Pathways to Prosperity

Policy Priorities to create an enabling environment for sustainable enterprise development & creation in Cambodia

Business Vision 2020
CAMFEBA

CAMBODIAN FEDERATION OF EMPLOYERS & BUSINESS ASSOCIATIONS
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About CAMFEBA

The Cambodian Federation of Employers and Business Associations (CAMFEBA) is an autonomous and independent confederation of employers and business associations. We are registered with the Ministry of Labour and Vocational Training of Cambodia and act as the single federation representing, promoting and safeguarding the rights and interests of employers in the country across all regions and industries.

CAMFEBA is recognised nationally, regionally and internationally as the sole employers representative body in Cambodia. We work closely with the International Labour Organisation and we are members of the International Organisation of Employers (IOE), the ASEAN Confederation of Employers (ACE) and the Confederation of Asia-Pacific Employers (CAPE).

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The responsibility for the opinions expressed in this report rests solely with the author. The International Labour Organisation (ILO) takes no responsibility for the correctness, accuracy or reliability of any of the materials, information or opinions expressed in this report.

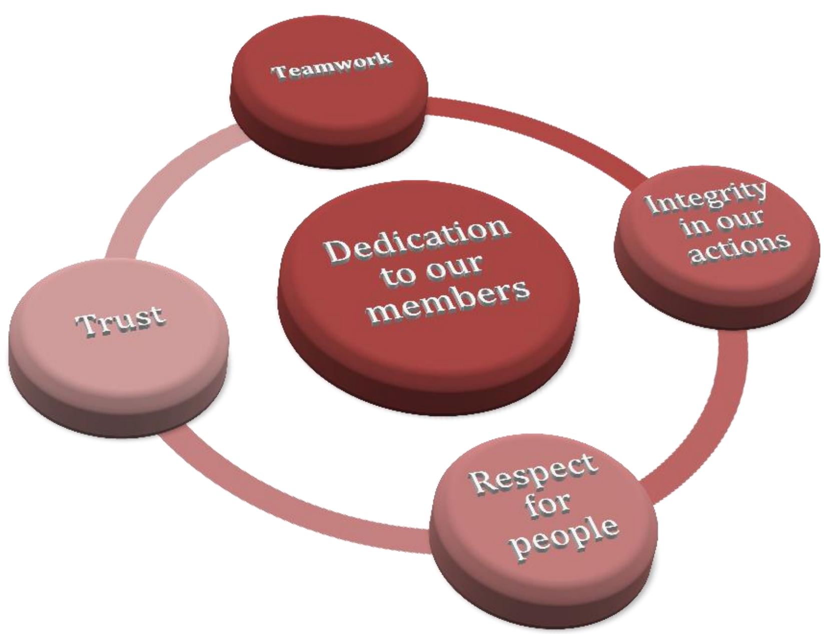
Our Mission

We are the federation of Employers and Business Associations. We promote the environment for successful business growth and support employers to achieve excellence in business practices.

Our Vision

"Successful business, Prosperous Cambodia"

Our Values



Preface

Over the past decade, major economic reforms have helped to transform Cambodia into a trade-oriented economy with thriving industrial and services sectors. Our combination of competitive wages, good labour conditions, and sound legal structures have fostered Cambodian businesses and attracted international investment. Opportunities for further prosperity lie in our favourable demographics, technological advances, and location in the heart of one the fastest growing regions in the world.

However, to translate opportunities into businesses, products and jobs, our national policies must support private sector development and encourage economic expansion.

Through extensive research and intense conversations with our member firms over the last 12 months, CAMFEBA has identified FOUR key policy areas that we need to focus our collective efforts on. These four priority areas for action are:

1. ***Priority ONE: Improving workplace relations***
2. ***Priority TWO: Matching skills with the needs of our changing economy***
3. ***Priority THREEE: Improving our governance structures***
4. ***Priority FOUR: Creating a conducive legal and regulatory environment to enable enterprise growth and development***

These are certainly difficult, but not unsurmountable policy challenges and we strongly believe with collective action from all stakeholders we can create the environment to grow and diversify the economy, create quality jobs and improve the livelihoods of all Cambodian citizens.

As the most representative organization of businesses in Cambodia, our commitment to ensuring Cambodia continues its development into a dynamic, diversified economy extends well beyond providing services to our members. We recognize the need to contribute to not only identifying problems, but developing and implementing solutions. This report aims to do that.

Mr Van Souieng
President
Camfeba

Contents

Abbreviations

AC	Arbitration Council
AC Law	Anti-Corruption Law
ACB	Anti-Corruption Body
ASEAN	Association of Southeast Asian Nations
BFC	Better Factories Cambodia
CAMFEBA	Cambodian Federation of Employers and Businesses Associations
CBA	Collective bargaining agreement
EESE	Enabling Environment of Sustainable Enterprises
ETPC	Education and Training Policy Committee
GMAC	Garment Manufacturers Association of Cambodia
ICT	Information and communications technology
ILO	International Labour Organisation
ITUC	International Trade Union Conference
IR	Industrial relations
MoLVT	Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation
MoU	Memorandum of understanding
NAA	National Audit Authority
NAC	National Arbitration Council
NSSF	National Social Security Fund
OECD	Organisation for Economic Co-operation and Development
RGC	Royal Government of Cambodia
TVET	Technical and vocational education and training
UNESCO	United Nations Educational, Scientific and Cultural Organization

Introduction

The origins of this report and its policy recommendations originate from a decision by CAMFEBA's Board of Directors to broaden its organizational scope from traditional labour and social issues to a wider set of issues concerning business. The overarching goal is to widen CAMFEBA's policy portfolio, in an evidenced based way, by identifying key constraints on enterprises' growth and developing policy recommendations that are capable of wide support and eventual implementation.

Our initial research, carried out in collaboration with the ILO and consultations with our members firms identified four critical areas that we felt represent the biggest constraining factors on wider growth, they are: *workplace relations, skills, governance and the legal and regulatory environment.*

We subsequently developed an innovative, national survey that probed deeper on these issues by asking new and searching questions designed to help us generate realistic and implementable policy recommendations.

In partnership with the ILO and utilizing their *Enabling Environment for Sustainable Enterprises* (EESE) methodologies[1], we undertook a consultative process that captures the perspectives of employers and workers throughout Cambodia. Our national survey covered 200 workers and 300 firm representatives, throughout the country from within and outside our membership and we supplemented these with focus group discussions. We sought input from a range of industries crucial to Cambodia's current and future economy including ICT, garment, and agro-processing. To supplement these surveys, we conducted workshops throughout the country with senior business figures.

We combined our primary data investigation with a comprehensive analysis of all of the available secondary data on these issues, 115 separate reports, which additionally enables us to use International comparisons and benchmarks to help map out the key policy areas to focus on.

This new approach of combining primary and secondary data, worker and firm-level perspectives, along with international benchmarks helped us generate key insights and actionable recommendations. When taken in conjunction with the ILO's ***Enabling Environment for Sustainable Enterprises REPORT***, which is a comprehensive combined analysis across a wider range of policy issues and which this more consolidated report is based on, we believe this is a very comprehensive review of the current challenges facing the Cambodian economy.

[1]. The Enabling Environment for Sustainable Enterprise (EESE) Toolkit is built around the ILO's 17 Pillar Sustainable Enterprise Framework which was unanimously endorsed by employers, workers and governments at the 2007 the International Labour Conference.

This report represents the "end of the beginning" and in many ways is the easy part. With the analysis complete and the recommendations, in general form, developed, we now call on all stakeholders to work with us in seeing their realization.

Sandra D'Amico

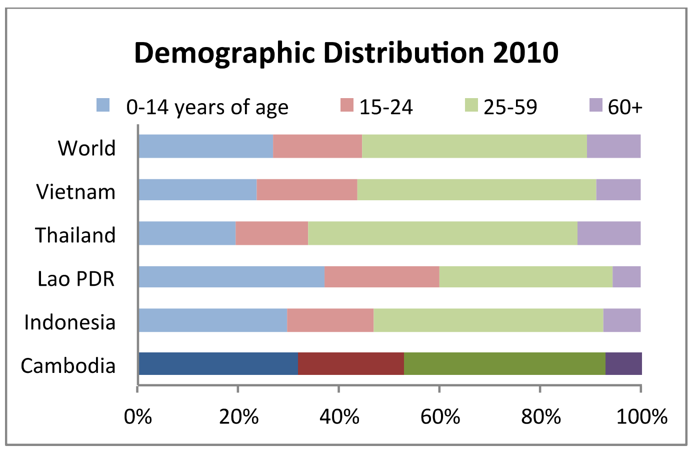
Vice President,
CAMFEBA

PRIORTY ONE: Generating the Skills to compete: Education, training and lifelong learning

32 per cent of the Cambodian population is under 15 years of age, and 300,000 to 400,000 young people enter the labour market each year. However, translating this demographic advantage into an economic advantage requires robust education and training systems. CAMFEBA considers basic skills in literacy, language and numeracy to be the cornerstone of economic and social development. For Cambodian business to expand and prosper it is imperative that education and training systems meet the productivity and innovation needs of business and in doing so, to encourage growth in investment, business development and employment.

Understanding the Issues

Employment growth in the economy will continue as the government implements plans to expand and diversify the economy by promoting industries such as ICT and rice processing. However, our survey reveals that over 75 per cent of firms feel that skills shortages are negatively impacting firm's growth trajectories. Jobs generated by our economy need to be filled by Cambodians, yet while, firms are able to find local workers to fill positions in light industries, such as manufacturing, positions requiring higher skills are frequently staffed by expatriate staff. Addressing this issue is especially important in light of further ASEAN integration: **our national survey found that nearly half of enterprises are concerned about the free flow of skilled labour throughout the region.**



Source: United Nations Population Division. "Demographic Profiles".

By acting now to address the shortcomings in the education system, CAMFEBA believe that we can proactively develop the skills of our young people and emerging workers in a way that equips them to avail themselves of future work opportunities. This will lead to improved prosperity for the individual and contribute to the overall growth of the Cambodian

Developing a strong system of education and training is the most effective intervention to improve employment prospects and drive growth..

-CEO Cambodian company – beer company?

economy. Achieving this requires a strong, data-driven education system linked closely with the evolving needs of the private sector.

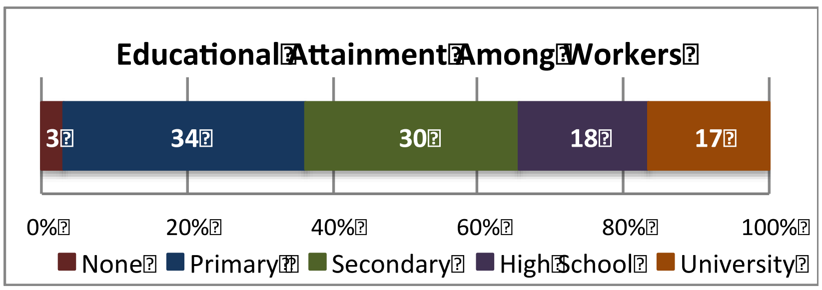
Addressing current skill gaps requires systematic analysis of labour market trends and projections. The framework for data collection to make skill projections, match job seekers and employers, and establish an education system that responds to the evolving needs of our economy can be achieved through strong partnerships between the public and private sectors.

Cambodian General Education Statistics 2008	
Adult (15+) literacy rate	78 %
Primary enrollment rate	98 %
Primary graduation ratio	80 %
Secondary enrollment rate	38 %

Source: UNESCO Institute for Statistics (World Development Indicators Online).

Our study found that over 65 per cent of surveyed workers had completed at least secondary school while UNESCO statistics in 2008 find a secondary enrollment rate of less than 40 per cent. Surveyed firms' were generally satisfied with the quality of available education and training providers. This was particularly the case with university graduates, but less so with second level school leavers. Additionally the availability of quality training providers is not sufficient.

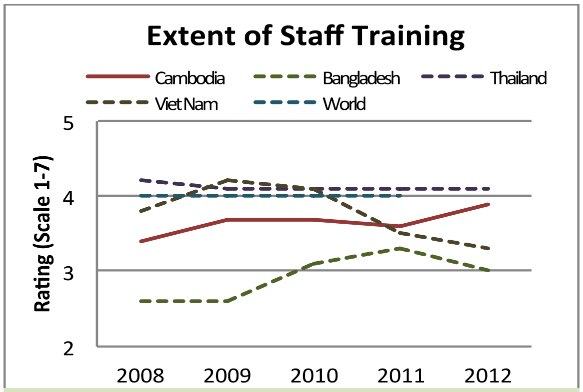
Technical and vocational education and training (TVET) can facilitate the integration of young people into the labour market by simultaneously generating practical skills and providing alternatives to students for whom traditional education is not a good fit. Positive gains have been made though, where, according to Ministry of Labour and Vocational Training (MOLVT) findings, the number of technical vocational education and training graduates in Cambodia increased, from 88,367 in 2007 to 113,648 in 2008.[2] However this remains a priority area for business and **the study found that investment in TVET structures is needed to ensure higher quality outcomes.**



Source: CAMFEBA National Survey

Cambodian Businesses promotes learning as a life-long process. A solid foundation in language, literacy, and numeracy gained in school provide the foundation for continual development. Staff training and development is a mutually beneficial process as it ameliorates skill shortages, helps attract and retain talent, and reduces turnover. Our commitment to developing our employees is evident in our performance on the World Economic Forum's most recent survey of investment in staff development. To build upon this, our survey looked more closely into the issue by examining employer-supported training from both worker and firm perspectives.

[2] ILO. 2010.

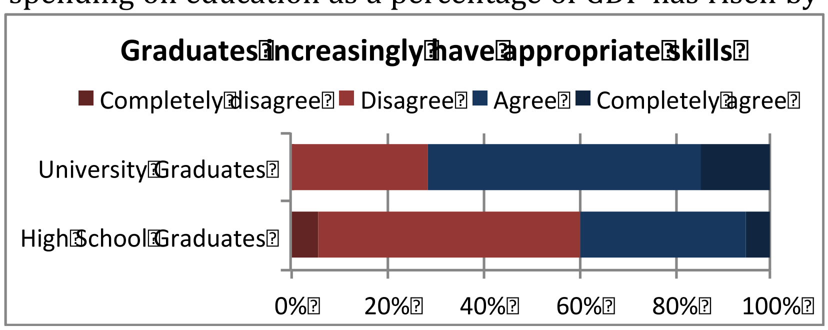


Source: "The Global Competitiveness Report" WEF. Based on responses by business leaders to the following: "The general approach of companies in your country to human resources is: (1= little investment in training/employee development, 7= heavy investment to attract, train, and retain employees)".

Job-specific training such as basic computer skills, language, cooking and customer service were the most commonly reported. Further, we found that training is concentrated in large enterprises and in Cambodia's hotel and restaurant industries. While findings from the survey confirm that small companies tend to be more negatively affected by the lack of skills compared to larger companies.

Current Progress

Cambodia has made large improvements in educational outcomes since the late 1990s. Literacy rates have risen substantially, especially amongst women, and the country is performing well regionally on UNESCO's "Education Index" which incorporates literacy and school enrolment rates. Encouragingly, the number of Cambodian schools increased by 30 per cent since 2003, and public spending on education as a percentage of GDP has risen by nearly 1 per cent since 2001.[3] However, comparisons to other countries spending on education is at levels lower than in neighboring countries, and while this is itself not an indicator of quality outcomes it does raise questions is there a need for increased investment.



Source: CAMFEBA National Survey

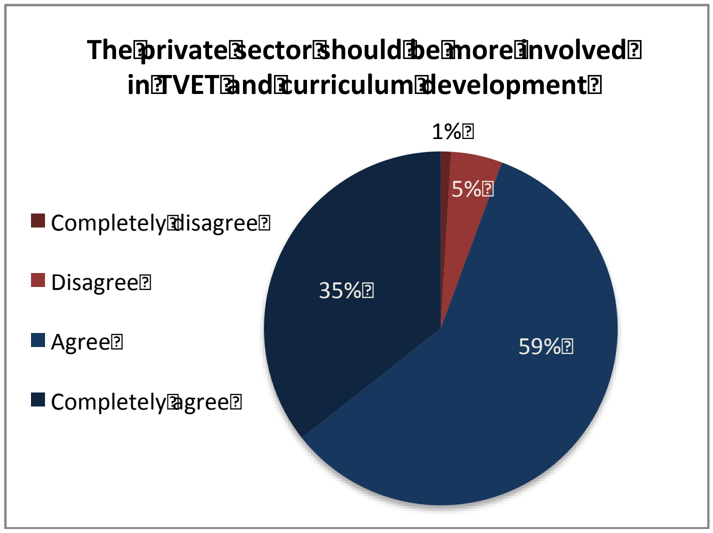
In addition to improving student achievement, the country has raised teaching standards. In cities, teachers must have 12 years of schooling prior to undergoing teacher training, while in rural areas, they are required to have nine years of schooling. A UNESCO report on Cambodian education suggests additional revisions to teacher training through further

[3] United Nations General Assembly. 2009.

incorporation of teaching methodology and in-school teaching practice, and points to establishment of a model primary school close to the teaching colleges as a positive step.[4]

In 2004, the government established the Ministry of Labour and Vocational Training (MOLVT), which currently offers a variety of multi-level programmes such as general mechanics, computer technology, and civil engineering. Further, the RGC has begun targeting technical and vocational programmes at rural communities, especially women, and offering programmes to younger students. Cost remains a challenge as materials, equipment, and maintenance are expensive, and technical education facilities can quickly become obsolete due to market change and industry adaptations.

However, our research finds that over half of firms feel that vocational education and training programmes do not yet meet the needs of the business community. The government publically states that it would like to work with the private sector in continuing to develop these programmes, a sentiment which Cambodian Business fully supports: 90 per cent of surveyed firms agree that the private sector should be more involved in developing TVET priorities and curriculum development.



These improvements are especially important for small and/or rural businesses which report being most acutely affected by skill shortages. Therefore, increasing availability of training options that are conveniently located as well as time and cost-effective for smaller businesses is an important area for further development. CAMFEBA is helping to address this need by providing training in critical areas such as human resources and management. Further, CAMFEBA will form an Education and Training Policy Committee (ETPC) to monitor and evaluate progress on the implementation of all aspects of this policy. The ETPC will report on progress to the CAMFEBA Board every six months so that developments may be reviewed and evaluated.

The continual evolution of our curricula based on accurate and current data on our economy and labour force is a critical ingredient in generating demand driven outputs from our education and training structures. The ten-year Statistical Master Plan for Cambodia establishes a path to advance the government's statistical capabilities, thereby enabling improved functioning in a range of areas. Significant advances had already been made prior to the 2012 mid-term review: trainings were conducted at the national and provincial levels, and a Labour Force Survey was undertaken for the first time in over a decade. It is now critical that this information be utilised.

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[4] UNESCO-IBE. 2011. World Data on Education 7th Edition.

Policy Recommendations

Cambodia must continue to strengthen, diversify and expand its education and training systems. A continual process of updating and reforming our education systems based on sound data is necessary to ensure that the skills they provide match the needs of our changing economy. The success of our economy requires continual improvements to our education and training systems, and CAMFEBA will continue to support the government in this.

1. **Improve the general education system**

- To achieve a solid foundation in cognitive skills Government must move to ensure e compulsory basic education for all citizens with a primary focus on basic standards of literacy and numeracy.
- To encourage ongoing participation in the education system and reduce the drop-out rate consideration should be given to adapting the school year to fit the seasonal needs of agricultural families (focusing holidays around harvest times etc.)
- Incorporate practical training, learning, entrepreneurship and innovation into curricula and include the private sector in education policy development in areas such as curriculum design and standard setting for students and teachers.

2. **To improve the standards of education and technical vocational education and training we urgently need to improve dialogue, cooperation and information exchange between business, educators/trainers and policy makers.**

- Establish a process of continual curriculum revision built upon current labour market data and projections and systematically track, analyse and disseminate information regarding the supply and demand of skills in the current, mid-term, and long-run labour markets.
- Include the private sector representatives on school Boards and training bodies.

3. **Government should take immediate steps to improve the supply of high quality training available to companies regionally and promote the availability of same.**

- Expand the depth and number of partnerships, internships and apprenticeships between regional schools and colleges and local employers.
- Provide training options that are conveniently located, affordable and flexible.
- Improve linkages amongst institutions, so as to avoid duplication and improve efficiency.

4. **Establish partnerships between local business and training providers so that training is focused and relevant to business needs with practical application incorporating work placements, and work experience wherever possible.**

- Explore the development of company led job fairs to help business to communicate directly with potential employees.
- Cognizant that Cambodian firms already invest heavily in enterprise level training no further burdens should be placed on them

5. **CAMFEBA calls for the development of a national qualifications framework which is both standardized and outcome focused.**

- Develop a national TVET framework that uses competency-based standards.

As the national representative organization for business in Cambodia, CAMFEBA has an important role to play in the development of education and training policy

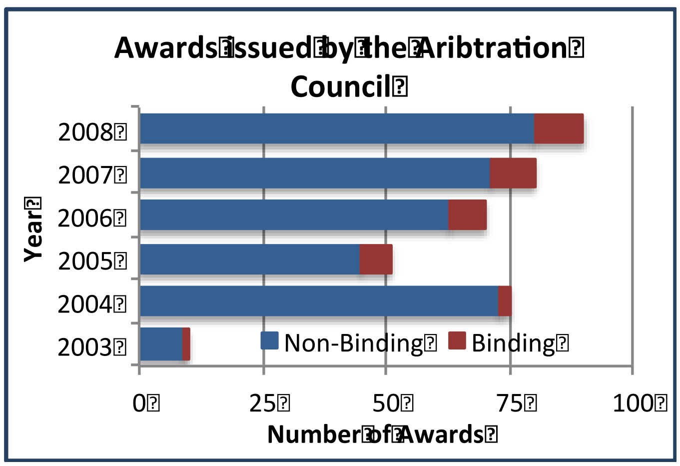
PRIORTY TWO: Improving workplace relations: From monologues to dialogues

CAMFEBA strongly believes that full and genuine social dialogue based on responsible cooperation rather than confrontation is an important tool in sustainable enterprises. Developing a positive, collaborative working environment can help improve productivity and innovation, while greater workplace stability benefits employers and workers alike.

Tensions in the industrial relations (IR) environment hinder investment and undermine the garment industry's reputation for adhering to international labour standards. The turmoil in workplace relations that has been present for much of 2013 and into 2014 underscore the urgent need to develop our nascent system of social dialogue and workplace relations. ***It will take time to embed responsible and effective social dialogue practices and build solid systems and this remains a responsibility of all actors.***

Understanding the Issues

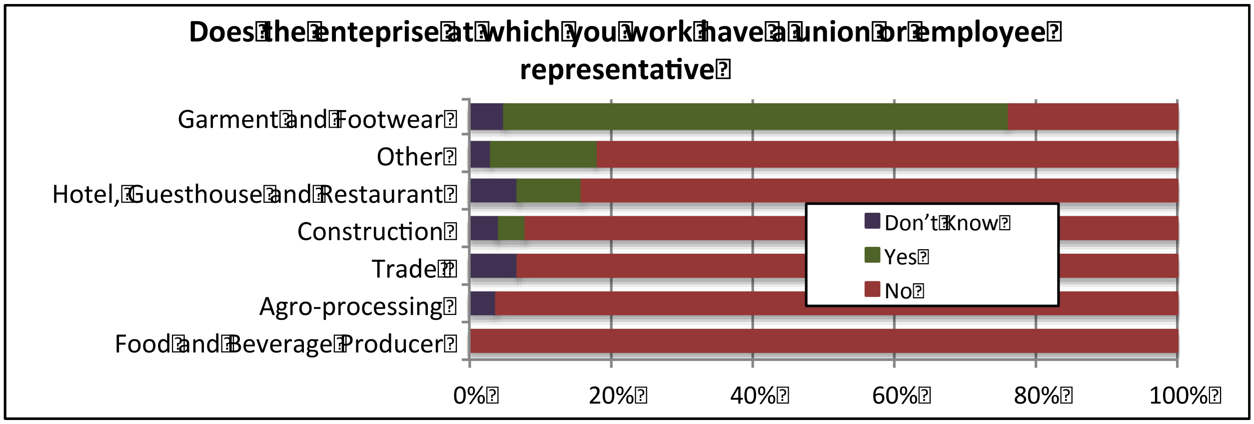
Cambodia has begun to establish the legal frameworks that can underpin a healthy industrial relations climate. The Arbitration Council (AC), a tripartite statutory body established in 2003 to resolve collective disputes on rights and interests, plays a central and important role in our industrial relations. The AC resolves close to 70 per cent of the disputes it hears.[5] Cambodian Business recognizes the important role the AC plays in resolving disputes and is committed to maintaining its support for the institution and ensuring that it remains a key impartial actor.



The MoLVT's Department of Labour Disputes is the main government body for industrial relations. The Department's efficacy has grown, but the trust of workers and employers in the conciliation process remains a challenge, as does ensuring that mediations are well structured.

[5] IlO. 2010. Decent Work Country Programme Cambodia 2011-2015.

Among its tasks, the Department is charged with registering unions and certifying the "representative status" and "most representative status" of unions. By registering, the organization becomes a legal entity with legal rights and responsibilities. From 1997 to 2010, the MoLVT registered a total of 1,700 enterprise unions. Roughly 1 per cent of the total labour force is organised into unions or association, the majority of whom are from the garment industry. With roughly 60 per cent of the country's 400,000 garment workers



Source: CAMFEBA National Survey

unionized, the industry had the highest union density rate among all industries in any Asian country. However, **multiple and competing unions is irrefutably a problem for all parties, and is rooted in corruption, management interference and political affiliations.** As a result, there are an average of five, often competing, unions per factory and a large number of strikes, which are illegal on the basis that they do not follow legal procedure.[6] As of December 2013, there were 13 Confederations, 80 Federations and 3004 local Trade Unions active in the garment and footwear industry.[7] Minority unions are a great challenge for ensuring a cohesive and responsible union movement that can effectively contribute and engage in tripartism.

Union proliferation between 2011 and 2012		
	2011	**2012**
Trade Unions	1725	2765
Federation Trade Unions	41	76
Union Chambers	8	12

Source: CAMFEBA

CAMFEBA remains the main employer interface for trade union relations. Inaugurated in July 2000, we have grown to become the country's foremost employers' organization. As of September 2013, CAMFEBA collectively represents over 1,500 employers, to whom we provide a range of member services, including distributing updates of laws and regulations, legal advice on HR and Labour Law, and management training. Additionally, CAMFEBA has been integral to providing research and advocacy for members. In addition to public-private partnerships for education and training

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[6] Nuon, V. and Serrano, M. 2010. "Building Unions in Cambodia: History, challenges, strategies." Freidrich Ebert Stiftung Office for Regional Cooperation in Asia.

7 Ministry of Labour and Vocational Training Statistics 2014

programmes, policy suggestions and research conducted by CAMFEBA have generated real impacts in the country.

Current Progress

The draft Trade Union Law contains a number of provisions that, if properly implemented, would improve social dialogue by helping make unions more effective and representative actors. Though pending since mid-2013, it is expected have a realistic chance of coming into force in 2014. **The effective implementation of this law is a key priority for CAMFEBA.**

A Memorandum of Understanding on Improving Industrial Relations in the Garment Industry (MoU) signed in September 2010 between the Garments Manufactures Association and a number of unions which was renewed in 2013 and while welcome, needs rigorous and actual implementation. In the MOU, both sides agreed to use the AC's binding arbitration procedures on disputes over rights, violations of the law, and existing collective bargaining agreements. CAMFEBA welcomes this progress. However, we recognize that genuine social dialogue ends not with the signing of an agreement, but with its full implementation and in this progress has been slow.

Cambodian business operates in an intensely competitive international environment and stable workplace relations are a key factor in determining our attractiveness to investors ..... CEO Garment factory (one of the top ones)

Despite forums for public-private sector dialogue and a tripartite labour regulation institution, strikes occur frequently and mostly illegally. Almost all strikes fail to follow due legal process, namely conciliation and arbitration, followed by strike vote and notice to the employer and ministry.[8] Further, illegal strike action, including public protests, road blockages and occupations of firms, frequently disrupt the conduct of daily business impacting society beyond the boundaries of the individual firm or sector. Strike action this year has been mostly marred with violence and the destruction of property. CAMFEBA welcomes efforts by organizations such as the ILO to build the capacity of social partners, but ***it is crucial that all partners understand not only their rights, but also and their responsibilities to uphold agreements and act within the law.***

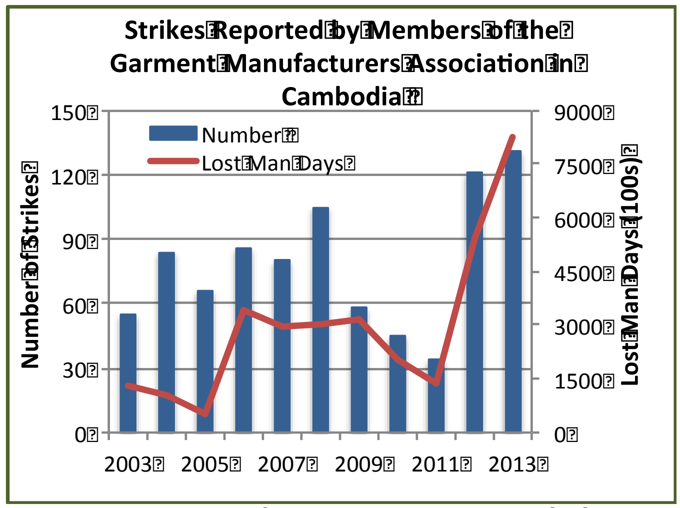
Monthly Minimum Wages in the Garment Industry
(in USD, Lowest Relevant Rate on 15 December 2013)

Thailand	243.57
China	139.06
Cambodia	80.00
Vietnam	77.93
Pakistan	74.62
Sri Lanka	73.82
Bangladesh	72.03
Indonesia	71.56
India	69.50
Myanmar	57.68

Source: ILO

8 ILO. 2010. Decent Work Country Programme Cambodia 2011-2015. P 23

Addressing these issues requires a candid discussion of the current situation and willingness to compromise and a commitment to uphold agreements. For the past 12 years, the ILO has been heavily involved with employers, unions, and the government. Indeed, CAMFEBA values its partnership with the ILO. The Better Factories Cambodia (BFC) programme of the ILO has facilitated global recognition of the good working conditions and high wages provided by our garment and footwear industry. After tripartite discussions by the Garment Manufacturers Association in Cambodia (GMAC), government, and unions, all parties agreed to raise the minimum wage of garment workers. The dedication of parties to come together to negotiate in the absence of a general, national, minimum wage demonstrates commitment to this cause. Unfortunately, some unions have undermined this achievement by fomenting violent strikes, which have tragically led to deaths and injuries. **Camfeba strongly believes that a social dialogue process, such as a wage negotiation, when based on a firm empirical footing, can lead to higher quality and sustainable outcomes.**



Source: Garment Manufacturers Association in Cambodia (GMAC) http://gmac-cambodia.org

Policy Recommendations

Social dialogue aims to find harmonious solutions generated through the full involvement of all parties. All parties must uphold their responsibilities and rights as well as those of their counterparts, and accept that this collaborative process involves compromise. Negative impacts of violent strike action spread far beyond the individual firm. Indeed, CAMFEBA supports the ILO's entreaty to authorities and protesters involved in any illegal strikes to respect the rule of law, use restraint and apply principles of social dialogue. [9] We need to promote and build dialogue between social partners and establish relationships based on integrity and trust. This is achievable by focusing primarily on issues of common ground and seeking constructive resolutions to issues of difference.

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1. CAMFEBA call upon the government to proceed now towards the full implementation of the new law on trade unions and to ensure that provisions are included for dismantling and revoking union registrations that are (1) legally deemed not representative, (2) do not abide by the law, (3) embark on violent behaviour, intimidation and destruction of property. The law must include clear process for striking and penalties for not following due process and be void of ambiguous and confusing language.
2. CAMFEBA support compliance with the law and encourages and support members to ensure that they are compliant. Equally CAMFEBA insist that trade unions must comply with the Labour Law by following appropriate procedures prior to the initiation of industrial action.
3. CAMFEBA call upon government to review the working hours provisions and to consult with social partners to discuss ways that these provisions could be amended (perhaps through voluntary agreement or a voluntary opt out clause) to reflect better practical reality.
4. CAMFEBA continues to strongly support the Arbitration Council (AC) as the primary mechanism to adjudicate disputes under this law.
5. CAMFEBA calls for increased training for trade unions to enable them to play a more effective and responsible role in our industrial relations framework
6. The ILO should continue to provide advice and guidance to all social partners in Cambodia to assist us in the development of a trust-based responsible industrial relations system.

CAMFEBA deeply believes that full and genuine social dialogue based on responsible cooperation rather than confrontation can be one important tool in sustainability.

[9] ILO statement on strike action in the Garment sector 31 December 2013

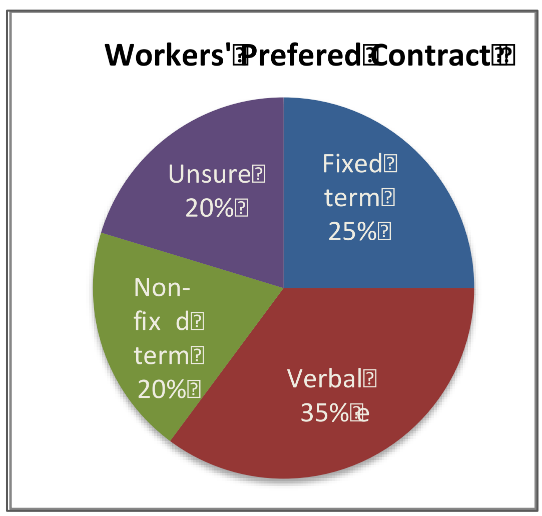
PRIORTY THREE: Legal and Regulatory Environment: Providing investors with confidence

Well-designed laws and regulations provide the framework for successful economies. They enhance competition, reduce regulatory costs, boost efficiency, bring down prices and stimulate innovation. Moreover, respect for the rule of law and its enforcement lie at the heart of any successful society. As Cambodia further integrates its economic relationship with its ASEAN neighbours, a focus on the competiveness of our economy and the enterprises that populate it is essential to the future well-being of the country.

Central to achieving the targets set forth in the country's **Rectangular Strategy for Growth** are sound legal and regulatory systems. CAMFEBA is pleased to see that private sector growth given such strong emphasis. In fulfilling these goals, it is important that laws support all aspects of doing business including establishing and registering a business, daily operations, protection of investments, and dispute settlement.

Understanding the Issues

While Cambodia has a high labour force participation rate, employment in the formal sector, which offers higher pay and better working conditions, is low. Carefully designed labour laws ensure that registered businesses are able to provide quality jobs.



Source: CAMFEBA National Survey

CAMFEBA surveyed workers concerning their preferred contract format. We found that more than twice as many workers prefer fixed term or verbal contracts over non-fixed term contracts.

CAMFEBA recognise that even in strong economies, especially vulnerable segments of the population may be unable to earn sufficient income. Indeed, segments of the population such as self-employed farm workers and domestic workers continue to experience high rates of poverty. Therefore, Cambodian Businesses endorses the provision of a fiscally affordable social security system that delivers supports appropriate to the needs of the diverse population including employment-linked programmes and targeted cash transfers. To be effective, these must be carefully designed to protect the most vulnerable in society while promoting employment, competitiveness and economic growth. **The widespread benefits of government programmes and services such as social security mean that responsibility of their financing must also be shared.**

Carefully crafted tax policies that minimize the cost of formality are crucial to investment choices. CAMFEBA recognize's that where taxes are high and the corresponding gains seem low, the incentive for business to opt out of the formal sector increases. In addition where tax compliance imposes heavy burdens of cost and time, it can create a disincentive to investment and encourage informality. In addition to equitable tax regimes, formality is incentivised by streamlining processes such as filing taxes and acquiring permits and licenses.

Current Progress

On the World Bank's "Regulatory Quality Index", which measures the degree to which countries are able to develop and implement regulations that promote the private sector, Cambodia has improved significantly since 2008, and performs well regionally. However, more detailed measures related to doing business in Cambodia underscore areas for improvement.

"Doing Business" Score and Rank of 1 (best) to 189	
Taxes	
Global Rank	65
Time (hours/year)	173
Total tax rate (% profit)	21.4
Starting a Business	
Global Rank	184
Procedures (number)	11
Time (days)	104
Cost (% income per capita)	150.6
Enforcing a Contract	
Global Rank	162
Time (days)	483
Cost (% of claim)	103.4
Procedures (number)	44

Source: World Bank. "Doing Business"

As we diversify and strengthen our economy, it is important to reduce disincentives to the establishment of new businesses by minimising the associated financial and time costs. On this critical first step, Cambodia performs poorly; the World Bank's global ranking in 2014 places Cambodia at 184 out of 189. Fortunately, each of the 11 registration procedures is an opportunity for streamlining. This is equally true for other business processes. For example, registering property takes an average of 56 days and requires seven separate, in-person procedures.[10] Even with registration, real concerns over a lack of protection of physical and intellectual property. Simplifying these processes, enhance the protection of property, and ensuring our legal system provides avenues for efficient, fair dispute resolution will improve the environment for businesses and increase our attractiveness as an investment destination.

[10] World Bank. Doing Business 2014-Cambodia.

Cambodia performs better on areas of labour laws. By allowing the use of fixed-term workers to perform any tasks in a business and setting reasonable levels of severance pay, companies are more likely to hire as soon as their business begins to expand. However, adjusting limits to the use of fixed-term contracts is an essential area for revision that will benefit both employees and employers.

Select Indicators of Labour Rigidity

	Cambodia	IDN	LAO	THA	VNM
Third party consultation needed prior to collective (9+) dismissal?	Yes	Yes	Yes	No	Yes
Retraining/reassignment obligation before making a worker redundant?	No	Yes	No	No	Yes
Priority rules for redundancy dismissals or lay-offs?	Yes	No	No	No	Yes
Prohibition against fixed term workers for permanent tasks?	No	Yes	No	Yes	No
Max cumulative duration of fixed-term employment (in months) including all renewals?	24	36	No limit	No limit	72
Severance pay (in weeks) for redundancy dismissal after 1 year continuous employment	2.14	17	5.20	15.0	8.67

Source: World Bank. "Doing Business 2013".
Definition: Indonesia (IDN), Lao PDR (LAO), Thailand (THA), Vietnam (VNM)

Cambodia has also made progress in promoting a healthy and safe of work force. In 2007, the RGC established the National Social Security Fund (NSSF), and employer participation has been obligatory since 2009. As of January 2014, over 4,000 enterprises were registered with the NSSF. Forthcoming reforms will bring the scheme closer to programmes commonly used in other countries by collecting employee contributions and providing not only occupational injury insurance, but also general medical benefits and pension. CAMFEBA recognise that it is important for benefit expansion to be accompanied by expanded registration by enterprises so that costs of the programme are widely dispersed.

CAMFEBA's role in the NSSF has been integral to the programmes success, and should serve as a model for integration of private sector perspectives in policy development. Our seat on the board allows us to contribute to the design and delivery of the programme, and actively promoting the NSSF to our members has increased participation. Our national survey shows that while only 38 per cent of non-CAMFEBA members contribute to the NSSF, 98 per cent of surveyed CAMBFEBA members are in compliance.

an effective enabling legal and regulatory environment conducive to enterprise growth and development is critical to my firms ability to expand operations, and create more jobs in the economy *–CEO IT firm?*

CAMFEBA welcomes smart, robust laws and regulations as they provide the stability and predictability our country needs. Labour and social security laws that protect our citizens are vital to maintaining a just and harmonious society. However, these should be designed around the preferences and abilities of the affected individuals in line with economic realities. Facilitating business development and growth through efficient government processes and effective protection of investments as well as physical and intellectual property are areas for further improvement.

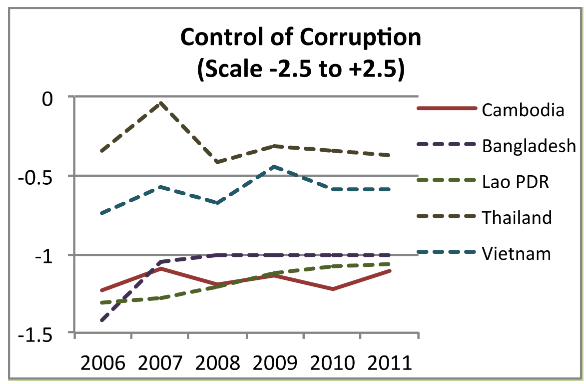
1. Support and encourage compliance with all national law and regulations and provide for information campaigns across regions to increase public awareness and improve compliance.
2. Encourage Government to establish clear targets to reduce burdensome bureaucracy and administration on firms. Put in place, where they do not exist, regular regulatory reviews, with the full participation of the business community, with a particular focus on how they are impacting on small businesses.
3. Reduce the level of fees for registering a business and continue to work to reduce the time required to set up a business.
4. Facilitate firms' participation in public procurement for example by packaging public procurement in small bids so that smaller enterprises can participate in the tendering process.
5. To be equitable taxation must be applied fairly across all of society. Every effort must be made to limit the informal economy and broaden the tax net to the greatest extent possible. We advocate the reduction of those taxes that are "profit-insensitive", i.e. taxes that are paid regardless of whether the firm is making a profit.
6. Incorporate consultation mechanisms with the private sector into regulatory design processes and put in place a framework to safeguard against inappropriate regulation and provide more accountability for decisions.
7. Clearly and actively communicate to the enterprise sector any regulatory reforms.

Reforms need to reduce burdens on small businesses in particular, increase the transparency of regulatory regimes, and support entrepreneurship and market entry

PRIORTY FOUR : Good Governance for Growth

Good governance with effective, independent government bodies is inexorably linked with a country's current economy and future prospects: sustainable enterprises require not only appropriate laws, but also reliable enforcement. It is in the interests of business, government and citizens alike to continue improving our country's governance to give stability to business and to encourage inward investment and development. CAMFEBA is committed to this goal.

Understanding the Issues



Source: World Bank, "Governance Matters" database.
Definition: The extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests. Scale of -2.5 to 2.5 with higher values indicating better governance.

Fair judicial and administrative systems enable efficient functioning of a robust private sector, and our cash-based economy make structures that promote good governance especially important. Cambodian businesses fully appreciate this fact, and consistently express a desire for improved governance in global surveys by the World Bank and World Economic Forum. In fact, Cambodian enterprises are far more concerned with a lack of effective regulation than its presence.[11] Further, our own survey revealed that businesses perceive better governance as the most important way to improve our economy. While a 2012 study by the OECD shows that foreign firms operating in Cambodia are not at a disadvantage compared with their Cambodian counterparts,[12] the Economist Intelligence Unit estimates that 10 per cent of Cambodia's annual GDP is lost to corruption.[13]

Our research into the consequences of refusing pay facilitation fees resulted in services delays or the failure to receive the service in 70 per cent of firms. An important component of addressing this problem is implementing merit-based recruitment and promotion of government officials who design and deliver pubic services, and subjecting them to codes

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[11] World Economic Forum 2012. Global Competitiveness Report 2012-2013.
[12] OECD. 2012. Skills Development Pathways in Asia. OECD; LEED.
[13] Economist Intelligence Unit (EIU). 2012. Cambodia Risk Briefing. Economist Group (London).

of conduct, requirements for financial and other disclosures, and appropriate disciplinary measures. Improvements are especially urgent in the judiciary.

Equitable judicial systems are a key concern in Cambodia where the high cost of filing complaints under the new Code of Civil Procedure prevents many Cambodians from accessing services. Indeed, CAMFEBA research finds small firms are most affected by the unpredictable business environment that exists when good governance is lacking, and that maintaining stable, good relations with local officials is the main reason small companies pay bribes.[14] This is damaging for businesses as it erodes confidence that their physical and intellectual property as well as their investments will be protected.

Transparent public finance and procurement systems not only benefits the business community, it also ensures appropriate use of citizen's resources. However, over 70 per cent of Cambodian companies perceive personal connections as an important factor.[15] This complicates procurement not only for companies that lose bids, but also to those who are successful. Cambodia's 2009 **Provincial Business Environment Scorecard** recommends the use of a specialized public procurement due diligence tool in Cambodia. Further, it recommends implementation of integrity systems and due diligence when contracting agents to facilitate business transactions in the country.

Current Progress

The Cambodian government has taken large steps toward improving governance, leading to improved rankings in global competitiveness, and research by Transparency International demonstrates real confidence in the efficacy of the government's efforts.

	In the past 2 years how has the level of corruption changed?*		How effective are your government's actions to reduce corruption?**	
	Decreased	Increased	Effective	Ineffective
Cambodia	51 %	24 %	57 %	15 %
Bangladesh	27 %	60 %	25 %	32 %
Indonesia	8 %	71 %	16 %	65 %
Thailand	9 %	66 %	25%	42 %
Vietnam	18 %	55%	24 %	38%

Source: Transparency International's "Global Corruption Barometer" 2013.
*Combines GCB categories of "decreased a lot" with "decreased a little" and "increased a lot" with "increased a little".
**Combines GCB categories of "very effective" with "effective" and "Ineffective" with "very ineffective"

The RGC has made reforms to simplify and standardise processes across a range of services. For example, successful streamlining by the Ministry of Commerce in 2007

[14] Business Anti-Corruption Portal. (undated).

[15] IFC and Asia Foundation. 2009. "Provincial Scorecard in Cambodia - 2009".

reduced the time and cost of commercial registration. As a consequence, the number of companies registered doubled between 2005 and 2008. Further, many government ministries now publish their official service fees. Unfortunately, 71.3 per cent of surveyed businesses were unaware of this, and progress in some areas is slowing. In 2013, Cambodia made starting a business more difficult by introducing a requirement for a company name check, and increasing the costs for the approval of registration documents and incorporation with the commercial registrar. According to the UN's "E-Government Survey 2012", publishing government information online and automating bureaucratic processes have been major components of sustainable development in countries throughout the world. Further, Cambodia's low ranking on the UN's "Online Service Index 2012" leaves much room for improvement.

Global Competitiveness Index			
	2007-8	**2010-11**	**2013-14**
Property rights	3.59	3.51	3.64
Burden of government regulation	3.09	3.36	3.51
Intellectual property protection	2.66	2.84	3.17
Efficiency of legal framework in settling disputes	--	3.58	3.55

Source: World Economic Forum

Numerous institutions and laws have been established in Cambodia to help prevent and combat government corruption. The Anti-Corruption Law (AC Law) and Unit are key amongst these. The AC Law establishes penalties for payers and receivers of facilitation payments and requires disclosure of financial assets by government officials every two years. The 2011 conviction a senior provincial official for violation of the Law is encouraging.[16] Further, six out of eight political parties in Cambodia have signed anti-corruption pledges that include the expansion of the current asset declaration practice, stronger enforcement of the AC Law, and special focus on good governance in education and government officials' recruitment. However, the government's Anti-Corruption Body (ACB) has had little impact, attributable to low awareness among the general public, fear about the disclosure of corrupt practices both within the public and private sectors, a perception of bias by the ACB.[17]

Two other bodies, the National Audit Authority (NAA) and National Arbitration Center (NAC) have been established to support proper functioning and confidence in the government in two very different ways. In 2002, the RGC established the NAA is charged with conducting external audits of government agencies and building a supreme audit institution. Meanwhile, the NAC is Cambodia's first alternative dispute resolution mechanism. With the NAC, companies are able to resolve commercial disputes more

[16] State prosecutor Pong Chan Soyutheara said Tob Chan Sereivuth, a former prosecutor in Pursat province, was convicted of extortion and accepting bribes to release timber smugglers , Wall Street Journal. 2011.

[17] Global Integrity. Global Integrity Report 2008.

quickly and inexpensively than through the court system, building confidence that rules will be enforced, and providing the security and stability businesses need to make investments. CAMFEBA recognize that ACU is working well and that they have been effective. However to achieve the level of change required this needs to be built upon and further investment is required.

I greatly welcome CAMFEBA's initiative to develop a reporting mechanism toi enable firms, particularly small firms, anonymously report(corrupt practices
Minister of Interior????

CAMFEBA recognizes the role of the private sector in improving governance, but recognizes the risk to individuals of taking action in the absence of legal protections for whistleblowers. Therefore, we studied efforts by Cambodia's private sector to address this issue. Our survey found that one third of firms take no action when encountering corrupt and unethical practices in the regulatory and legal environment. 58 per cent of surveyed businesses had never refused to pay a bribe and 70 per cent of those that had refused reported experiencing a delay in service or failure to receive the service at all. Developing of codes of conduct or specifying company policies to guide workers through unclear situations is especially common amongst large enterprises and CAMFEBA members. While only 19 per cent of all surveyed enterprises have this type of policy, they are present in 64 per cent of CAMFEBA members.

Private sector actions to reduce the effects of corrupt and unethical practices	
Action	**Prevalence**
Create codes of conduct or specific company policies	19%
Train/guide workers likely to be in contact with corrupt officials	16%
Keep detailed records on how much and when to pay fees	8%
Actively promote a policy of not paying "extra non-official payments"	5%
No action taken	33%
Need assistance/not sure what to do	10%
Other	17%

Source: CAMFEBA National Survey

Cambodian businesses have also taken collective action. In 2013, CAMFEBA launched a reporting framework to gather, analyse and transmit data regarding bribes to help the government's Anti-Corruption Unit. By designing and conducting a confidential way to collect this information, CAMFEBA was able to provide the government with concrete data and suggestions to address to mitigate corruption. The structured and confidential manner in which this was conducted allowed CAMFEBA to analyze patterns and present the government with concrete suggestions for improvement.

Policy Recommendations

The stability and predictability brought by improvements in governance will have widespread benefits for our economy. More efficient and equitable access to the opportunities and protections provided by the state improve the ability to conduct business, and our image as an investment destination. Through e-governance systems, transparent government procedures, and the establishment of legal protection for those reporting unethical behavior, Cambodia's development will accelerate.

1. Promote the new Anti-Corruption law to make it more effective

- There is an urgent need to raise national awareness of this law through the media, across all provinces. Information must be promoted in a digestible way so that it can be easily understood.
- The Review Unit monitoring the law should publish transparent information so that the public have access to up to date information on what is happening and how things are progressing.
- It should be easier to make a legitimate complaint particularly for SME's (for example complaint boxes could be available publically). It should be possible to make the complaint confidentially in a straight forward way and there should be some protection for an individual or group taking action to highlight wrong doing.
- Clear guidelines and supports are needed to assist companies should they initiate a complaint. These guidelines should aim to explain in concrete terms what a complainant has to do to make a legitimate complaint, what evidence is required and what steps should be taken to make a legitimate complaint.
- There are gaps in the existing legislation (for example the absence of protection for whistle blowers). These gaps should be identified and plans made to rectify the situation to make the legislation more effective.
- Every Ministry should publish their fees immediately.

2. Promote ACU effectiveness

- The National Anti-Corruption unitneeds to admit additional stakeholders so as to be more representative. This could either be to the Board itself or by setting up an advisory board.
- The ACU needs to engage more closely with the private sector.

3. Judiciary system

- CAMFEBA call upon ACU to conduct a review of the judiciary and court systems. The review should identify problems and make recommendations for improvement. This is should be completed within a specified time frame which we recommend to be 12 months.
- Judges should receive increased training and be given access to refresher briefings.
- A mechanism should be put in place to evaluate judgements against the backdrop of an overarching objective to eliminate corruption.

4. Tendering procurement processes

- Review the rules for public tenders to ensure they are fair and transparent. The objective is that every public tender should aim to achieve the best possible value for public money. There should be independent evaluation of bids for all major public procurements.
- the process of public procurement in Cambodia be benchmarked against best international practice.

5. Education

- There should be a review of the process for all national exams to ensure the integrity of exam results.
- Educators must receive training on integrity of the examination process.
- CAMFEBA recommend the development of a business ethics course to be part of the curriculum in second level education.

Short box here outlining how CAMFEBA's NEW "reporting mechanism works

CAMFEBA – *PLAYING OUR PART*

- CAMFEBA will continue to work with members to identify the immediate and emerging skills required by our economy.
    - ✓ We will further work with government and training institutions to develop strategies and initiatives that will align education and training policy and service delivery to the needs of business in Cambodia.
    - ✓ Recognizing employers' particular concerns about productivity levels, CAMFEBA will support members, with initiatives to assist them in identifying ways to achieve greater efficiency.
- To help improve workplace relations in Cambodia CAMFEBA will take the following steps:
    - ✓ Promote information about the Labour Law and the new Trade union law among business with the objective to improve compliance.
    - ✓ Encourage business to communicate with employees to give them information on the Labour Law and how it applies to them.
    - ✓ Encourage all employers to provide regular workers with written contracts which should spell out clearly their terms and conditions of employment and should identify a clear procedure to be followed within the company in the first instance should a grievance arise.
    - ✓ Encourage employers and trade unions to agree on a procedure that will be followed in the case of a grievance issue not being resolved internally within the company, so that identified steps can be taken to find a resolution, within a defined time scale and work disruption or strike action can be avoided.
    - ✓ Encourage employers to make full use of the available support mechanisms to assist with dispute resolution, including conciliation, mediation and arbitration.
- We will represent members through our interactions with government to help create an environment within Cambodia that supports successful business growth and supports employers to achieve excellence in business practices
    - ✓ CAMFEBA will work to ensure that regulations are structured to reflect good practice while supporting business development and encouraging economic growth. We strongly believe that regulatory reform must be on-going to eliminate red tape and achieve desired outcomes.
- CAMFEBA has an important role to play in building awareness of the new anti corruption law and in helping with the elimination of corruption from Cambodian business. Supporting this it is our intention to take the following practical steps:
    - ✓ Provide practical assistance to firms to help them report on corruptive practices

- ✓ Encourage companies to adopt firm policies that are widely understood and complied with committing employees to respect the letter and spirit of anti-corruption laws.
- ✓ CAMFEBA will devise training modules to help firms in dealing with inappropriate facilitation requests or demands.
- ✓ CAMFEBA will make public statements through the media to promote the law publically and will also reinforce this message by continually promoting its importance in all interactions with Government. Further to this CAMFEBA will regularly inform members of developments through our newsletter and website and we will actively encourage members to comply with the law.