal framework, inspection requirements and official fees is made publicly available.

Most of the SMEs surveyed had no or very limited knowledge of the notion of business integrity and did not know how to embrace it in practice. To address this, in the next five years Transparency International Cambodia is committed to engaging with SMEs and helping them develop policies and operating procedures that will minimise their exposure to corruption.

Encouraging steps have been taken by key government agencies like the Anti-Corruption Unit, the Ministry of Commerce and the Ministry of Tourism to make information more accessible and develop online procedures limiting the opportunities for corruption to occur.

Overall, the Cambodian business environment is improving and the Government is more actively enforcing the legal framework, creating a strong need for compliance. Because strong compliance enhances SMEs' access to finance and limits corruption risk, we strongly encourage SMEs to become more compliant and urge the Government to develop a policy framework that enables them to do so. More detailed recommendations are outlined in this report.

I hope that all government, civil society and business stakeholders will find this study to be of value and that it will spark fruitful debates and discussions, resulting in an improved and more favourable environment for running a business in Cambodia.



Preap Kol
Executive Director
Transparency International Cambodia

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We once again would like to express our sincere gratitude to all the people involved in the project for helping us to shed light on the corruption challenges facing SMEs and contributing to advocate for a cleaner business environment. Breaking the silence on private sector corruption is key to achieving sustainable growth.

Preface

Cambodia's economy has been growing over the past years. There has been an important economic boom in the past decade and a half, with an average growth of 8% every year (KPMG 2013, 3). Furthermore, the Ministry of Economy and Finance has indicated that Cambodia had a 7.3% and 7.6% growth in 2012 and 2013 respectively (MOEF n.d.). According to the World Bank's Cambodia Report, dated October 2014, the country's real growth for 2014 was estimated at 7.2%, and the country's real economic growth rate for this year is expected to reach 7.5% (WB n.d.).¹

Although Cambodia is experiencing a considerable growth, this is however limited with some challenges that the country is faced with, including the limited support given to its business sector and some lack of efficiency from its institutions.

Indeed, the business sector faces corrupt practices that retain many SMEs from growing and working efficiently.

The World Bank's Ease of Doing Business Report 2015 ranked Cambodia 135 out of 189 countries, slipping a position from the year before (WB 2015). Based on the same report, **Error! Reference source not found.** compares the ease of starting a business in Cambodia to the East and Asia Pacific region and illustrates that the time required to establish a business in Cambodia is three times more than in the rest of the region. Furthermore, it costs almost 140% of the income per capita in procedures when the average for the region is only 27.7%. Worldwide, Cambodia is ranked 184th of 189 countries in terms of ease in starting a business (WB 2015).

Table 1: Starting a business in Cambodia comparing to other countries (WB 2015)

Indicator	Cambodia	East and Asia Pacific	OECD* Members
Procedures (number)	11.0	7.3	4.8
Time (days)	101.0	34.4	9.2
Cost (% of income per capita)	139.5	27.7	3.4
Paid-in minimum capital (% of income per capita)	26.1	256.4	8.8

* Organisation for Economic Cooperation and Development (OECD)

Furthermore, the business sector faces corrupt practices that retain many SMEs from growing and working efficiently despite the fact that SMEs have been recognized as the backbones for economy development of developing countries like Cambodia (Raynard and Forstater 2002) and (OECD 2004).

The Corruption Perceptions Index 2014, prepared by Transparency International, ranked Cambodia 156th out of 175 countries, with a score of 21 out of 100, gaining a point from last year. Cambodia has the same ranking as Myanmar, which is the lowest rank in the ASEAN region. This

¹ Also see "Cambodia: Entering a New Phase of Growth", International Monetary Fund, available at <http://www.imf.org/external/pubs/cat/longres.aspx?sk=40878.0>.

index measures corruption in the public sector and illustrates that Cambodia's public sector is perceived as one of the most corrupt in the ASEAN region.² Although there is slight progress, the country still has to overcome many challenges in connection with corruption.

Furthermore, based on the 2014 ASEAN SME Policy Index, Cambodia is the ASEAN member country with the worst performances and practices. The country, alongside with Brunei and Laos are the countries in the ASEAN region with the lowest overall scores for institutional framework (ERIA 2014, 17).

In the 2012 Global Integrity Report, Cambodia received an overall score of 42 out of 100, which is very weak, with a weak legal framework (60 points) and very weak implementation (23 points).³ With regards to the anti-corruption legal framework, judicial impartiality, and law enforcement professionalism, Cambodia scored an overall of 59 points including only 38 points for law enforcement: conflicts of interest safeguards and professionalism.⁴ These rankings show that Cambodia and its SMEs will be faced with significant challenges when Cambodia joins the ASEAN Economic Community later this year.

In order to ensure that SMEs continue to play an active role in Cambodia's growth, they have to be given a voice in the development of all frameworks and policies that concern them. Proper policies have to be developed at all levels: social, political and economic (OECD 2004) and efficient measures have to be implemented to ensure that corruption does not become a cancer that stops the development of existing and new SMEs.

² Transparency International, Corruption Perceptions Index 2014 – results, available at: <https://www.transparency.org/cpi2014> [accessed on 11 March 2015].

³ 2012 Global Integrity Report, available at https://www.globalintegrity.org/global_year/2012/ [accessed on 13 April 2015].

⁴ Ibid.

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List of Abbreviations

ACU	Anti-Corruption Unit
ADB	Asian Development Bank
ASEAN	Association of Southeast Asian Nations
CEO	Chief Executive Officer
ERIA	Economic Research Institute for ASEAN and East Asia
FASMEC	Federation of Associations for SMEs of Cambodia
GPSF	Government-Private Sector Forum
MIME	Ministry of Industry, Mines and Energy
MOC	Ministry of Commerce
MOEF	Ministry of Economy and Finance
MOIH	Ministry of Industry and Handicraft
NIS	National Institute of Statistics
NSDP	National Strategic Development Programme
OECD	Organisation for Economic Cooperation and Development
RGC	Royal Government of Cambodia
RS	Rectangular Strategies
SME	Small and Medium Enterprise
TI	Transparency International
TWG	Technical Working Group
UNIDO	United Nations Industrial Development Organization
USAID	United States Agency for International Development
USD	United States Dollar
WB	World Bank

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Terms Used in this Study

The terms used in this study are defined as described in the present section. For the terms related to the ownership of establishment, they are as defined as in in the Economic Census of Cambodia.⁵

Terms related to laws and regulations

1. Law (Kram) is a bill adopted by National Assembly and the Senate and signed by the King or, in his absence, by the acting Head of State. The Law must be in strict conformity with the Constitution.⁶

2. Royal Decrees (Preah Reach Kret) is a regulation enacted by the executive power to organise the functioning of an institution, create a new public body or appoint officials, ambassadors and judges. A Royal Decree is signed by the King, or, in his absence, by the acting Head of State and must be in conformity with the Constitution.⁷

3. Sub-Decree (AnuKret) is an executive regulation adopted by the Prime Minister and countersigned by the concerned Minister. A Sub-Decree is used to clarify provisions within existing laws, set out the functions and duties of governmental bodies or appoint government officials. It is the most common governmental decision. A Sub-Decree must be in conformity with the Constitution and the Law to which it refers.⁸

4. Ministerial Orders or Proclamation (Prakas) is an executive regulation adopted at the ministerial level by the Minister or by the organisation of the ministerial department to implement, clarify specific provisions contained in a Law (including Law and Sub-Decree) and give instructions. A Proclamation must comply with the Constitution and the Law or Sub-Decree to which it refers.⁹

5. Decision (Sech Kdei Samrach) is usually issued by the Prime Minister or relevant minister(s), and are used for providing details on regulations (including Decree and Sub-Decree).¹⁰ When a Decision is issued by the Constitutional Council, it is final and binding and has supremacy within the legal system, meaning that all laws and regulations must strictly conform to it.

⁵ Economic Census of Cambodia 2011 Analysis of the Census Results Report No.4 Analysis on Large, Medium & Small, and Micro industry <http://www.stat.go.jp/info/meetings/cambodia/pdf/c11ana04.pdf>. [accessed on 15 April 2015].

⁶ Constitution Art 28, 113 and 150–new (1993). To see also Art. 33, 85, 88, 91, 93, 111 and 158 of the Constitution.

⁷ Constitution Art 28–new and 113 (1993 as amended in 1994 and 1999) and the Law on the Organization and Functioning of the Council of Ministers, Art.6 and 14 (1994).

⁸ Law on the Organisation and Functioning of the Council of Ministers, Art 13, 15, 28 and 30 (1994).

⁹ Law on the Organisation and Functioning of the Council of Ministers, Art 15, 28, 29 and 30 (1994).

¹⁰ Law on the Organisation and Functioning of the Council of Ministers, Art 13 (1994). See also Sub-decrees the Organisation and Functioning of the Council of Ministers, Art 13 (1994), and Sub-decrees on Organisations and Functioning of Ministries.

6. Circular (Sarachor) is an act that a department or a higher authority uses to clarify a point of law or to provide instructions. A Circular only has an advisory function and is therefore not legally binding¹¹.

Terms related to ownership of establishment

1. Individual Proprietor (with no registration)

This refers to individual proprietors other than “Sole Proprietor” shown below.

2. Sole Proprietor (with registration)

This refers to an individual proprietor/entrepreneur who has been registered at the Ministry of Commerce or Provincial Departments of Commerce in accordance with the Law on Taxation (or the Law on Commercial Rules and Register).

3. General Partnership

This refers to an economic organisation which is operated under a contract between two or more persons to combine their property, knowledge or activities in common to carry on business with a view to pursue profits as prescribed in Article 8 of the Law on Commercial Enterprises.

4. Limited Partnership

This refers to an economic organisation which is operated under a contract between one or more general partners who are authorised to administer and bind the partnership, as well as one or more limited partners who are bound to contribute capital to the partnership as prescribed in Article 64 of the Law on Commercial Enterprises.

5. Private Limited Company

This is a form of limited company that meets the following requirements as prescribed in Article 85 of the Law on Commercial Enterprises:

- a. The company has 2 to 30 shareholders. However, one person may form a company called a single member private limited company.
- b. The company may not offer its shares or other securities to the public generally, but may offer them to shareholders, family members and managers.

6. Public Limited Company

This is a form of limited company that is authorised to issue securities to the public by the Law on Commercial Enterprises as prescribed in Article 87.

7. Subsidiary of a Foreign Company

- a. This is a company that is incorporated by a foreign company in the Kingdom of Cambodia with at least fifty-one (51) percent of its capital held by the foreign company.
- b. In addition, a subsidiary of a foreign company may be incorporated in the form of partnership or limited company.
- c. A subsidiary has a legal personality separate from its principal from the date of registration pursuant to the Law on Commercial Rules and Register.
- d. A subsidiary may regularly carry on business in the same way as local companies except for any acts that are prohibited for natural or legal foreign persons.
- e. These are prescribed in Articles 283 and 286 of the Law on Commercial Enterprises.

¹¹ Law on the Organisation and Functioning of the Council of Ministers, Art 29 (1994).

8. Branch of a Foreign Company

a. This is a branch office of a foreign company. The name should consist of the name of the company and "Branch".

b. The branch may perform not only the following activities but also regularly buy, sell or provide goods and services and engage in manufacturing, processing and construction in the same way as local companies except for those prohibited for natural or legal foreign persons as prescribed in Articles 278 and 282 of the Law on Commercial Enterprises:

a) Contact customers for the purpose of introducing customers to its principals; b) Research commercial information and provide the information to its principal office; c) Conduct market research; d) Market goods at trade fairs, and exhibit samples and goods in its office or at trade fairs, etc.; e) Purchase and keep a quantity of goods for the purpose of trade fairs; f) Rent an office and employ local staff; g) Enter into contracts with local customers on behalf of its principal.

9. Commercial Representative Office of a Foreign Company

a. This category includes "commercial relations offices" of foreign companies.

b. The name should consist of the name of the foreign company and such a term as "Commercial Representative Office" or "Commercial Relations Office".

c. This office performs the following activities in the Kingdom of Cambodia, but may not regularly buy, sell or provide goods or services, or engage in manufacturing, processing or construction as prescribed in Articles 274 and 277 of the Law on Commercial Enterprises:

a) Contact customers for the purpose of introducing customers to its principal; b) Research commercial information and provide the information to its principal office; c) Conduct market research; d) Market goods at trade fairs, and exhibit samples and goods in its office or at trade fairs, etc.; e) Purchase and keep a quantity of goods for the purpose of trade fairs; f) Rent an office and employ local staff; g) Enter into contracts with local customers on behalf of its principal.

Other terms

Sangkat is referred to the administrative subdivision of the municipality.

I. Executive Summary

Context

Corruption inflicts heavy costs on the economy and distorts policies and competition of Small and Medium Enterprises (SMEs).

This research is based on desk research and interviews with 100 Chief Executive Officers (CEOs) of SMEs. This report (i) describes the environment in which businesses operate, especially the legal framework and the functioning of institutions relevant to businesses; (ii) identifies and analyses the different ways in which companies experience corruption and the impacts of corruption on them; (iii) assesses the reaction/response of businesses regarding corruption and the existence of specific policies or practices; and finally, (iv) contains policy recommendations on how SMEs and the Government can tackle corruption.

Key findings

The research reveals that corruption is a factor that impedes the growth of many SMEs in Cambodia. Although most of the participants to this study know what corruption is in theory, it is different in practice and many are not able or do not know how to have a clean business and not pay bribes.

Corruption in SMEs is due to, among other elements, a lack of knowledge from the private sector side, and a lack of effective implementation of the existing laws. Some business owners are even reluctant to register their company because of the unofficial fees that the process could engender.

SMEs in Cambodia are therefore faced with corrupt practices at all stages of their life including during the registration process and in doing their business on a day-to-day basis. As illustrated in Table 2, 55% of the participants have shared that corruption has some kind of impact on their business.

Table 2: Impact rate of corruption on business of SMEs

	1 Very little impact	2	3	4	5 Big impact	No opinion	No information
Percentage of participants	3%	3%	18%	15%	16%	16%	29%

Furthermore, 57 % of the participants answered that corruption is one of the external factor impeding the progress of their company. SMEs owners do not know or possess limited knowledge of the applicable framework pertaining to the registration process, the inspections procedures or other obligations they have. Therefore they act through a third party intermediary (often an officer working at the Ministry). This makes business' owners vulnerable to officers' requests for unofficial fees. These amounts may not represent large sums, but can be considerable for a SME in the long term. In addition, a large amount of companies are not registered but will be faced with many

challenges once they will have to satisfy compliance requirements or when they will want access to any form of credit, investment funds or business partnerships.

Laws and tools have been adopted by the Government to tackle corruption but their limited implementation and the lack of knowledge on the SME' side, among other factors, result in the fact that these tools are not used. Furthermore, many participants have clearly stated that they would neither appeal the Anti-Corruption Unit, nor the anti-corruption hotline if faced with corrupt practices because they simply do not believe in those tools.

Regarding how to tackle corruption, many SMEs, in addition to not knowing the existing tools, have not adopted any internal tool or procedure to use when faced with a problem. In most cases, only the owner or general manager will deal with the problems.

Key recommendations

General recommendations

- Ensure there is concerted action and collaboration between all stakeholders to best achieve effective implementation of relevant frameworks and policies for SMEs.
- Provide assistance to SMEs, based on long-term, comprehensive, coordinated and consistent policies to ensure a level playing field for all business owners.

Towards the private sector

- Encourage business owners to take the initiative to learn more about the laws, regulations and procedures applicable to their business and undertake actions to ensure business integrity in their company.
- Empower business owners to actively refuse to pay bribes and use tools adopted by the Government when faced with corruption issues.

Towards the Government and public institutions

- Harmonise all laws and frameworks applicable to SMEs to avoid any contradiction in the laws.
- Increase and improve access to information and knowledge of relevant policies and laws by all stakeholders.
- Reform the business registration, licensing and other applicable procedures.

II. Sampling Methodology

About the research

This study presents the findings of quantitative and qualitative components of research on corruption perceptions in Cambodian SMEs, which consists of desk research and a series of in-depth interviews with 100 CEOs of Cambodian SMEs.

The rationale behind the quantitative and qualitative components of the study was to provide more in-depth and contextualised insights into how CEOs perceive corruption issues relating to their SMEs in Cambodia. Whereas the survey provides relevant statistical data on the CEOs' perception on the gravity of the impact that corruption has on their respective businesses, the qualitative interviews provide rich information about what corruption issues actually mean to them. Moreover, CEOs, through this process, can share their own experience or that of others regarding corruption and specific measures they have taken to tackle and/or avoid corrupt practices.

The interview data are analytically treated as a single data set analysed transversally along a set of common dimensions.

In order to have all points of view from all stakeholders, chambers of commerce and business associations were also interviewed on this subject. Interviewing different stakeholders allowed the research team to gain a broad understanding of the issue.

Data collection

The sample frame and sampling procedure were developed in consultation with and at the request of a sampling expert and Transparency International Cambodia.

All 100 interviewees were selected randomly by taking into consideration the following elements¹²:

- 1) The sectors of activity were chosen based on an analysis of data from the 2011 Economic Census of Cambodia conducted in 2011 and published in 2013¹³.
- 2) The regional representation was determined as follows: the sampling was based on the regions that have the most SMEs in Cambodia since the research team was unable to travel to all regions for interviews due to time and financial constraints. The ratio of interviewees in each region was based on the 2011 Economic Census of Cambodia¹⁴.

¹² The research team wanted to base the sampling on a list of all registered SMEs initially but it was impossible to do so, since no list containing all registered SMEs in Cambodia was accessible to the public. In a private meeting with the Secretary of State in charge of SMEs at the Ministry of Industry and Handicraft, the research team was informed that the Ministry is in the process of establishing a database with all SMEs' information that would become available to the public in due course.

¹³ The interviewees' partition on sectors of activity is based on the data in these reports as of 2011: (1) Economic Census of Cambodia 2011 Analysis of the Census Results Report No.1 Analysis on 17 Industries, available at: <http://www.stat.go.jp/info/meetings/cambodia/pdf/c11ana01.pdf> and the (2) Economic Census of Cambodia 2011 Analysis of the Census Results Report No.4 Analysis on Large, Medium & Small, and Micro industry <http://www.stat.go.jp/info/meetings/cambodia/pdf/c11ana04.pdf>. Note: information for 2014 will only be available in July 2015.

¹⁴ See the abovementioned reports.

Based on the abovementioned procedure, below is the number of CEOs that had to be interviewed in each of the most important sectors of activity and regions.

Table 3: Number of Interviewed CEOs by regions and sectors

Sectors	Phnom Penh	Siem Reap	Kampong Cham	Kandal	Battambang	Total
Education	9	3	6	5	5	28
Accommodation and food service activities	17	6	2	1	2	28
Manufacturing	9	1	3	4	2	19
Wholesale and retail trade; repair of motor vehicles and motorcycles	14	2	1	1	1	19
Financial and insurance activities	2	1	1	1	1	6
Total	51	13	13	12	11	100

The Yellow Pages were used to facilitate the research and the making of appointments with interviewees before the research team went into the field. To ensure randomised sampling, the research team called every tenth company in the Yellow Pages' list, starting with a random number such as 3 (i.e. company number 3, 13, 23, etc.). In the event that all SMEs in the list for the appropriate section and region were contacted but the required number of interviews was not attained, the research team would start the process again by contacting every fifth company in the list. With respect to the difference between the sectors of activities in the Yellow Pages and the main sectors of activities chosen for the sampling, sector subcategories used in the 2011 Economic Census and the proportionate size of each of the subcategories (i.e. education sector is separated into subcategories such as general secondary education, higher education, etc.) were taken into consideration to ensure that the SMEs that were contacted represented the sampling. Where there were too many subcategories, such as in the case of manufacturers, only the most representative subcategories were used considering the necessary total amount of interviews. The proportionate representation of subcategories reflected the national numbers since no data on the regional representation of each subcategory was available to the public.

Table 4: Number of interviewed CEOs by regions and sub-sectors

Sectors and sub-sectors	Phnom Penh	Siem Reap	Kampong Cham	Kandal	Battambang
1- Education	9	3	6	5	5
Pre-primary and primary education	7	2	4	3	3
General secondary education	1	1	1	1	1
Other education	1		1	1	1
2- Accommodation and food services	17	6	2	1	2
Short term accommodation activities	1				
Restaurants and mobile food service activities	11	4	1	1	2
Beverage serving activities	5	2	1		
3- Manufacture	9	1	3	4	2
Grain mill products	4	1	2	2	1
Wearing apparel	3		1	1	1
Weaving of textiles	1			1	
Manufacture of sugar	1				
4- Wholesale and retail trade	14	2	1	1	1
Other retail sale in non-specialized sector	8	2	1	1	1

Retail sale via stalls and markets of food, beverage and tobacco products	3				
Retail sale of food in specialised stores	2				
Retail sale via stalls and markets of textiles, clothing and footwear	1				
5- Financial Services	2	1	1	1	1
Other financial service activities except insurance and pensions funding	2	1	1	1	1

All research team members were given clear and precise instructions on the questionnaire and guidelines on how to conduct the interview. Furthermore, the questionnaire was developed through a collaborative process between the research team and Transparency International Cambodia's team, under the responsibility of the lead consultant and while keeping in mind the importance of obtaining responses from the CEOs in a similar structure applicable to all of them.

The survey questionnaire focused on the company itself as well as on the perceptions of CEOs towards the business environment in Cambodia and particularly on associated corruption issues. Additional questions could be asked as necessary. More generally, the interviewer had leeway to add or reformulate questions, or even exclude some questions (if an answer was already provided spontaneously to a previous question, for instance). Overall, interviewers generally respected the structure of the questionnaires and the given guidelines.

Interviews were primarily conducted face-to-face or over the phone (at the request of the interviewee), and lasted between 20 to 120 minutes. All questions were asked in the language in which the interviewee was most comfortable from a selection of Khmer, English or French. Notes were all taken in the original language to minimise information loss.

The final composition of interviewees was not completely under the control of the research team since finding a sufficient number of respondents was a significant challenge. Indeed, many respondents did not want to participate in the interview due to the topic of the study (e.g. some did not respond at all to the telephone call and e-mail inviting them to the interviews). Other potential interviewees who initially agreed to participate were ultimately unavailable (e.g. they declined the interview at the last minute or delegated another person working in their establishment for the interview). Therefore, in cases where a purposive sampling strategy¹⁵ was not entirely successful, the research team was forced to resort to a strategy of opportunistic sampling¹⁶.

Research ethic

Before conducting the interviews, the research team explained to interviewees the content of the study and the use that would be made of their data and responses. The interviews were not recorded to ensure that interviewees felt free to share their thoughts openly during the process.

All interviewees gave explicit consent to being interviewed and were made aware that they had the right to refuse to answer any questions or stop the process at any moment during the interview.

¹⁵ Our overall sampling strategy could be described as a purposive sampling.

¹⁶ Opportunistic in the sense of taking the opportunities that arise at the field. (e.g. interview the respondents willing to respond in the related region and sector when the research team are on the ground field).

Interview data was entered on an anonymous basis to ensure that neither the respondents themselves nor the entities or other people they are referring to during the interviews could be identified.

Data analysis and reporting of results

Each research team member conducting the interviews was in charge of transcribing notes of their interviews. On the same day of the meeting or the next day, all notes taken during the interviews conducted in Khmer or French were translated into English and sent to the lead consultant for compilation. Undertaking translation immediately after an interview was intended to minimise the possibility of information loss. In cases where the interview was conducted in English, only the transcription of the interview had to be completed. The lead consultant then revised all the notes.

All information from the interviews was transcribed into a Google form which enabled all information to be compiled automatically into a database.

The interview data was analysed by separating information into relevant practical and theoretical patterns. The most significant categories and themes identified are articulated in this report.

Validity, reliability and generalisability of the results

Various procedures were implemented in the course of this study to ensure the validity and reliability of the findings and, more generally, the transparency of the whole research process.

Validity was ensured by:

- Providing the same questionnaire to all interviewees;
- Providing guidelines to all research team members at all stages of the data collection;
- The rapid transcription and analysis of interview notes; and
- Systematic cross-checking of all interview data by the lead consultant.

These procedures ensured a high degree of consensus and consistency across the data collection.

To assure *reliability*, aside from collecting the data, drafting the qualitative report and suggesting the initial recommendations (which are the responsibility of the research team), a consultative approach with Transparency International Cambodia team was adopted to ensure multiple layers of review and validation of the findings. Once feedback from Transparency International Cambodia team was incorporated into the draft report by the research team, the report was sent to the study's Advisory Group. That group, composed of five experts from business, academia and civil society in Cambodia, provided detailed feedback on the report through consultative meetings and written submissions. The research team incorporated as much feedback as possible into the final draft and the completed report was once again sent to Transparency International Cambodia for final feedback before publication.

Regarding the *generalisability* of the findings, we can assume that our qualitative findings are most likely valid beyond our sample considering the high consensus among the responses from the respondents. However, we are not in a position to assume that the answers we received from the 100 interviewees can apply to all SMEs in Cambodia in terms of quantitative findings, considering that there are more than 10,000 SMEs in Cambodia. Due to time and financial constraints, we had to limit our research to the most important regions and sectors of activities in the country.

III. Overview on Small and Medium Enterprises in Cambodia

A. Qualification of SMEs in Cambodia

Until 2005, there was no official definition of SME in Cambodia. Indeed, each relevant government ministry had its own definition of SME and no concerted action was taken. For instance, the Ministry of Industry, Mines and Energy (MIME) defined small enterprises as having less than 50 employees, while other ministries based their definition on asset value only. Moreover, the National Institute of Statistics considered small enterprises to be those with less than 11 employees and large enterprises as those with more than 10 employees (Baily 2007). It was therefore difficult to undertake any research with up-to-date data on SMEs.

In 2005, the SME sub-committee of the Royal Government of Cambodia (RGC) was formed and proposed, within the SME Development Framework prepared for statistical purposes and policy development and implementation, the following definition to be used by all ministries and institutions. This is the same definition that is used in the research.

Table 5: Definition of Small and Medium Enterprises in Cambodia

Type of Establishment	Statistical definition based on the number of employees	Financial definition for assets (in USD) excluding land
Micro	10 and less	Less than 50,000
Small	Between 11 and 50	50,000 - 250,000
Medium	Between 51 and 100	250,000 - 500,000
Large	Over 100	Over 500,000

The Census of Cambodia bases its data on the statistical definition of SME, which represents the number of full-time employees (RGC 2005, 13). The financial definition for assets is usually used in cases where the number of full-time employees is not stable or unavailable.

B. Shares of SMEs in the Cambodian market

Small and Medium Enterprises constitute a very heterogeneous group and they work in a large variety of sectors of activities. According to the Economic Census of Cambodia¹⁷, as of 2011, there are a total of 505,134 establishments in Cambodia¹⁸, among which 10,809 establishments are

¹⁷ All numbers are taken from the Economic Census of Cambodia 2011 Analysis of the Census Results Report No.4 Analysis on Large, Medium & Small, and Micro industry available at <http://www.stat.go.jp/info/meetings/cambodia/pdf/c11ana04.pdf> [accessed on 3 February 2015].

¹⁸ In 2014, there were 513,759 establishments in Cambodia, which is a considerable rise from 2011 (NIS 2015).

small and medium ones. Almost three quarters of SMEs are registered, with the rest existing as informal enterprises. In total, SMEs provide approximately 245,671 jobs in the country. The number of persons employed by each SME is rather small: the vast majority have between 11 and 30 employees (80.7%), while the second largest category of number of persons engaged is 21-30 (17.6%). Furthermore, half of SMEs (54.3%) have been established in the past decade, which shows that the business environment in Cambodia has been growing in the past years.

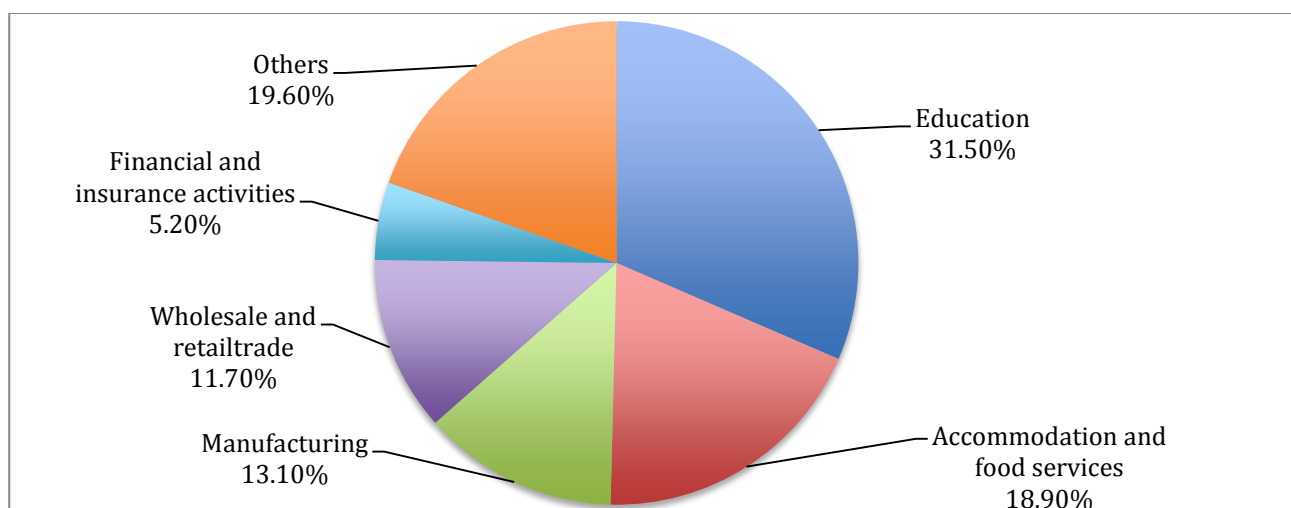
Table 6: Number of establishments in Cambodia, with the number of registered companies and number of employees

	Total	Micro	Small and Medium	Large
Number of establishments	505,134	493,544	10,809	781
Number of registered establishments	39,212	30,780	7,688	744
Percentage of registered establishments	7.76%	6.24%	71.12%	95.26%
Number of persons engaged by scale	1,673,390	975,980	245,671	451,739

Figure 1 illustrates that education is the most important sector of activity among Cambodian SMEs, followed by accommodation and food services (which also includes alcohol and beverage services). Manufacture and wholesale and retail trade are in third and fourth position, respectively, among the most important sectors of activities of Cambodian SMEs.

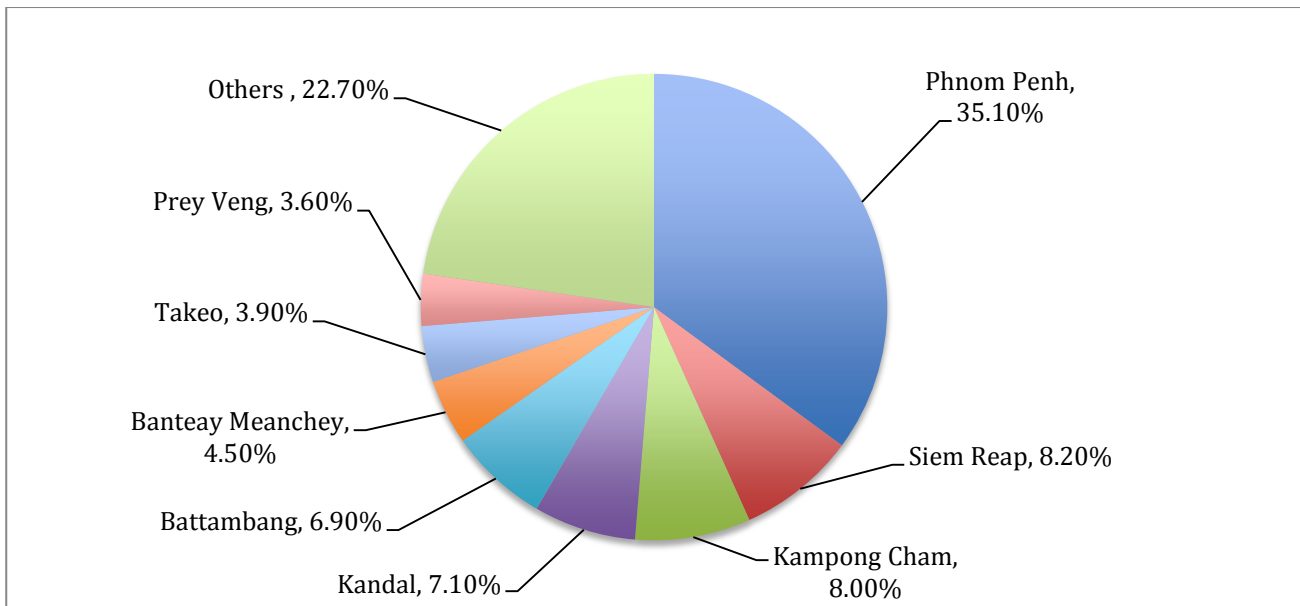
The large share occupied by the education sector can be explained by the fact that a large proportion of the Cambodian population is young. For accommodation and food services, the growth of SMEs in this sector owes to increased tourism in the country.

Figure 1: Sectors of activities of SMEs in Cambodia



The majority of SMEs are located in Phnom Penh, Kandal, Siem Reap, Kampong Cham and Battambang, which are the regions in which the interviews have been conducted for this research (cf. Figure 2).

Figure 2: Geographical location of SMEs in Cambodia



C. Initiatives for SMEs' development in Cambodia

National Policies and Strategies

Since 2004, the Royal Government of Cambodia (RGC) has recognized SMEs as having potential for driving the country's economy to growth and generates employment for the population. For those reasons, the development of SMEs has been a priority in major policies and strategies developed by the RGC such as the Rectangular Strategy (RS, Phase I to III) and the National Strategic Development Plan (NDSP I, II, and III).

Whereas the RS III counts SMEs promotion as an important pillar for private sector development and mentions that "financing, management, and technology are major challenges for SMEs in Cambodia", the NDSP III recognizes that further development of the SME sector provides benefits for rural communities in the form of processing and adding value to products, as well as creating employment. One of its objectives is also to create important links with the trading sector, as well as with larger enterprises.

Besides these afore-mentioned strategies and policies, the Inter-Ministerial Sub-Committee on SMEs, established in 2004 by the RGC to support SMEs, has also adopted in 2005 the first SME Development Framework (2005-2010)¹⁹. This Framework acknowledges four major key areas as barriers for SME development: regulatory and legal framework; access to finance; SME support activities; and the SME policy framework implementation process.

With regards to the regulatory and legal framework, three significant issues have been highlighted: (i) the need to streamline the process and reduce the cost of companies' registration (which is still a key element to be addressed); (ii) the need to establish a regulatory review process and a mechanism that focuses on reducing the number of overlapping licenses issued by most ministries (a situation that imposes a severe burden on SMEs); and (iii) the need to establish a legal and commercial framework.

¹⁹ Refer to the Public Financial Management Reform's website for more information: http://www.mef.gov.kh/documents/PFM/7cg_document/draft_outline_sme.htm [accessed on 3 February 2015].

The second key area is to improve access to finance. This is a critical issue for all businesses and it continues to be a problem, particularly for SMEs. Five main issues addressed in this area are: (i) collateral and land titling, (ii) leasing, (iii) credit information sharing, (iv) simplified accounting for SMEs, and (v) non-bank financial institutions.

The third key area is to improve the support activities for SMEs through business development services, access to markets, and technology and human resource upgrading and linkages. To implement these activities, the RGC has put in place some tools, which will be described in details in the following section. Although many support activities have been developed, more needs to be done considering the country is still ranked at the bottom among ASEAN countries, surpassing only Laos (ERIA 2014, 29).

The fourth key area concerns the implementation process of the SME policy framework, in which the Government is to develop an institutional arrangement among key Government agencies for effective and coordinated policy formulation and implementation and the promotion of public private partnership, with the development of a consultation process with business associations and other stakeholders.

In 2010, a second SME Development Framework (2010-2015) was formulated in order to promote industrial diversification, innovation, use of technology and productivity increase as well as to link SMEs with multinational enterprises. Despite the fact that the issues formulated in the 2005 Framework are still current for SMEs in Cambodia, the 2010 Framework is very broad and does not lay out policies or means to address the real issues. For instance, although the government has made some progress in promoting technology dissemination, challenges nonetheless remain daunting in areas of research and development, technology cluster and finance and technology. For example, the Institute of Technology of Cambodia has only a small technology incubator centre for students to conduct research and pilot test, as well as to provide service for private companies if requested.

Institutions administrating the SMEs

In order to promote cooperation with the private sector, the RGC established the Government-Private Sector Forum (GPSF), which is composed of eight Technical Working Groups (TWG). The Manufacturing and SME TWG is co-chaired by the Minister of Industry, Mines & Energy (MIME) and a representative of the Cambodia Chamber of Commerce. The Inter-Ministerial SMEs Sub-Committee was then established to promote the development of cooperation among various institutions through the representation of the private sector. The committee's secretariat located within the MIME was in charge of this and coordinated the activities.

Acting as the institution and the government agency managing SMEs issues in Cambodia, the MIME set up a single window to streamline the administrative procedures for SMEs. Moreover, a one-stop shop business development center for SMEs was also established in order to provide some advisory services such as training, counselling and advising on SME registration and other regulations and legal matters. A hotline was also set up to receive complaint calls from SME owners regarding misconduct of government's official. The service is limited to Phnom Penh area and is not widely spread. In order to disseminate information related to SMEs, such as on rules and procedures, an online portal for SMEs was also set up.

After the last elections in 2013, the government decided to establish the Ministry of Industry and Handicrafts (MIH)²⁰, which was originally part of the MIME. Among the ministry's responsibilities was the promotion of SMEs in the new industrial policy to be developed by the ministry.²¹

Cooperation within the private sector

Many associations have been created in a wide range of industries within the private sector to promote SMEs development and to share information and facilitate problem solving. Moreover, there are provincial chambers of commerce and many foreign chambers of commerce that also contribute to the growth SMEs in the country.

Among the largest and influential associations are the Federation of Associations of SME of Cambodia (FASMEC, established in 2010), the Cambodia Small and Medium Enterprises Association (CSMEA, established in 2006), the Phnom Penh Small and Medium Industry Association (PSMIA, established in 2004), the Cambodia Women Entrepreneurs Association (CWEA, established in 2011), and so on. Each association has approximately 100 members. These associations aim to take a defined role in, among other elements, providing information and training to their members which are either international companies or local enterprises. However, not all these organisations are active and working effectively for the members due to the limited services offered to its members, limited networking among associations and limited technical and research capacity. FASMEC is a recent initiative and was founded by two businessmen and with the support of MIME. FASMEC's role consists of gathering various business associations and commercial enterprises throughout the country. The members share the same vision and the association is now one of the most active ones for SMEs.

These associations and chambers of commerce are playing an important role by representing the private sector in the GPSF and by raising issues and challenges faced by SMEs to government institutions or the Prime Minister in case of emergency.

D. Regulatory and legal framework applicable to SMEs

In Cambodia, there is no regulatory or legal framework regarding specifically SMEs. SMEs fall therefore into the scope of the general commercial legal framework enforced in the country, among which the major laws and regulations related to SMEs are: Law on Commercial Rules and Register; Law on the Management of Quality and Safety of Products and Services; Law on Trade Mark; Trade Name and Acts of Unfair Competition; Law on Commercial Enterprise; Law on Administration of Factory and Handicraft; Law on Commercial Arbitration; Law on Secure Transaction; and Law on Insolvency.

Before a SME can be legally operational according to the Cambodian regulatory and legal framework, it must comply with a certain procedures and obligations such as completing business registration with all relevant licenses and permits related to the business activities and maintaining the corporate compliance which are subject to the inspections. The same process is applicable for closing a business. The following section provides an overview of those procedures and obligations.

²⁰ Royal-Decree No. NS/RKM/1213/08 dated 09 December 2013 on the Establishment of Ministry of Industry and Handicraft (Royal Gazette, Year 13, No. 94 dated 23 December 2013).

²¹ Sub-decree No. 575 dated 24 December 2013 on the Organisation and Functioning of Ministry of Industry and Handicrafts (Royal Gazette, Year 14, No. 01 dated 04 January 2014).

Business registration

According to the Cambodian laws and regulations, all businesses shall be registered at the Ministry of Commerce (MOC), provincial or municipal office, or other places designated by the Ministry. Since the adoption of the SME Development framework in 2005, the number of registered companies has increased every year. Until 2011, 71.12% of all Cambodian SMEs were registered (NIS 2013).²² This was due to the fact that the RGC has reduced the time, the minimum requirements for the registration of SMEs and the company registration fees in order to encourage entrepreneurs, especially SMEs' owners, to register their companies and moving them from informal to formal sector. A reform of the procedures related to commercial registration of SMEs was made recently after the 17th GPSF in March 2014. The MIH has been given the sole responsibility of coordinating with relevant ministries and institutions in order to simplify the procedures and reduce the burden faced by SMEs. With this reform, the timeline required for commercial registration was reduced to an average of approximately three to five working days upon submission of all required documents. The Ministry is also currently working on introducing an online registration procedure. The documentation required to register an SME was also reduced. Furthermore, the requirements to report criminal convictions and to reconfirm the address of a company are no longer needed. The capital requirement in the form of a bank deposit for commercial registration was reduced from 20 million Riels to four million Riels. The administrative fee for commercial registration is now KHR 1,6 million Riels and the administrative fees for a sole proprietorship is 300,000 Riels.

Licenses and Permits

It is very difficult for a new business to know what licences are required. There are, indeed, over 75 licences that may apply to SMEs in Cambodia and these are issued by a large number of ministries, depending on the sector of activities. The SME Sub-Committee's website contains all information relating to licences issued to SMEs is listed.

Recently, the government has been very active in promoting e-service in order to facilitate and accelerate the administrative procedures for requesting licenses and permits. For instance, in April 2015, the Ministry of Tourism made the registration process for licenses available online.²³ Furthermore, the relevant ministries have formulated with the Ministry of Economy and Finance (MOEF) the inter-ministerial Prakas on the public fees for the registration of licences and other permits, as well as on the timeframe for registration. To assure the transparency, these Prakas are made available to the public and can be accessed on the Anti-Corruption Unit's website (www.acu.gov.kh).

Tax registration and other registration obligations

After registering at the MOC or getting the commercial registration from the MIME which assures the registration process for SMEs, an SME has 14 days to complete its tax registration. The procedure can vary, depending on the size, turnover and the tax regime under which the SME exists.

Under the Labor Law, SME employing staff in Cambodia is required to register with the Ministry of Labor and Vocational Training (MLVT) before it can commence operations.

²² Note: information for 2014 will only be available in July 2015.

²³ Ministry of Industry's official website: <http://www.cambodiatourismindustry.org/>.

Inspections

Once registered to operate in Cambodia, an SME, as other businesses, must comply with the following steps of Cambodian regulations relating to corporate compliance:

- Submit annual declaration: it is the declaration at the end of the fiscal year on the status of partnership of the company to the business registration department at the Ministry of Commerce where declaration template forms can be obtained.
- Maintain proper accounting: all enterprises are required to maintain and prepare yearly financial records and financial statements (beginning on the 1st of January and ending on 31st of December of each year). The record must be in KHR and in Khmer language and sent to the MOEF within 3 months following the closure of the fiscal year. Nevertheless, SMEs are not obliged to follow the Cambodian financial reporting standards required for large companies.
- Pay taxes: there are in general four major taxes that an SME must pay which are salary tax, withholding tax (requiring the payer to withhold a percentage of payment from payee because the current tax collecting system does not have a mechanism to collect tax directly from individual), value added tax and income tax.
- Renew licences and permits: SMEs must renew their licences and permits. The procedure is made to the relevant ministries and institutions as at the registration process.
- Authenticate corporate structural changes: this is an obligation that SMEs must inform to the MOC when there are changes in the structure of the company like such as the amendment of the articles of associations or in cases of merger or acquisition.

To ensure this corporate compliance, governmental agencies have to conduct inspections because failures to comply with these obligations may face SMEs to fines and criminal responsibilities.

Besides these inspections, some SMEs are also subject to inspections related to their activities. For example, SMEs in the sector of food and beverages service or manufacturing activities, normally have hygiene inspections from the Ministry of Health.

Closing

A SME owner can officially dissolve his or her company (meaning that the company ceases to exist as a legal person) by making a request to the Ministry of Commerce. A proposal is sent to creditors and shareholders for the repayment of some or all of the company's debts over a specific period of time. This often allows the company to continue to trade. It also avoids the need to proceed to closure through the process of liquidation. It can take as few as five working days to process documents and issue a letter of de-registration.

IV. Findings: SMEs and Corruption issues in Cambodia

A. Profiles of respondents

Among the 100 interviewees, 52 were owners (also serving as CEOs), 16 were CEOs or directors, and 32 were general managers or held another position in the establishment. Although the initial goal was to interview CEOs exclusively, this was impossible for many reasons. In many establishments, CEOs or owners play a more passive role on a day-to-day basis and general managers are in a better position to participate in this research. In addition, CEOs or owners are often too busy and do not want to participate in such research and therefore delegate another representative from their institution. This affects the data collection since not all participants were in a position to answer all questions. When the interviewees were not in a position to answer the questions, the research team recorded the answer as “no information”. When the interviewees did not have any opinion; preferred not to answer because they judged that they did not have enough information; or preferred to remain silent on a question, the research team reconsidered the answer as “no opinion”.

With respect to the definition of SMEs used in this research, 22 establishments with 10 employees and less and 5 establishments with more than 100 employees were kept in the project because the capital needed for their business fit within the SMEs’ criteria (cf. Table 7:). The same is applicable to the 28 establishments with less than USD 50,000 capital and the 4 establishments with more than USD 500,000 capital. This illustrates that, in the present Cambodian economic situation, a turnover criterion should be also considered for the classification of SMEs, the approach adopted by the World Bank. Turnover is the most consistent measure across the sectors of business and mitigates imprecision and inconsistency in defining SMEs.

Table 7: Type of establishments whose CEOs or its representatives were interviewed

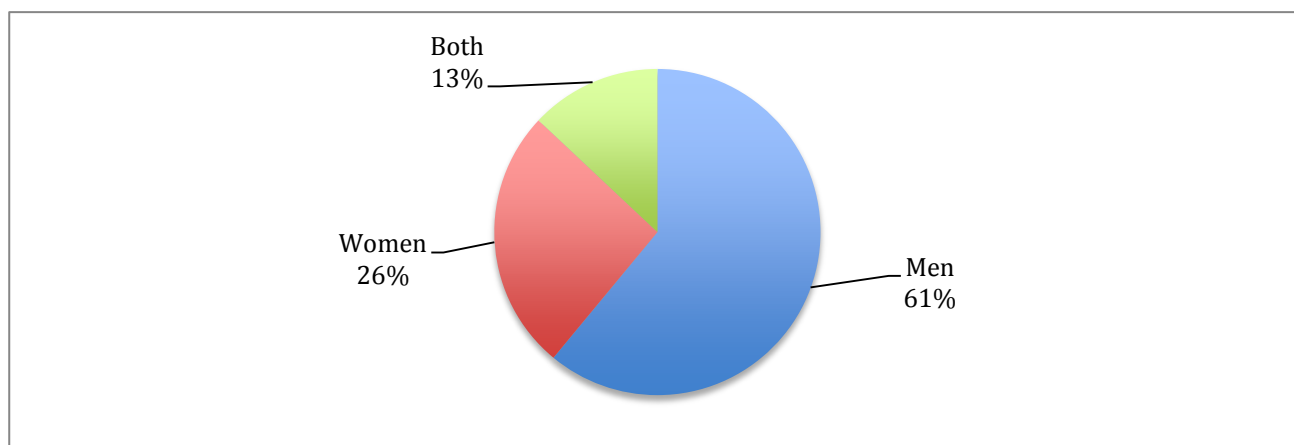
Type of Establishment	Number	Type of Establishment	Number
Less than 5 employees	3	Less than USD 50,000	28
From 5 to 10 employees	19	Between USD 50,000 to USD 250,000	38
From 11 to 50 employees	63	Between USD 250,000 to USD 500,000	12
From 51 to 100 employees	15	More than USD 500,000	4
More than 100 employees	5	No information	18
Grand Total	100	Grand Total	100

Furthermore, among the 100 establishments whose CEOs or its representatives were interviewed, 84 were created in the past ten years. This confirms that a large majority of SMEs in Cambodia are relatively new, as already mentioned in section III on the SME environment in the country. The fact that SMEs in Cambodia are often young enterprises, and that there is a significant number of unregistered companies, makes Cambodia especially vulnerable to competition with other countries.

Moreover, the large majority (70%) of establishments whose CEOs or staff members were interviewed were wholly owned firms and only 34 companies had other branches in the country. None of the interviewees had any import/export activities.

As illustrated in the figure below, the majority of the owners of the establishments were men. Although many studies in the past have indicated that women CEOs usually face more challenges in doing business, this did not surface in the present study.

Figure 3: Owner's gender



B. SMEs' perception and knowledge of corruption

Definition of corruption

Neither the 2011 Law on Anti-Corruption nor the 2009 Criminal Code of Cambodia provides a definition of corruption. Transparency International defines corruption as “the abuse of entrusted power for private gain”.²⁴

Considering that this research is on corruption perceptions, no fixed definition of corruption has been established. The purpose was rather to understand what CEOs think and understand of corruption. Although each interviewee's own definition of corruption may be different from one to another, depending on his or her background and values and even where the person is from and his or her past experience, some elements came up regularly in the definitions and it was possible to determine some tendencies in the given definition.

Corruption is a word that scared many business owners and a large number of them did not want to discuss it. Indeed, roughly only a quarter of all people that were contacted agreed to participate in the project. This could be due to the fact that many of them felt uncomfortable to talk about corruption. In addition many participants preferred not to share their opinion on corruption or refused to answer many of the questions that were asked. When asked to define “corruption”, 22 participants preferred not to talk about corruption or said that they were not able to define it. Four participants said that it is money under the table; six defined it as bribes and seven mentioned that it is something that goes against the laws.

²⁴ Transparency International, organisation website, FAQs on Corruption: http://www.transparency.org/whoweare/organisation/faqs_on_corruption [accessed on 11 March 2015].

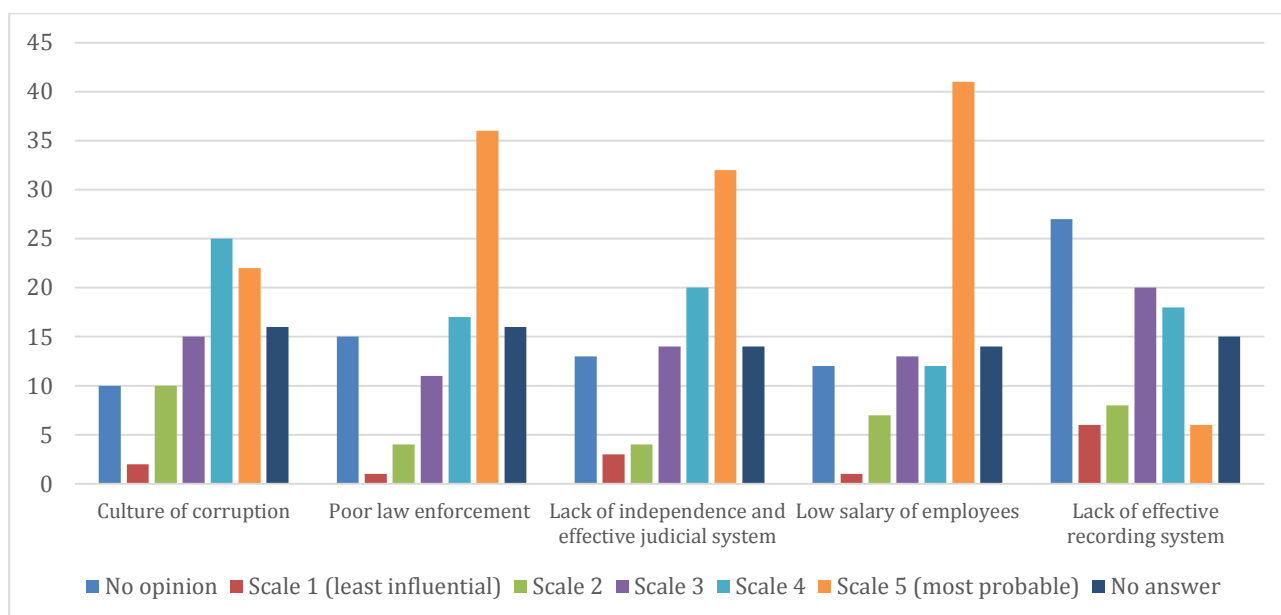
Some described corruption as something that you have to do in order to get something done or to get something done faster. One of the most common answers regarding the definition of corruption was something that is paid and that is against the laws, meaning that it is an additional cost not required by the laws. Although most participants agreed on that notion, most of them also confessed that they did not know about the laws that apply to SMEs like theirs. Interviewees often thought that laws are too complex to understand and felt like there are no relevant and easily accessible documents on the applicable laws. Some CEOs that were interviewed in this research defined corruption as something that they are forced to do and that goes against the laws. Moreover, they thought that corrupt practices had to involve bigger amounts of money than “money for tea”.

Based on the afore-mentioned opinions of CEOs, corruption can consist of bribes, unofficial fees or payments. It can be either “**informal charges**” (i.e. the situation in which business owners are requested to pay more than what they are supposed to in order to obtain public services such as administrative or legal procedure or other document) or “**informal payments**” (i.e. payments that are made unofficially in cash or in any other forms to individuals or institutional service providers in order to receive a favour from a public officer like to avoid paying taxes).

Causes of corruption

There could be many reasons why corruption occurs. Among the 100 establishments whose CEOs or staffs were interviewed, 86 were owned by Cambodians, which allows a better understanding of the real causes of corruption among Cambodian SMEs. The following are the major causes of corruption as identified by the participants.

Figure 4: What are the factors driving unofficial fees in the private sector?



Culture of corruption

47 participants rated the culture of corruption as an important reason for the payment of unofficial fees. Furthermore, when asked to define corruption, six participants explained that there is a general culture of corruption in the country. Among the participants, only two participants clearly

stated that it was normal to give “tea money”²⁵ and that paying unofficial fees is not corruption. One participant also mentioned that an unofficial fee is simply a gift for the public officer. When asked to define unofficial fees, only 23 agreed that unofficial fees constitute corruption or “tea money”. 14 could not or did not want to give any definition while seven participants agreed that it constitutes an additional fee to pay in order to get things done faster with less complication in the administrative process. Some actually gave small amounts of money to inspectors without being asked to do so if the latter were nice and if the inspections went well. Some gave examples of giving a little gift to public officials when they go see them for questions. The said gift could be as little as a USD 5 top-up card for mobile phone. In this particular case, the phone credit was given to the public officers as a way to thank them. Cambodians saw that as normality whereas foreigners considered that act as a form of corruption.

One of the interviewees used a Khmer saying to illustrate why business owners have to give tea money (especially in the context of “informal charge”): “in order to have peace, one needs to share his meat with the tiger” [literal translation]. Based on the interviews, paying and receiving bribes seems to be common in the business sector.

Unclear laws and regulations

Although some laws and measures have been adopted in the recent years in order to improve SMEs’ business environment, much more still has to be done, and Cambodian SMEs are still faced with many challenges in creating a company and in doing business in general on a day-to-day basis.

The majority of SMEs owners are unfamiliar with the laws and regulations that are applicable to them. When it comes to registering their SMEs, business owners often believe that the laws are too complicated and prefer to have help from a third party for the registration process.

A foreigner CEO shared that he wanted to complete the registration process by himself, but he rapidly realised that it was too complicated for a foreigner like him. He therefore dealt with a lawyer for the registration process, who told him that unofficial fees had to be paid. He also added that if he registered the company himself, he would have had to pay much more in unofficial fees because, among other factors, he is a foreigner.

The way that inspections are carried out, as described by the participants, is a clear example of how laws and regulations can be unclear. Although some inspections are compulsory and regulated by law, many interviewees have shared their experience with inspections where they have nevertheless been asked to pay unofficial fees.

Many of the interviewees received visits from different ministries, depending on their sector of activity and where they are registered. 40 participants had to pay unofficial fees in connection with inspections while 30 participants did not have to pay anything. 12 participants did not know if they had to pay any unofficial fees and 18 participants did not answer the question.

The most common inspections were in; the Department of Taxation; and the representatives from the Sangkat.

Some interviewees have mentioned that they received more visits from the police and representatives from the Sangkat around Khmer New Year. The main purpose for those visits was to ask for additional gifts considering it was the New Year. Some of the business owners gave a package of beer or other drinks.

²⁵ In Cambodia, tea money refers to unofficial fees that are given to public officers in exchange of a service

Many bars and restaurants interviewed in this project received inspections once or twice a year to verify the fire extinguisher. Furthermore, many have been told that they had to buy the fire extinguishers from the inspectors directly, as requested by the laws, which is often three times more expensive than the other ones.

Many private schools received inspections from the Ministry of Education regarding teachers' training. According to the interview response of school directors and owners, inspections by the Ministry of Education are usually done by groups of four to six people that sometimes ask for "tea money" for their transportation usually amounting to small amounts of money.

An owner of a school that employs many international teachers mentioned that they often receive visits from the Immigration Department regarding permits for international teachers. The schools have a quota of international teachers that they can hire and in cases where the number is above that quota, some penalties have to be paid or they can also pay additional amounts to have a special authorisation. In such a case, the director said he does not get any official receipt and he considers that as a direct "negotiation" with the inspector. The majority of interviewees who had to pay inspection fees did not receive any invoice even when they asked for one.

When asked whether their employees know what to do when they are faced with a problem, most of interviewees indicated that most of their employees simply refer the problem to the owner or CEO. Indeed, 48 participants said that the owner or CEO of the company is the person that manages the inspections in the establishment.

The Ministry of Industry and Handicraft is to publish guidelines on inspections for SMEs.²⁶ These guidelines were expected in 2014, but due to funding reasons, they have not yet been published, although the Ministry mentioned that the document is ready. These guidelines would constitute a great tool for SMEs since they are supposed to cover a wide range of business inspections.

Lack of law enforcement

53 participants think that the lack of law enforcement is a factor that engenders the payment of unofficial fees. The lack of law enforcement engenders the payment of unofficial costs on a day-to-day basis, for example with the inspections, as well as in the registration process. Lack of law enforcement also contributes significantly to the fact that a large number of companies are unregistered and do not pay taxes. Among the 100 participants in the research, 61 companies are registered with the Ministry of Commerce or the provincial department of Commerce. Most of the participants that did not register their company explained that the registration was too complicated or too expensive for the advantages it could bring them. Indeed, a large number of SMEs operate in an informal way, which is tolerated by officials. Furthermore, among the participants, only 31 companies are registered at the Ministry of Labor and Vocational Training. Many companies did not register their company because they are family businesses or their employees do not often stay with them for a long time.

Many CEOs dealt with a representative of the applicable ministry or the local office and when the latter was asked about the registration process, he or she was not in a position to answer properly. Interviewees that used the services of an intermediary agreed that unofficial fees are included in the total amount that they paid, but indicated that it was impossible for them to know exactly how much they spent in official or unofficial fees. Using an intermediary that works at the Ministry is common among interviewees.

²⁶ Inspection guide for SMEs waits for funding, Phnom Penh Post, 10 March 2015, available at: <http://www.phnompenhpost.com/inspection-guide-smes-waits-funding> [accessed on 20 March 2015].

Furthermore, many interviewees shared their experience in negotiating their tax payments with representatives from the Taxation Department. In some cases, the interviewees managed to negotiate to pay fixed tax fees, meaning that they would be required to pay a fixed amount in taxation every month which did not take into consideration the amount of profit.

Lack of independence and effective judiciary system

53 interviewees were of the opinion that the weak judicial system in the country is an important factor that contributes to the payment of unofficial fees. Furthermore, only a third of the participants said that they would use the court system if they had an important corruption problem. The lack of an effective judicial system therefore contributes to the lack of accountability of many people.

Low public sector wage

53 interviewees thought that low salary of public officers constitutes a factor that contributes significantly to the payment of unofficial fees. Some interviewees qualified the act of giving some tea money to officers as giving them a hand or even a favour because their wages are low. Paying the expenses of inspectors was usually considered as normal. Many participants have been asked for some “tea money” in order to cover the expenses related to inspectors’ visits, such as transportation and breakfast or lunch costs.

Lack of transparency and accountability

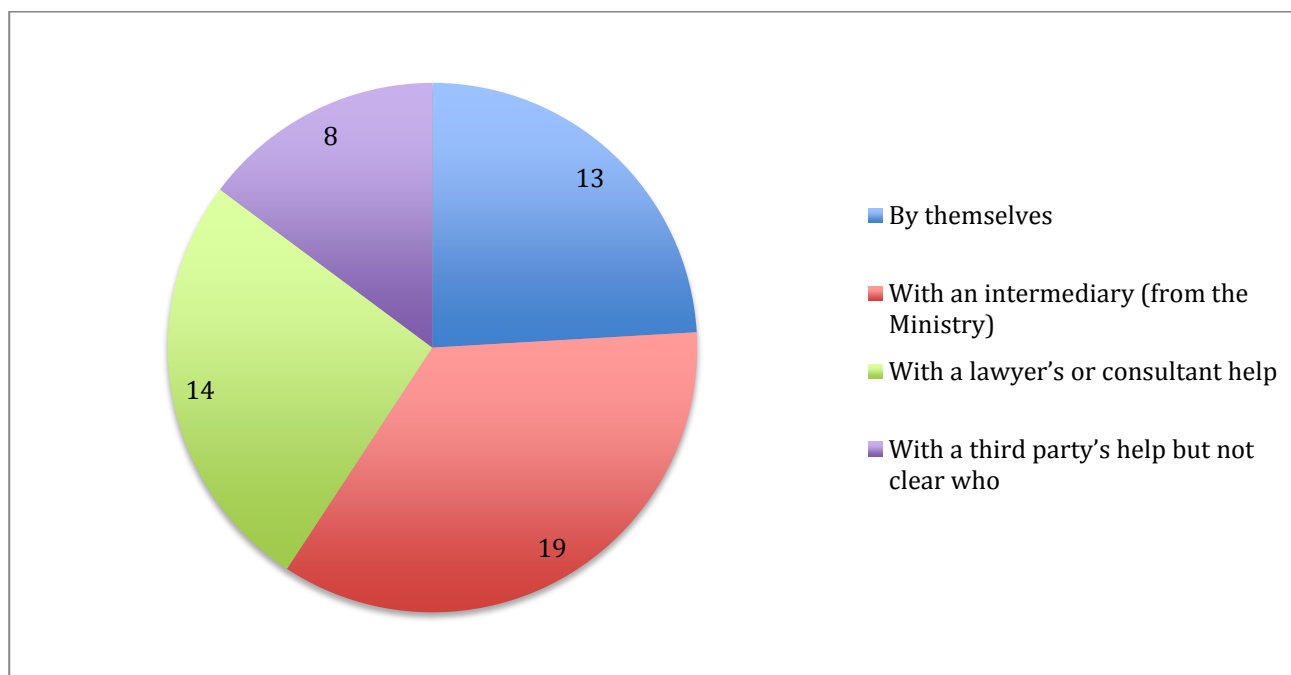
48 interviewees thought that they had to pay unofficial fees during the registration process, 22 of them thought they did not have to do so, while the rest did not know about the registration process. Some interviewees mentioned that they would register their company as soon as the online process works. One of the interviewees recently registered her company by herself, referring to the form online but indicating that it did not work. Many corrupt practices that have been shared with the research team occur during the registration process, at different stages. These practices vary depending on whether the company’s owner used the services of an intermediary (lawyer or intermediary from the Government), in which case the owner may not have any information regarding the payment of unofficial fees. Costs for the registration also vary depending on the person from the Department with whom an SME was interacting, and that person’s position. Interviewees mentioned that some employees that work at a lower level in the hierarchy may want to ask for little bribes for specific procedures, but when asked about the laws that necessitate this, they are not in a position to answer. Having a contact that occupies a high position is also an important asset for the companies in doing their business on a day-to-day basis. This makes it hard to have a level playing field for SMEs in Cambodia. This absence of a level playing field engenders a form of unfair competition for business owners that do want to follow all the requirements and highly affects the business environment.

Lack of an effective recording system

19 interviewees dealt with someone working at the Ministry to register their company. Most interviewees referred to that person as an intermediary that did the paper work for them. Although unofficial fees had to be paid, they all agreed that it was worth it because registering the company themselves would have taken much more time and energy. 13 participants did the registration of their company by themselves. Those who did the registration process themselves shared that they had to go to different offices in order to get the relevant documents and in some cases, they were asked to pay additional fees if they wanted the process to go faster.

Only 14 interviewees used the services of a law firm or accounting firm for the registration process. The use of professional services for the registration may have engendered additional costs but the interviewees that proceeded that way all seem to agree that it was worth it.

Figure 5: How the participants registered their company?



* Out of the 54 registered companies

The recording system being ineffective, coupled with the lack of law enforcement contribute to the fact that the registration process for a company varies considerably, as illustrated in Table 8.

Table 8: Time needed for the registration process

Duration	Number of companies
Less than one week	5
Between one to two weeks	2
Between two weeks to a month	9
Between a month to two months	15
Between two months and three months	11
More than three months	8

Impact of corruption on SMEs

Despite the fact that most interviewees shared that they are used to paying unofficial fees (although they were mostly small amounts), a large majority of the interviewees considered that they do not face any corrupt practices in doing business.

47 participants said that they have heard of or experienced corruption issues in their business, but most of them were uncomfortable giving concrete examples of corruption except with regards to inspections that were previously discussed in the interview. 57 participants answered that corruption is one of the external factor impeding the progress of their company. The inconsistency between these two answers might simply be due to the fact that people do not want to talk about corruption.

It is important to highlight that although most participants gave good definitions of corruption and unofficial fees, many of them were unable to apply those definitions in practice, meaning that when

asked if they were face with corruption problems, they often answered no, but when asked if they had to pay any “tea money”, they would give an affirmative answer.

Table 9: Number of respondents having experienced corruption and its impact on SMEs

Questions	Yes	No	No answer or not applicable
Has your company ever heard of or experienced any corruption issues in your business in Cambodia?	47	31	22
Is corruption one of the external factor impeding the progress of your company?	57	25	18

One businesswoman shared with us that she knew some business owners who have stands at the local markets who have been asked to pay large amounts of taxes, describing how a few of them were unable to continue their business because of those fees.

Table 10: Impact rate on their businesses

The interviewees rated the impact of corruption on their company as follows.

	1 Very little impact	2	3	4	5 Big impact	No opinion	No information
Number of companies	3	3	18	15	16	16	29

In the long run, corruption can have a bigger impact on SMEs. Companies that prefer to stay in the informal sector and those that have been paying bribes since its creation, albeit only in small amounts, will have many difficulties in becoming compliant companies in order to grow bigger. Furthermore, it may be impossible for those companies that are not compliant, to have access to credit or capital or investment capital from abroad. This can constitute a significant obstacle to Cambodia’s growth and competitiveness especially after its integration with the ASEAN Economic Community.

Business integrity and ethics

Defining the notion of business integrity or clean business was complex for most interviewees.

Based on the interviews, it is clear that the notion of business integrity or clean business is not well known among Cambodian CEOs. Indeed 63 participants have never discussed this notion in their company. Among the most common answers, 23 participants mentioned that clean business is a business that follows the rules, 6 participants defined business integrity as a business that is not corrupt, and 19 participants did not know what clean business is or preferred not to answer. Some interviewees also mentioned that clean business is what they actually have in their enterprise.

The following are measures existing in Cambodian laws to achieve a form of business integrity.

Offenses

Bribery offenses are outlawed under Cambodian law, and the 2009 Criminal Code creates offenses for both individuals and legal entities. The majority of bribery offenses described in the

2009 Criminal Code concern individuals. Those offenses are stipulated in the following provisions: Article 278 (requesting or accepting bribes by an employee), Article 279 (giving bribes to employees), Article 280 (bribery by a director), Article 281 (attempting to bribe), Article 282 (additional penalties for bribery) and Article 305 (defamation).

Under Article 42 of the 2009 Criminal Code, legal entities such as companies may be found criminally liable for the actions of their representatives committed on their behalf. Specifically, legal entities may be held criminally responsible for violations of Article 279 (giving bribes to employees).

Article 46 of the Anti-Corruption Law states that companies will be liable for corrupt proceeds offences, which are defined as acts to conceal, keep or transport any kind of goods with knowledge that they are proceeds of corrupt acts. Therefore, a company may be liable for the actions of its employees, subsidiaries, or agents if it becomes involved with the proceeds of corrupt acts prohibited by the Anti-Corruption Law. Additionally, as a general concept of agency law in Cambodia, the principal is liable for the authorised actions of his or her agent. Furthermore, under Article 369 of the Civil Code, a principal is liable for the unauthorised acts of his or her agent if he or she ratifies them. Therefore, accepting the benefit of a corrupt act could leave a company liable under the Civil Code as well. There is no law in Cambodia that specifically addresses the criminal liability of directors. However, Article 391 of the Criminal Code imposes criminal liability for breach of trust. Breach of trust is defined as the misappropriation of funds, valuables or other property given and received subject to the condition of returning, redelivering, presenting or using them in a specified way. Additionally, foreign directors or foreign SMEs that are working and operating in Cambodia also have to abide to the legislations of their countries.

Furthermore, both the 2009 Criminal Code and the Anti-Corruption Law apply to the public sector. Article 30 of the 2009 Criminal Code broadly defines “public officials” as: (a) any person appointed by legal instrument either temporarily or permanently, with or without remuneration and, regardless of his or her status or age, works in a legislative, executive or judicial institution; (b) any other person who works in the public service, including public agencies or enterprises or other public institutions within the meaning of the laws of the Kingdom of Cambodia.

Article 4 of the Anti-Corruption Law defines public officials as any person holding office in legislative, executive, or judicial, who is appointed by legal letter, whether permanent or temporary, whether paid or unpaid, regardless of his or her status or age. This also applies to other persons holding public office, including public agency or public enterprise as well as other public institutions as stated in the law of the Kingdom of Cambodia.

The Anti-Corruption Law further defines foreign public officials and judges. Foreign public officials are defined in Article 4 as persons holding a legislative, executive, or judicial office of a foreign country, whether appointed or elected; and any foreigner exercising a public function for a foreign country, including for a public agency or public enterprise. Judges are defined as trial judges and investigation judges.

The 2009 Criminal Code has extraterritorial effect in cases based on: citizenship, felonies committed against Cambodian nationals; and certain felonies committed against the Kingdom of Cambodia, for example, counterfeiting Cambodian bank notes.

There are no specific provisions dealing with compliance defences under Cambodian laws. However, section 2 of the 2009 Criminal Code, which governs the causes of criminal irresponsibility or lessening responsibility, provides for several circumstances where an individual may lessen or mitigate his or her criminal liability. Those circumstances are: mental disorder; authorisation by law; self-defence; defence of necessity; and compulsion. Furthermore, the principle of “no offence if there is no intention to commit” described under Article 4 of the Criminal

Code can also negate or mitigate criminal liability.

The Criminal Code and the Anti-Corruption Law strictly prohibit the payment of facilitation fees to public officials (foreign or local) or officials of public international organisations. Under Cambodian law, giving gifts of any value for corruption purposes is prohibited. The Anti-Corruption Law defines a gift as any property or service given to or for the benefit of a person that is not given as a gift in accordance with custom or tradition. Furthermore, the Law on Anti-Corruption specifically incorporates many provisions from the Criminal Code that prohibit giving gifts to government officials in order to influence the performance of their tasks. Therefore, the purpose of giving the gift to a government official is more important than the value of the gift.

The custom of gift-giving is common in Cambodia and is considered acceptable within certain limits. It is also very common to invite government officials to dinners and banquets, especially to celebrate a special holiday or a religious ceremony. In regards to giving personal property, it is very common for foreign nationals to give a souvenir from their respective country or even Cambodian nationals to give a gift after returning from a trip abroad. In this regard the Anti-Corruption Unit has issued the guidelines for their public officers.

Penalties

Below are some of the penalties imposed by the Anti-Corruption Law and the 2009 Criminal Code.

Both the Anti-Corruption Law and the Criminal Code penalise the acceptance of bribes by a foreign public official or official of a public international organisation with 7 to 15 years of prison.

Under the Anti-Corruption Law, an abuse of power occurs when a public servant, in the course of duty, attempts to obtain an illegal advantage. The abuse of power is an offence punishable by 2 to 5 years of imprisonment and a fine. If aggravated, the prison term is 5 to 10 years.

Illicit enrichment is punishable with the confiscation of the unexplained property. If a person is required to declare his or her assets under the Anti-Corruption Law, but fails to do so, he or she may be punished by a prison sentence from one month to one year and a fine.

Petty corruption offences are punishable under the Anti-Corruption Law by a prison sentence ranging from seven days to five years.

Under the Criminal Code, proffering bribes to a public official is punishable by a prison sentence ranging from 5 to 10 years.

Giving bribes to employees or employees requesting or accepting bribes is punishable by a prison sentence ranging from six months to two years and a fine. Bribery of judges is punishable by a prison sentence ranging from 7 to 15 years, and bribery of a witness is punishable by a prison sentence ranging from 5 to 10 years.

Whistleblowing

Cambodia does not have any specific laws on whistleblowing and the Anti-Corruption Law provides only limited protection for whistleblowers. Under Article 13 of the Anti-Corruption Law, the Anti-Corruption Unit is in charge of implementing measures to keep whistleblowers secure. However, the Anti-Corruption Law states, at Article 41, that defamatory or false complaints on corruption lodged with the Anti-Corruption Unit or judges, which lead to a futile inquiry, shall be punishable with imprisonment from one month to six months and a fine from one million Riels to 10 million Riels (approximately USD 250 and USD 2,500). Article 305 defines defamation as any allegation or charge made in bad faith which tends to injure the honor or reputation of a person or an institution and fines for defamation charges range between one hundred thousand and ten

million Riels (approximately USD 2,500).

C. Methods used by SMEs to deal with corruption

When asked how SMEs can tackle corruption, the large majority of interviewees did not offer any opinion. Many of them responded that they cannot do anything or simply mentioned that they have never thought about it. Furthermore, only a few participants said that all stakeholders have to work together.

Adopting internal tools

The large majority of interviewees are the ones within their SME responsible for dealing with inspections and other corruption issues. 26 interviewees have tools or procedures to deal with corruption, which often consists of employees reporting to the owner directly, or negotiating the fees with the inspectors or governmental officials.

Having a code of conduct with particular measures on how to deal with corruption can be a good way to prevent corruption in a company. Unfortunately, among the 100 interviewees, only 25 had a written code of conduct. Some interviewees referred to the terms of reference that the employees signed, in which they have some measures regarding corruption practices, especially for teachers in private schools. Only 12 participants have a code of conduct or ethics containing a stipulation on corruption. 48 of the participants do not have any code of conduct and 27 people did not answer the question.

Having a code of conduct is perceived by many interviewees as not a good tool for many reasons: the CEOs or the general managers are usually the person in charge of dealing with corruption requests and employees often refer to their CEO or general manager when faced with a problem which makes it unnecessary to have a code of conduct with stipulation on corruption, according to many participants. It seems clear among the majority of the employees working for the SMEs that were interviewed that they do not deal with corruption themselves and that they do not have the capacity to do.

Using public institutions

Anti-Corruption Unit

The Government has adopted specific measures to fight corruption, including the Anti-Corruption Law and the creation of the Anti-Corruption Unit (established since 2010). Although none of the interviewees has yet signed a Memorandum of Understanding (MOU) with the ACU, it is relevant to mention that as of 24 February, 2015, 17 companies have signed a MOU with the ACU, including Coca-Cola which was the first company to do so in 2013.²⁷

The purpose of these MOUs is said to be combatting corruption and building a transparent environment in which companies can evolve. In the MOU, the ACU and companies have agreed, among other elements, that:

²⁷ Article in the Cambodia Herald, available at <http://www.thecambodiaherald.com/cambodia/anti-corruption-unit-nine-companies-sign-mou-to-fight-corruption-8224> [accessed on 13 March 2015]. See also <http://www.phnompenhpost.com/business/five-firms-sign-acu> [accessed on 23 December 2014] and <http://www.phnompenhpost.com/anti-corruption-unit-talks-business-association> [accessed on 26 February 2015].

1. they are committed to being clean, transparent and respecting Cambodian laws;
2. they refuse any bribe and instruct staff members to avoid bribery;
3. they should take cautious measures and inform the Anti-Corruption Unit if they are faced with corruption issues;
4. the ACU shall keep all sources and evidence provided by signatories confidential and ACU intends to open investigations when it has been presented with enough cause; and
5. if possible, the Anti-Corruption Unit and the companies agree to create a line for urgent, and confidential communication.

78 participants answered that they have heard of the Anti-Corruption Unit (in the newspapers, on the radio and through social media), with only 9 saying that they have never heard of it. However, a considerable number of participants have a limited knowledge of the ACU (41 respondents rated 1 or 2 on a scale of 5 – 1 being really limited knowledge and 5, being a really good knowledge). Furthermore, only 32 participants said that they would appeal to the ACU if they were faced with an important corruption problem. This reluctance to use the ACU might be due to the low protection given to the plaintiff according to the Anti-Corruption Law as described in the section on whistleblowing. Indeed, there is no law relating to data privacy and disclosure in the country. The ACU often publishes on its website the names of the plaintiff and the accused person, which can cause personal damages. The lack of confidence in the institution itself is another element that contributes to the fact that people do not want to use the ACU whose employees have recently been accused of corruption.

Among the participants, 37 said they have seen a positive difference in the business environment since the creation of the ACU, 22 have not seen any difference and the rest of the participants did not or were not in a position to answer the question.

Judicial institutions

Many CEOs interviewed for this Research did not believe in the judicial system while only 34 interviewees answered that they would use the court system if faced with a corruption problem. This perception goes in the same line as some reports such as TI Cambodia's National Integrity Assessment²⁸, which stated that the judiciary system is the most corrupt organ in Cambodia.

One Window Service Office (OWSO)

A one window service office was created in 2009 in Battambang and Siem Reap and consists of a "single office for delivery of certain administrative services commonly required by citizens and small businesses at the local level".²⁹ "The thing that makes the OWSO unique in Cambodia is that the fees for the various services are transparent and are publicly displayed for all to see in the OWSO and the service is provided in a timely and consistent manner."³⁰ Eight offices opened in Phnom Penh in 2013 and two more will be opened in the next years.³¹ Most of the interviewees, including the ones that are based in Battambang and Siem Reap, have not heard of this tool.

Anti-corruption hotline

The participants' knowledge of the other existing tools introduced by the Government to tackle corruption is limited. Only 20 participants said that they have heard of the anti-bribery guideline but none was in a position to explain precisely what they know.

²⁸ National Integrity System Assessment, Transparency International Cambodia, available at <http://ticambodia.org/index.php/whatwedo/publication/nisa-report-2014> [accessed on 23 March 2015].

²⁹ One Window Service Office Webpage: http://www.owso.gov.kh/?page_id=1843 [accessed on 24 March 2015].

³⁰ One Window Service Office Webpage: http://www.owso.gov.kh/?page_id=1843 [accessed on 24 March 2015].

³¹ Information given by a public official working at one of the One-Window Service Office in Phnom Penh. Information regarding the offices in Phnom Penh could not be found on the official website (www.owso.gov.kh).

33 of the interviewees heard of the anti-corruption hotline and once they were explained what it is only 33 responded that they would call the number if needed, while 34 answered that they would not.

Table 11: SMEs owners’ knowledge of anti-corruption tools adopted by the Government

	Number of SMEs aware of it	SMEs aware of it	Not applicable
Anti-corruption laws	67	19	6
Anti-bribery guidelines	20	58	14
Anti-corruption hotline	33	49	3

With regards to the SMEs’ knowledge of the measures that the Government has adopted to fight corruption, 32 participants think that SMEs are aware of the measures, 36 think that they are not aware of them and 22 did not answer the question.

SMEs’ knowledge of measures adopted by the Government has a broad meaning: as illustrated in this section, many SMEs’ owners may have only heard of the measure, but are not in a position to give further information and would not know how to use the tool.

Using third party initiatives

Chambers of commerce and associations

Only 16 participants are members of chambers of commerce or associations. Although some, especially the ones outside the capital, agreed that being part of one could help them in combatting or gaining more knowledge with regards to existing laws, most interviewees do not think that chambers and commerce and associations can really help them on a day-to-day basis to avoid corrupt practices.

Chambers of commerce and associations can play an important role in guiding SMEs in doing their business. Being an active member of a chamber of commerce can indeed help the company in dealing with corruption issues. Although the majority of chambers of commerce do not hold specific activities or conferences on corruption, many of them have working groups on specific themes and discuss about corruption practices indirectly. Furthermore, CEOs can share their personal experiences with regards to corruption issues, with other members during networking events. By discussing about corruption and sharing each other’s experience, business people can be more sensitised on the issue and learn how to avoid corrupt practices.

V. Conclusion

SMEs play a crucial role in Cambodia's development. As the country's market becomes bigger with its integration into the ASEAN Economic Community this year, SMEs in Cambodia will face many challenges.

This research indicates that a large number of Cambodian SMEs are affected by corruption. Furthermore, interviewees that participated in this research were more at ease in talking about "tea money" than talking about corruption although the majority of the participants were able to define "corruption".

In spite of the fact that many interviewees know what corruption and unofficial fees are, many of them also agree that bribes have to be paid in order to get things done or not to lose too much time for administrative procedures such as for a company's registration. Furthermore, CEOs' lack of knowledge regarding laws and regulations applicable to SMEs contributes significantly to the fact that they are easily targeted and are therefore more likely to be subject to demands for bribes.

Although many tools have been adopted by the Government to tackle corruption, such as the Anti-Corruption Unit, many CEOs do not believe in or have much familiarity with these tools and prefer not to use them if faced with a corruption-related problem.

Corruption is an impediment to development and restrains SME development – and thus, Cambodia's overall economic growth - on many levels. Therefore, measures have to be undertaken by all relevant stakeholders to limit the impact that it can have in the long run.

VI. Policy recommendations

A. General recommendations

Involve all stakeholders in discussions regarding business integrity and corruption.

- Ensure there is concerted action and collaboration between all stakeholders to best achieve effective implementation of relevant frameworks and policies for SMEs.

Determine a level playing field for all stakeholders so they all abide by the same rules, which can reduce corrupt practices.

- Provide assistance to SMEs, based on long-term, comprehensive, coordinated and consistent policies to ensure a level playing field for all business owners.
- Implement, promote and develop monitoring mechanisms, networking events and best practice sharing to ensure that SME policies are efficiently and effectively implemented.

B. Towards the private sector

Inform and sensitise the private sector.

- Encourage business owners to take the initiative to learn more about the laws, regulations and procedures applicable to their business and undertake actions to ensure business integrity in their company.
- Develop training programs and information pamphlets, in collaboration with the Government, on existing tools to fight against corruption to ensure a better knowledge among business owners.
- Empower business owners to actively refuse to pay bribes and use the tools adopted by the Government when faced with corruption issues.
- Build business owners' capacity to use information technology tools so they can effectively use the tools developed by the Government such as e-registration and guidelines available on various websites.

Involve chambers of commerce and associations in the fight against corruption.

- Create local representations in the provinces in order to include all businesses in Cambodia and not only the ones in the capital.
- Create specific working groups on corruption within these organisations so that corruption issues are formerly discussed among all stakeholders.

C. Towards the government and public institutions

Adopt and effectively implement laws and frameworks in favour to SMEs.

- Harmonise all laws and frameworks applicable to SMEs to avoid any contradiction in the laws.
- Build capacity of public officers by organising relevant trainings for an effective implementation of all laws and frameworks relevant to SMEs.

Increase and improve access to information and better knowledge of relevant policies and laws by all stakeholders.

- Develop communication technology tools to disseminate all relevant information. All relevant tools and information should be available on the relevant government

ministries' website. This information should include guidelines on the registration process and other relevant guidelines that can help business owners on a day-to-day basis.

- Ensure that databases on SMEs and clusters, including a database with all registered SMEs, are accessible to the public.
- Formulate and implement the policy framework to ensure effective coordination of all activities regarding SMEs across all government ministries, including an institutional mechanism to support the development of SMEs.
- Ensure that all organisations and institutions working with SMEs are efficient and transparent, including the Anti-Corruption Unit, the SMEs Technical Working Group and the court system.

Reform the business registration, licensing and other applicable procedures.

- Ensure good governance and an improved regulatory environment through better registration and licensing systems, and develop all relevant legal, institutional and administrative arrangements.
- Simplify all relevant administrative procedures (such as taxation procedures).
- Develop relevant forms and templates should be developed and be made available to the public through the government ministries' websites and offices, including in the regions.

Bibliography

- Baily, Peter. "Cambodian Small and Medium Sized: Enterprises: Constraints, Policies and Proposals for Their Development." *SMEs in Asia and Globalization*, 05 2007: 1-36.
- ERIA. "ASEAN SME Policy Index 2014-Towards Competitive and Innovative ASEAN SMEs." JAKARTA, 2014, 260.
- KPMG. *Investing in Cambodia*. Phnom Penh, 2013.
- MOEF. www.mef.gov.kh (accessed 03 20, 2015).
- NIS. "Cambodia Inter-censal Economic Survey 2014 National Report on Final Results." Phnom Penh, 2015, VI-18.
- NIS. "Economic Census of Cambodia 2011, Analysis of the Census Results Report No. 4, Analysis on Large, Medium & Small, and Micro Industry." Phnom Penh, 2013, I-191.
- NIS. "Economic Census of Cambodia 2011, National Report on Final Census Results." Phnom Penh, 2012, VI-23.
- NIS. "Economic Census of Cambodia 2011. Analysis of the Census Results Report No. 1. Analysis on 17 Industries." Phnom Penh, 2013, 143.
- OECD. "Promoting SMEs For Development." Paris, 2004, 59.
- Raynard, Peter, and Maya Forstater. "Corporate Social Responsibility: Implications for Small and Medium Enterprises in Developing Countries." UNIDO, Vienna, 2002, 75.
- RGC. "Small and Medium Enterprises Development Framework." Sub-committee on Small and Medium Enterprises, SME Secretariat, 2005.
- TI. "Corruption Perception Index." 2014. <https://www.transparency.org/cpi2014> (accessed 03 11, 2015).
- WB. "Cambodia Overview." <http://www.worldbank.org/en/country/cambodia/overview> (accessed 03 13, 2015).
- WB. "Ease in Doing Business 2015." Washington, 2015, 318.

Annexes

Questionnaire for CEOs

A. Interviewee's information

1. What is your position in the company?	
Owner	
CEO / Director	
General Manager	
Other:	

B. Company's profile

2. What is the number of employees in your company?	
Less than 5 employees	
From 5 to 10 employees	
From 11 to 50 employees	
From 51 to 100 employees	
More than 100 employees	

3. What was the capital needed to start your business (excluding land) for it to be operational?	
Less than US\$ 50,000	
Between US\$ 50,000 to US\$ 250,000	
Between US\$ 250,000 to US\$ 500,000	
More than US\$ 500,000	

4. When was your company established?	
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5. What is the legal status of your company?	
Individual proprietor (without registration)	
Sole proprietor (with registration)	
Private Limited Company	
Public Limited Company	
General Partnership	
Limited Partnership	
Subsidiary of a foreign company	
Branch of a foreign company	
Commercial representative office of a foreign company	
State owned company	
Cooperative	
Other:	

6. Who detains the shares of your company?	
Wholly owned firm (by one person)	
More than 50% of shares held by Cambodian shareholder(s)	
Less than 50% of shares held by Cambodian shareholder(s)	
Other:	

7. Does your company have any other branch in Cambodia?
--

If yes, how many and where else?	
How many?	
Were?	

8. What is your main business activity?	
Accommodation	
Education	
Manufacturing of food, beverages, clothes...	
Services (tour companies, micro-finance institute)	
Trading	
Microfinance, pawn shop and financial institution	
Wholesaler	
Rice milling	
Other	

9. Gender of company's owner(s)	
Male	
Female	
Both (how many women and men?)	

10. Nationality of owner(s)	
Cambodian	
Chinese	
Japanese	
Korean	

Thai	
Vietnamese	
European	
Other	

11. Are all of your employees registered with the Ministry of Labour?	
Yes	
No	
If no, why?	

C. Company's registration

12. Is your company registered with the Ministry of Commerce or the provincial department of Commerce?	
Yes	
No	

13. With which institution is your company registered? (Please select all applicable answers)	
Ministry of Labour and Vocational Training	
Ministry of Economics and Finance	
Ministry of Industry and Handicraft	
Ministry of Tourism	
Ministry of Health	
Ministry of Agriculture, Forestry and Fisheries	
Ministry of Land Management Urban Planning and Construction	

General Tax Department	
Ministry of Education	
Other	

14. Did you register the company with all necessary ministries or institutions, depending on your field of business?	
Please explain. If not, why did you not register the company with all required ministries or institutions?	

15. How long was the registration process for your business to be operational?	
Less than one week	
Between one to two weeks	
Between two weeks to a month	
Between a month to two months	
Between two months and three months	
More than three months	
Other	

16. Did you benefit from any governmental programme or international organization for the creation of your company?	
Yes	
No	

17. How did you register your company? Did a lawyer or legal firm or consultant help you in the registration process?	

Do you think it was necessary? Why?

18. Do you know how much in official fees it cost for your company to be registered and operational?

19. Do you have all the documents related to the official fees? (Receipts and contracts)	
Yes	
No	
If you have all the documents, what are they?	

20. Do you think you had to pay unofficial fees too?	
Yes	
No	
If yes, why and how much?	

21. Any challenges in the registration of your company?	
Yes	
No	

22. What kind of challenges were you faced with? What do you think are the causes of these challenges?

D. Company's operations and challenges

23. Does your company have a lot of inspections?	
a) How many inspections were there in the first year of your business and recently?	
b) From which ministry were the inspections?	
c) What was the object of the inspections?	
d) In general, who deals with the inspections in your company?	Yourself
	Administrative Staff
	Other
e) Is the person male or female?	Male
	Female
f) Did you have to pay any fees in regards to the inspections?	Yes
	No
If yes, how much did you have to pay? Did you receive any receipts? Or did you ask for receipts?	

24. Does your company have any import/export activities?	
Yes	
No	

25. If yes, which authorities did you contact for your enterprise's imports/ exports last year?

26. How much did you pay to meet the administrative requirements for last year's imports and exports?
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E. Knowledge of corruption

27. What do you think about the SMEs business environment in Cambodia in general?	

28. On a scale of 1 to 5, how would you rate the progress of your company currently compare to the last 5 years?

29. What factors influenced the progress in your company in the past 5 years?

30. Do you consider your outlook to be better or worse for the next five years? Please explain.

31. What is the meaning of the word “corruption” to you?

32. What is the meaning of “unofficial fees” for you?

33. What is the meaning of “clean business” (business integrity) for you?

34. Has your company discussed about this notion before?	
Yes (How)?	
No (Why)?	

35. To your knowledge, has your company ever heard of or experienced any corruption issues in your business in Cambodia?	
Yes	
No	

36. If yes, what kind of corruption did you hear of or experience in the public sector? And why? (e.g. unofficial fees for any registration or of for any annual inspection from authorities)

37. Why do you think that occurred? (e.g. unofficial fees for any registration or for any annual inspection from authorities)

38. What kind of corruption did you hear about or did you experience in the private sector? Why do you think that happened? (Example: unofficial fees in private bank to have access to credit)

39. Who from your company would send to deal with or resolve the corruption issue in order to avoid it? Would you send a lawyer? Do you think that the kind of person you are sending has an impact?	
Yourself	
Male Employee	
Female Employee	
Other:	

40. Is corruption one of the external factors impeding the progress of your company?

Yes

No

41. If yes, how would you rate the impact? (On a scale of 1 to 5 – 5 being the highest)

42. What do you do when you face corruption issues?

43. Do you have any tools or procedures to deal with corruption?

Yes

No

44. If yes, what tool is it? Please elaborate.

45. Do your employees know what to do if they face corruption issues?

Yes

No

46. Does your company have any code of ethics or conduct?

Yes

No

47. If yes, does it have any stipulation regarding corruption?	
Yes	
No	
If yes, please elaborate	

48. Does your company participate in any business association/chamber?	
Yes	
No	

49. If yes, does it help your company in preventing bribery risks?	

50. How do you report the bribery cases or extortion to the association/chamber?	

51. Have you got any positive interventions from the association/chamber? Please describe	

F. Knowledge of Government's measures

52. Have you heard of the anti-corruption law?	
Yes	
No	

53. If yes, to what extent do you know about this law? (on a scale of 1 to 5 – 5 being really well)	

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54. Do you know about the anti-bribery guidelines for the private sector (developed by the ACU)	
Yes	
No	

55. If yes, to what extent do you know about this? Please elaborate.

56. Do you know about the existing of the Anti-Corruption Unit in Cambodia?	
Yes	
No	

57. If yes, where did you hear from about the ACU?

58. How would you rate the result of the works that the Anti-Corruption Unit is doing in tackling corruption?

G. Suggestions and Recommendations

59. To your opinion, what should the ACU do more to eradicate corruption?

60. How would you rate the degree of your satisfaction with the government's actions in tackling corruption? On a scale of 1 to 5 (5 being really satisfied)

61. Do you know of any government action and initiatives to reduce corruption in the private sector? If yes, what do you know?

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62. To your opinion, what should the government do to make the anti-corruption law more effective and to fight against corruption?

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63. Have you seen any positive difference in the business environment since the creation of the Anti-Corruption Unit?

Yes	
No	
If yes, how? And if no, why?	

64. Do you think that SMEs know about the measures that the government has adopted to fight corruption? Why?

Yes	
No	

65. What do you think the government should do to eradicate corruption?

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66. According to you, what are the reasons for unofficial fees in the private sector in Cambodia? Please rate the following elements on a scale of 1 to 5- 5 being the most probable.

a) Low salary of employees	
b) Culture of corruption	

c) Poor law enforcement	
d) Lack of independence and effective judiciary system	
e) Lack of control and accountability of enterprises	
f) Lack of moral (ethics)	
g) Lack of moral	

67. What do you think are the best ways to reduce corruption in the private sectors in Cambodia?

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68. What do you think enterprises like you can do to fight corruption?

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69. Who or what entity can help you in reducing corrupt practices?

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70. What would be your suggestion or recommendation for other SMEs on how to avoid corrupt practices?

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71. Have you heard of the Anti-corruption hotline?

Yes	
No	

72. Would you call that number if you were faced with a corruption problem?

Yes	
No	

73. Would you appeal to this Unit if your company encounters the corruption problem?	
Yes	
No	

74. Would you use the court system if your company encountered corruption problems?	
Yes	
No	

75. How effective are the following tools and actions to successfully fight corruption in the private sector in Cambodia? (on a scale of 1 to 5, 5 being really effective)	
a) Raising the salaries of public officials	
b) Compensation and promotion based on the performance of public officials	
c) Creation of an independent authority to fight corruption	
d) Creation of a corruption reporting system or network	
e) Declaration of assets of public officials	
f) One stop-window for businesses	
g) Active business associations that can negotiate with the government	

Questionnaire for Chambers of commerce and associations

A. Questions for associations and chambers of commerce

1. Tell us about your organisation.	
a. When was it created?	
b. How many members do you have?	
c. What is your role? What services do you provide to your members?	
2. What do you think about the business environment in Cambodia?	
3. What are the challenges for your association?	
4. What challenges do your members face with in doing their business?	
5. Do your members discuss with you about their challenges?	
6. Have you discussed about indirect costs and how to mitigate them with your members?	
7. What are the most popular cases of indirect costs?	
8. What measures are undertaken by your association to fight against corruption? any guidelines? or ethics code?	
9. Have you seen a difference in how your members manage indirect costs in the recent years?	
10. Why do you think your members are paying indirect fees?	
11. What do your members do to fight against corruption?	
12. Have you had any discussions on the measures undertaken by the government to fight against corruption?	
13. What do you think about the ACU and the Law? Do you think this is going to help?	

B. Questions for “international” chambers of commerce

1. Are there any incentives for international business to come to Cambodia?
2. Why do you think international companies want to do business in Cambodia?
3. Have you seen an increase of international businesses coming to Cambodia in the past year?
4. Do you think that it's getting easier for international businesses to come to Cambodia? (with the electronic form and one window service etc)
5. Do you know what % of indirect costs the companies usually pay here, comparing to their annual profits?
6. Do most of your members deal with a lawyer or consultant to open a business in Cambodia?
7. What measures do you think have to be taken to fights against corruption?
8. When a company that thinks of coming to Cambodia and asks you questions about corruption practices, what do you answer?

List of Members of Advisory Board

	Name	Title Organisation
1	Ms. Christine Gauthier	Board of Directors Cambodia Women Entrepreneurs Association
2	Mr. HOK Vichitra	Office Assistant Young Entrepreneurs Association of Cambodia
3	Mr. LIM Sokly	Sampling Expert / Teacher
4	Mr. LY Visal	Office Manager Federation of Associations for SMEs of Cambodia
5	Mr. SEANG Sontara	Member Artisans' Association of Cambodia

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