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TRAC
TRADE RELATED ASSISTANCE CAMBODIA

A TRADE DEVELOPMENT REPORT

CAMBODIA SERVICES TRADE

Performance and Regulatory Framework Assessment

DANIDA
European Union
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A Trade Development Report

Cambodia Services Trade: Performance and Regulatory Framework Assessment

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Preface

In today's world, high-quality and low-cost services can enhance trade and export competitiveness, integrate countries into the global economy, and help diversify exports. For many developing countries, the scope of the domestic services industry is limited to traditional services such as tourism or transport, but more successful developing countries have managed to demonstrate revealed comparative advantages in areas such as information technology, communications, and financial services. Investing in the service economy is rewarding on two fronts: firstly, services are an important determinant of the competitiveness of downstream export sectors and secondly, services can rapidly become an export industry in their own right.

Despite the importance of the services sector, however, there has not been any analysis or information on the baseline contribution of services trade to Cambodia, despite the country's impressive economic growth over the past 20 years and its increasingly diversified economy. To that end, this report details the Royal Government of Cambodia's recent assessment of its regulatory framework for services trade—undertaken with the help of the World Bank—to evaluate whether that framework effectively promotes the most efficient services market possible. The Bank has piloted a new toolkit in this process, which offers a practical methodology to assess the impact of services regulations, and offers guidance on how to ensure that services regulation correctly addresses market failures while achieving public policy goals. The project was implemented to map the various regulations affecting trade and investment in Cambodian services, provide a quantitative assessment of the impact of those regulations, and identify options for improving regulations and institutional set-ups.

A vibrant export sector requires easy access to efficient services, which comprise a significant share of the value added by each export industry whether it be in manufacturing or agriculture. Telecommunications, as well as business services and transport, are vital elements to the export success story of least developed countries, providing an essential backbone to their economic performance. Research in countries such as Cambodia show that the adoption of services regulations is not sufficient for economic success; other important challenges to the business environment must be addressed in order for the services sector to reach its export potential. In developing countries, nurturing a nascent services industry or prioritizing the diversification of an existing services sector toward modern and more sophisticated services can contribute to economic growth and deeper regional integration.

Domestic impediments that hold back the development of a modern and sophisticated services sector often come down to regulatory obstacles and poor governance. Even countries that have adopted significant commitments to liberalize services barriers—e.g. as a result of accession to the World Trade Organization—find that myriad other complementary factors must accompany liberalization - contestable markets, strong regulatory governance, enforcement capacity - to help boost the quality and cut the costs of increased services exports. The complex nature of regulatory reforms makes it difficult to create these necessary conditions for successful services trade reform. In addition, there are political economic considerations due to the many affected stakeholders in the services sector and the fact that services are related to social policies, including health, education, and social protections like pensions.

More information on the regulatory assessment for services trade and investment methodology—RASTI for short—including links to download the toolkit used in Cambodia is available at http://www.worldbank.org/trade/rasti.

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Acronyms and Abbreviations

APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
CDC	Council for the Development of Cambodia
ECOSOCC	Economic, Social, and Cultural Council
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
G-PSF	Government–Private Sector Forum
ICT	Information and Communications Technology
IFC	International Finance Corporation
IMF	International Monetary Fund
IT	Information Technology
ITES	Information Technology Enabled Services
KEI	Knowledge Economy Index
KICPAA	Kampuchea Institute of Certified Public Accountants and Auditors
LDC	Least Developed Country
MPTC	Ministry of Posts and Telecommunications
MRA	Mutual Recognition Agreements
MoT	Ministry of Tourism
NAC	National Accounting Council
OECD	Organization for Economic Co-operation and Development
RGC	Royal Government of Cambodia
USD	U.S. Dollar
WB	World Bank
WTO	World Trade Organization

Executive Summary

As a result of a determined regulatory reform process and an economic modernization process over the past two decades, Cambodia has experienced extraordinary economic growth. In 2004, Cambodia became the first low-income country to join the World Trade Organization (WTO). Since then, Cambodia has grown to become one of East Asia's most open economies, especially in the services sector.

Cambodia's impressive economic growth owes much of its driving force to the boom in services trade. Services exports grew more than 20 percent a year for most of the past decade led by a rapid expansion in tourism. Foreign direct investment (FDI)—particularly in tourism, construction, infrastructure, agro-processing, and telecommunications—also supported the expansion of services trade, not only by attracting foreign capital and expanding employment into Cambodia, but also by improving domestic technology and enhancing domestic skills.

Cambodia is quickly becoming a sophisticated economy that needs to move beyond the pillars of textiles and tourism exports by diversifying into the export of modern services. Cambodian firms are already tentatively exporting some niche services such as computer-based animation. Modern services exports to other East Asian countries, including information technology (IT)-related services, are likely to play a more important role in Cambodia as a source of employment, revenue, and investment.

In the regional context, Cambodia stands to benefit from its chairmanship of the Association of Southeast Asian Nations (ASEAN), by showcasing its economic reform and modernization process, and increasing the potential to attract investments from services firms interested in serving the region as whole. Cambodia should act quickly to address potential competition from other least-developed (LDC) and developing countries across the region that are also expanding their services industries.

The recommendations of this report focus on the following key areas: i) adoption of international best regulatory practices, particularly in telecommunication reform; ii) improved mechanisms for matching skills development with labor demand; iii) implementation of ASEAN 2015 goals for liberalization of skilled labor movement; and iv) improvement of access to regulation in trade in services and rule- making procedures. Each of these areas is briefly explained below.

Cambodia's largely young population is a potentially critical asset—but it needs to be educated and trained in order to contribute to the expansion of services industries. A recent World Bank report on skills provides a set of concrete recommendations on access to information in the skills market, expanded financing for early childhood development, strengthening institutional development, and promoting incentives for skills providers, including higher education institutions. In addition, Cambodia's government should coordinate with education institutions and relevant services companies, such as those in the Information and Communications Technology (ICT) industries to promote a market-ready employment base for the services sector. Cambodia may also learn from the different models followed by countries such as Canada, Egypt, India, the Philippines, and Singapore in establishing partnerships between the public and private sectors in order to identify areas of skills shortage and to develop industry-specific skills, in particular for the services sector. Examples of these programs include:

- improvement and public dissemination of statistical data on labor markets to be used by policy- makers and private stakeholders;
- establishment of sector-specific training bodies, linked to industry associations and other organizations;
- establishment of seat allocation targets for public universities on specific areas of knowledge, based on estimated market demand; and
- publication of labor market forecast reports based on census data and industry trends to better inform policymakers, educational institutions and private companies on the allocation of educational resources.

In addition, Cambodia's open policy for the employment of foreigners, particularly high-skilled foreigners, should be maintained in order to provide an attractive investment environment and facilitate the transfer of knowledge.

The expansion of services will require better infrastructure, in particular broadband telecommunications. The development of Cambodia's telecom sector has been mixed. Mobile telephony has boomed, greatly increasing connectivity across the country. Broadband communication remains accessible only in selected locations, however, and its cost is prohibitive for the overwhelming majority of the population, leading to the lowest broadband connectivity in the region. The deficient institutional and regulatory framework for the telecom sector remains the main hurdle to the attraction of FDI into the telecom sector. Current efforts to the adoption of a telecoms law should thus be intensified.

Empirical evidence seems to suggest that broadband is a major contributor to economic growth. Specific and carefully designed policies targeted to the development of the telecom sector are required. In addition to the establishment of an adequate regulatory environment for the sector, a number of countries have designed broadband strategies to foster development. Alternatives range from opening the sector to wider competition to streamlining regulation (including the elimination of licensing requirements for certain broadband services, as implemented in Thailand) to the establishment of public-private partnerships in the development of backbone infrastructure, as promoted by Kenya.

While Cambodia's services trade has reached a significant level of liberalization that allows private sector provision of services as well as foreign ownership on a non-discriminatory basis in a wide range of sectors, governance remains weak. Lack of transparency and predictability in the implementation of regulations is impeding full liberalization of many services sectors, even though the legal framework formally adheres to Cambodia's international commitments. Missing information relating to regulatory requirements, inconsistent application and interpretation of regulations across agencies, frequent changes of administrative practices and discretionary applications of rules all introduce limitations into an otherwise open regime. In addition, the regulatory infrastructure, lacking human resource capacity and other resources, remains insufficient.

In the transport sector, for example, informal payments are frequent, raising the cost of moving goods around the country. In the tourism sector, a weak regulatory environment makes it difficult for Cambodia to expand into high-end tourism services. In the professional services sector, regulatory restrictions on legal services are limiting investment and may even be inconsistent with Cambodia's WTO commitments. In contrast, the adoption of international standards and the establishment of effective regulatory bodies in accounting have attracted the top international firms and are greatly improving domestic skills.

Adoption of government-wide regulatory guidelines aligned with principles of good regulation, including transparency, public consultations, inter-agency coordination, and regulatory efficiency, together with stronger regulatory bodies, would improve the business climate. Ensuring that all laws and regulations on trade and investment are publicly available at a single website (known as a trade information portal) will also help attract investment and increase confidence.

There are a number of immediate initiatives that Cambodia may take, starting with pilot programs in key ministries, to contribute to the development of an enabling regulatory framework for the services sector. These measures should only be seen as building blocks for broader policies on economic openness and good governance. In addition to sector-specific initiatives, the main horizontal measures that should immediately be considered include:

- ensure that the official legal gazette or journal reflects the publications of all laws and regulations affecting trade and investment in services;
- establish ministry-specific annual regulatory programs, with plans that notify stakeholders of forthcoming regulations, outlining the identified problems to the tackled through regulation, and the desired regulatory objectives to be pursued (this could be included in transparency mechanisms envisaged for ASEAN 2015); and
- adopt regulatory policy guidelines that set out the procedures to be followed in the law- and regulation-making process, and that address the current lack of regulatory information affecting the industry.

Finally, to assist policymakers in evaluating the cost and benefits of regulations in a consistent manner, the report strongly recommends performing regulatory assessments on a sectoral basis, to identify measures governing trade in services, as well as those affecting performance and market structure. By streamlining the regulatory framework in services, these assessments may serve to improve the efficiency of regulation and provide a framework for introducing new regulations concerning services.

Introduction

This report analyzes the growth potential for services in Cambodia. It identifies the main obstacles to growth and provides a quantitative and qualitative assessment of historical trade performance and competitiveness in services trade. It shows that Cambodia's openness, growth, and comparative advantage give it the potential to expand its services sector and exports beyond tourism.

Cambodia's decisive policies on openness and regulatory reform are also conducive to sustaining the attraction of foreign investment. They also allow for diversifying the services exports offered, contributing to the development of high value services exports. However, in order to take full advantage of services as both an input to other economic activities and a potential source of trade diversification, Cambodia should expand its services export market. In order to do this, it needs to improve the performance of key services determinants such as electronic infrastructure, human capital, and regulatory framework. Cambodia's largely young population is a key asset that needs to be educated and trained in order to become a contributing factor for the expansion of services industries, but the regulatory framework needs to be further enhanced to support that process. Lack of transparency, shortage of technical skills for the regulators, and weak and discretionary enforcement of regulations are pervasive and are already negatively impacting on the growth of key services industries.

Growth and Transformation

Following determined regulatory reform and an economic modernization policy, Cambodia's economic conditions and performance have experienced an extraordinary transformation in the last two decades. Cambodia has almost tripled its Gross Domestic Product (GDP) in 15 years—increasing per capita GDP by even more. This reform policy adopted in the early 1990s led to accession to the WTO in 2004 and transformed the country into one of East Asia's most open economies, especially in the services sector.

Cambodia's impressive economic growth owes much to the boom of services trade. Cambodian services exports grew at an average annual rate of more than 20 percent between 2000 and 2010, led mainly by the expansion of tourism (textiles exports have been the other pillar of the economy). Foreign direct investment—particularly in tourism, construction and infrastructure, agro-processing, and telecommunications—has supported the process, not only by attracting foreign capital and expanding employment, but also by improving technology and enhancing domestic skills.

Cambodia became the first LDC to join the WTO and has become an active and vocal player in the regional integration process. Its assumption of the presidency of the ASEAN in 2012 facilitated the discussion of a wide variety of topics, including completion of the formation of the ASEAN Economic Community by 2015. This international economic context provides an opportunity for Cambodia to use this regional platform to showcase the country's economic reform and modernization and to secure its standing as an attractive regional investment destination, in particular for the services industry. Cambodia's strong performance in recent years speaks to that investment goal.

Challenges to Export Expansion

Like most developing countries in East Asia, Cambodia still faces important challenges. It needs to expand and diversify its exports and respond to growing competition for foreign direct investment in the region, especially efficiency-seeking investment in services industries. In the services sector, three categories of providers will be attracted to the Cambodian market:

- investors already serving the domestic market in backbone services, such as finance and telecommunications;
- investors attracted by Cambodia's natural and cultural endowments, who have already invested or are planning to invest in the tourism, restaurant, or related industries; and
- services operators who may be interested in taking advantage of Cambodia's geographical location to provide services regionally.

Cambodia should diversify and expand its services offered beyond tourism, by attracting efficiency- seeking investments aimed at providing regional IT-enabled services. In this area Cambodia must be able to face the competition of larger and more developed countries, such as Malaysia, Singapore and Thailand.

Cambodia's economy offers a good foundation for services, but important work remains to be done with regard to the country's skills base, infrastructure, and governance framework. Cambodia's young population is a valuable asset, but requires investment both in general education, as well as in training programs developed specifically for the services industry. Infrastructure for telecommunications also needs to be improved in order to support the provision of services across borders.

Further progress is needed on the institutional and regulatory framework to accompany the modernization and sophistication experienced by Cambodia's economy, as well as to attract services providers interested in serving Cambodia and broader sub-region including Thailand, Lao PDR, Myanmar and Vietnam. Cambodia's institutional capacity has greatly increased in recent years, but, while the regulatory framework is improving, it remains below the standard of the transparent and sound framework needed to attract foreign investment, and to promote the expansion and diversification of high-value services.

Trade in Services and Its Main Determinants[1]

The services sector—including telecommunications, banking, IT and BPO—is increasingly recognized as part and parcel of any trade strategy, both as a source of export diversification in its own right, and as an input to manufacturing and other services production. Over the last two decades, trade in services has expanded rapidly and now accounts for over a fifth of global trade flows. The participation of developing countries in world services exports has increased from 11 percent in 1990 to more than 21 percent in recent years.

It is helpful to begin by clarifying certain aspects of trade in services. Since many services transactions require face-to-face contact between the consumer and provider (despite the increased scope for electronic delivery), it is now standard to define trade in services more widely than trade in goods.

Trade in services encompasses four modes of supply: mode 1, cross-border trade in services, is analogous to trade in goods and involves shipping services such as software from one country to another; mode 2, consumption abroad, refers to consumers (e.g. tourists or students) traveling across borders; mode 3, commercial presence, occurs through the establishment of a commercial presence by the producer (e.g. the subsidiary or branch of a bank) in the country of the consumer; and mode 4, movement of natural persons, which takes place when the producer (e.g. a mining engineer) travels across borders. One important implication of this wide definition of trade in services is that it incorporates the international movement of factors through FDI and temporary labor mobility.[2]

[1] Goswami, Mattoo, and Saez (2012) and Van der Marel (2012).
[2] Appendix B offers a set of definitions of "services" as understood in this report.

The modes of supply can be either substitutes or complements depending on the services. For example, book-keeping services can be provided remotely through cross-border trade (mode 1) or through the temporary presence of a foreigner to deliver the service (mode 4). In that case, both modes act as substitute and compete with one another. Instead, in the design of software suited to a foreign firm's needs, the temporary presence of an individual provider may be necessary for the later remote delivery of the services, so that the two modes act as complements. The relationship between modes has implications for the analysis of the impact of regulations on the costs and quality of the services. If modes are perfect substitutes, the liberalization of one of them is enough to fully reap the gains from liberalization. But when modes are imperfect substitutes or complements, the freedom to use a combination of modes is necessary in order to effectively provide the services.

This report is an attempt to assess the determinants of Cambodia's participation in services exports. It examines the role of the following factors:

- *The 'fundamentals', which are given in the short run but can be influenced by policy in the long run.* These include a country's factor endowments relevant to services trade, namely:
    - human capital – including skills and entrepreneurial ability;
    - infrastructure, particularly telecommunications networks that facilitate the delivery of services; and institutional quality, especially the regulatory environment for services.

- *Policies affecting trade, investment and labor mobility in services.* These include:
    - policies affecting cross-border trade (e.g. in transport and financial services);
    - consumption abroad (e.g. in health and education services);
    - foreign investment; and
    - the movement of individual service providers.

Structure of Report

This report is organized as follows. The first section provides a quantitative outcome analysis of openness and growth, diversification, productivity, quality, and the determinants of services trade. It examines the main factors affecting services exports: skills, electronic infrastructure, governance, and the business climate.

The second section examines the institutional setting and regulatory framework. It describes the main policies toward services trade, as reflected in Cambodia's international obligations, as well as the institutional context relevant to the sector.

The third section assesses Cambodia's institutional setting and rule-making capacity. It describes the main laws and regulations governing services trade and investment generally, as well as within three specific services sectors (telecommunications, professional services, and tourism).

The final section summarizes the report's main findings. It makes some suggestions on policies and measures that Cambodia could take to continue to attract investment in the services industry, and to develop niches of high value-added services exports.

1 Openness, Growth, and the Composition of Services Exports

Unlike most developing countries, Cambodia is a net exporter of services, the growth of which has skyrocketed in the past two decades (Figure 1.1). The share of trade in services in GDP in Cambodia rose from less than 10 percent in 1993 to more than 25 percent in 2010 (Figure 1.2). This has positioned Cambodia well above the regional average in terms of incidence of services trade in the economy, as well as compared to countries at a similar stage of economic development, even though Cambodia's services exports were well below similar countries as recently as 20 years ago (Figures 1.2 and 1.3).

Figure 1.1 Exports of services from Cambodia have soared since 1998, outpacing the region as a whole

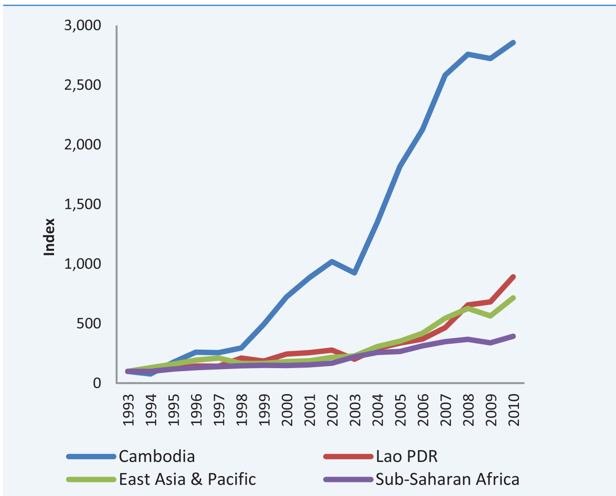
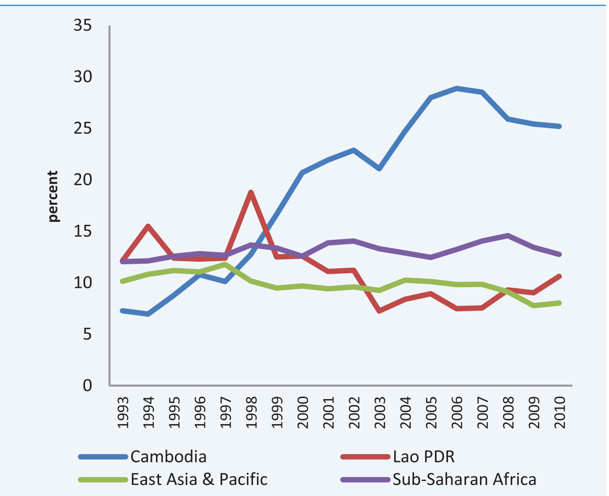


Figure 1.2 Trade in services represents a much higher share of GDP in Cambodia than in the region as a whole



Source: World Bank 2012a.

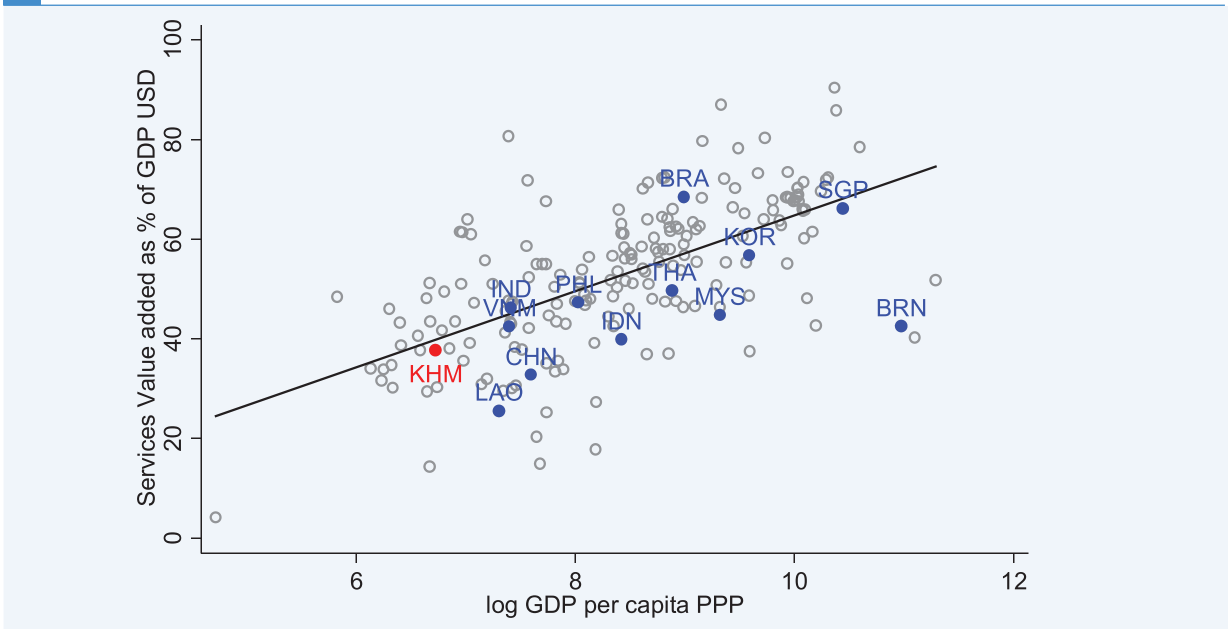
Figure 1.3 Trade in services represents a larger than average share of GDP in Cambodia

Source: World Bank 2012a.

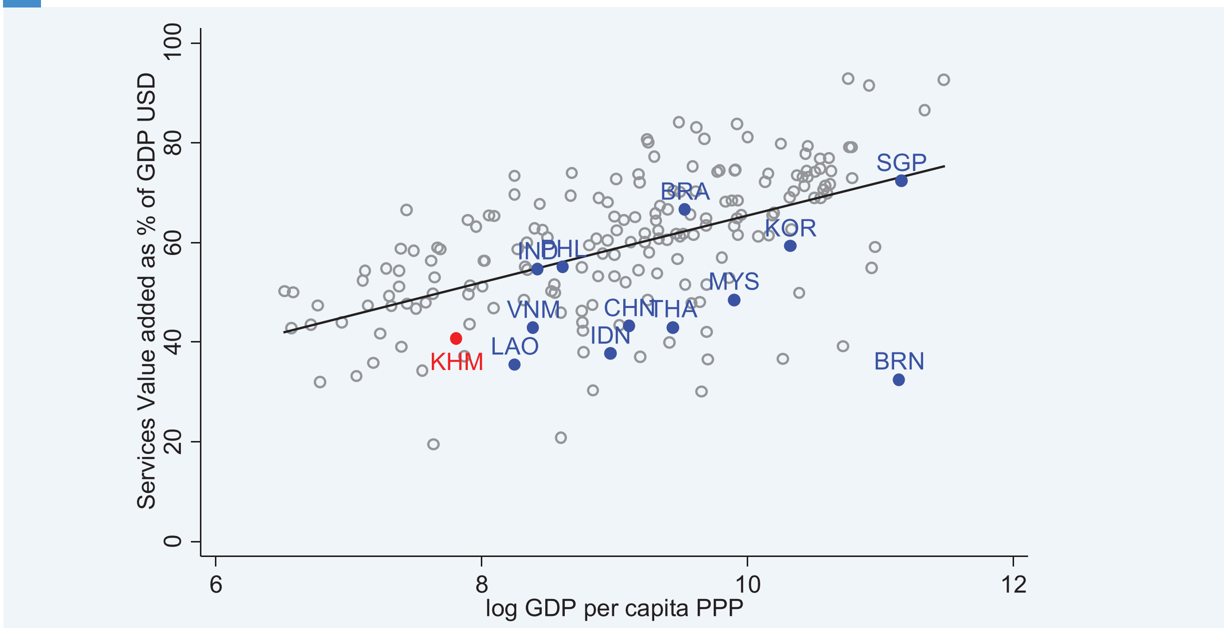
Unlike services exports, the significance of services as a whole to GDP remains low in Cambodia, especially when compared to countries at a similar level of development. Services as a whole were lower than average for a country at Cambodia's stage of development in 2010, whereas services exports were higher than average. This suggests that Cambodia's domestic market for services is still in its infancy, and there is great scope for further development. Furthermore, the contrast between high services exports and low services in relation to GDP also highlights the fact that the country's main services industry, tourism, is inherently export-oriented.

Figure 1.4 Services represent a below-average share of GDP in Cambodia

a. 1996



b. 2010



Source: World Bank 2012.

The Rapid Growth of Services

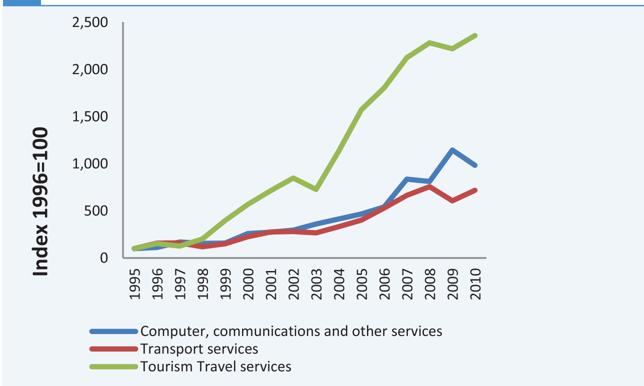
Services exports have been growing more rapidly in Cambodia than in peer economies, averaging 20 percent a year between 1995 and 2010. This surge was led by tourism, exports of which rose by a factor of 23 percent over this period (Figure 1.5, panel a). Although exports of other subsectors also rose, their share in total services exports declined (Figure 1.5, panel b).

Tourism accounts for more than 70 percent of all services exports in Cambodia, growing in the past 7 years by about 18 percent a year on average. Other services exports, for example construction and other business services, have been growing by 37 and 17 percent respectively, for the past 7 years. In contrast, telecommunications services have been growing by only 3 percent, which may be an indication of certain problems that have emerged in this sector. The performance and regulation of telecommunication services is examined in more detail below.

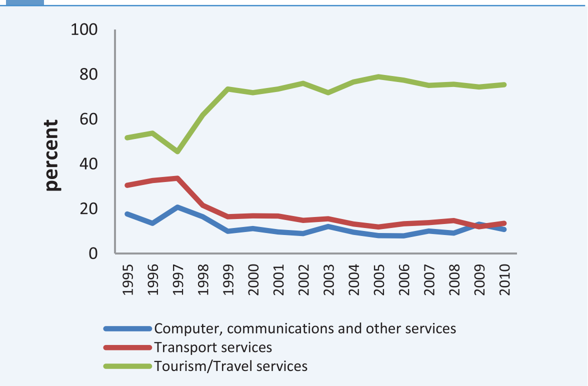
Figure 1.6b shows the composition of services exports in 2010. Transport and travel stand out as Cambodia's prevailing services industries, accounting for 85 percent of commercial services exports. Communications, construction, and other business services together add up to 10 percent of Cambodia's services exports. Despite the high rates of growth of new services activities, diversification into new modern activities, such as business services, remains the main challenge of Cambodia's services sector.

Figure 1.5 Led by tourism, Cambodia's services exports surged

a Service exports, 1995–2010



b Composition of service exports, 1995–2010

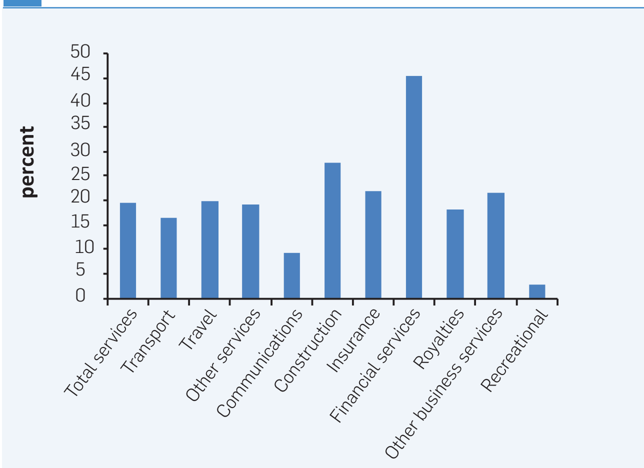


Source: Authors' calculation, based on data from World Bank 2012a.

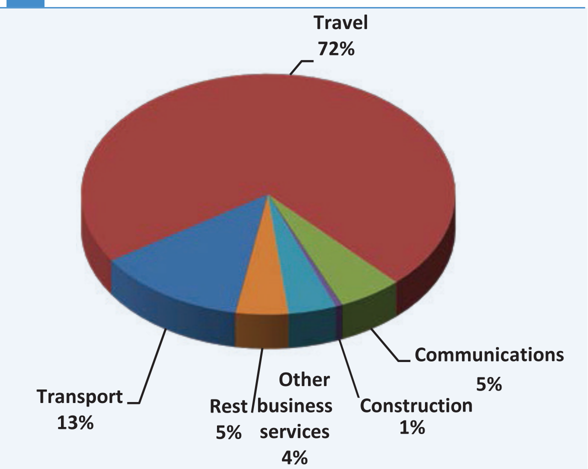
Figure 1.6 Services exports are growing fast in Cambodia

Tourism is the dominant services export in Cambodia despite high growth rate of other services

a Service Exports Growth Rate: 2004-2011



b Composition of Services Exports, 2010



Source: UNCTADStat, http://unctadstat.unctad.org 2012.

Factor Analysis

What factors affect the performance of services exports? Many service sectors, ranging from business services to banking to telecommunications, are significantly more skill intensive than most goods production (Van der Marel, 2012). Endowments of human capital can, therefore, be a critical determinant of output and growth.

The empirical literature also recognizes the important role institutions play in economic development. Certain institutions may play a particularly significant role in the development of services sectors, because informational problems are more acute in many inter-mediation and knowledge-based services; natural monopoly or oligopoly is a feature of 'locational' services; and both consumers and suppliers must make relationship-specific investments in customized services. A consequence is that market failure caused by asymmetric information is more common in markets for services than in markets for goods. The market itself can provide some solutions (in the form of "reputation building", for example). But regulatory institutions that provide consumers with information about the quality of a service (through certification and licensing mechanisms, for example) are critical (Goswami, Mattoo, and Saez 2012).

Table 1.1. Cambodia's Knowledge Economy Indicators (scale 0 lower - 10 higher)

			Knowledge Economy Index			Knowledge Index			Economic Regime			Innovation			Education			ICT		
Country	Overall Rank	Previous	Most Recent	1995	Change	Most Recent	1995	Change	Most Recent	1995	Change	Most Recent	1995	Change	Most Recent	1995	Change	Most Recent	1995	Change
Cambodia	132	-16	1.71	2.77	-1.06	1.52	2.99	-1.47	2.28	2.12	0.16	2.13	1.69	0.44	1.7	3.11	-1.41	0.74	4.18	-3.44
China	84	+7	4.37	3.99	0.38	4.57	4.17	0.4	3.79	3.46	0.33	5.99	4.07	1.92	3.93	3.68	0.25	3.79	4.77	-0.98
Indonesia	108	-3	3.11	3.68	-0.57	2.99	3.55	-0.56	3.47	4.08	-0.61	3.24	2.38	0.86	3.2	3.07	0.13	2.52	5.2	-2.68
Lao PDR	131	-2	1.75	1.92	-0.17	1.84	2.53	-0.69	1.45	0.1	1.35	1.69	1.79	-0.1	2.01	1.61	0.4	1.84	4.18	-2.34
Malaysia	48	-3	6.1	6.26	-0.16	6.25	5.96	0.29	5.67	7.16	-1.49	6.91	6.28	0.63	5.22	4.62	0.6	6.61	6.98	-0.37
Mongolia	83	+3	4.42	4.08	0.34	4.45	4.12	0.33	4.3	3.95	0.35	2.91	3.1	-0.19	5.83	4.49	1.34	4.63	4.77	-0.14
Myanmar	145	-8	0.96	2.23	-1.27	1.22	2.6	-1.38	0.17	1.12	-0.95	1.3	1.69	-0.39	1.88	1.94	-0.06	0.48	4.18	-3.7
Philippines	92	-15	3.94	5.07	-1.13	3.81	5.24	-1.43	4.32	4.57	-0.25	3.77	4.09	-0.32	4.64	6.25	-1.61	3.03	5.38	-2.35
Singapore	23	-3	8.26	8.4	-0.14	7.79	8	-0.21	9.66	9.62	0.04	9.49	9.05	0.44	5.09	5.94	-0.85	8.78	9	-0.22
Sri Lanka	101	-14	3.63	4.25	-0.62	3.49	4.04	-0.55	4.04	4.87	-0.83	3.06	3.27	-0.21	4.61	4.35	0.26	2.8	4.5	-1.7
Thailand	66	-6	5.21	5.57	-0.36	5.25	5.23	0.02	5.12	6.61	-1.49	5.95	5.66	0.29	4.23	4.14	0.09	5.55	5.89	-0.34
Vietnam	104	+9	3.4	2.94	0.46	3.6	3.04	0.56	2.8	2.64	0.16	2.75	2.34	0.41	2.99	2.28	0.71	5.05	4.5	0.55
High Income			8.6	n/a	n/a	8.67	n/a	n/a	8.39	8.29	0.1	9.16	8.97	0.19	8.46	n/a	n/a	8.37	8.99	-0.62
Upper Middle Income			5.1	n/a	n/a	5.07	n/a	n/a	5.18	4.98	0.2	6.21	5.08	1.13	4.72	n/a	n/a	4.28	7.24	-2.96
Middle Income			3.42	n/a	n/a	3.45	n/a	n/a	3.32	3.03	0.29	4.9	3.55	1.35	2.84	n/a	n/a	2.62	5.41	-2.79
Low Income			1.58	n/a	n/a	1.58	n/a	n/a	1.61	1.93	-0.32	2.13	2.37	-0.24	1.54	n/a	n/a	1.05	n/a	n/a

Source: World Bank 2012a. Knowledge Assessment Methodology, http://go.worldbank.org/JGAO5XE940

Note:
— n.a.: not applicable.
— Red: regression with respect to 1995
— Green: progress with respect to 1995
— Knowledge Economy Index, (KEI): a broad measure of the overall level of preparedness of a country or region for the knowledge economy.
— Knowledge Index: composed of the simple average of the normalized scores of Education, Innovation, and ICT indexes.

Based on the Knowledge Economy Index (KEI) of ASEAN countries, Cambodia performs poorly on several factors that matter (Table 1.1). The KEI is an aggregate index that represents the overall level of development of a country or region in the knowledge economy. It reflects the four pillars of the knowledge economy framework:

- an economic and institutional regime to provide incentives for the efficient use of existing and new knowledge and the flourishing of entrepreneurship;
- an educated and skilled population to create, share, and use knowledge well;
- an efficient innovation system of firms, research centers, universities, consultants, and other organizations to tap into the growing stock of global knowledge, assimilate and adapt it to local needs, and to create new technology; and
- ICT to facilitate the effective creation, dissemination, and processing of information.

The scorecards demonstrate relative performance. The variables are normalized on a scale from 0 to 10 relevant to other countries in the comparison group. If a country performs worse over time on a certain normalized variable, this may be either because it has actually lost ground in absolute terms or improved slower than the comparison group.

In 2012, Cambodia ranked 132 out of 146 countries on the overall KEI index, a decline of 16 places since 2000. Its economic and institutional regime improved, as did the efficiency of its innovation system. The former is associated with Cambodia's accession to the WTO and the reforms associated with that process, while the progress in innovation is explained by increases in the number of patents granted, scientific journals available, and royalty payment and receipts. However, the country's performance in terms of education and ICT declined, and other indicators such as regulatory quality and rule of law have not improved.

The education and ICT indicators gauge progress on average years of schooling, enrollment in secondary and tertiary education, and telephone, computer and internet access, respectively. In the case of education, although indicators have shown progress in the last 15 years, the improvement is slower than for the comparison countries. The resultant shortage of skills has an impact on the services industries, which tend to require more skilled labor than manufacturing industries, especially in modern export- oriented services. Box 1.1 points to the experiences of several countries in developing programs to overcome skills mismatches in the IT and IT-enabled services (ITES). In addition, the Conclusion suggests measures that may be considered in the context of Cambodia.

In the case of ICT, Cambodia's improvements to internet access and increases in the number of computers are also slow compared to its comparators. This matters, because human capital is critical for all types of services exports. High-value services are performed by a specialized labor force. Previous findings on services exports, including empirical evidence from a broad range of countries, confirm that, to succeed in higher-end services exports, a country must be well endowed with human capital.

Box 1.1 **Addressing Skills Mismatch: The case of IT services and IT-enabled services (ITES) industries.**

After access to high-bandwidth telecommunications infrastructure, the availability of employable talent is the single most important determinant for the growth of the IT services and ITES industries in the long term. When examining policies related to the talent pool, institutional mechanisms for aligning skills development with the needs and requirements of the industry is the most important factor for success. In this regard, the government of Mexico established a new organization in 2008, MexicoFIRST, as a partnership between the Asociación Mexicana de la Industria de Tecnologías de Información (AMITI) and the Asociación Nacional de Instituciones de Educación en Tecnologías de la Información (ANIEI). ProSoft, a government agency tasked with promoting the IT services and ITES industries, facilitated and supported the creation of this entity. MexicoFIRST closely interfaces with the industry on the one hand, and with Mexican universities on the other, to facilitate training programs at the universities to meet industry needs.

Another important policy intervention is to improve the quality of education in order to develop generic skills that are relevant to a broad spectrum of industries. An example of this approach is the NASSCOM assessment of competency (NAC) framework, which the organization developed in consultation with a large number of ITES players. The NAC has emerged as India's national standard for generic skills and recruitment of entry-level talent for the ITES industry, and NASSCOM has rolled out the framework in partnership with a number of state governments in India. The test scores indicate areas for improvement, allowing customization of further training. NASSCOM has subsequently developed a NAC-Tech certification that is focused on benchmarking engineering skills for the IT industry. This too is being rolled out in partnership with state governments.

Applying and enforcing common industry certification not only helps to align skills with industry requirements, but also provides IT services and ITES companies with a more accurate estimate of the talent pool available and reduces their recruitment costs. Still another important policy intervention aimed at nurturing the IT services and ITES talent pool is the establishment of mechanisms to allow just-in-time training for IT services and ITES. A number of countries are providing training grants for this purpose. South Africa, for example, offers a training and skills support grant toward the cost of company-specific training up to 12,000 rand (about US$1,700) per agent. Under its ICT Capacity Building Program, Sri Lanka offers grants to fund a portion of the training costs of IT services and ITES companies. Sri Lanka also offers grants of up to US$10,000 to bring in a specialized trainer from abroad under a "train the trainer" program. In November 2007, the president of the Philippines directed the Technical Education and Skills Development Authority (TESDA) to allocate 350 million pesos (approximately $8 million) to provide scholarships for training 70,000 call center agents. In addition, Singapore has a national Skills Development Fund for upgrading worker skills and has launched the Initiatives in New Technology scheme to establish new capabilities within companies or industries by encouraging manpower development in the application of new technologies, industrial R&D, and professional know-how.

Given the significant shortage of skills, many large IT services and ITES companies are taking up skills development initiatives, building dedicated training centers, and employing hundreds of training staff. Infosys's new Global Education Center in Mysore, for example, has more than 300 full-time faculty and is able to train 13,500 employees at a time. The company invested more than US$120 million in this 335-acre, 2-million-square-foot facility. Given the need to address the shortage of skills, a number of IT services and ITES companies are collaborating with academic institutions.

In addition to the efforts of IT services and ITES companies to create incentives for training potential employees, some governments and universities have used public funding and public-private partnerships to nurture and expand the talent pool. Those initiatives have been designed to expand existing university infrastructure and faculty, develop competencies that are benchmarked globally, and forge linkages for skills development with private sector and best-in-class institutions.

Source: Sudan et al., 2010.

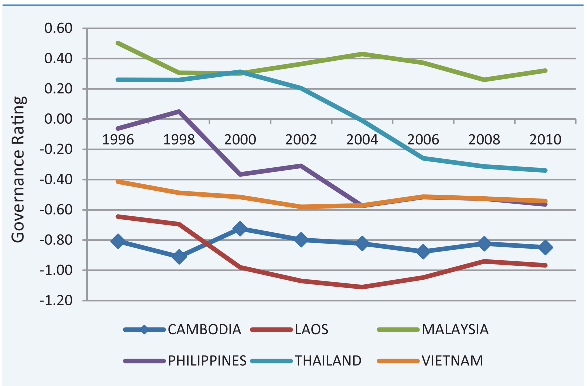
The decline in ICT is particularly important. The rankings of other countries in the region also fell in the past 10 years, but Cambodia's ICT infrastructure and connectivity lag behind other countries in Asia. Broadband connectivity, in particular, has seen little progress, especially when compared to neighboring countries, thus reducing Cambodia's attractiveness for investors in modern services industries. It is clear that Cambodia should give priority to ensuring better telecom infrastructure, including the establishment of a concrete country-wide broadband strategy and by reducing regulatory and de facto limitations on foreign investment in communications. Chapter 3 pays further attention to telecommunications in Cambodia, and explores how the regulatory framework has impacted on the development of the sector.

In summary, although tourism dominates Cambodia's services exports, other services, such as transportation and business services, have also seen solid growth in the past 15 years. Progress, however, comes from a very low base. In order to take advantage of the new opportunities created by technological changes and new services activities, Cambodia will need to improve its human skills and electronic infrastructure, two of the three basic requirements for successful services exports. In the next section, we assess the situation of the relevant institutional and governance indicators in Cambodia.

2 Policies, Institutional Setting, and Rule-Making Capacity

An efficient and transparent governance and regulatory framework is a key determinant of the success of the services sector. Although Cambodia, like other developing countries (including in the East Asia region), has taken some steps to improve governance (Figure 2.1), further progress is needed to ensure an adequate regulatory environment for the services sector.

Figure 2.1 Governance indicators remain low in Cambodia, with little improvement since 1996



Source: World Bank, World Governance Indicators, 2012.

Note: Higher Values indicate more positive perceptions.

Commitments to Services and the Level of Restrictiveness

International commitments

Cambodia's accession to the World Trade Organization (WTO) represented a landmark in WTO history. Cambodia, along with Nepal, was one of the first low-income countries to join the organization. It agreed to an ambitious level of commitments on services, comparable to the commitments of countries at much higher levels of development.

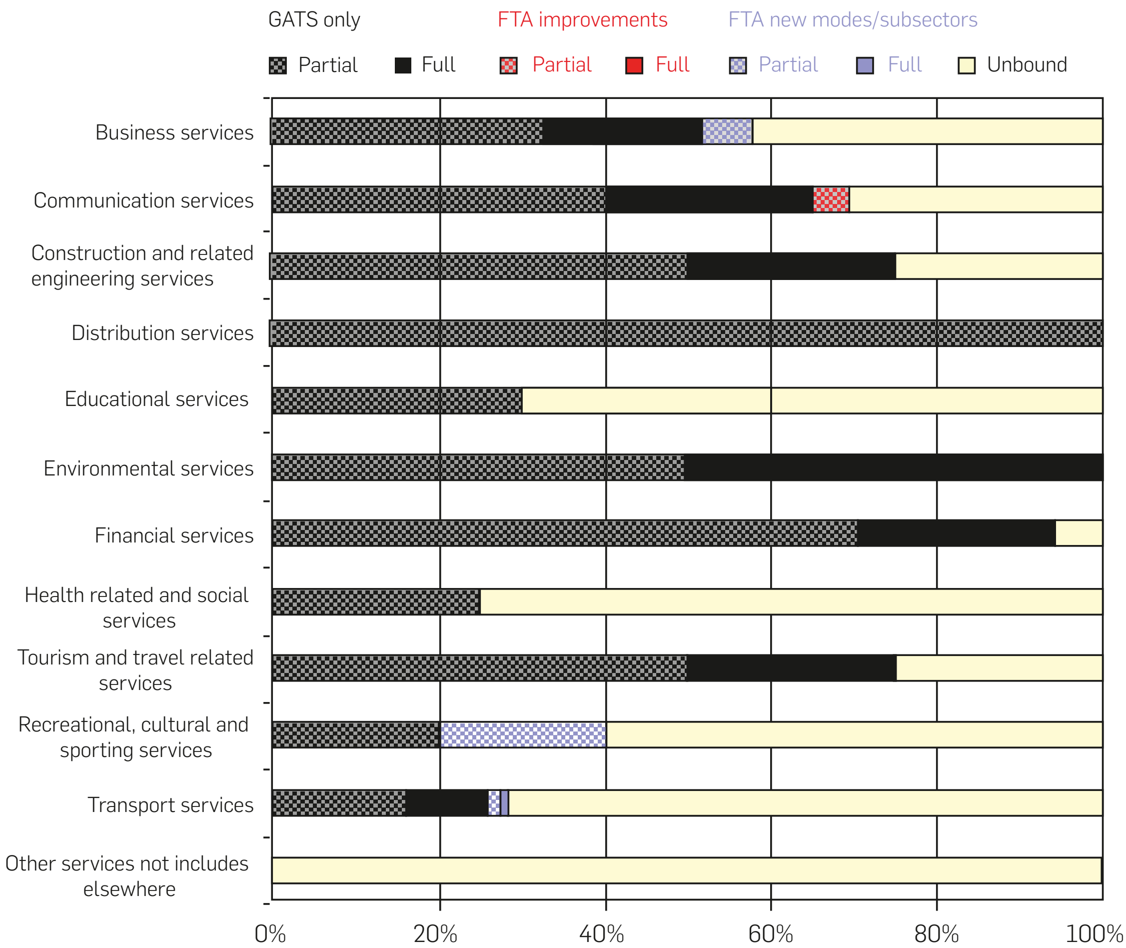
Among the more than 40 laws and regulations Cambodia committed to enacting, six relate directly to the regulation of services, including postal services, tourism, and professional services, i.e. accounting (Figure 2.2). Its commitments reflect the priority of attracting foreign direct investment, including in financial services, telecommunications, air and road transport, logistics, professional services, and higher education (WTO,2011).

Cambodia undertook commitments on market access and national treatment across all main subsectors, leaving the provision of cross-border services in most committed sectors largely free of restrictions. Horizontal restrictions on commercial presence include restrictions on land ownership, access to subsidies, and investment incentives.

Except for a few selected services, such as basic telecommunications, travel agencies, and tour operators, no limitations to foreign ownership exist. A few services, such as low-cost hotel and pension services and some retailing services, were excluded from Cambodia's General Agreement on Trade and Services (GATS) commitments, as a way of protecting domestic small and medium-size enterprises. Sectors that were largely excluded from WTO commitments, presumably because of the regulatory sensitivities they entail, include health and social services, basic education, and recreation and cultural services. Services related to maritime transport, as well as internal water ways transport, were also excluded.

Cambodia has also actively engaged in regional trade discussions in the context of ASEAN, which is now concluding its 10th round of services negotiations. ASEAN countries have pledged to advance toward establishing a single market for goods and services by 2015 under the ASEAN Economic Community initiative. Cambodia has also signed bilateral agreements on trade in services with Australia, China, New Zealand, and the Republic of Korea. Its international commitments ensure an open environment to foreign services and services providers, through both cross-border trade and the establishment of foreign commercial enterprises in Cambodia.

Figure 2.2 Cambodia has made major commitments on services in trade agreements



Source: Fink and Molinuevo 2007

Note:
Figures are based on Cambodia commitments under the GATS, the AFAS up to the sixth round, and the ASEAN–China Trade in Services Agreement.

Policies and regulations

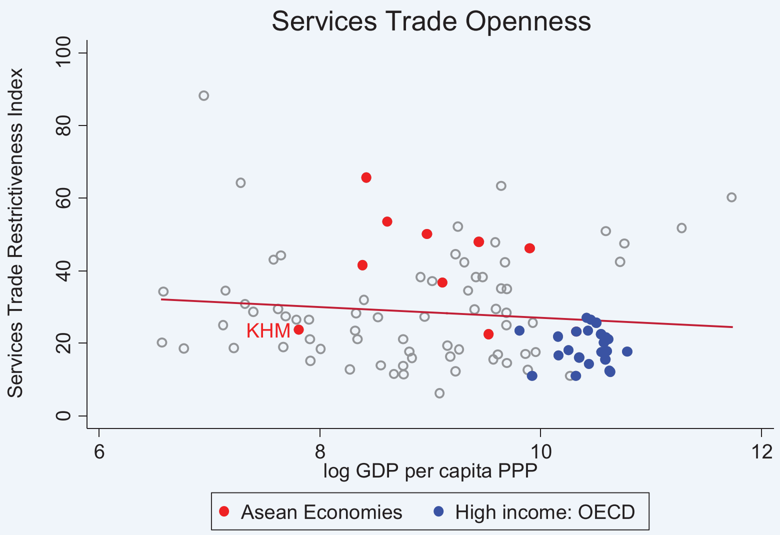
The Services Trade Restrictiveness Index developed by the World Bank allows policymakers to assess aggregate quantitative or qualitative measures, such as quotas, licensing and authorization criteria, forced establishment requirements, discriminatory measures, and joint venture requirements, and to compare their country's performance with performance in other countries.[3] The index, based on measures that affect services in more than 100 countries, measures restrictions that apply to financial services (banking and insurance), telecommunications, retail distribution, and transportation. In each sector, the index covers measures that affect the establishment of a commercial presence, restrictions on cross-border services trade, and the movement of natural persons, where relevant.

[3] See appendix A for a description of the methodology used in this section.

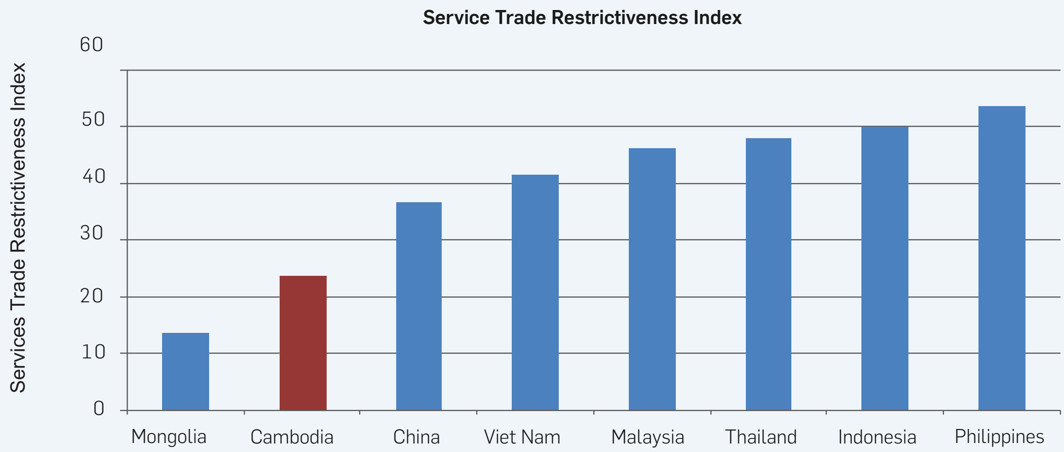
The index confirms the low level of formal legal and regulatory restrictions in Cambodia (Figure 2.3). Indeed, Cambodia's restrictiveness index is comparable to the values of Organization for Economic Co-operation and Development (OECD) countries; within Asia, it is lower than all countries except Mongolia.

Cambodia has one of the most liberal services regimes in ASEAN (Figure 2.4). In telecommunication services, it formally maintains a relatively open regime, similar to the regimes in Indonesia and Malaysia. Although it has a relatively open transportation sector, it tends to be more restricted than other sectors as is the case in many countries, including developed countries. It is nevertheless more liberal in Cambodia than in other ASEAN countries. Professional services appear to be Cambodia's most restrictive sector. This finding is consistent with results elsewhere in the world.

Figure 2.3 Trade in services in Cambodia is open and relatively unrestricted



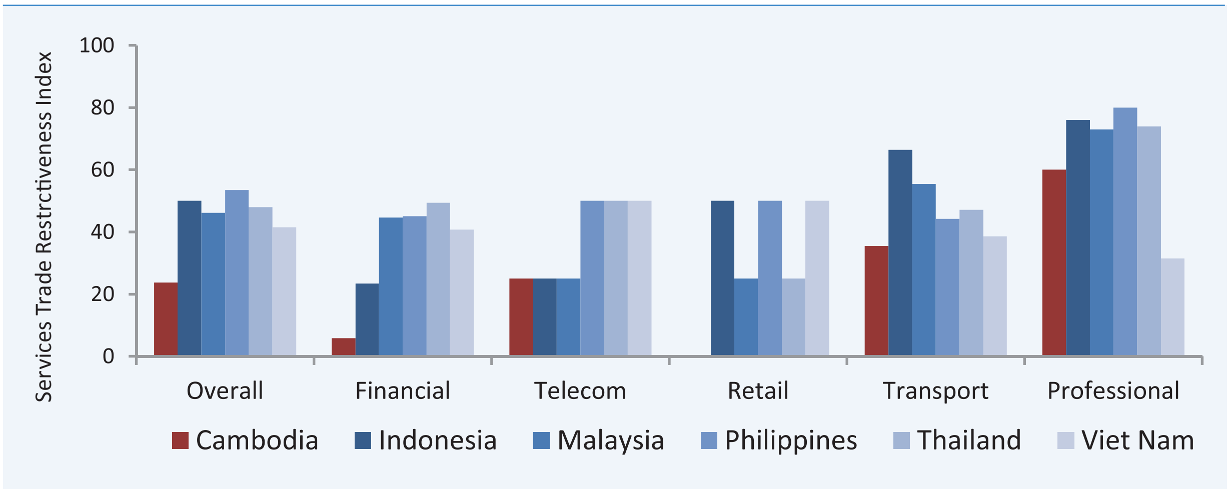
Note: 0(close) - 100(open).



Source: Borchert, Batshur and Matto, "Policy Barriers to International Trade in Services: New Empirical Edvidence", World Bank: forthcoming.

Note: GDP per capita taken from WDI, 2007 PPP data in constant 2005 international US$.

Figure 2.4 In almost every sector, Cambodia's services trade restrictiveness index is lower than its neighbors'



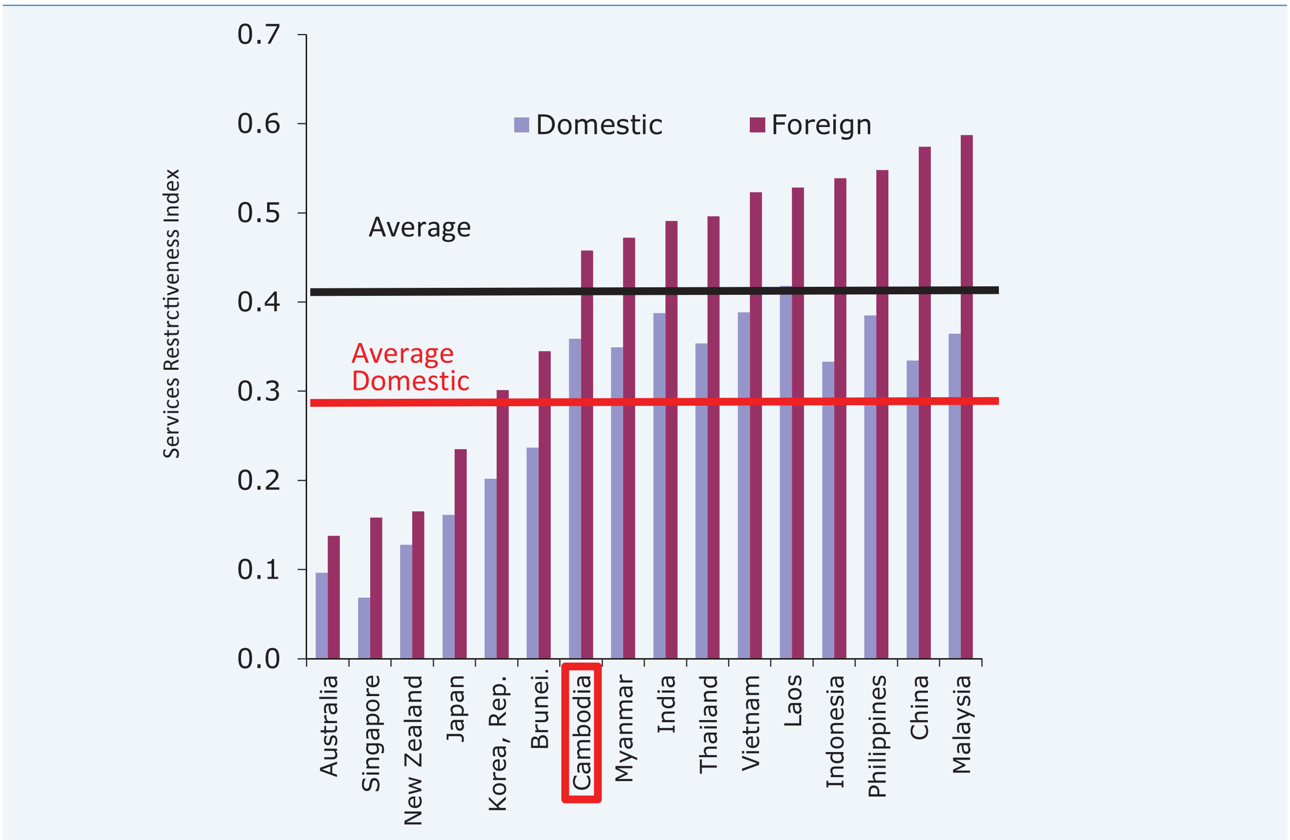
Source: Borchert, Batshur and Mattoo 2011.

Note: Cambodia's retail index is zero.

Cambodia does not limit foreign ownership in the sectors included in the indexes. However, it does maintain nationality requirements for professional services, which in practice closes the market for mode 4 operators. In addition, there is a 49 percent limit to foreign ownership in accountancy firms.

Access to the legal services market is closed, because of an authorization requirement that is not granted in practice. The main restrictions on transportation services are in maritime auxiliary services and foreign ownership limitations in domestic air transport.

Figure 2.5 Cambodia's logistics services restrictiveness index is above the average for Asia

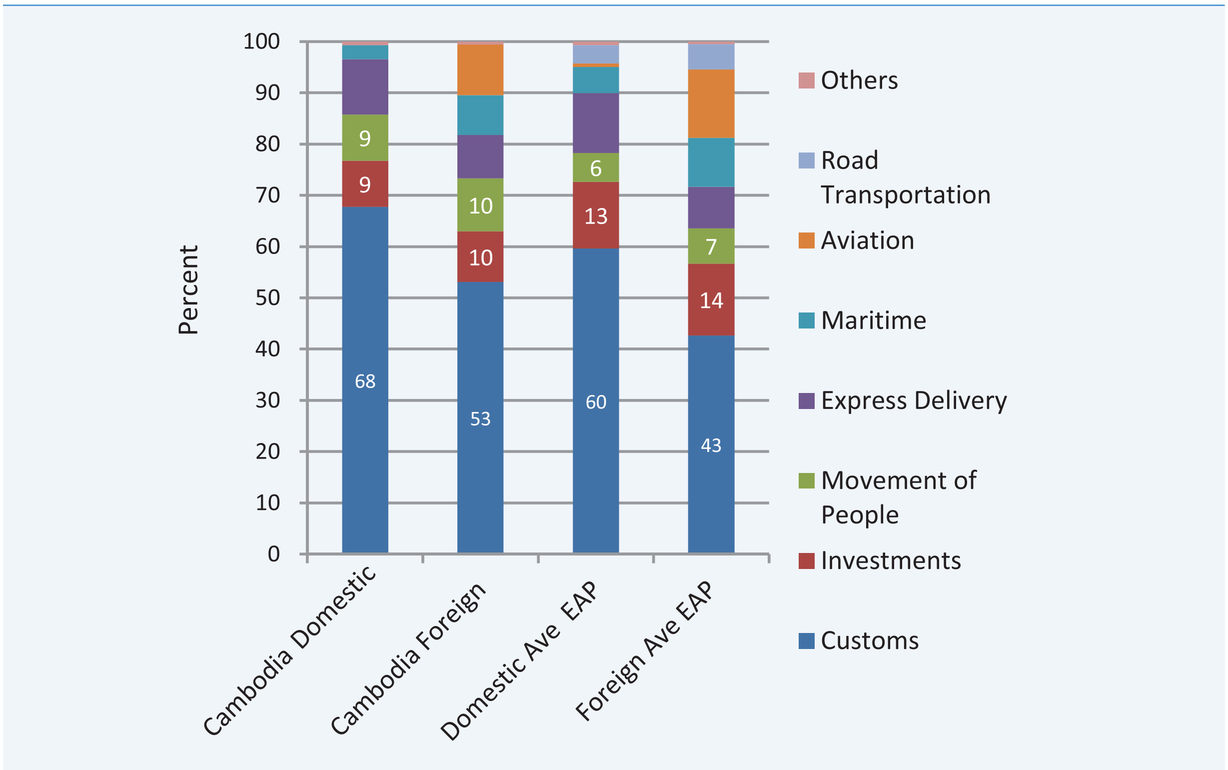


Hollweg and Wong (2009) assess the regulatory environment for logistics services in East Asia by constructing a restrictiveness index based on measures that affect customs procedures, investment, movement of people, express delivery, maritime transport, aviation transport, and road transport, distinguishing between measures that affect domestic and foreign suppliers (Figure 2.5). They find that Cambodia's logistics regulations are more stringent than the regional average but the most open among developing countries. Although foreign providers are discriminated against, the degree of discrimination (not shown in the figure) is lower than average in the region.

Figure 2.6 shows that customs-related measures account for over half of the restrictions affecting logistics services in Cambodia, which includes documents, licensing, customs clearance time and other formalities affecting the cross-border transport of goods, and customs brokerage services. However, this index does not capture the significant customs improvements made by Cambodia in recent years, as reflected by the latest Logistics Performance Indicator. The greatest discrimination among domestic and foreign providers is in the transportation sector, specificallythe maritime and aviation subsectors.

To summarize, although Cambodia could benefit from further liberalization (particularly in professional services), the overall services regime appears to be formally open. This regulatory environment will determine the extent to which liberalization of services will provide expected benefits. Empirical evidence suggests that countries that liberalize their market, but do not complement the liberalization process with regulations to ensure that markets operate freely, will not reap the benefits of more open and efficient services markets (Goswami, Mattoo, and Saez, 2012). Van der Marel (2012) finds that services markets need qualitatively better government and regulatory governance to develop comparative advantages. The author also finds that behind-the-border measures affect the development of comparative advantages for services significantly more than for goods.

Figure 2.6 The main source of restrictiveness in Cambodia is customs-related measures



Source: Hollweg and Wong 2009.

Institutional Context and Regulatory Procedures

Regulations play a key role in bridging information asymmetries and providing information about the quality of services. They are particularly important in the services sector because of the intangible nature of services. Many services—especially financial services, telecommunications, and transportation—are heavily regulated in order to ensure the stability of the system, limit anti-competitive behavior, and protect consumers. Indeed, the quality of the institutional framework and the regulatory environment is as important a determinant of the development of the services sector as the opening and liberalization process itself. Furthermore, the quality of institutions matters in the design of policies to promote services exports (Goswami, Mattoo, and Saez, 2012). Studies on services exports based on bilateral trade confirm the importance of a transparent and efficient institutional environment (Grünfeld and Moxnes, 2003; Lennon, 2006, Van der Marel, 2012). The institutional capacity to design adequate policies, regulate different services sectors, and ensure compliance with laws and regulations is thus a key driver of success.

Cambodia has made important efforts in recent years to reform and improve the institutional and regulatory environment. Although it enacted the Anti-Corruption Law in 2010, these reforms have not yet produced tangible results, and it will likely take years to improve the country's governance indicators (See figure 2.1).

Cambodia's overall transparency and institutional quality remain below the regional average, ahead of only the Lao PDR in the sample of countries shown in Table 2.1. Despite the 2010 law, the perception of limited controls on corruption is the worst in the region.

Two other indicators—government effectiveness and rule of law—are also weak. However, Cambodia performs relatively well in terms of perceptions of the government's ability to formulate policies to promote private sector development (regulatory quality), suggesting that its market-oriented reforms are widely seen as positive developments.

The rest of this section examines the institutional and regulatory framework relevant to trade and investment in services in Cambodia. It analyzes the national government's broad institutional capacity to design, adopt, and implement regulations conducive to an efficient sevices market; compares legal and regulatory procedures in Cambodia with internationally recognized principles of good governance and best regulatory practices; and describes horizontal laws and regulations that affect services, focusing on two key sub-sectors, telecommunications and professional services.

A number of developed and developing countries have introduced mandatory procedures or guidelines that govern the regulatory process itself, in order to make sure that government regulatory actions abide by general good governance standards. Different countries recognize different guiding principles on good regulatory practices, generally reflecting idiosyncratic regulatory conditions. Members of Asia-Pacific Economic Cooperation (APEC) and Organization for Economic Co-operation and Development (OECD) jointly prepared a checklist for regulatory reform (Box 2.1), building on the 2005 OECD Principles for Regulatory Quality.

Table 2.1 Indicators of institutions and governance in selected countries in East Asia and Pacific [2010]

Indicator	Cambodia	Lao PDR	Malaysia	Philippines	Thailand	Vietnam	East Asia and Pacific
Regulatory quality	3.15	0.96	5.68	4.79	5.96	2.26	5.38
Rule of law	1.37	1.64	6.71	3.63	5.41	4.32	6.13
Government effectiveness	2.05	0.96	7.74	4.73	5.75	4.18	6.2
Voice and accountability	2.4	0.41	3.29	4.93	3.7	0.82	4.49
Control of corruption	0.62	0.75	5.75	2.67	5	3.49	6.4

Source: World Bank, World Governance Indicators.

Note: Normalized values in a 0-10 scale. Higher values in dicate more positive perceptions.

All of these approaches seek an adequate regulatory framework that, at a minimum, incorporates the following features.

- Transparency: Regulatory action should be known within and outside government agencies; regulation should be simple, coherent, user friendly, and easily publicly available at all times.
- Stakeholder consultations: Links with the private sector should be an institutional component of the regulatory process.
- Agency coordination: Regulation should take place at the right level of government, and benefit from relevant inputs, taking into account all relevant opinions.
- Efficiency: Regulators should consider the full range of regulatory options and evaluate the impact of regulation.

Box 2.1 **Good regulatory principles: Excerpts from the APEC–OECD Integrated Checklist on Regulatory Reform**

Regulatory reform refers to changes that improve regulatory quality to enhance the economic performance, cost-effectiveness, or legal quality of regulations and related government formalities.

A. Horizontal Dimension

A1. To what extent is there an integrated policy for regulatory reform that sets out principles dealing with regulatory, competition and market openness policies?

A5. To what extent has regulatory reform, including policies dealing with regulatory quality, competition and market openness, been encouraged and coordinated at all levels of government (e.g., Federal, process itself transparent, clear and predictable to users both inside and outside the government?

B5. Are there effective public consultation mechanisms and procedures including prior notification open to regulated parties and other stakeholders, non-governmental organisations, the private sector, advisory bodies, accreditation bodies, standards-development organisations and other governments?

B8. To what extent have measures been taken to state, local, supranational)?

A6. Are the policies, laws, regulations, practices, procedures and decision making transparent, consistent, comprehensible and accessible to users both inside and outside government, and to domestic as well as foreign parties? And is effectiveness regularly assessed?

A8. To what extent are there effective interministerial mechanisms for managing and coordinating regulatory reform and integrating competition and market openness considerations into regulatory management systems?

B. Regulatory Policy

B2. Are the legal basis and the economic and social impacts of drafts of new regulations reviewed? What performance measurements are being envisaged for reviewing the economic and social impacts of new regulations?

B4. To what extent are rules, regulatory institutions, and the regulatory management assure compliance with and enforcement of regulations?

C. Competition Policy

C9. To what extent does the competition law apply broadly to all activities in the economy, including both goods and services, as well as to both public and private activities, except for those excluded?

C12. In the absence of a competition law, to what extent is there an effective framework or mechanism for deterring and addressing private anti-competitive conduct?

D. Market Openness Policies

D2. To what extent does the government promote approaches to regulation and its implementation that are trade-friendly and avoid unnecessary burdens on economic actors?

D8. To what extent are measures implemented in the countries accepted as being equivalent to domestic measures?

Source: OECD 2005.

Institutional Framework and Rule-Making Process

The Council of Ministers represents the Royal Government of Cambodia (RGC), the country's executive power. The RCG is responsible for establishing Cambodia's economic policy, including foreign trade and investment policies.

Either house of parliament or the RGC may initiate legislation. In practice, however, the bulk of legislation originates in the executive and is submitted to the National Assembly only after it has been agreed to by the RGC and approved by the prime minister.

The main legal and regulatory instruments in Cambodia take the following forms (CDC 2010):

- Laws *(chhabab)* are passed by the National Assembly.
- Royal krams *(preah reach kram)* and royal decrees (preah reach kret) are issued by the King and presented by the Prime Minister.
- Sub-decrees *(anukret)* are generally used to implement and clarify specific provisions of a law.
- Ministerial orders *(prakas)* are issued by ministers in exercise of their own regulatory power.

  They do not generally bind other ministries or the government as a whole, though they do bind the public (Pohl, 2011).

Transparency

Article 93 of Cambodia's constitution requires that all laws be published in the Journal Official. Despite this requirement, there is no official journal publicly available.[4] Cambodia thus has no consolidated public record of the laws and regulations that are enacted or currently in force.

Individual ministries and regulatory agencies do make an effort to publish laws, sub-decrees and, to a lesser extent, *prakas* relevant to their

[4] While there is conflicting information about the existence of a formal official journal, it is agreed that no instrument currently provides the general publicity to the laws and regulations being enacted.

portfolio. The Council for the Development of Cambodia (CDC), which is in charge of implementing policies on foreign investment, for instance, provides a list of laws and regulations that is translated into English on its website. Similarly, Cambodia's Central Bank identifies regulations on its website, including *prakas* and circulars, relevant to the financial services sector. The website of the Ministry of Tourism (MoT) also features some measures relative to its sector (in Khmer only). Not all of these databases are equally comprehensive or up to date, largely because individual ministries, rather than regular institutional channels, provide the data.

Laws and regulations from other ministries that are unavailable online are generally available at the ministries themselves, and access to them is normally granted to any inquiring party. However, navigating the ministries, and approaching the correct desks for information, requires considerable familiarity with Cambodia's administrative maze. The problem is exacerbated by the fact that minor administrative directives—regarding, for instance, documents required for certain presentations, time schedules, or relevant desks for submission of information tend to change regularly, in general without written public notice.

Publication efforts made by individual ministries and agencies go a long way toward providing a general view of the regulatory environment in the country. They fall short of a comprehensive system for public disclosure of administrative acts, however—and the requirements of Cambodia's own constitution. The lack of a comprehensive system raises entry costs for investments,as newcomers have to resort to specialized services to obtain reliable information on the legal and regulatory framework governing their business. As a result, the costs of starting a business are significantly higher in Cambodia than in neighboring countries or the region as a whole.[5]

Regulatory process

The regulatory process itself also remains uncertain. Ministries and agencies tend to act in advance on regulations, without publicizing their actions. Although consultations are often held with other agencies or the private sector, there is no regular practice of informing stakeholders, or any formal channel for doing so. As a result, regulations are adopted, or even come into force without being announced, in cases demanding immediate action by the regulated companies.

In addition, although the technical capacity of Cambodia's regulators has improved in recent years, regulatory quality remains weak. Regulations are often vague, requiring exchanges with the regulator to clarify their terms.

In addition to making implementation of the regulation difficult, this lack of regulatory clarity increases the discretionary power of low-level officials—and with it the ability to demand informal payments from business operators. In the transport and logistics services market, the opacity of the regulatory framework has led to extensive demand for informal payments, significantly raising logistics costs and reducing manufacturing firms' investment in in-house logistics (Kunaka et al 2012).

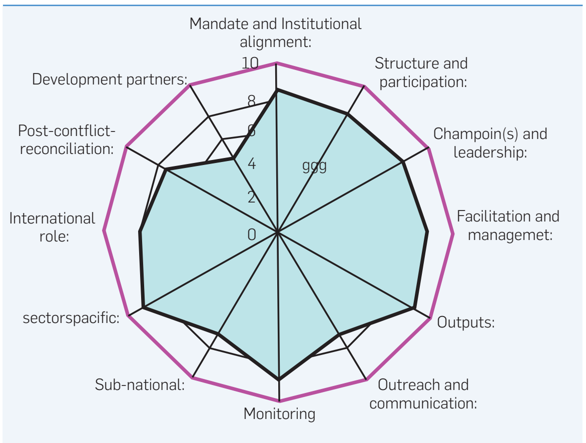
Stakeholder consultations

With the support of the International Finance Corporation, Cambodia has established a broad public- private dialogue mechanism on economic policies. The Government - Private Sector Forum (G–PSF) was established in 1999 to provide a mechanism for consultation between the RGC and the private sector, and to encourage private sector initiatives on business climate and regulatory conditions.

[5] Doing Business (World Bank 2011) estimates the official costs of starting a business in Cambodia at 109 percent of per capita income—many times the average for the East Asia and Pacific region (22.7 percent) and multiples of the cost in neighboring countries (16.4 percent in Malaysia, 10.6 percent in Vietnam, 7.6 percent in Lao PDR, and 6.2 percent in Thailand).

The G-PSF has provided a substantial channel of communication and advocacy; it has allowed economic reform issues to be discussed and successfully introduced in the policy agenda (Figure 2.7). The RGC also uses this mechanism to improve its own communication, coordination, and internal accountability (Sisombat 2009; World Bank 2009). The G-PSF has created a mutually beneficial dialogue between the Cambodian government and the private sector that has improved the quality of the decision-making and regulatory capacity of the administration. The system, however, could benefit from additional mechanisms to foster such exchanges.

Figure 2.7 Evaluation of public-private dialogue in Cambodia



Source: World Bank 2009.

First, partly because of its own success, the G-PSF has de facto become the main and only institutional mechanism for dialogue between private parties and the government. Businesses that are not engaged in the G-PSF initiative have no opportunities to have their voices heard or even to be made aware of the main regulatory issues under discussion.

Second, although the government is engaged in the G-PSF, the agenda relies heavily on the initiative of private sector counterparts; the government rarely brings its own regulatory concerns to the table. Indeed, where ministries and agencies consider that regulatory action is needed, they normally proceed on their own. Some ministries reach out to the private sector for technical advice, but they do not usually do so through the official channels of the G-PSF. Consultations therefore involve only parties selected by the government, as it is not normally considered necessary to extend such discussions to a broader audience, and there are no specific requirements to do so. Third, *prakas* and other agency-specific regulations seldom benefit from private input, because the G- PSF discussions occur at a higher level; and to date no platform exists to engage, or even inform the broader public about these regulatory initiatives. The main challenges in stakeholder consultations in Cambodia are thus to: (a) capitalize on the success of the existing dialogue and the political willingness of the RGC and the Prime Minister to engage; and (b) expand consultations to a broader audience with a wider range of issues, beyond the ad hoc initiatives of individual ministries, or the highly formalized context of the G-PSF. One way of doing so would be to provide opportunities for the private sector and civil society to express their views on regulatory matters on a regular basis by, for example, submitting written communications on laws and regulations in preparation.

Inter-agency coordination

Different approaches by ministries and government agencies exist regarding internal coordination procedures. Some ministries - especially ministries addressing horizontal issues, such as the Ministry of Commerce - promote coordination with other agencies by occasionally inviting other relevant ministries to comment on the drafts they produce.

This practice, however, is not a standard one, and different agencies remain free to decide when, and whether, any regulation under their consideration may benefit from inputs from other agencies. Where such invitations are extended, the scope of the involvement of the invited agency in the development of the regulation depends largely on the familiarity between the agencies, and the willingness of the inviting ministry to share the regulatory task. Because of the largely ad hoc nature of the procedure, written records of the collaboration may or may not be kept.

The ability to invite another institution to comment, and to consult with private parties, remains a discretionary decision on the part of the regulating institution. If the regulating agency does not engage in such consultations, interested ministries must wait until the presentation of the draft bill or regulation at the inter-ministerial meeting to provide comments, and bring the issue to the attention of the prime minister. Indeed, it is likely that other agencies may only then learn about the existence of the regulatory initiative. This absence of clear procedural guidelines, along with a lack of clear delineation of responsibilities among ministries, has led to overlapping and inconsistent *prakas* (Pohl 2011).

The ministries and agencies in the RGC favor inter-agency collaboration and generally welcome inputs from other ministries. But the absence of clear policies governing the regulatory process has resulted in patchy and ad hoc procedures, which limit regulatory co-operation.

Regulatory efficiency

Regulation is efficient if it is well targeted to address the relevant problem and conducive to achieving the desired policy goal, promotes innovation and competition, and avoids erecting undesirable barriers to trade and investment. Regulatory measures should avoid imposing unnecessary burdens on society, consistent with achieving regulatory objectives, and minimize adverse impacts on citizens and businesses.

With varying degrees of sophistication, many developed countries and some developing countries have established institutional and procedural mechanisms to try to achieve regulatory efficiency (Kirkpatrick, 2004; Ladegaard, 2005; IFC, 2009). At a minimum, these initiatives seek to promote the consideration of alternatives when introducing regulation, evaluating the different quantitative and qualitative benefits and costs each may entail. More complex systems require studies to assess the economic impact of laws and regulations, and their alternatives, as a mandatory step in the regulatory procedure (regulatory impact assessments).

No such system exists in Cambodia. The informality of the regulatory process means that the regulator conducts the substantive analysis of proposed regulation on a case-by-case basis.

It is current practice in the RGC that draft laws and sub-decrees are discussed with representatives of Economic, Social, and Cultural Council (ECOSOCC) and the Council of Jurists. ECOSOCC tends to focus on the substance of the rules, whereas the jurists assess the legality of the proposed instrument. The analysis, however, remains rather superficial. To address this problem, the Asian Development Bank is seeking to reinforce the technical capacity and procedures at ECOSOCC, to include elements of economic analysis in their evaluations, with a view to promoting the use of regulatory impact assessment in the future (Pohl, 2011).

3 Policies and the Regulatory Framework for Services

Measures affecting the services sectors can be reflected either in general laws and regulations, or in specific ministerial measures, governing a specific services sector. In that sense, two levels of regulation can be distinguished:

i) horizontal regulation, which includes measures affecting all services industries, such as limitations on the movement of people, caps on foreign equity participation, or legislation granting preferential treatment to some minorities; and

ii) sectoral regulation, which includes laws and regulations aimed at governing a certain services industry. Sectoral regulation may range from a rather broad framework - covering all transport services, for example - to specific rules on a given type of service. This services-specific regulation includes, for example, measures on rules on the provision of legal services, or the supply of some specific telecommunication services.

The following section analyzes the policy and regulatory environment for services trade by looking at the main horizontal laws and regulations affecting the provision of services. It then examines the regulatory framework of three services subsectors: telecommunications, professional services, and tourism.

Horizontal Regulatory Framework

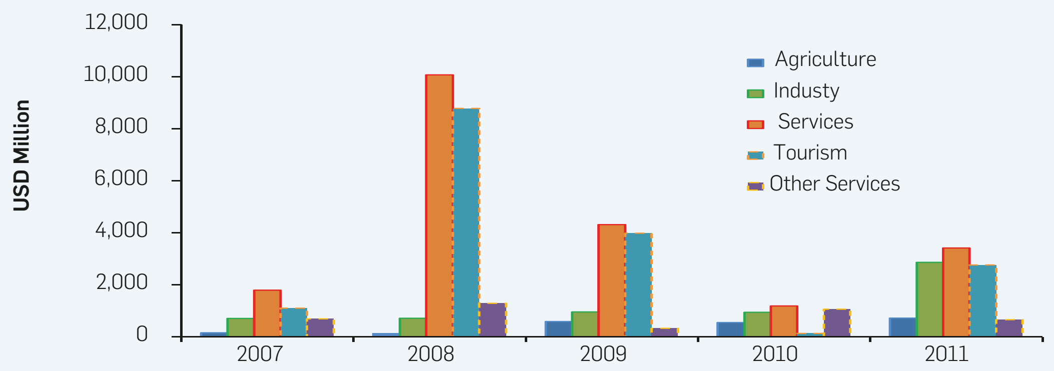
Two sources of horizontal regulation can normally be found. First, there are measures designed to regulate one mode of supply, or some aspect thereof, such as measures on foreign investment or the movement of persons. Since most of international trade in services occurs through the establishment of a services provider in the foreign market, rules on foreign investment are central to the regulation of the services industry. Similarly, measures relating to the movement of people also affect services trade, not only because they directly impact on the ability of individual service providers to supply services, but also because they entail barriers to foreign investment. Second, general public policies pertaining to taxation, land use, etc.—regardless of whether or not they are directed toward economic goals—will also affect the regulatory framework for services industries, in particular for those wishing to establish themselves in the country. This section highlights some of the most relevant horizontal measures affecting the services industry in Cambodia.

Foreign investment

The Council for the Development of Cambodia (CDC) and the Cambodian Investment Board are Cambodia's mandated institutions in the area of investment promotion and facilitation. The CDC is the foreign investment approval body. As a one-stop shop for facilitating foreign direct investment, it administers all strategic and regulatory aspects of qualified investment projects. Although the law stipulates that the CDC procure all necessary licenses from relevant ministries, agencies, and sub- national administrations on behalf of the applicant, in practice prospective investors are expected to do so themselves (CDC, 2010).

With the exception of a few sensitive mining and manufacturing industries, all sectors are open to foreign investment.[6] Participation by wholly foreign-owned service providers is also allowed, except in certain sectors that require equity participation by a Cambodian national or special governmental authorization for foreign involvement. These sectors include port and airport operation, energy distribution, publishing and printing, and radio and television transmission services. The only national transmission license is granted to the publicly owned electricity company, Electricité de Cambodge (EdC). This sector is thus closed to private investment (domestic or foreign). Most port facilities in Cambodia are owned and operated directly by the public port authorities; port operation is closed to foreign capital participation. Cambodian laws stipulate that the government must retain a majority ownership and control of basic airport infrastructure and aeronautical navigation services infrastructure. Foreign capital participation in the airport operation sector is thus limited to less than 50 percent. Despite this relatively open investment regime, FDI has remained concentrated in a few sectors. Services, in particular the tourism sector, constitute the majority of the FDI projects approved by the CDC (Figure 3.1).

Figure 3.1 Tourism attracts the majority of FDI projects



Source: Council for Development of Cambodia.

In principle, establishing a foreign-owned limited liability company in Cambodia requires 10 procedures and 86 days, somewhat slower than the regional average for the East Asia and Pacific region or the IAB global average (Table 3.1). A limited liability company must have at least 2, and no more than 30 shareholders. No additional procedures are required for foreign companies, other than the authentication and notarization of the parent company's documents, which must be submitted to incorporate the subsidiary. Investment approval is not required, unless the foreign company applies to the CDC for investment incentives or a tax exemption. Foreign companies are also free to open and maintain bank accounts in foreign currency. This open framework for foreign participation, together with the quick growth of the economy, has contributed to an impressive performance of foreign direct investment into Cambodia in recent years.

Nevertheless, despite this inviting legal context, Cambodia ranks poorly in terms of conditions for establishing and operating a business. Although the reported number of days and procedures for starting a business are in line with the regional

[6] Sub-Decree No. 111 prohibits the following activities for both Cambodian and foreign entities: production and processing of psychotropic substances and narcotic substances; production of poisonous chemicals, agriculture pesticide/insecticide, and other goods by using chemical substances prohibited that affect the public health and environment; processing and production of electrical power by using any waste imported from a foreign country; and forestry exploitation business.

average, the ease-of-establishment indicator, which evaluates the regulatory regime for business start-up, is below par, suggesting that regulation and practices need to catch up with the intended straightforwardness of the system.

The low ease-of-establishment indicator is confirmed by practitioners, who point out that, despite efforts to improve the system, business practices remain unclear, cumbersome, and inconsistent. Some regulations tend to change regularly, altering the process, times, forms, or necessary documentation. As a result, businesses must periodically confirm the procedures, often through personal contacts with different government officials.

Table 3.1. Ease of investing indicators in selected countries in East Asia and Pacific [2010]

Indicators	Cambodia	Vietnam	Thailand	Malaysia	Philippines	Regional average	Global average
Procedures (number)	10	12	9	11	17	11	10
Time (days)	86	94	34	14	80	64	42
Ease of establishment index (0-100)	44.7	57.9	60	60.5	57.9	57.4	64.5

Source: World Bank, Investing Abroad 2010.

Little or no discrimination of foreign investors is evident, either at the time of initial investment or after investment. However, some foreign businesses report that Cambodian firms benefit from the lack of transparency and poor enforcement of regulations, including by evading taxes, failing to comply with safety or other standards, or providing informal payments where necessary (USTR, 2012).[7]

Movement of persons and employment

Under the GATS, Cambodia committed to allow for the entry and stay of business visitors (up to 90 days), people seeking to set up a commercial establishment (unlimited stay), and intra-corporate transferees (for a maximum of five years). The intra-corporate transferees category applies to executives, managers, and specialists. Cambodia's multilateral commitments do not cover independent services providers, such as consultants and technical experts. However, no specific restrictions against such services providers are in place.

Firms in Cambodia are free to hire foreigners as well as Cambodians, an option that allows them to circumvent the shortage of technical skills and expertise in the domestic labor market. The hiring of foreign employees is formally subject to an economic needs test; permission to employ foreign nationals or bring in foreign employees is granted only where the relevant qualifications and expertise cannot be found domestically. This requirement is not normally imposed as an obstacle to the hiring of foreign staff, however, although the 10 percent ceiling on foreigners in a company's total workforce is applied.

Other horizontal regulations

Land use. Article 44 of the Constitution provides that only Cambodian citizens and legal entities have the right to own land. A legal entity has Cambodian nationality if 51 percent or more of its voting shares are held by Cambodian citizens or by another legal entity. Land can also be owned by public Cambodian communities or associations.

[7] The 2007 DTIS noted that a major weakness of the investment framework was the lack of a predictable and transparent set of rules that are enforced in a prompt, fair, and efficient manner by the appropriate government institutions.

Cambodia's Investment Law, however, permits investors to use and develop land and to sign unlimited long-term lease agreements.

Privately and publicly-held land can be leased. However, because of the difficulty of enforcing legal rights against the state, and the additional legal formalities and procedures that must be followed, public land is rarely leased (IFC, 2010).

The regulatory framework regarding land use is weak. The title registration system is still developing, and many land transactions are not properly registered, leading to frequent land disputes. Finding land-related information—such as documentation on land plot value, mailing addresses, environmental impact assessments, tax classifications, and utility connections—remains a challenge.

Competition policy. Cambodia has indicated its desire to discourage monopolistic trading arrangements in most sectors. It has committed to adopt a competition law as part of its WTO obligations, but no antitrust legal framework has yet been established.

Sectoral Regulatory Frameworks

This section illustrates the problems of Cambodia's regulatory framework in three critical services sub-sectors. It analyzes how the observance, or lack thereof, of good governance principles has affected the development of telecommunication services, tourism, and professional services. These sub-sectors were selected because of their importance to the Cambodian economy, including export of services, their supporting role to the export of services, and more broadly due to their role in the country's competitiveness. Furthermore, these sub-sectors provide a spotlight on the regulatory and institutional conditions of services that are commonly regulated i) at the ministry level (tourism), ii) by a public independent regulatory body (telecoms), and iii) by private agencies in coordination with the ministry (professional services).

Telecommunications services

International obligations. Cambodia's accession to the WTO set the ground for an open market policy for the telecommunications sector, based on foreign participation and market competition. Cambodia also committed to establish an efficient regulatory framework, headed by an independent regulator.

Value-added telecommunication services, including mobile services, were immediately opened up to full foreign participation. Cambodia also agreed to ban restrictions on the provision of cross-border telecom services after 2009, and to open land-based basic telecommunication to foreign ownership, although domestic participation of up to a maximum of 49 percent may be required. It agreed to regulate the sector according to the guidelines of the WTO Telecom Reference Paper, including through safeguards to prevent anti-competitive practices, non-discriminatory access to interconnection, transparency of inter-connection arrangements, universal services, public availability of licensing criteria, and establishment of an independent regulator.

Regulatory framework. Cambodia's regulatory framework on telecommunications remains patchy, opaque, inconsistent, and non-transparent, with many administrative decisions not made public. Several attempts have been made in recent years to produce a telecom law, drafts of which were discussed at Cabinet meetings, but to no avail. In the absence of such a law, the Ministry of Posts and Telecommunications (MPTC) acts as the policymaker as well as the regulatory and supervisory authority in the sector, overseeing the issuance of licenses and the administration of the spectrum. The General Directorate of Posts and Telecoms functions as the implementing agency within the MPTC. Until the establishment of Telecom Cambodia in 2006, the state-owned MPTC also directly operated in fixed-line telephony and internet markets as the monopoly provider. Telecom Cambodia remains tightly linked to the government, under the technical administration

[8] Relevant measures include Inter-ministerial Prakas 232; prakas on interconnection; the Order or the RGC Letter No. 1 BB of October 21, 2009; and MPTC Letter No. 591 of May 5, 2009.

of the MPTC, and the financial administration of the Ministry of Finance (DFDL, 2011).

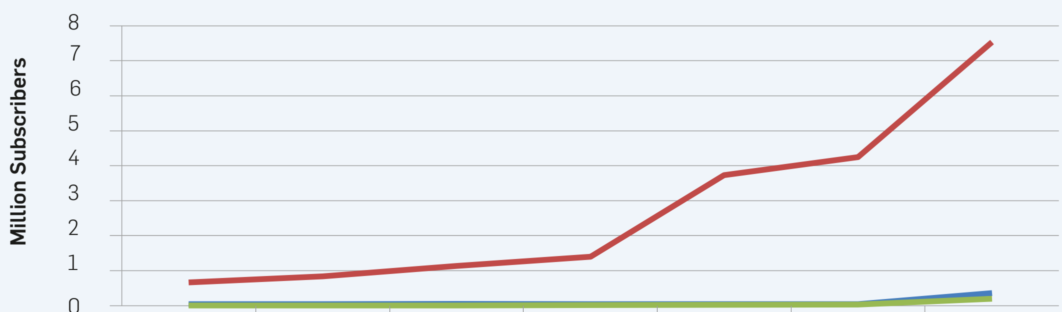
The MPTC regulates the sector under the authority of a sub-decree, through the issuance of *prakas* and the administration of licenses. Relevant *prakas* cover interconnection requirements and fees, price floors for mobile telephony, data records, and use of radio frequency and communications equipment.[8]

Although the technical capacity of the MTPC to regulate has improved in recent years, the ministry lacks adequate staffing to stay abreast of the increasingly complex technical issues of the different components of the telecommunications sector. Many MPTC professionals lack a background in telecommunications, engineering, or related fields. This deficit in skills is exacerbated by the wide salary differential between the public service and the private sector, where professionals earn four to five times as much as regulators.

Telecommunications operators are normally required to share up to 10 percent of their revenues and dividends with the MPTC, although terms vary on a case-by-case basis (as negotiated by the ministry and the operator). Tariffs vary depending on the conditions of the licenses. For example, licenses for fixed- line operations or international traffic may require that the operator share up to 50 percent of gross revenues (DFDL, 2011).

The challenges of the current regulatory environment are evident in the most dynamic telecom subsector, mobile telephony.Lack of compliance with transparent interconnection agreements and the existence of a dedicated dispute settlement procedure—both requirements of the Reference Paper—are evident competitive practices for below-cost pricing and a company was accused of denying interconnection to the entrant. The MPTC failed to mediate effectively in the

Figure 3.2 The number of mobile phone subscribers in Cambodia has soared, but fixed line and Internet connectivity remains low



	2004	2005	2006	2007	2008	2009	2010
Fixed	37590	45000	50000	37525	43417	42000	358850
Mobile	660933	837020	1136381	1400314	3731894	4242000	7533029
Internet	7671	8632	9089	10831	20402	29589	194282

Source: Ministry of Posts and Telecommunications of Cambodia. Presentation at ITU-ADB Workshop, Phnom Penh February 2011 (http://www.itu.int/ITU-D/asp/CMS/Events/2011/ITU-DB/Cambodia/Telecom_Infrastructure_MPTC.pdf)

dispute, which was settled after the prime minister issued a letter to all service operators reminding them of their interconnection obligations. A *prakas* was passed establishing a minimum price for mobile calls. However, because of lack of effective enforcement, it has not been complied with.

The allocation of radio spectra has also been at the heart of allegations regarding lack of transparency. Some operators have claimed that the same spectrum has been allocated to different providers, on occasion without notifying the original user of that frequency, necessitating costly technical adjustments to accommodate the narrower spectrum.

The adoption of a law on telecommunications is a necessary step towards clarifying the legal framework for telecom providers, and establishing an independent regulator to monitor the system. The activities of the regulator must be transparent and its technical capacity enhanced.

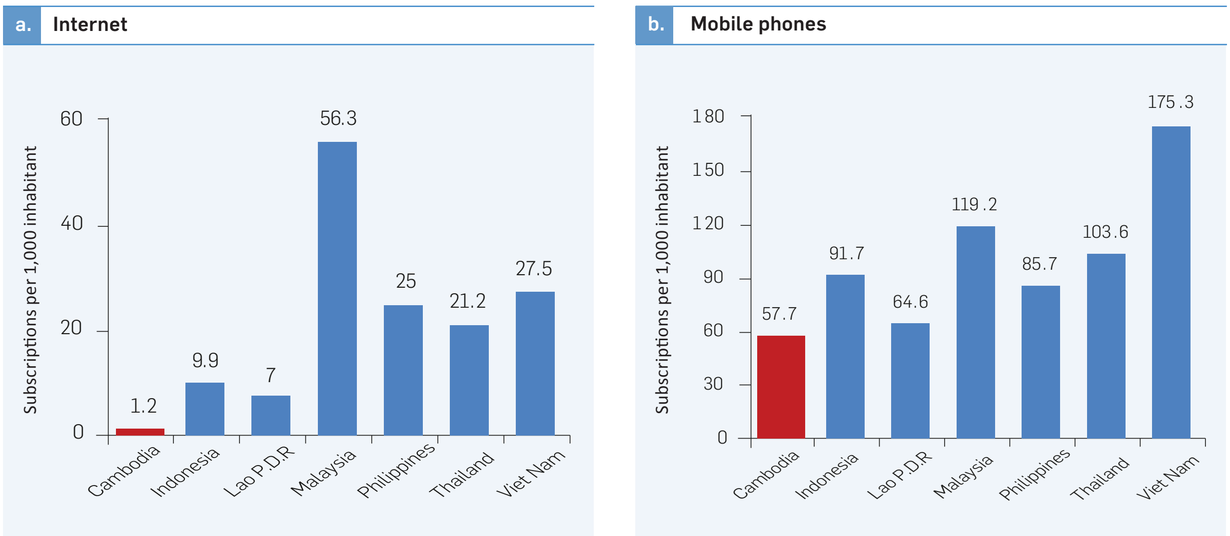
Market development. The telecommunications market has shown contrasting results since its opening to private investment in 2006 (Figure 3.2). According to MPTC statistics, the number of mobile subscribers increased by a factor of 10 between 2004 and 2010, from 660,000 to 7.5 million. Press reports suggest that that figure doubled in the last two years, overtaking Cambodia's population. Although it is catching up quickly, mobile telephony penetration in Cambodia is still the lowest in East Asia, likely as a result of the later start and the preference of providers to concentrate on more heavily populated areas.

Eight service providers serve the highly competitive market, although consolidation is expected. In line with Cambodia's WTO commitments, foreign equity participation is not restricted. All providers are foreign owned, including with 100 percent foreign equity. Most investments in telecoms originate from the East Asia region.

The dynamism of the mobile communications market contrasts with the much slower development of the fixed-line and internet market (Figure 3.3). Land-based communications, operated by the state- owned Cambodia Telecoms, started to improve in 2009, but they remain poor, accounting for less than 5 percent of the country's telephone lines. Mobile telephony costs are among the lowest in the region. In contrast, broadband internet prices are prohibitively high—up to US$40 a month in some provinces. The limited fixed-line infrastructure has been a major inhibiting factor in the expansion of broadband Internet services. To overcome this limitation, some operators have applied for wireless broadband licenses, including for the provision of local fixed-lined telephony and broadband network ('wireless local loop' networks). Deficiencies in the regulatory framework and licensing are reportedly limiting the expansion of this technology.

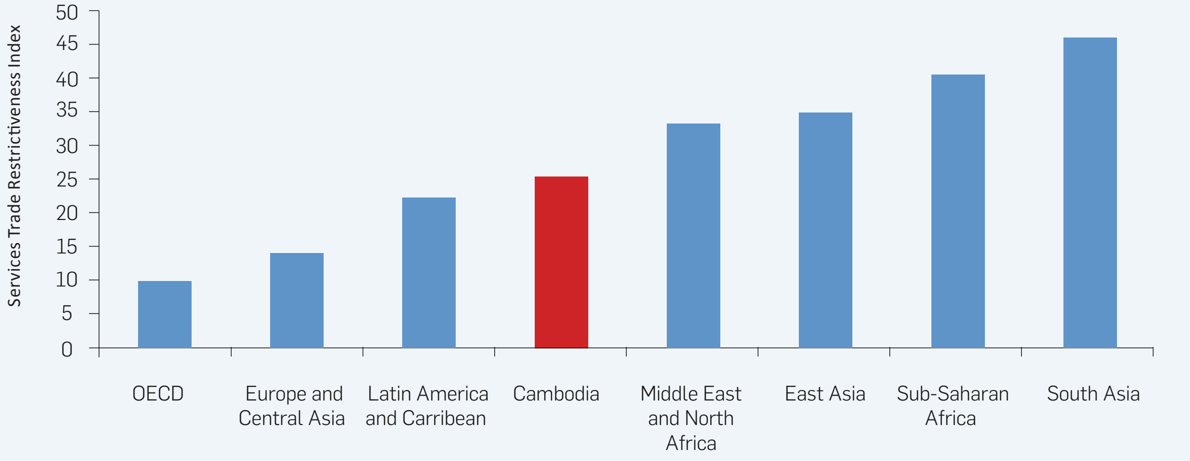
Lack of an adequate regulatory framework has hampered expansion of internet communications, as providers are unclear about costs, rights, and obligations. The lack of investment is dramatically reflected in the mere 1.2 percent penetration in Cambodia, the lowest in the region and among the bottom 10 of 200 economies measured by the International Telecommunications Union in 2010.

Figure 3.3 Internet and mobile phone subscriptions in Cambodia were the lowest in the region in 2010



Source: International Telecommunications Union.

Figure 3.4 Cambodia's telecommunication sector is formally less restrictive than average in East Asia Restrictive ness Index, but regulatory problems limit the entrance of foreign players



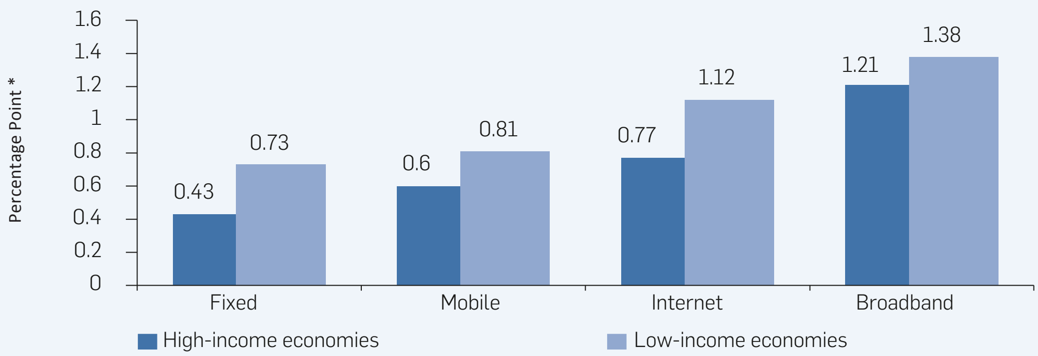
Source: : Borchert, Batshur, and Mattoo 2011.

The trade restrictiveness index of Cambodia's telecom industry is lower than the average for the region (Figure 3.3). But Saing and Phann (2010) find that despite its formal openness, foreign investment is tightly restricted, and firms with foreign participation are discriminated against, as a result of anti-competitive practices by domestic providers. They note that the absence of adequate licensing regulation, as well as centralized decision-making by policymakers and regulators, creates an uncertain business environment that has limited the interest of world-class telecom operators in Cambodia's small market.

Lack of access to the Internet is restraining growth in Cambodia. In low- and middle-income countries, every 10 percentage point increase in broadband penetration accelerates economic growth by 1.38 percentage points—more than in high-income countries and more than for other telecommunications services (World Bank, 2009) (Figure 3.5). Kim (2011) finds that a 10 percent increase in broadband household penetration increases GDP by 0.1 to 1.4 percent. The increase is also correlated with 1.5 percent greater labor productivity growth over the following five years.

In addition to enhancing the competitiveness of the economy, telecommunication services, in particular broadband internet services, provide a channel for services exports. Cambodia's 3D animation studios suggest that Cambodia has the ability to attract investments capable of producing niche high-value services exports (Box 3.1).

Figure 3.5 Access to broadband technology accelerates economic growth, particularly in low- income countries



Source: World Bank 2009.

Note: * Percentage point increase in economic growth per 10 percentage piont increase in telecommunications penetration.

Box 3.1 Exporting high-skilled niche services: Cambodia's nascent computer animation industry

Computer animation is a multi-billion dollar global industry. Traditionally associated with the entertainment industry in the form of cartoons, computer animation has expanded to live films and animated movies, advertising, institutional films, architecture, software, video games, and educational software. Each 3D animation product entails team work of technical experts, including modelers, mappers, animators, renderers, and compositors. Two Cambodian institutions are already operating in this high-tech field. Phare Ponleu Selpak is a Cambodian non-governmental organization started in 1986 to bring together children from a refugee camp on the Thai border and initiate them into the visual and performing arts. Its animation studio specializes in cartoon animation, in particular for raising awareness. Objectif 3D, a French Company, specializes in animation for the post-high school education industry.

These initiatives could serve as spearheads to develop a cluster of high-skilled IT services that would attract specialized foreign direct investment. Policies are needed to ensure that adequate infrastructure and skills are available and that an enabling environment is created to attract foreign investment in high-value niche fields.

Source: Authors.

Significant improvement in the legal and regulatory environment for telecommunication services would promote competitiveness and allow Cambodia to explore new services export niches. The main guidelines toward reforming the telecom sector include:

- setting up an independent, technically skilled regulator;
- developing a clear and transparent regulatory framework for telecommunications, including for interconnection procedures and licensing terms;
- and establishing predictable rules and practices in the adoption, administration, and enforcement of telecom regulation.

In addition, Table 3.2 offers a brief review of measures and policies undertaken in other countries with regard to implementing policies to enhance their broadband infrastructure.

Table3.2 Key policies and programs for building the broadband ecosystem

Component	Early stage: Promote	Mass market: Oversee	Universal service: Universalize
Networks	▪ Develop an enabling environment through policies and regulations that promote investment and market entry. ▪ Reduce administrative burdens and provide incentives and subsidies for research and development, pilots, and network rollout. ▪ Create certification systems for cyber buildings. ▪ Allocate and assign spectrum for wireless broadband services	▪ Consider infrastructure sharing, including unbundling the local loop. ▪ Reallocate spectrum to increase bandwidth	▪ Undertake, using public-private partnerships as appropriate, deployment of open access broadband networks in high cost or remote areas. ▪ Coordinate access to rights of way.

Services	■ Provide broadband networks to schools, government agencies, and the like (using the government as an anchor tenant). ■ Standardize and monitor service quality.	■ Create an enabling environment for intra- and intermodal competition. ■ Ensure nondiscriminatory access for service, application, and content providers	■ Consider expanding universal service obligations to include broadband.
Applications	■ Undertake government-led demand aggregation, with government agencies as early adopters and innovators. ■ Provide e-government and education applications. ■ Promote creation of digital content. ■ Develop local content and hardware sectors.	■ Support secure, private, and reliable e-commerce transactions. ■ Implement intellectual property protection	■ Develop advanced e-government programs. ■ Offer grants to community champions and broadband demand aggregators.
Users	■ Provide low-cost computers and other user devices (for instance, in education). ■ Develop digital literacy programs for citizens	■ Establish ethical guidelines for information use.	■ Expand universal service programs to underserved communities ■ Create community access centers ■ Subsidize user devices for poor households

Source: Kim, Kelly, and Raja, 2010

Professional services

As part of its WTO accession, Cambodia agreed to an open professional services sector. It committed to all main activities identified in the WTO Services Sectoral Classification List (the "W120" list), with the exception of some health services (medical services; services provided by nurses, midwives, physiotherapists, and para-medical personnel; and veterinary services) and the residual professional services category.

Cambodia allows cross-border provision of professional services for all listed professions (legal, tax, architectural, and engineering services) except accounting—for which a local presence is mandatory— and medical services. Commercial presence in these professional services is largely unrestricted. The only restrictions relate to local partnership requirements for the provision of legal and medical services.

These commitments have been expanded in the context of the ASEAN Framework Agreement on Services (AFAS) negotiations, through the conclusion of several regional Mutual Recognition Agreements (MRA). MRA have been concluded on engineering, nursing, architectural, medical, dental, and tourism services. In addition, two framework arrangements, establishing the guidelines for the later conclusion of a mutual recognition agreement between all or some ASEAN members, have been agreed to on accounting services and surveying qualifications.

Accounting and auditing services. Aware of the importance of reliable financial information for attracting foreign investment and administering its domestic finances, Cambodia started regulating accounting and auditing services, with a view to enhancing capacity in the sector, before the conclusion of its WTO accession. The Law on Corporate Accounts, their Audit and the Accounting Profession of 2002 created Cambodia's two main institutions in the sector, the National Accounting Council (NAC) and the Kampuchea Institute of Certified Public Accountants and Auditors (KICPAA).

The NAC has been active in promoting the regulatory framework and the use of international standards. The KICPAA focuses on the registration of accounting professionals and capacity building in the sector. In 2007 the Ministry of Economy and Finance issued a prakas on the implementation of the Cambodian International Audit and Assurance Standards, which are to fully meet all international auditing and assurance standards published by the International Auditing and Assurance Standards Board, including amendments to each standard. Covered standards include quality control, auditing, review engagement, assurance engagement, and related services.

The KICPAA has engaged actively in the development of accountancy skills in Cambodia. A major project includes partnerships with Cambodian universities to produce skilled professional accountants and auditors familiar with international accounting and auditing standards, and to build a licensure program for the certification of accountants. The KICPAA has also participated in projects organized by the World Bank and the Ministry of Finance on issues such as quality assurance and public sector accounting standards (KICPAA, 2011).

This open and dynamic framework has resulted in the establishment of at least seven foreign accounting firms in Cambodia, including three of the 'Big Four' international companies. Although some companies are increasingly engaging Cambodian employees, most of their professional and managerial staff are still expatriates. Their services cater largely to subsidiaries of foreign firms in Cambodia, joint ventures, and some state-owned enterprises (KICPAA, 2011). A majority of members of the accountancy body hold foreign qualifications, facilitated by the fact that there are currently no domestic examination requirements to maintain membership (Seng, 2009).

Legal services. The provision of legal services in Cambodia is governed by the 1995 Law on the Bar, which created the Bar Association of the Kingdom of Cambodia, charged with the oversight and registration of the legal profession. During WTO negotiations, Cambodian law firms lobbied to introduce a 49 percent equity limitation on foreign firms, and restrictions on the form of commercial arrangement (WTO, 2011). These efforts were ultimately unsuccessful and the commitment allows for great flexibility for foreign firms to engage in partnerships with Cambodian firms.

The Cambodian Bar Association has not supported the implementation of this obligation by denying foreign lawyers the ability to register in Cambodia. In fact, it is reported that the Association has pressed criminal charges against a number of foreign practitioners for illegally practicing law. The lack of a clear framework for the provision of legal services by foreign practitioners in Cambodia reduces transparency and may bring into question Cambodia's compliance with its WTO commitments on services trade.

Tourism

During the mid-1990s, tourism, along with textiles, emerged as one of Cambodia's leading industries. It has been a driving force behind the country's growth during the past decade.

In 2011, 2.8 million tourists visited Cambodia, contributing more than 15 percent of GDP and making tourism an important source of foreign exchange (Table 3.3). It is estimated that the sector creates direct and indirect employment opportunities for 300,000 people (WTO, 2011). The tourism boom attracted more than US$11 billion in foreign investment between 2001 and 2008, accounting for more than 55 percent of total foreign direct investment in Cambodia over this period (CDC, 2011). Although efforts are being made to diversify Cambodia's tourism sector, especially into the coastal area and inland ecotourism destinations, the Angkor historical temples complex in the province of Siam Reap, a UNESCO World Heritage Site, remains the country's primary tourist attraction.

With the view to attracting foreign investment to further develop the sector, Cambodia committed to an open framework for tourism services in the context of its WTO accession. It introduced no restrictions under the GATS, except that the establishment of one- and two-star hotels is to be reserved for Cambodian citizens and companies. Although, under the GATS, Cambodia may restrict foreign ownership of travel agencies to 51 percent, no such restriction applies in practice. Tour operators remain equally open. Conversely, although no restrictions were introduced on tourist guide services, Cambodia requires that tour guides be Cambodian citizens. When a Cambodian who speaks the tourists' language is not available, the guide must be accompanied by a Cambodian.

In an attempt to promote the development of the sector, the RGC has passed a Law on Tourism and a number of regulatory *prakas* mandated by it. The Ministry of Tourism website provides access to all such instruments, in Khmer and an unofficial English translation. The ministry is in charge of policy development through the implementation of the law, and administration of the tourism business. It requires all providers of tourism services, including hotels and resorts, restaurants, night-clubs, providers of transport services, and others, to obtain a license, which can be obtained online.

Table 3.3 Tourism in Cambodia, 2000–2011

Indicator	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Number of visitors (thousands)	466	605	787	701	1,055	1,422	1,700	2,015	2,125	2,165	2,508	2,882
Revenues (millions of dollars)	228	304	379	347	578	832	1,049	1,400	1,595	1,561	1,786	1,912
Length of stay (days)	5.50	5.50	5.80	5.50	6.30	6.30	6.50	6.50	6.65	6.45	6.45	6.50
Hotel occupancy (percent)	45.0	48.0	50.0	50.0	52.0	52.0	55.0	55.0	63.0	63.0	65.7	66.2
Average expenditure per tourist (dollars)	489	502	482	495	548.8	585	617	695	750	721	712	663

Source: Ministry of Tourism.

Not with standing these advances, business operators report that the sector remains under-regulated and administration remains opaque. *Prakas* and *sarachor* (ministerial directives) are vague declarations of intentions that provide only partial or ambiguous descriptions of requirements. Regulations often reproduce the objectives of the main law, adding little in the way of specific requirements or conditions. Moreover, when requirements do exist, they are often disregarded because of lack of adequate enforcement.

These deficiencies risk limiting the development of the tourism sector by introducing a bias toward providers interested in benefitting from the looser regulatory and enforcement conditions. Although the number of visitor increased between 2007 and 2011, average per capita expenditure fell, from US$750 to about $660, sugesting that Cambodia is increasingly attracting low-budget tourists. An adequate regulatory framework and effective enforcement would not only ensure quality and safety for backpackers and other low-budget tourists, it would also promote the establishment of world-class services providers who can develop high-end services and increase per capita tourist expenditure.

4 Conclusion: Main Findings and Policy Implications

Cambodia's experience over the past two decades confirms the relevance of service industries and their impact on economic growth. Benefitting from Cambodia's rich cultural heritage, the tourism industry has led the way to high economic growth rates, based on exports and the attraction of foreign investment. Along with textile exports, tourism has helped jump-start Cambodia's development into an open and dynamic economy.

Cambodia's factor endowments suggest the country is well suited for the export of services. Such exports are already growing more rapidly than traditional ones, including tourism. Cambodian firms of both foreign and domestic origin are already tentatively exporting some high-value-added niche services, such as computer-based animation.

Given the right environment, exports of modern services, including IT-related services, could play an increasingly important role as a source of employment, revenue, and investment. Ensuring that they do so requires strong initiatives to develop the human resources and infrastructure needed to support higher value-added services, in addition to better technical capacity and greater transparency in the governance and regulatory framework.

Investing in Human Capital

Cambodia's young population - recognized internationally as dynamic, enthusiastic, and capable - provides enormous potential for the development of modern services industries. Reaping these benefits requires both improving domestic skills and addressing skills mismatches. A recent World Bank report, *Matching Aspirations: Skills for Implementing Cambodia's Growth Strategy,* provides a set of concrete recommendations including expanding financing for early childhood development, strengthening institutional development, and promoting incentives for skills providers, including higher education institutions (Table 4.1).

Table 4.1 Skill up-grading in Cambodia

Objectives	Skills supply	Laying the foundation for the future
1. Information Access	• Enhance employment counseling and job search services • Use media to show study and career opportunities	• Enhance the NEA's capacity and partnership with the private sector
2. Coverage in the "missing middle"	• Mainstream good TVET programs	• Strengthen the capacity of the NTB to deliver employer-focused reform of education and training • Consider ways to encourage employers to invest in training their workforce
3. Quality and market relevance	• Begin upgrading a small number of skills providers, including non-formal training centers, in collaboration with local industries	• Reform secondary curriculum to improve the teaching of science, math, engineering and other technical disciplines, entrepreneur ship and soft skills • Strengthening accountability of communities and schools as part of the D&D process
4. Financing efficiency	• Expanding household-oriented financing instruments for school retention	• Increase expenditure on cost-effective interventions early in the life-cycle • Explore different financing schools to promote incentives towards good results among skills providers, including higher education institutions.

Source: World Bank (2012).

In addition to traditioal education programs, Cambodia should consider developing technical education programs in coordination with the relevant services industries, in order to provide a market-ready, skilled employment base. A number of countries have established partnerships between the public and private sectors, in order to identify areas of skills shortage and to develop industry-specific training programs, in particular for the services sector. Examples of programs in this field include:

- improvement and public dissemination of statistical data on labor markets to be used by policy-makers and private stake holders (Tajikistan);
- establishment of sector-specific training bodies, linked to industry associations and other organizations, to estimate labor demand on a sectoral basis and provide advice to the government on priority training and programs to be developed (multiple European countries) (European Training Fund, 2010);
- establishment of seat allocation targets for public universities on specific areas of knowledge, based on an estimated increase in market demand (Singapore); and
- publication of labor market forecast reports based on census data and industry trends to better inform policymakers, educational institutions and private companies on the allocation of educational resources (Canada).

In addition, Cambodia should maintain its open policy for the employment of foreigners, particularly high skilled workers, in order to provide an attractive investment environment and facilitate the transfer of knowledge.

Enhancing Infrastructure

The expansion of services industries will require the enhancement of infrastructure, in particular broadband telecommunications. Mobile telephony, although still below regional standards, has boomed, greatly increasing connectivity across the country. Internet penetration, especially broadband communications services, has progressed only minimally in recent years. Broadband service is accessible only in selected locations, and at prohibitive costs for the overwhelming majority of the population. As a result, Cambodia's broadband connectivity is the second lowest in the region after Myanmar. Widespread access to broadband internet connections is not only necessary for the services industry, it is also essential for the development of capacity, especially IT skills, in a country with a population as small as Cambodia's.

The deficient institutional and regulatory frame-work for the telecom sector remains the main hurdle to the sector's development. The current efforts towards adopting a modern law on telecommunications, in line with internationally accepted principles of telecom regulation, and Cambodia's WTO obligations, should be reinforced. More general improvements on transparency and regulatory procedures are also needed.

Empirical evidence suggests that broadband is a major contributor to economic growth. Specific policies targeted toward the development of the telecom sector may also be introduced in Cambodia. In addition to the establishment of an adequate regulatory environment for the sector, a number of countries have designed broadband strategies to foster development. Alternatives range from opening the sector to wider competition, streamlining regulation—including the elimination of licensing requirements for certain broadband services (as done by Thailand)—to the establishment of public-private partnerships in the development of backbone infrastructure, as promoted by Kenya (World Bank, 2012c). Cambodia is taking the first steps in that direction by promoting cooperation with international bodies aimed at adopting a broadband strategy for the country.

Improving Governance and Regulation

In Cambodia, weak governance and regulation represents one of the main hurdles to the development of an efficient services sector and, more broadly, a modern economy. Despite some improvement in recent years, a lack of transparency and predictability still weighs heavily on allservices industries.

For example, lack of transparency in the transport sector is leading to a significant increase in transport costs by creating an environment in which informal payments are frequent. In the tourism sector, establishing a more developed regulatory environment, setting up adequate safety and quality standards, and ensuring equitable enforcement would create better conditions for the expansion of high-end tourism services, reversing Cambodia's current trend toward low-cost tourism. In professional services, deficiencies in the regulatory framework may run counter to Cambodia's WTO commitments. In contrast, the adoption of international standards and effective regulatory bodies in accounting are proving effective in modernizing that sector.

Cambodia's ultimate development goal—establishing a modern services-based economy, with sustained growth and greater social inclusion—will not be achieved quickly. To realize its goal, policymakers must continue to create an open, investment-friendly, and sound regulatory environment for the services sector.

The Government has already adopted many good regulatory practices. It has established a solid public- private consultation mechanism, which has led to better-informed regulation and significantly improved technical capacity in the regulatory bodies. Individual ministries have taken steps to improve transparency and access to regulation by making relevant laws and *prakas* available online. And some ministries have established inter-agency coordination mechanisms to improve the regulatory process. The challenge is to establish clear procedural guidelines to institutionalize these procedures and create more transparent and better-informed decision-making procedures—by, for example, making all laws and regulations on trade and investment publicly available in a central legal and regulatory collection.

Adopting Horizontal Measures

Several initial steps would help create an enabling regulatory framework for the services sector.

- Ensure the official legal gazette or journal publishes all laws, sub-decrees, *prakas,* and ministerial directives affecting trade and investment in services. The gazette should be issued at least weekly, in electronic and hard copy form.
- Establish annual ministry-specific regulatory programs. These plans would outline the problems to be tackled through regulation and the desired objectives of new regulations. Public disclosure of the regulatory program (through the official gazette or other means) would allow other ministries and regulatory agencies, as well as the private sector, to issue comments or express their views.
- Adopt a regulatory policy or policy guidelines that set out the procedures to be followed in the law-and regulation-making process. These regulatory guidelines would be aligned with principles of good regulation, including transparency, public consultations, interagency coordination, and regulatory efficiency. Such a policy should:
  - provide for public disclosure of legal and regulatory drafts, including the policy objectives they pursue, and how they relate to international obligations and national development plans;
  - indicate the time frames and procedures for the private sector to provide comments on the proposed regulation, with and beyond G-PSF consultations (perhaps including private sector consultations in the Pillar Working Groups of the Trade SWAp), and the procedures for agencies on how to process such inputs;
  - indicate the timeframes and procedures for receiving comments and observations from other governmental agencies, including the ability to bring a matter to an overseeing authority if proposed measures conflict with existing laws or policies;
  - identify the agency in charge of conducting a regulatory assessment and how it would be integrated in the standard regulatory procedures; and
  - identify the overseeing body in charge of ensuring the observance of the regulatory policy and of guiding the process, as well as

the internal agencies within each ministry to administer the regulatory procedures, such as the ministries' legal departments.

- Create a comprehensive collection of laws and regulations for the services sector in order to inform the rule-making process, enhance transparency, and provide for a more predictable regulatory framework. Such a collection would also help Cambodia engage further in regional integration discussions, and discussions with partners outside the region, as it would provide a complete picture of measures relevant to international trade negotiations.

In addition to horizontal initiatives, greater sector-specific work is necessary to improve regulatory conditions on priority services. Initial sectoral work would likely entail improving the understanding of the specific market conditions and regulations, for example, by conducting a sectoral regulatory assessment.

Current initiatives may allow for the piloting of some of the suggested measures. Pilots could allow for a test of the procedure under current regulatory conditions, and establish an agency that could later lead the expansion of the system to the rest of the administration. The ministries and agencies most relevant to the regulation of trade and investment in services—namely, the Ministry of Commerce, the Ministry of Economy and Finance, the Ministry of Tourism, the Council for the Development of Cambodia, and the future telecom regulation body—would be suitable candidates.

Valuable opportunities lie ahead for Cambodia in the services industries, by both expanding current services exports and developing new high-value-added niche services. With appropriate policies that build on the good governance and regulatory reforms already started, Cambodia can increase and diversify foreign investment toward other services industries beyond tourism.

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Appendix A:
The Services Trade Restrictiveness Index

This report draws on the database on regulations in the services sector collected by an ongoing research project conducted by the World Bank's Development Research Group. The project aims to quantify the restrictiveness impact of regulatory measures by creating a Services Trade Restrictiveness Index.

The database covers 103 countries from all regions and income groups. For each country, 5 services sectors are covered that encompass 18 sub-sectors:

- Financial services: Retail banking (lending and deposit taking) and insurance (automobile, life, and reinsurance)
- Telecommunications: Fixed-line and mobile
- Retail distribution
- Transportation: Air passenger, maritime shipping, maritime auxiliary, road trucking, and railway freight
- Professional services: Accounting, auditing, and legal services (advice on foreign/international law, on domestic law, and court representation)

Within each subsector, the most relevant modes of supplying the respective services are covered:

- Mode 1: Financial services, transportation, and professional services
- Mode 3: All sub-sectors
- Mode 4: Professional services

To obtain original information about services trade policies, the World Bank conducted surveys in 79 developing countries. The surveys were administered by local law offices with expertise in local investment laws, regulations, and the practical experience of working in these sectors. The survey questions were based on information on relevant legislation in each country, augmented with information on implementation of regulatory measures as applicable.

For OECD countries, comparable policy information was collected from various publicly available sources, including countries' GATS commitments and offers, WTO reports, and Economic Intelligence Unit reports, among others. For all countries, information on cross-border air transport policies comes from the WTO's QUASAR database.

The accuracy of all policy information was checked with national governments and ministry officials. The information presented in the database reflects government feedback, if any, in cases in which the feedback deviated from the survey information.

Restrictions on services trade can be measured in several ways. One way is to represent the restrictiveness in a single index measure, a Services Trade Restrictiveness Index (STRI). This measure of openness is simple and transparent. Compared with indexes based on fixed scores and weights, it avoids problems such as the double-counting of non-binding restrictions. Compared with measures that infer restrictiveness through the impact of measures on some outcome, this measure is not dependent on the availability of data on sector performance. Within each sub-sector-mode, policy regimes can be divided into five broad categories (with associated scores):

- Completely open (0)
- Virtually open but with minor restrictions (25)
- Major restrictions (50)
- Virtually closed with limited opportunities to enter and operate (75)
- Completely closed (100).

Scores can be aggregated into sector, mode, or regional indexes using the following types of weights:

- Modal weights: Sector-specific weights reflecting expert judgment as to the relative importance of alternative modes of supplying a specific service.
- Sector weights: Weights derived from the average share of a given services sector in value added for an average industrial country. Sector weights are constant across countries to ensure comparability.
- Country weights: Equal weights within a region. Equal weights prevent a regional average score from becoming dominated by one very large economy (such as China or India), as would happen with a GDP–based weight, for instance.

Appendix B:
Definitions of Commercial Services Sectors

Commercial services in defined as transportation services, travel, and other commercial services. Services, excluding government services (supplied or acquired by embassies, military bases, and international organizations, etcetera).

Transportation services covers sea, air and others including land, internal waterway, space and pipeline transport services that are performed by residents of one economy for those of another, and that involve the carriage of passengers, the movement of goods (freight), rentals (charters) of carriers with crew, and related supporting and auxiliary services.

Travel includes goods and services acquired by personal travelers, for health, education or other purposes, and by business travelers. Unlike other services, travel is not a specific type of service, but an assortment of goods and services consumed by travelers. The most common goods and services covered are lodging, food and beverages, entertainment and transportation (within the economy visited), gifts and souvenirs.

Other commercial services corresponds to:

(i) *communications* services includes telecommunications, postal and courier services(*). Telecommunications services encompasses the transmission of sound, images or other information by telephone, telex, telegram, radio and television cable and broadcasting, satellite, electronic mail, facsimile services etc., including business network services, teleconferencing and support services. It does not include the value of the information transported. Also included are cellular telephone services, Internet backbone services and on-line access services, including provision of access to the Internet;

(ii) *construction* covers work performed on construction projects and installation by employees of an enterprise in locations outside the territory of the enterprise (the one-year rule to determine residency is to be applied flexibly). In addition goods used by construction companies for their projects are included which implies that the "true" services component tends to be overestimated;

(iii) *insurance services* covers the provision of various types of insurance to non-residents by resident insurance enterprises, and vice versa, for example, freight insurance, direct insurance (e.g. life) and reinsurance;

(iv) *financial services* covers financial intermediation and auxiliary services provided by banks, stock exchanges, factoring enterprises, credit card enterprises, and other enterprises;

(v) *computer and information services* is subdivided into computer services (hardware and software related services and data processing services), news agency services (provision of news, photographs, and feature articles to the media), and other information provision services (database services and web search portals);

(vi) *royalties and license fees,* covering payments and receipts for the use of intangible non- financial assets and proprietary rights, such as patents, copyrights, trademarks, industrial processes, and franchises;

(vii) *other business services,* comprising trade-related services, operational leasing (rentals), and miscellaneous business, professional and technical services such as legal, accounting, management consulting, public relations services, advertising, market research and public opinion polling, research and development services, architectural, engineering, and other technical services, agricultural, mining and on-site processing; and

(viii) *personal, cultural,* and recreational services is subdivided into two categories, (i) audiovisual services and (ii) other cultural and recreational services. The first component includes services and fees related to the production of motion pictures, radio and television programs, and musical recordings. Other personal, cultural, and recreational services includes services such as those associated with museums, libraries, archives, and other cultural, sporting, and recreational activities. Also included are, education services relating to education, such as correspondence courses and education via television or the Internet, as well as by teachers etc. Health services comprise services provided by doctors, nurses and paramedical and similar personnel, as well as laboratory and similar services, whether rendered remotely or on-site. Excluded is all expenditure by travelers on education and health (included in travel).(*) Note: in the Sixth Edition of the IMF's Balance of Payments and International Investment Position Manual, postal and courier services are included under transportation services.

Sources: Goswani, Mattoo and Saez, 2011