



# OECD Competition Assessment Reviews

## CAMBODIA

### LOGISTICS SECTOR





# **OECD Competition Assessment Reviews: Logistics Sector in Cambodia**

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# Foreword

Southeast Asia, one of the fastest growing regions in the world, has benefited from a broad embrace of economic growth models based on international trade, foreign investment and integration into regional and global value chains. Maintaining this momentum, however, will require certain reforms to strengthen the region's economic and social sustainability. This will include reducing regulatory barriers to competition and market entry to help foster innovation, efficiency and productivity.

The logistics sector plays a significant role in fostering economic development. Apart from its contribution to a country's GDP, a well-developed logistics network has an impact on most economic activities. An efficient logistics system can improve a country's competitiveness, facilitate international trade and enhance its connectivity to better serve consumers and meet the needs of regionally-integrated production facilities for reliable delivery of inputs and outputs.

The *OECD Competition Assessment Reviews: Logistics Sector in Cambodia*, undertaken within the framework of the ASEAN Competition Action Plan, assesses the impact of regulation on competition in the sector. This report covers the five main subsectors of the logistics market: freight transportation, including transport by road, inland waterway and maritime; freight forwarding; warehousing; small-package delivery services; and value-added services. In parallel, the OECD has assessed the impact of state-owned enterprises on competition in Cambodia in the *OECD Competitive Neutrality Reviews: Small-Package Delivery Services in Cambodia*.

The OECD assessment was conducted in consultation with the Cambodian authorities and local stakeholders, and with the support of the ASEAN Secretariat and the ASEAN Economic Reform Programme under the UK Foreign, Commonwealth & Development Office (UK Government). The assessment prioritises 28 pieces of legislation and identifies 50 regulatory barriers where changes could be made to foster greater competition in the logistics sector. This is especially important for Cambodia where the transport and storage sector currently account for about 7.8% of the country's GDP. This report offers policy recommendations that can help the Cambodian government address structural and regulatory shortcomings in this sector.

These structural reforms have become even more pressing as the Cambodian economy shrunk by about 3 % in 2020 due to the COVID-19 pandemic, with key economic activities such as exports and tourism severely affected by border closures and a decrease in trade. These policy recommendations contribute to reforms that can help the Cambodian economy resume sustainable growth and job creation by enhancing competitiveness, encouraging investment and stimulating productivity in the logistics service sector, with knock-on economy-wide effects and benefits for its consumers.

I congratulate the Cambodian government, as well as the ASEAN Secretariat and the UK Government, on their efforts to lift regulatory barriers to competition and to improve the business environment. The OECD looks forward to continuing and broadening its co-operation with ASEAN to support further its reforms to the benefit of its citizens.

Greg Medcraft



Director, OECD Directorate for Financial and Enterprise Affairs



# Acknowledgments

The findings in this report are the result of an independent assessment by the OECD based on an analysis of selected (prioritised) Cambodian legislation, stakeholder interviews and desk research. The recommendations are the result of this analysis and are non-binding.

The report was prepared in collaboration with the following authorities and public companies who participated in the meetings and provided information, advice and feedback throughout the project:

- Ministry of Commerce
  - Consumer Protection, Competition and Fraud Repression Directorate General
    - Department of Competition
- Ministry of Public Works and Transport (MPWT)
  - Logistics Department
  - Directorate of Administrative Services
    - International Co-operation Department
  - Directorate of Transport
    - Road Transport
    - Land Transport
    - Water Transport
    - Merchant Marine
- Ministry of Economics and Finance
  - Public Enterprise Department
- Sihanoukville Autonomous Port Authority
- Phnom Penh Autonomous Port Authority
- Ministry of Land Management
- Ministry of Posts and Telecommunications
- Cambodia Post

The following trade associations and private companies were interviewed:

- Cambodian Truckers' Association (CAMTA), Cambodian Freight Forwarders' Association (CAMFFA), EuroCham, AMCHAM, Royal Railway, Phzar, Kerry Logistics, FedEx, DHL, Advance Glory Logistics and Fair & Easy.

The OECD project team consisted of Federica Maiorano, Senior Competition Expert and Competition Assessment Project Leader, Takuya Ohno, Competition Analyst, Sophie Flaherty, Competition Analyst, Gaetano Lapenta, Competition Analyst, Wouter Meester, Competition Expert and Competitive Neutrality Project Leader, and Matteo Giangaspero, Competition Expert, all from the OECD Competition Division. The report was drafted by Takuya Ohno and Sophie Flaherty under the supervision of Federica Maiorano.

Lynn Robertson provided valuable comments on the final draft. The report was prepared for publication by Eleonore Morena and Erica Agostinho.

The OECD team was assisted by David Fruitman.

Antonio Capobianco, Acting Head of the OECD Competition Division and Ruben Maximiano, Senior Competition Expert and ASEAN Project Co-ordinator provided valuable comments throughout the process and on the final report.

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The information and figures in this report are updated as of April 2021, while economic forecasts have been updated with more recent figures reflecting the impact of the COVID-19 pandemic.

## Fostering competition in ASEAN

ASEAN member states have agreed to implement significant advances in competition policy as part of the ASEAN Competition Action Plan 2016-2025 (ACAP 2016-2025), which provides strategic goals, initiatives and outcomes to fulfil the competition-related vision of the AEC Blueprint 2025. In order to increase awareness of the benefits and role of competition in ASEAN, the ACAP 2016-2025 provides for an assessment to be conducted on the impact of non-tariff barriers on competition in the markets of ASEAN member states followed by recommendations.

The logistics sector was chosen by the ASEAN Secretariat and ASEAN Experts Group on Competition (AEGC), together with the OECD, as it can play a significant role in increasing ASEAN's economic development, and is included in the AEC Blueprint's 12 priority integration sectors. Indeed, efficient logistics can play a significant role in increasing a country's economic development by facilitating international trade and improving its competitiveness. By developing an efficient logistics system, a country can enhance its connectivity to better serve its importers and exporters, and satisfy the needs of regionally integrated production facilities for reliable just-in-time delivery of inputs and outputs.

Against this background, the ASEAN Secretariat, with funding from the UK Government, tasked the OECD to assist with the implementation of Initiatives 4.1 and 4.2 of the ACAP 2016-2025. These two initiatives require an assessment of the impact of competition law and policy on the markets of all 10 ASEAN member states, both in general (4.1) and with a focus on state-owned enterprises (4.2).

This report contributes to ACAP Outcome 4.1.2 (Impact of non-tariff barriers on competition), building on a competition assessment of regulatory constraints on competition in the logistics services sector. More specifically, the agreed scope for the project is to cover:

1. freight transportation, including transport by road, inland waterways and maritime, and rail
2. freight forwarding
3. warehousing
4. small-package delivery services
5. value-added services.

This regional report concludes a series of 10 similar assessments, one for each ASEAN member state.



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# Abbreviations and acronyms

<b>ADB</b>	Asia Development Bank
<b>AEC</b>	ASEAN Economic Community
<b>AEGC</b>	ASEAN Experts Group on Competition
<b>AFAMT</b>	ASEAN Framework on Multimodal Transport
<b>AFAS</b>	ASEAN Framework Agreement on Services
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>ASEC</b>	ASEAN Secretariat
<b>CDC</b>	Council for the Development of Cambodia
<b>CAMFFA</b>	Cambodia Freight Forwarders Association
<b>CAMTA</b>	Cambodia Trucking Association
<b>DWT</b>	Deadweight tonnage
<b>FDI</b>	Foreign direct investment
<b>GDL</b>	General Department for Logistics
<b>GDP</b>	Gross domestic product
<b>ISIC</b>	International Standard Industrial Classification of All Economic Activities
<b>KAMSAB</b>	Kampuchea Shipping Agency and Brokers
<b>LSBCI</b>	Liner Shipping Bilateral Connectivity Index
<b>LPI</b>	Logistics performance index
<b>MEF</b>	Ministry of Finance
<b>MFP</b>	Multifactor productivity
<b>MOC</b>	Ministry of Commerce
<b>NLC</b>	National Logistics Council
<b>MPTC</b>	Ministry of Posts and Telecommunications
<b>MPWT</b>	Ministry of Public Works and Transport
<b>PMR</b>	Product market regulation
<b>PPAP</b>	Phnom Penh Autonomous Port
<b>PPP</b>	Purchasing power parity
<b>SAP</b>	Sihanoukville Autonomous Port
<b>SEZ</b>	Special Economic Zone
<b>SME</b>	Small- and medium-sized enterprise
<b>SNEC</b>	Supreme National Economic Council
<b>SOE</b>	State-owned enterprise
<b>STRI</b>	Services Trade Restrictiveness Index (OECD)
<b>TEU</b>	Twenty-foot equivalent
<b>UNCTAD</b>	United Nations Conference on Trade and Development

## Units of measurement

<b>g</b>	gramme
<b>kg</b>	kilogramme
<b>t</b>	tonne
<b>km</b>	kilometre
<b>m<sup>2</sup></b>	square metre

# Executive summary

## Main economic characteristics of the logistics sector in Cambodia

In 2019, the transportation and storage market in Cambodia was worth USD 2.1 billion, representing 7.8% of the country's economy.<sup>1</sup> The Cambodian logistics sector is largely dominated by road freight transport (ADB, 2019, p. 2<sub>[1]</sub>). The number of registered trucks more than doubled between 2008 and 2016.<sup>2</sup> Despite significant investment and improvements in recent years, it is reported that Cambodia's transport infrastructure is still inadequate in terms of both quantity and quality.<sup>3</sup> Logistics costs over sales in Cambodia were estimated at 20.5% in 2018, higher than some ASEAN countries, such as Thailand and Viet Nam, and the global average of 10-12% (World Bank, 2018, p. 111<sub>[2]</sub>). In terms of overall logistics performance, Cambodia ranked 98 out of 160 in the World Bank's Global Logistics Performance Index (World Bank, 2018<sub>[3]</sub>).

## Key recommendations by sub-sector

In order to contribute to the continued improved efficiency of the logistics services sector in Cambodia, the report makes 30 recommendations on specific legal provisions that should be reviewed, amended or removed. The main recommendations are summarised below.

### **Road freight transport**

- In relation to a so-called multi-manning requirement whereby freight transport vehicles with a total weight of more than 16 tonnes must have a driver and an assistant driver, consider offering additional options to ensure road safety, such as appropriate rest requirements for the driver, so that transport operators can select the most suitable approach.

### **Maritime freight transport**

- Consider the advantages and disadvantages of the provision of port services by private entities. If a policy decision was made in favour of private involvement in the provision of port services, create appropriate legal frameworks so that the provision of port services could be tendered based on fair, transparent and non-discriminatory terms to guarantee competition for the market.
- In cases where competition is limited, limit price regulation to the regulation of maximum prices, not minimum prices for port services. Maximum prices should be regularly revised to ensure they remain in line with market dynamics and provide the necessary incentives for innovation and investment.
- Remove or limit the discretion of the decision maker in the vessel registration process. If discretion is maintained, publish guidelines on the exercise of this discretion. Ensure applicants have the right to reasons to understand the basis for the decision.

- In relation to the business licence for international transport, clarify the meaning of “single purpose” and any geographical restriction. Consider removing the requirement to stipulate a single destination and business objective in the licensing process and the requirement to obtain a second business licence.
- In relation to vessel repairs, limit ex ante approval and ex post inspection to significant renovations, not day-to day repairs.

### ***Small-package delivery services***

- Amend legislation to remove any ability to regulate the rates of small package delivery services (SPDS). The legislation should reflect current practice where there is no price regulation of SPDS and where SPDS providers are free to set their own prices.
- Clarify the Postal Law to ensure that the monopoly does not include small package delivery services (i.e. courier services).

### ***International agreements***

- Where international agreements contain provisions that limit the number of operators or vehicles that can provide cross-border transport in Cambodia, the OECD makes two recommendations. First, remove these restrictive provisions setting quotas and replace with a licence system. The licensing criteria should be clearly defined in the international agreement or implementing laws or regulations. Second, assess market need and demand every one to three years, and consider adapting the number of licences that can be issued. Both these recommendations would require negotiations between signatory countries.

# 1 Introduction

## 1.1. Introduction to the ASEAN competition assessment project

Logistics plays a significant role in increasing a country's economic development. The Association of Southeast Asian Nations (ASEAN) chose the logistics sector as one of its 12 priority sectors in its ASEAN Framework Agreement for the Integration of Priority Sectors, signed in 2004. As part of the *ASEAN Competition Action Plan 2016-2025*, the ASEAN Secretariat asked the OECD to carry out: 1) an independent competition assessment of legislation in the logistics sector; and 2) prepare a regional report assessing the impact on competition of state-owned enterprises (SOEs) and government-linked monopolies in selected markets in ASEAN.

An OECD team has been conducting competition assessments of laws and regulations in ten ASEAN member states (AMS), as well as a study for the ASEAN region. It has worked in close co-ordination with the ASEAN Secretariat (ASEC), the ASEAN Experts Group on Competition (AEGC), as well as with the responsible authorities within each AMS, in particular, competition authorities. For Cambodia, the analysis was carried out with the support of the Ministry of Commerce (Consumer Protection, Competition and Fraud Repression Directorate General, Department of Competition) and funded by the ASEAN Economic Reform Programme under the UK Foreign, Commonwealth & Development Office (UK Government).

The following study covers the first component of the project, the competition assessment of laws and regulation in the logistics sector in Cambodia. A separate OECD report, *OECD Competitive Neutrality Reviews: Small-Package Delivery Services in Cambodia (2021)* analyses possible distortions to competition for postal services related to SOEs.

## 1.2. Introduction to the logistics sector

According to a common definition, logistics is the process of planning, implementing, and controlling procedures for the efficient and effective transportation and storage of goods including services, and related information from the point of origin to the point of consumption for the purpose of conforming to customer requirements. This definition includes inbound, outbound, internal, and external movements (Mangan and Lalwani, 2016, p. 9<sup>[4]</sup>).

Other authors define logistics as the process of strategically managing the procurement, movement and storage of materials, parts and finished inventory (and the related information flows) through an organisation and its marketing channels in such a way that current and future profitability are maximised through the cost-effective fulfilment of orders (Christopher, 2016, p. 2<sup>[5]</sup>).

Using twenty-foot equivalent (TEU) containers is nowadays a fundamental feature of all major national and international transport modes. TEUs can be stacked on top of each other on-board a ship, allowing the efficient use of space and better cargo handling. Containerisation makes the so-called "intermodal system of freight transport" possible, which enables the uncomplicated movement of bulk goods from one mode of transport to another. TEU containers and container systems also allow a number of small packages to be consolidated into a large single unit, leading to a reduction in transport and handling costs.

Generally, logistics is a cluster of activities with each area involving a range of different actors and services.<sup>4</sup> This report will focus on five subsectors of logistics:

- Freight transportation (excluding air transport)
- Freight forwarding
- Warehousing
- Small-package service delivery
- Value-added logistics.

The exact scope of the logistics sector was agreed with the ASEAN Secretariat and each ASEAN member state in the context of the ASEAN Experts Group on Competition.

The report does not cover customs issues.

### **1.2.1. Freight cargo transport**

Five principal modes of transport of freight are generally defined: 1) road; 2) water; 3) rail; 4) air; and 5) pipelines (Mangan and Lalwani, 2016, p. 103<sup>[4]</sup>). This report only covers the first three modes of freight transport. Transport by air, which only makes up a small percentage of overall freight transport in the ASEAN region, raises a set of different questions that are most often regulated in bi-lateral or multilateral agreements. Transport by pipelines is usually not counted as logistics and is legislated for under energy law. For that reason, this report does not cover the transport of oil and gas.

#### *Road freight transport*

The road freight transport sector encompasses the transportation of goods between economic enterprises and between enterprises and consumers, including bulk goods and goods requiring special handling, such as refrigerated and dangerous goods. The law covering road transport usually distinguishes between transport for own-account, which is freight transportation between establishments belonging to the same business, and transport for hire or reward. As in many countries, road freight transport continues to be the dominant mode of transport in Cambodia. Fixed costs are low as the physical transport infrastructure, such as motorways, is usually in place and publicly funded; variable costs include fuel costs, and maintenance charges, road use and congestion. Road is also often the most suitable or efficient mode of transport since it allows door-to-door transport without any transfers of cargo between different vehicles, which results in lower costs for senders and recipients, as well as in reduced risks of possible loss or damage from cargo transfers.

#### *Inland waterway and maritime freight transport*

Waterborne freight transport refers to goods transported on waterways using various means, including boats, steamers, barges and ships, both within and outside the country. When the goods are transported by using inland waterways such as rivers or canals, transport is referred as inland waterway transport. Maritime transport refers to seaborne movement of goods on ships, linking a large number of origin and destination points, either within the country's territorial waters, for instance within an archipelago or in case of coastal trading (known as cabotage) or, more often, to other countries (OECD, 2016, p. 141<sup>[6]</sup>).<sup>5</sup> Of global international trade, 90% is transported by sea. Transporting cargo by sea is ideal for high-volume cargo that is not necessarily time sensitive or which has long lead times for delivery (Rushton, Croucher and Baker, 2017, p. 447<sup>[7]</sup>). Fixed costs for waterborne freight transport include vessels, handling equipment and terminals; variable costs are low due to economies of scale based on large volumes of freight (Mangan and Lalwani, 2016, p. 105<sup>[4]</sup>).

On the global level, cargo transported by the liner shipping industry represents about two-thirds of the value of total global seaborne trade.<sup>6</sup> Shipping liners are carriers providing shipping services to shippers on fixed routes with regular schedules between ports (International Transport Forum, 2018, p. 10<sup>[8]</sup>). In the



past, liners were often organised into conferences, formal groups of shipping lines operating on shipping routes that brought together all lines operating in a specific geographic zone to set common freight rates and regulate capacity. This practice has been under scrutiny in some regions of the world, such as in the EU,<sup>7</sup> and its relevance has decreased in the last decades, mostly as a result of the United States' 1998 Ocean Shipping Reform Act and the repeal of the EU Block Exemption to liner shipping conferences in 2006 (International Transport Forum, 2018, p. 11<sup>[8]</sup>).

Ports in maritime and inland waterway transport serve as infrastructure to a wide range of customers including freight shippers, ferry operators and private boats. One of the main functions of ports is facilitating domestic and international trade of goods, often on a large scale. Most ports have an extensive network of infrastructure including quays, roads, rails tracks, areas for storage and stacking, repair facilities, as well as fences or walls to securely enclose the port. In addition, ports include superstructures constructed above main infrastructure, which comprise terminal buildings, warehouses and cargo-handling equipment, such as lifting cranes and pumps. Major shipping lines usually organise their services as hub-and-spoke networks with hubs centred on large container ports.

The two international ports in Cambodia are Phnom Penh Autonomous Port (PPAP) and Sihanoukville Autonomous Port (PAS).

Typical port services include:

- **Cargo-handling**, which involves both cargo-loading operations, commonly known as stevedoring, and marshalling services, such as storage, assembly and sorting of cargo. Charges for cargo handling vary from port to port and by the type of cargo handled. Not all ports are capable of handling all types of cargo and some ports are established to handle only one type of cargo, such as crude-oil terminals.
- **Piloting**, which is a specialised service provided by pilots with local knowledge who assist ship captains navigating and manoeuvring vessels inside the port area. Maritime pilots tend to be navigation experts with high skill levels (often former captains) and specialised knowledge of the particular navigation conditions of a port, such as tide, wind direction and sea depth. These skills enable them to manoeuvre ships through the narrow channels of a port, reduce the speed of heavy vessels, and to avoid dangerous areas.
- **Towage**, which is the service of moving ships within the port using tugboats, small but powerful vessels used to assist much larger ships to manoeuvre in a port's limited space. Tugboats are capable of both pushing and towing vessel.
- **Other services** such as bunkering (fuel supplies) and providing water and electricity.

Some shipping services, as well as shipping-related activities taking place in ports, are provided by the port administration under monopoly conditions, while others are subject to competition. In some geographical regions, there is fierce competition between ports as well as within ports (OECD, 2018<sup>[9]</sup>). In others, however, enhancing competition would be difficult, especially when ports are local natural monopolies with limited space and so subject to heavy national regulations. The state of port competition would need to be assessed in the context of ports facing global shipping alliances with strong bargaining power (International Transport Forum, 2018<sup>[8]</sup>), especially since certain shipping sectors such as container shipping have recently become much more concentrated (OECD, 2018, p. 181<sup>[9]</sup>).

### *Rail freight transport*

Rail freight refers to freight, cargo or goods transported by railways and does not include parcels or baggage transport services associated with railway passenger services. Fixed costs for rail tend to be high due to expensive requirements such as locomotives, wagons, tracks and facilities such as freight terminals; variable costs are, however, mostly low (Mangan and Lalwani, 2016, p. 105<sup>[4]</sup>). The OECD has stated regulatory authorities should ensure competition development in the provision of services and non-

discriminatory access to infrastructure, while providing for the right incentives for investment in the network, ensuring public-service needs and safeguarding consumers' rights (OECD, 2018, p. 158<sup>[9]</sup>). This report does not contain recommendations on rail transport for Cambodia.

### **1.2.2. Freight forwarding**

Freight forwarding means organising the transportation of items, on behalf of customers according to their needs; this can also include ancillary activities, such as customs clearance, warehousing, and ground services. Unlike the providers of cargo transport services, freight forwarders do not generally own any part of the network they use and normally hire transportation capacity from third parties. Freight forwarders instead specialise in arranging storage and shipping of merchandise on behalf of shippers. They usually provide a full range of services such as tracking inland transportation, preparation of shipping and export documents, booking cargo space, negotiating freight charges, freight consolidation, cargo insurance, and filing of insurance claims. Other services include arranging order collection from the point of origin to the shipping port, customs clearance, final delivery at the destination country, and providing knowledge of the different costs associated with different modes and destinations (Rushton, Croucher and Baker, 2017, p. 444<sup>[7]</sup>).

### **1.2.3. Warehousing, small-package delivery services, and value-added services**

The last three subsectors investigated in this report comprise warehousing, small-package delivery services and value added services.

Warehousing encompasses the storage (holding) of good in bonded warehouses (where dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of duty) or non-bonded warehouses. Often, the main problem for building and operating new warehouses is accessing land in central locations.

Small-package delivery services deliver small packages from pick-up location to drop-off location. They can include express or deferred delivery, both domestically and internationally, by any mode of transport. A separate OECD report, *OECD Competitive Neutrality Reviews: Small-Package Delivery Services in Cambodia* (2021) has been published analysing possible distortions to competition for postal services related to SOEs and so these will not be covered here. The current report will cover only those issues that affect both SOEs and private players.

Value-added logistics are services related to physical activities, including quality-control services, packing and packaging, labelling and tagging, configuration and customisation, and assembly and kitting.

## **1.3. Benefits of competition**

The Competition Assessment of Laws and Regulations project aims to identify regulations that may unduly restrict market forces and, by doing so, may harm a country's growth prospects. In particular, the project identifies regulatory provisions that:

- are unclear, meaning they lack transparency or may be applied in an arbitrary fashion
- prevent new firms, including small- and medium-sized businesses from accessing markets
- allow a limited number of firms to earn greater profits than they otherwise would, for reasons unrelated to their underlying productivity or the quality of their products
- cause consumers to pay more than they otherwise would.

Each restriction is likely to have an impact well beyond individual consumers in the sectors assessed. When consumers can choose and shop around for a variety of products and services, firms are forced to compete, innovate more, and improve their productivity (Nickell, 1996<sup>[10]</sup>; Blundell, 1999<sup>[11]</sup>; Griffith,

2006<sub>[12]</sub>). Industries in which there is greater competition experience faster productivity growth. These conclusions have been demonstrated by a wide variety of empirical studies and summarised in the OECD's "Factsheet on how company policy affects macro-economic outcomes" (OECD, 2014<sub>[13]</sub>). Competition stimulates productivity primarily because it provides the opportunity for more efficient firms to enter and gain market share at the expense of less efficient firms.

In addition to the evidence that competition fosters productivity and economic growth, many studies have shown the positive effects of more flexible product market regulation (PMR), the area most relevant to this report.<sup>8</sup> These studies analyse the impact of regulation on productivity, employment, research and development, and investment, among other variables. Differences in regulation also matter and can reduce significantly both trade and foreign direct investment (FDI) (Fournier et al., 2015<sub>[14]</sub>; Fournier, 2015<sub>[15]</sub>).<sup>9</sup> By fostering growth, more flexible PMR can help the sustainability of public debt.

There is a particularly large body of evidence on the productivity gains created by more flexible PMR. At the company and industry level, restrictive PMR is associated with lower multifactor productivity (MFP) levels (Nicoletti and Scarpetta, 2003<sub>[16]</sub>; Arnold, Nicoletti and Scarpetta, 2011<sub>[17]</sub>).<sup>10</sup> The result also holds at aggregate level (Égert, 2017<sub>[18]</sub>).<sup>11</sup> Anti-competitive regulations have an impact on productivity that goes beyond the sector in which they are applied and this effect is more important for the sectors closer to the productivity frontier (Bourlès et al., 2013<sub>[19]</sub>).<sup>12</sup> Specifically, a large part of the impact on productivity is due to investment in research and development (Cette, Lopez and Mairesse, 2013<sub>[20]</sub>). Moreover, lowering regulatory barriers in network industries can have a significant impact on exports (Daude and de la Maisonnette, 2018<sub>[21]</sub>).

Innovation and investment in knowledge-based capital, such as computerised information and intellectual property rights (IPRs), are also negatively affected by stricter PMR. A number of studies show that competitive pressure, as measured by lower regulatory barriers (for example, lower entry costs to a market), encourages firms in services sectors, such as retail and road transport, to adopt digital technologies (Andrews and Criscuolo, 2013<sub>[22]</sub>; Andrews and Westmore, 2014<sub>[23]</sub>; Andrews, Nicoletti and Timiliotis, 2018<sub>[24]</sub>). Pro-competition reforms to PMR are associated with an increase in the number of patent awards (Westmore, 2013<sub>[25]</sub>). More stringent PMR is shown to be associated with reduced investment and amplifies the negative effects of a more stringent labour market (Égert, 2017<sub>[18]</sub>).<sup>13</sup>

Greater flexibility can also lead to higher employment. A 2004 study found that after deregulating the road transport sector in France, employment levels in the sector increased at a faster rate than before deregulation (Cahuc and Kamarz, 2004<sub>[26]</sub>).<sup>14</sup> A 10-year, 18-country OECD study published in 2014 concluded that small firms that are five years old or less on average contribute about 42% of job creation (Criscuolo, Gal and Menon, 2014<sub>[27]</sub>).<sup>15</sup> As noted in the OECD report *Economic Policy Reforms 2015*:

"such a disproportionately large role by young firms in job creation suggests that reducing barriers to entrepreneurship can contribute significantly to income equality via employment effects" (OECD, 2015<sub>[28]</sub>)

There is also some evidence on the benefits of lifting anticompetitive regulations for reducing income inequality. One study found that less restrictive PMR improved household incomes and reduced income inequality.<sup>16</sup>

Finally, one 2018 study looked at the impact of PMR on the persistence of profits in the long term (Eklund and Lappi, 2018<sub>[29]</sub>). It concluded that regulations that raise barriers to entry can protect incumbents' above average profits and more stringent product market regulation, as measured by the OECD PMR indicator, is associated with persistent profits.

The results described above hold in a variety of settings, but the specific estimates may differ depending on the country. For instance, a 2017 study quantified the impact of structural reforms, including PMR and labour reform, in a large sample including both OECD and non-OECD countries, and found that:

*“stringent product market regulations will have a three-time larger negative impact on MFP in countries with per capita income lower than about USD 8 000 (in PPP terms)” (Égert, 2017<sup>[18]</sup>)<sup>17</sup>*

Increased market competition may also reduce gender discrimination and equality (Pike, 2018<sup>[30]</sup>; Cooke, 2018<sup>[31]</sup>). Further, the 2018 OECD Roundtable on Competition Policy and Gender noted that restrictive or discriminatory laws or policies against women’s economic participation may be interpreted as anticompetitive regulations. Consequently, pro-competitive regulations following from a pro-competition policy that takes gender into account can help to address issues of gender equality. For this reason, this project will also address any laws that specifically hinder the involvement of women in the logistics business, resulting in the creation of anti-competitive barriers. Such laws could indeed restrict competition by limiting the ability of some suppliers (women) to provide a good or service or by significantly raising the cost of entry or exit by a supplier (women).

In summary, anti-competitive regulations that hinder entry into and expansion in markets may be particularly damaging for a country’s economy because they reduce productivity growth, limit investment and innovation, harm employment creation, and may favour a certain group of firms over other firms and consumers, with consequences for income inequality.

## 1.4. Introduction to Cambodia

Cambodia is located in the south-eastern part of the Indochinese Peninsula in Southeast Asia and is bordered by Thailand, Lao PDR and Viet Nam. It covers an area of approximately 181 040 square kilometres.<sup>18</sup> In 2019, Cambodia’s population was estimated at 16.5 million; it has been growing at an average annual rate of 1.5 % since 2008.<sup>19</sup>

### 1.4.1. GDP and economic growth

With a 2019 nominal GDP of USD 27.1 billion,<sup>20</sup> Cambodia is the 103th largest economy in the world.<sup>21</sup> Its economy sustained an average growth rate of 8% between 1998 and 2019, making Cambodia the fastest-growing economy in ASEAN. Furthermore, it reached lower middle-income status in 2015 according to the World Bank’s classification.<sup>22</sup> The COVID-19 outbreak has significantly impacted Cambodia’s economy in 2020. According to the Asian Development Bank, its economic growth in 2020 was negative at -3.1%. Cambodia is however expected to record positive growth in 2021, with forecast GDP of 4%, rebounding further in 2022 to 5.5% (Asian Development Bank, 2021, p. 35<sup>[32]</sup>).

Cambodia is an active trading country and recorded a total export of USD 16.5 billion in 2019.<sup>23</sup> Cambodia’s exports, composed mainly of garments and agricultural products, have increased steadily since the 1990s and account for more than 60% of Cambodia’s GDP.<sup>24</sup> Cambodia’s main export partners are China, Germany, Japan, the United Kingdom and the United States.

### 1.4.2. Contribution to GDP by sector and the importance of services

In 2019, the services sector accounted for 38.9% of Cambodia’s GDP, industry for 34.2% and agriculture for 20.7%. The contribution of the services sector to the country’s GDP has remained around 40% since 2000, while the contribution of the agriculture sector has been declining, in favour of the industry sector. In 2017, the services sector accounted for 36.3% of the employed population.<sup>25</sup> Within services, the transportation and storage sector accounted for 7.8% of Cambodia’s GDP in 2019.<sup>26</sup>

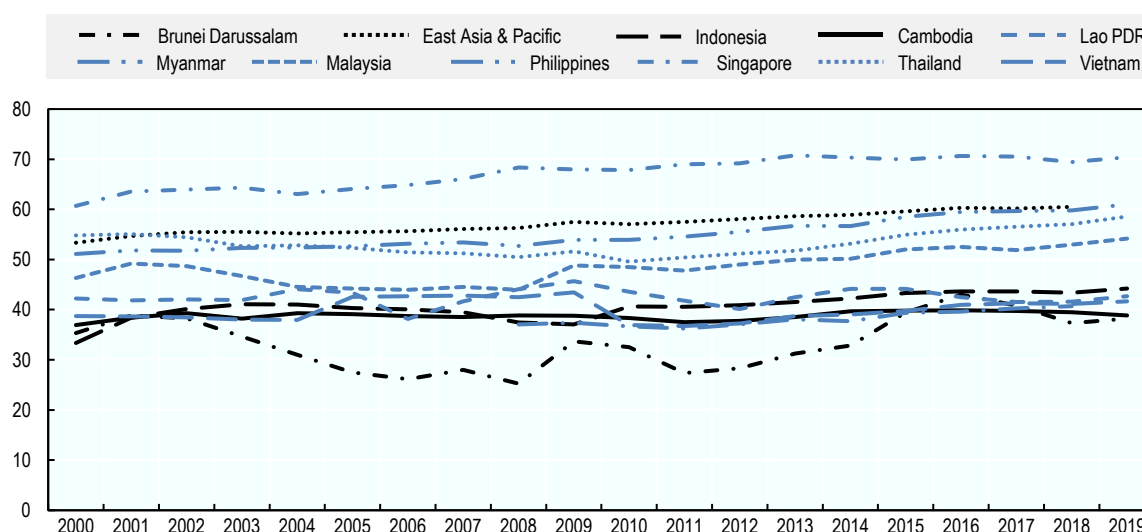
The contribution of the services sector to Cambodia’s GDP (38.9%) is relatively low compared to other ASEAN countries (Figure 1.1), where the growing relevance of the services sector is a widespread trend. As pointed out by the OECD, Cambodia and Myanmar made the slowest progress in the services sector from 2006 to 2016 among ASEAN countries (OECD, 2019, p. 73<sup>[33]</sup>). The OECD observed that both

countries still have large agricultural sectors and will be shifting towards more industrial production before substantially expanding their services sectors (OECD, 2019, p. 73<sub>[33]</sub>).

It should nevertheless be noted that Cambodia, together with Singapore, is very open to foreign investment in the services sector when compared with both ASEAN peers and many OECD countries (OECD, 2019, p. 13<sub>[33]</sub>). In fact, the services sector of Cambodia attracted more than 50% of the total inward FDI into the country between 2012 and 2016, above Myanmar (43%) and Malaysia (38%) (OECD, 2019, p. 29<sub>[33]</sub>).

With respect to ASEAN, in 2016, services accounted for 73% of ASEAN inward foreign direct investment (FDI) stock, similar to the OECD member country average (70% in 2015) and to global trends (OECD, 2019, p. 27<sub>[33]</sub>). More generally, this is also the result of an ASEAN-wide strategy of strengthening co-operation among member countries under the ASEAN Framework Agreement on Services (AFAS).<sup>27</sup> Under this framework, all countries are required to move forward with commonly agreed liberalisation programmes, with a view to removing restrictions to trade in services and boosting ASEAN services-based economies. In previous reports, the OECD has highlighted that AFAS contained relatively deep liberalisation commitments (particularly in certain service sectors, such as transport) and has achieved some positive results in terms of liberalisation. However, it continued: “ASEAN agreements need to go deeper to provide the sort of catalytic liberalisation needed to bring their overall level of restrictiveness closer to the average openness observed elsewhere in the developing world” (OECD, 2019, p. 37<sub>[33]</sub>).

**Figure 1.1. Services as a percentage of GDP in ASEAN countries, 2000-19**



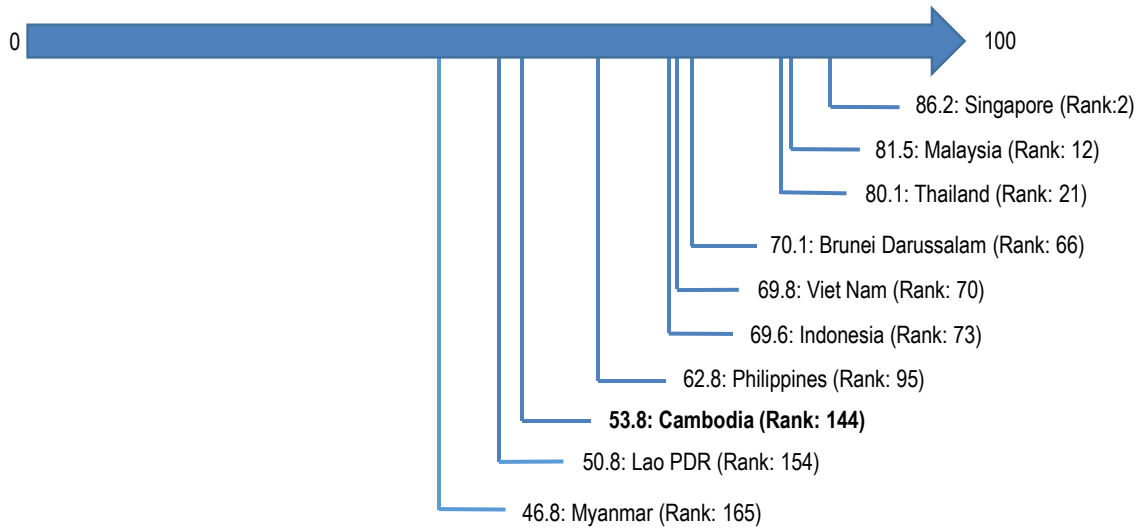
Source: World Bank, <https://data.worldbank.org/indicator/NV.SRV.TOTL.ZS?locations=BN-Z4-ID-MM-MY-PH-SG-TH-VN-KH>.

### 1.4.3. Business environment

The World Economic Forum’s Global Competitiveness Report ranks Cambodia 100 out of 141 surveyed economies in terms of the extent of market concentration, 115 for trade openness, and 118 for competition in services (World Economic Forum, 2019, p. 131<sub>[33]</sub>).<sup>28</sup>

The World Bank’s *Doing Business 2020* report ranks Cambodia 144 out of 190 surveyed economies for the ease of doing business with an overall score of 53.8, after Lebanon (143) and before Palau (145) (World Bank Group, 2020<sub>[34]</sub>). On the global level, New Zealand, Singapore and Hong Kong, China are the top three performers, while in the ASEAN region, the top performers after Singapore (2) are Malaysia (12), followed by Thailand (21) and Brunei Darussalam (66).<sup>29</sup>

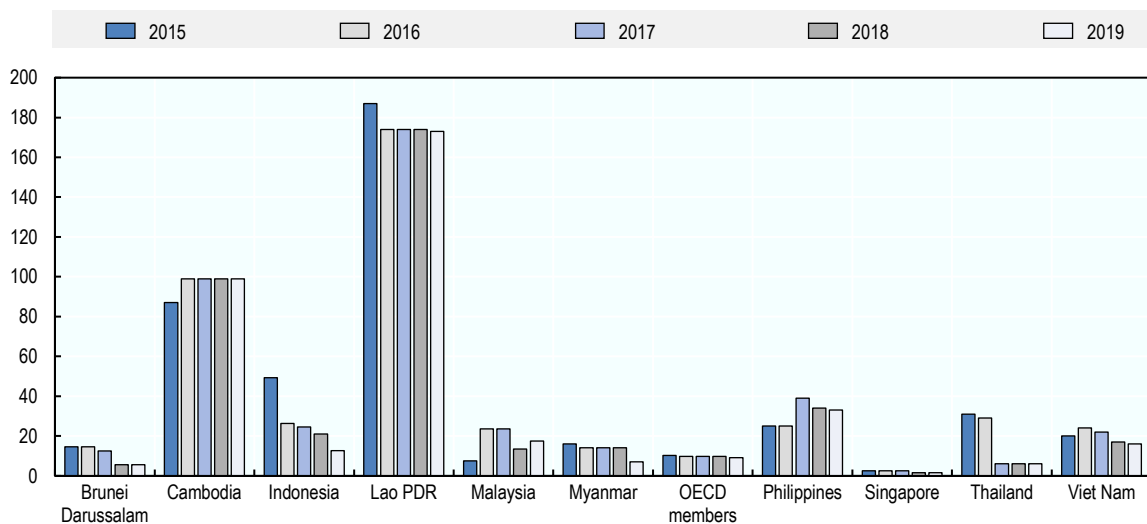
Figure 1.2. *Doing Business* – Ease of Doing Business score



Source: World Bank, [www.doingbusiness.org/en/rankings](http://www.doingbusiness.org/en/rankings).

The time required to open a new business is one factor the World Bank takes into account in its calculations of the ease of doing business in a country.<sup>30</sup> Regulations regarding the launch of a new business can affect market entry more generally. In particular, the World Bank collects data on the number of days needed to complete all the necessary procedures to operate a legal business in the country. As shown in Figure 1.3, since 2015, almost all ASEAN member states have significantly reduced the amount of time required to start a business. However, this is not the case for Cambodia, where it takes approximately 100 days to start a business.

Figure 1.3. Time required to start a business (days)



Source: World Bank World Development Indicators, <https://data.worldbank.org/indicator/IC.REG.DURS?end=2018&locations=TH-PH-BN-AU-MY-VN-MM-KH-LA-DE-JP-SG-OE&start=2018&view=bar>.

# 2 Economic overview of the logistics sector in Cambodia

The logistics sector is a crucial sector for the development of any economy, connecting firms to both domestic and international opportunities (World Bank, 2018<sup>[31]</sup>). Apart from its large contribution to GDP, the existence of a well-developed logistics network ultimately impacts upon most economic activities and is fundamental to productivity and growth.

Recognising the importance of connectivity and logistics for the economies of its member states, ASEAN adopted a *Master Plan on ASEAN Connectivity 2025*, with the aim of strengthening ASEAN competitiveness through enhanced trade routes and supply-chain efficiency.<sup>31</sup>

As a major component of the logistics sector, freight transport has an important role in enhancing economic growth and promoting consumer welfare. The movement of freight within a country and across borders improves the integration of national and international markets, fostering competition and specialisation. It can also aid development by connecting remote regions to centres of economic activity and by allowing consumers to benefit from a wider variety of products and services, while spreading technological advancements across the country and internationally (Boylaud, 2000<sup>[36]</sup>).

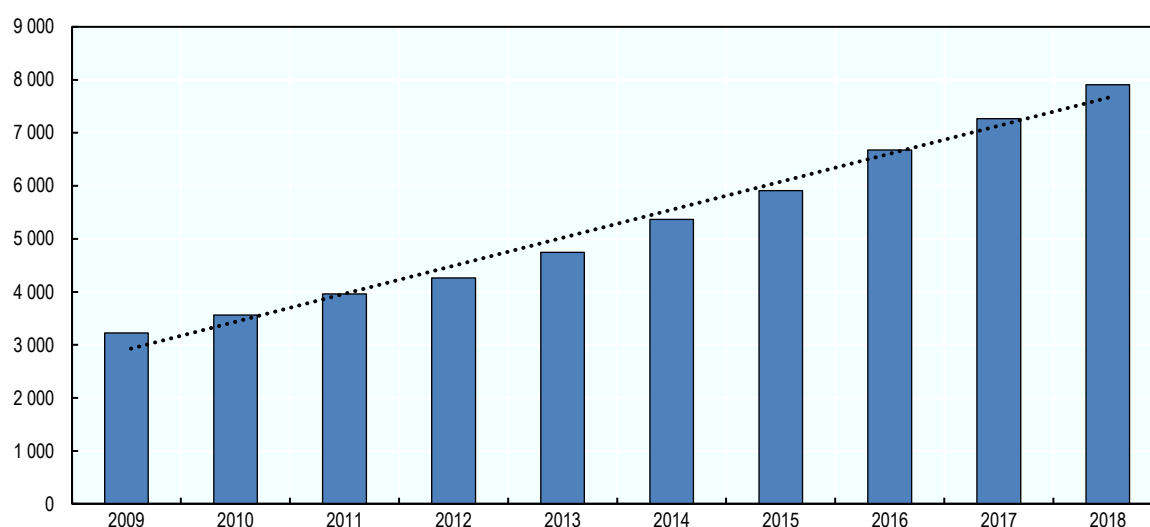
Similarly to other ASEAN member states, Cambodia is suffering from the socio-economic impact of the COVID-19 outbreak. The pandemic has resulted in the disruption of supply chains and limited the flows of trade and investments. Logistics companies have been affected by operational constraints and are facing financial distress. According to the Cambodia Freight Forwarders Association (CAMFFA), about 10 to 15% of logistics providers were heading for bankruptcy as of June 2020.<sup>32</sup>

## 2.1. Key figures of the logistics sector

### 2.1.1. Contribution of the logistics sector to GDP

GDP from the transportation and storage sector amounted to KHR 8 618 billion (approximately USD 2.1 billion) in 2019 and has been constantly increasing, as shown in Figure 2.1 below.<sup>33</sup> The transportation and storage sector represents 7.8% of the country's economy.

In 2018, logistics costs over sales in Cambodia were estimated at 20.5% (transport (9.0%), warehousing (3.7%), inventory carrying (6%) and logistics administration (1.9%)) (World Bank, 2018, p. 111<sup>[21]</sup>). Logistics costs are higher in Cambodia compared to some ASEAN countries, such as Thailand and Viet Nam, and compared to the global average of 10-12% (OECD, 2020, p. 25<sup>[36]</sup>).<sup>34</sup> However, Cambodia's logistics costs are lower than other ASEAN countries, such as the Philippines and Indonesia (Table 2.1). The World Bank also noted that that informal logistics charges levied by government agencies remain significant, estimated at about 48% of the logistics administration cost (World Bank, 2018, p. 94<sup>[21]</sup>).

**Figure 2.1. GDP from transportation and storage sector (billion KHR)**

Source: ADB, Key Indicators for Asia and the Pacific 2020, <https://www.adb.org/publications/key-indicators-asia-and-pacific-2020>.

**Table 2.1. Logistics costs over sales by components (%)**

Activity/Sales	Cambodia	Vietnam	Thailand	Indonesia	Philippines
Transport	9.0	7.0	5.6	8.8	10.7
Warehousing	3.7	3.8	2.5	3.5	5.2
Inventory carrying	6.0	4.0	2.0	7.2	8.8
Logistics administration	1.9	1.5	1.0	2.0	2.5
Logistics cost/sales	20.5	16.3	11.1	21.4	27.2

Source: (World Bank, 2018, p. 111<sup>[21]</sup>).

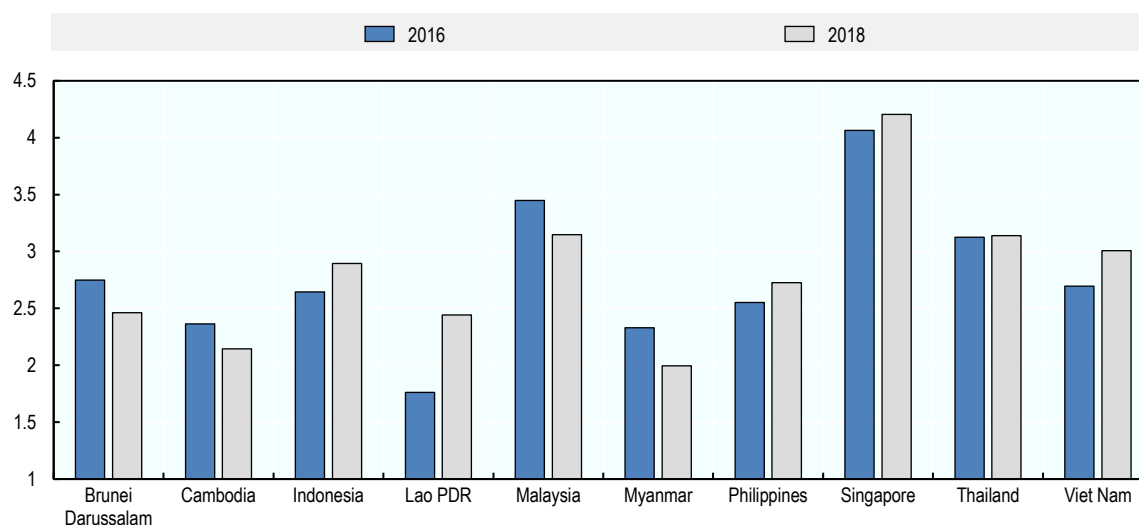
### 2.1.2. Infrastructure

The World Bank collects data on the quality of trade and transport-related infrastructure and provides an aggregate indicator across 160 countries. This indicator captures logistics professionals' perception of the quality of a country's trade and transport-related infrastructure, including ports, railways, roads and information technology, on a scale that ranges from one (very low quality) to five (very high quality).

As shown in Figure 2.2, the indicator for Cambodia (2.1 in 2018) is lower than most ASEAN Member States. The indicator ranges between 1 (lowest) and 5 (highest). Despite significant investment and improvements in recent years, Cambodia's transport infrastructure is still inadequate in terms of both quantity and quality (OECD, 2018, p. 199<sup>[37]</sup>). Improving transport infrastructure in Cambodia would seem essential in order to reduce logistics costs which remain relatively high when compared to other ASEAN member states.



Figure 2.2. Quality of trade and transport-related infrastructure



Source: World Bank and Turku School of Economics, Logistic Performance Index Surveys, <https://data.worldbank.org/indicator/L.P.LPI.OVRL.XQ>.

### Road transport

Road transport is the main mode of transportation in Cambodia. It is estimated that the share of road transportation for both passengers and freight represents around 90% (ADB, 2019, p. 2<sub>[1]</sub>). Cambodia's road network covers 61 543 kilometres, including 2 254 kilometres of national paved roads, 5 007 kilometres of inland national roads, of which 72% are paved, and 9 031 kilometres of provincial roads, of which only 30% are paved. The remaining 45 242 kilometres are rural roads, of which only 5% are paved (ADB, 2019, p. 1<sub>[1]</sub>).

The number of registered trucks more than doubled between 2008 and 2016 (Table 2.2).

Table 2.2. Number of trucks in Cambodia (2008-2017)

Year	Number of registered trucks (in thousand)
2008	3.29
2009	3.24
2010	2.24
2011	2.89
2012	4.71
2013	5.13
2014	5.49
2015	6.21
2016	7.21
2017	6.26

Source: ASEAN Stats, <https://data.aseanstats.org/indicator/ASE.TRP.ROD.B.008>.

### Water transport

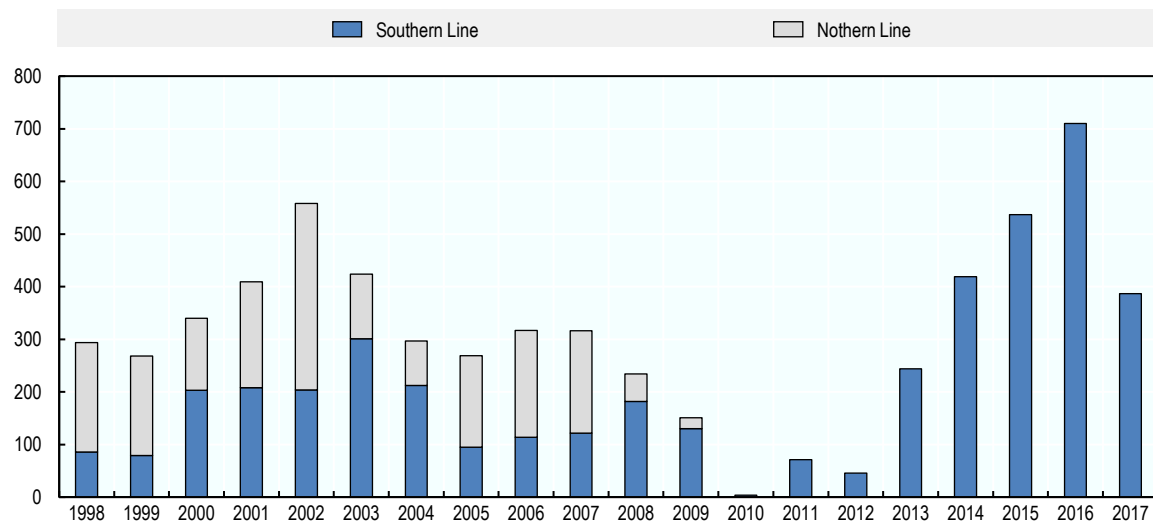
While water transport represents a smaller proportion of the freight transportation sector in Cambodia, it is an important element for the country's local economy and exports. Cambodia has two international ports - Phnom Penh Autonomous Port (PPAP) and Sihanoukville Autonomous Port (SAP)<sup>35</sup> - as well as inland waterways for freight and passenger traffic. The PPAP and the SAP are operated by SOEs and overseen by the Ministry of Public Works and Transport (MPWT) and the Ministry of Economy and Finance (MEF).

SAP is the only deep-water seaport in Cambodia and in 2018 recorded container throughput of 541 228 TEUs.<sup>36</sup> While not being a deep-water seaport, the import-export volume through PPAP in 2018 was higher than that of SAP.<sup>37</sup> The volume handled by both ports recorded solid growth in 2019 where SAP handled 633 099 TEUs and PPAP handled 275 000 TEUs.<sup>38</sup>

### Railway transport

Rail transport for passenger and freight is negligible in Cambodia compared to road transport. Cambodia's rail network covers 640 kilometres. It consists of two main axes: the Northern line, which links Phnom Penh to the Thai border at Poi Pet, crossing Battambang and the Southern line, which links Phnom Penh to the port of Sihanoukville. Rail freight transport was almost inexistent in 2010, due to serious deterioration of the rail infrastructure (Figure 2.3). The Southern line reopened to freight traffic in 2013, mostly for bulky, non-perishable goods such as rice and petroleum. The Northern line is still undergoing significant rehabilitation (OECD, 2018, p. 200<sup>[37]</sup>). The figure below shows the development of rail freight traffic in Cambodia.

**Figure 2.3. Rail freight traffic volume, in thousand tonnes, 1998-2017**



Source: (ADB, 2019, p. 11<sup>[1]</sup>).

## 2.1.3. International trade and connectivity

### Transport-service exports

Following a similar positive trend as global markets in recent years,<sup>39</sup> Cambodia's exports of transport services have grown over the last ten years. The most recent figures show exports amounted to approximately USD 793 million in 2019 (Table 2.3).

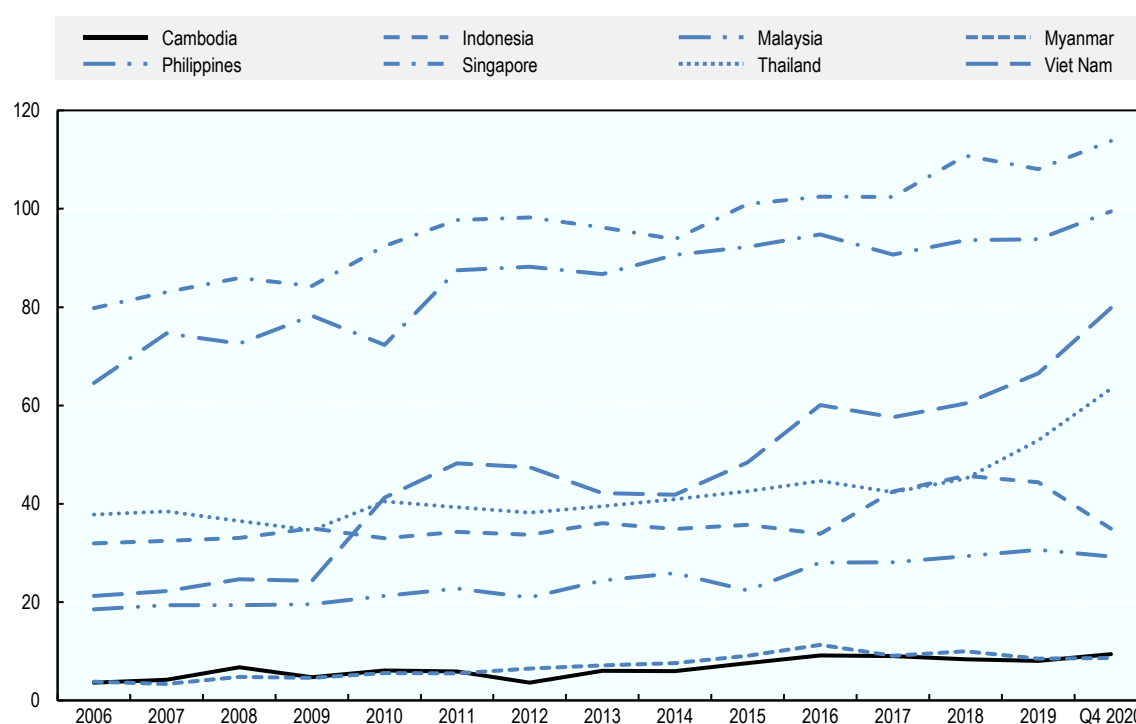
**Table 2.3. Cambodia's total trade in transport services (millions of USD)**

	2005	2010	2015	2016	2017	2018	2019
Transport-service exports	136	226	419	456	562	688	793
Transport-service imports	361	604	1 207	1 298	1 441	1 461	1 671
Transport-service trade balance	-225	-378	-787	-842	-879	-773	-878

Source: UNCTADStat, <https://unctadstat.unctad.org/CountryProfile/MaritimeProfile/en-GB/116/index.html>.

### Liner shipping

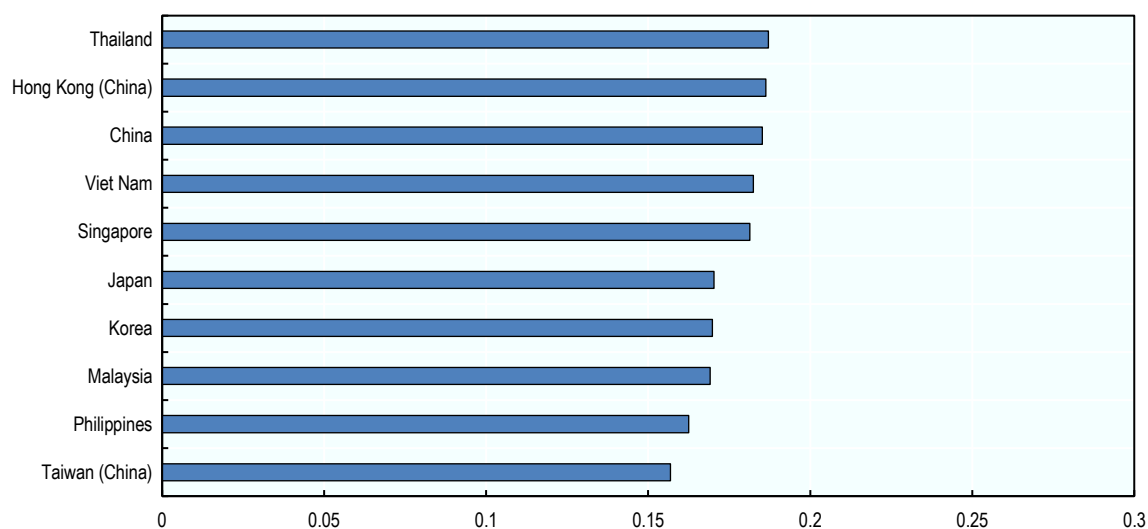
Figure 2.4 shows Cambodia and other comparable ASEAN countries' Annual Liner Shipping Connectivity Index rating, which shows countries' levels of integration into the global networks of liner shipping.<sup>40</sup> Since 2006, Cambodia's connectivity index has been increasing, passing from 3.6 out of 100 in 2006 to 9.4 in Q4 2020, although it remains lower than that of the majority of other ASEAN countries.

**Figure 2.4. Annual Liner Shipping Connectivity Index, (maximum 2006=100)**

Source: UNCTADStat, generated from data provided by MDS Transmodal, <https://unctadstat.unctad.org/wds/TableViewer/tableView.aspx?ReportId=96618>.

Figure 2.5 shows Cambodia's position on the Liner Shipping Bilateral Connectivity Index (LSBCI), which tracked with which countries Cambodia had the strongest bilateral connections in 2020.<sup>41</sup> This is a crucial determinant of bilateral exports, as there is a close relationship between bilateral maritime liner-shipment connectivity and exports in containerised goods: evidence shows that a lack of a direct maritime connection with a country results in lower values of exports to that country (Fugazza and Hoffmann, 2017<sub>[38]</sub>).

Figure 2.5. Liner Shipping Bilateral Connectivity Index (LSBCI), 2020



Note: Leading partners: 0 minimum, 1 maximum.

Source: UNCTADStat, <https://unctadstat.unctad.org/wds/TableViewer/tableView.aspx?ReportId=96618>.

#### 2.1.4. Logistics rankings

As seen in Table 2.4 in 2018, Cambodia ranked 98 out of 160 countries in the Logistics Performance Index (LPI), a drop from 73 in 2016.

Table 2.4. LPI overall ranking (2018)

Overall ranking	Country
1	Germany
2	Sweden
3	Belgium
4	Austria
5	Japan
6	Netherlands
7	Singapore
8	Denmark
9	United Kingdom
10	Finland
	[...]
32	Thailand
39	Viet Nam
41	Malaysia
46	Indonesia
60	Philippines
80	Brunei Darussalam
82	Lao PDR
98	Cambodia
137	Myanmar

As noted in Box 2.1, the score ranges between 1 (lowest) and 5 (highest). Analysis of each of the six indicators suggests that infrastructure (with a score of 2.14) is the most challenging area for Cambodia. Cambodia scores relatively well in timeliness (3.16) and international shipments (2.79).

### Box 2.1. Logistics Performance Index

The World Bank Logistics Performance Index (LPI) benchmarks countries' performances in the logistics sector from 1 – lowest – to 5 – highest – to create an overall LPI index that allows for worldwide, regional and income-group country comparison.

The LPI uses the weighted average of a country's scores meeting six key criteria.

1. Efficiency – speed, simplicity and predictability – of clearance processes by border-control agencies, including customs.
2. Quality of trade- and transport-related infrastructure.
3. Ease of arranging competitively priced shipments.
4. Competence and quality of logistics services, such as transport operators and customs brokers.
5. Ability to track and trace consignments.
6. Timeliness of shipments arriving within the scheduled or expected delivery time.

Source: (World Bank, 2018<sup>[3]</sup>).

Cambodia has taken several actions in order to improve the country's logistics performance. One of the key actions was the establishment in 2016 of National Logistics Council (NLC). NLC is chaired by the Deputy Prime Minister and comprises all the main national stakeholders including the Ministry of Public Works and Transport (MPWT), the Ministry of Economy and Finance (MEF), the Council for the Development of Cambodia (CDC), Ministry of Commerce (MoC) and Supreme National Economic Council (SNEC). NLC is supported by National Logistics Steering Committee (NLSC) and General Department for Logistics (GDL) in order to deal with transport and logistics issues and sector policy development (World Bank, 2018<sup>[2]</sup>).

## 2.2. Key stakeholders

### 2.2.1. Government stakeholders and institutional framework

The Ministry of Public Works and Transport (MPWT) was established under the Law on the Establishment of Royal Kram No. Ns/RKAM/0196/03 dated 24 January 1996. The MPWT oversees public and private transport in Cambodia. The Ministry has eight Departments, including the General Department of Land Transport, the General Department of Waterway and Maritime Transport, and Ports, and the General Department of Logistics.

The Ministry also oversees the Municipal and Provincial Department of Public Works and Transport, Sihanoukville Autonomous Port, Phnom Penh Autonomous Port, Kampuchea Shipping Agency and Brokers (KAMSAB)<sup>42</sup> and the Laboratory of Construction and Public Works.<sup>43</sup>

### Box 2.2. MPWT's functions and duties

In carrying out its mission, the MPWT has the following main functions and duties:

- “Prepare, implement and monitor the implementation of the Royal Government of Cambodia's policy and national strategic plan for the development of the public works and transport sectors.
- Manage, monitor, study, research, design and evaluate the construction, development, repair and maintenance of roads, bridges, ferries, railways, rivers, seas, ports, logistics and other works related to public works and transportation.
- Manage, monitor and evaluate transportation businesses (land, sea, railway and logistics) and other work related to the public works and transport sectors.
- Manage, evaluate, recognize and certify construction business services that serve the public and transport sectors, prepare draft laws, guidelines and legal documents related to the public and transport sectors, and monitor the implementation of letters.
- Prepare, manage and disseminate technical regulations or new technical standards and technologies to ensure the quality of construction of public infrastructure, railway construction and port construction.
- Collaborate with relevant ministries and institutions to lead and participate in the implementation of the Royal Government's strategic policy on international cooperation in the field of public works and transport and the integration of the Kingdom of Cambodia into the sub-regional and global framework. Private sector participates in the development of the public and transport sectors of the Kingdom of Cambodia.
- Develop human resources by encouraging the study, research, technology and transfer of new technologies to the development of public works and transport”.

Source: Adapted from the functions and duties mentioned under “Mission” on the website of the Ministry of Public Works and Transport, see <https://www.mpwt.gov.kh/en/about-us/mission-and-vision>.

The MPWT is in charge of licensing processes for the operation of land logistics businesses. Applicants are able to apply for the licence online.<sup>44</sup>

As mentioned above, the **General Department of Waterway and Maritime Transport, and Ports** is one of the MPWT's Departments and has four sub-departments:

- Department of Waterway Transport
- Department of Maritime Transport
- Department of Port Administration
- Department of Waterway Infrastructure and Port Construction

The General Department of Waterway and Maritime Transport and Ports has issued a Draft Port Law, a Draft Law on Maritime Transport and a Draft Law on Inland Waterway Transport.

Through administrative decisions, the MPWT, along with the MEF sets prices in Cambodia's two international ports, Phnom Penh Autonomous Port and Sihanoukville Autonomous Port (World Bank, 2018, p. 48<sup>[39]</sup>).

The **General Department of Land Transport** is responsible for safety and technical requirements of commercial vehicles and licences technical inspection centres.

The **General Department of Logistics** is responsible for formulating and implementing logistics related policies.

In addition to the MPWT, the following ministries hold relevant responsibilities for the logistics sector:

- **Ministry of Land Management.** It oversees construction law, and relevantly, stipulates the technical requirements for warehouses.
- **Ministry of Posts and Telecommunications (MPTC).** It oversees the post, telecommunications and ICT sectors in Cambodia.<sup>45</sup> Under the Department of postal management control, the MPTC issues licences to postal operators. Cambodia Post is known as an “autonomous unit” under MPTC.
- **Ministry of Economics and Finance (MEF).** Its functions and organisation are described in Sub-Decree No.488 of the Government dated 16 October 2013. One of its functions is to oversee and manage public enterprises (SOEs).<sup>46</sup>
- **Ministry of Commerce.** The Consumer Protection, Competition and Fraud Repression Directorate General, Department of Competition is in charge of competition policy in Cambodia. The draft competition law is pending finalisation.<sup>47</sup>

### 2.2.2. State-owned enterprises

Because of considerable privatisation efforts, Cambodia has few state-owned enterprises (SOEs) (OECD, 2018, p. 26<sup>[41]</sup>). The following SOEs are active in the logistics sector, as either market players or regulators with a corporate structure.

**Cambodia Post** provides domestic and international postal services. Cambodia Post is regulated by the MPTC and wholly owned by the Ministry of Economy and Finance. Based on publicly available information, Cambodia Post recorded USD 13.3 million revenue in 2018 and pre-tax profits of USD 1.3 million. Its revenue steadily increased since 2010, when it initially recorded USD 2.16 million.<sup>48</sup>

**Port Authority of Phnom Penh** is the port authority and operator of the Phnom Penh Autonomous Port (PPAP). It is under the supervision of the MPWT and the Ministry of Finance. PPAP is an international river port. The Port Authority operates the five terminals within the port. In 2018, PPAP’s recorded revenue was USD 20 722 928, operating income USD 8 852 532 and net profit USD 8 100 738.<sup>49</sup> The PPAP was listed on the Cambodian Securities Exchange in 2015.<sup>50</sup> The Ministry of Economy and Finance holds 80% of the shares.

**Port Authority of Sihanoukville** is the port authority and operator of the Sihanoukville Autonomous Port (PAS). PAS is Cambodia’s only deep-water port and second international port. It is located on the bay of Kampong on the Gulf of Thailand. PAS was listed on the Cambodian Securities Exchange in 2017. The Ministry of Economy and Finance holds 75% of shares.

### 2.2.3. Main trade associations and logistics companies

The main trade associations active in the logistics sector in Cambodia include:

**Cambodia Freight Forwarders Association (CAMFFA)** was established in 2004 and has more than 100 companies registered as members. Members provide a range of logistics services including trucking, custom brokerage, land, air, maritime freight transport and warehousing services.

**Cambodia Trucking Association (CAMTA)** has been active since 2004 and is registered under the Law on Associations of the Ministry of Interior. CAMTA liaises with government authorities, as a representative of trucking companies in Cambodia and works with other logistics-related associations, such as CAMFFA. Most of its members are large container truck companies. To be a member of CAMTA, members must be a legal entity and have at least three trucks.





# 3 Overview of the legislation in the logistics sector in Cambodia

Following desk based research and the fact finding mission, the OECD identified 28 pieces of legislation related to the logistics sector, including international agreements.

**Table 3.1. Number of screened pieces of legislation, restrictions and recommendations**

Sector		Legislation analysed	Restrictions found	Recommendations
Freight transport	Road	3	9	3
	Maritime	9	26	17
Freight forwarding and warehousing		7	3	1
Small-package delivery		3	4	3
International agreements		6	8	6
Total		28	50	30

Source: OECD.

A summary of the pieces of legislation reviewed by the OECD, the number of barriers identified, and the recommendations made in this report are summarised below, while all barriers and recommendations are set out in Annex B.

## 3.1. Road freight transport

The main pieces of legislation affecting freight transport by road are:

- **The Law on Land Traffic.** Its objective is to ensure road safety in Cambodia. It sets out rules relating to traffic, registration of vehicles, driving and transport operation licences, inspection of vehicles and inspection operation licences. It also provides the powers of the authorities' in applying these rules and associated penalties.
- **The Law on Road.** Its objective is to ensure management and development of road infrastructure in Cambodia. It provides for rules relating to the development and maintenance of roads, specification of vehicles (e.g., weight and dimensions) and penalties for the violation of its provisions.

The OECD has identified nine restrictive regulations for road freight transport and makes three recommendations. This report will outline the recommendation on staffing requirements in the operation of road freight transport. Other barriers are set out in the Annex and are characterised more as administrative burdens.

### 3.1.1. Staffing requirement

**Description of the obstacle.** Article 7 of the Law on Land Traffic provides for a so-called multi-manning requirement in the operation of certain freight transport vehicles. Pursuant to this provision, a freight transport vehicle with a total weight of more than 16 tonnes must have a driver and an assistant driver.

This requirement appears to apply irrespective of travel time, distance or rest periods taken by drivers.

**Harm to competition.** The requirement to have at least two drivers could restrict the ability of small and medium businesses with fewer drivers to compete effectively in the road freight transport market in Cambodia. Given the requirement, these businesses may not be able to serve many customers at the same time.

**Policymaker's objective.** The OECD understands that the multi-manning requirement aims to ensure road safety. The fact that the requirement is only applicable to freight transport vehicles with a total weight of more than 16 tonnes suggests that the requirement aims to ensure road safety by securing sufficient rest for drivers operating heavy trucks, also considering that many roads in Cambodia are not paved.

However, it would seem that such an objective can also be achieved by less restrictive measures such as appropriate rest requirements. In this case, travel may take longer since the vehicle would stop more frequently, compared to a scenario with two drivers. Businesses may have the flexibility to select which option would be preferable, depending on their customers' needs. It could also be envisaged to limit the application of the requirement to long travel in terms of time and distance.

**International comparison.** In the European Union, Regulation 561/2006 lays down rules on driving times, breaks and rest periods for drivers engaged in the carriage of goods and passengers by road. Among other things, it imposes the maximum daily driving time of 9 hours and a break of at least 45 minutes after a driving period of no more than 4.5 hours.

Under the regulation, multi-manning is not a requirement but an option for operators allowing more flexible working hours and rest requirements. More precisely, where a given operation is qualified as multi-manning within the meaning of the regulation,<sup>51</sup> each driver can take their daily rest period of 9 hours within the 30-hour period, instead of the normal 24 hour period. This allows drivers' duties to spread over 21 hours as illustrated in the table below:

**Table 3.2. Example of multi-manning operation in the EU, 30-hour period**

Driver 1	Driver 2
Daily rest	Daily rest
Other work 1 hour	Daily rest (not on vehicle)
Driving 4.5 hours	Availability 4.5 hours
Break + availability 4.5 hours	Driving 4.5 hours
Driving 4.5 hours	Break + availability 4.5 hours
Break + availability 4.5 hours	Driving 4.5 hours
Driving 1 hour	Driving 1 hour
Break 1 hour	Break 1 hour
Daily rest 9 hours	Daily rest 9 hours

Source: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32006R0561>.

**Recommendation.** The OECD recommends offering additional options to ensure safety, so that transport operators can select the most suitable option for their needs. For instance, rest requirements could be envisaged to achieve the same policy objective.

## 3.2. Maritime freight transport

There is no primary legislation for maritime (sea and inland waterways) and ports. These sectors are currently governed by other legal instruments such as decrees, sub-decrees, regulations and guidelines. The OECD understands that laws covering these sectors are being drafted. Various organisations have noted that the lack of sector legislation is a challenge for the Ministry of Public Works and Transport (MPWT) in being able to carry out its functions.<sup>52</sup>

Under the current framework, the main pieces of legislation affecting the freight transport by inland water sector are:

- Circular #003 on management of means of water transport

The main pieces of legislation affecting the freight transport by sea sector are:

- Merchant Shipping (Registration) Act 1994
- Circular No 006 (MPWT) on Management of sea navigation (1 October 1999)

### 3.2.1. Licensing regimes and vessel registration

To conduct an inland water transport business, operators must obtain a business licence from the Ministry of Public Works and Transport (MPWT).<sup>53</sup> The legislation sets out the obligations of licence holders and the supervisory functions of the MPWT.<sup>54</sup> To operate international transport, operators with their headquarters in Cambodia must obtain a business licence from the Department of Commercial Vessels of the MPWT.<sup>55</sup> The legislation sets out the obligations of licence holders and the supervisory functions of the MPWT. Vessels must also be registered under the Merchant Shipping (Registration) Act 1994.

### 3.2.2. Ports

The Ministry of Public Works and Transport (MPWT) has the role of port regulator, formulating and executing the rules and regulations related to ports.<sup>56</sup> It implements the National Policy on Port and Port Administration dated 10 May 2013, which seeks to develop the Cambodian port sector. It sets out four key strategies: the development of the legal and institutional framework, the development of infrastructure, human resource development and research and compilation of statistics and information.<sup>57</sup>

Circular 070 dated 27 December 2011 concerns the establishment and operation of ports in Cambodia. It sets out the submission of and evaluation of the port construction plan, the port construction permit and the port operation permit.

The main legal texts and policies affecting the port sector are:

- Circular No. 70 dated 27 December 2011 on Port Construction and Operation
- National Policy on Port and Port Administration dated 10 May 2013

In relation to Sihanoukville Autonomous Port (SAP), the main legal texts analysed include:

- Sub-Decree # 50 (RGC) on Establishment of Sihanoukville Autonomous Port (PAS) (July 17, 1998)
- Ministry of Public Works and Transport Prakas 053 on the Determination of Service Fees for Each Port of Service and other Taxes of the Port Authority of Sihanoukville (17 January 1997).<sup>58</sup>

In relation to Phnom Penh Autonomous Port (PPAP), the main legal texts analysed include:

Sub-Decree # 51 (RGC) on Establishment of Phnom Penh Autonomous Port (PPAP) (July 17, 1998) (Sub-decree 51).

- Inter-Ministerial Prakas # 561 (MEF+MPWT) on Management of Rental Fees and Fees for Using Domestic Port, Passenger Terminal and Phnom Penh Port Centre (September 6, 2002) (Prakas 561).

The OECD team identified 26 restrictive regulations for transport of freight by sea or inland waterway and made 17 recommendations concerning the following topics.

- Provision of port services by third parties
- Regulation of port tariffs
- Vessel registration
- Permits and authorisations
- Operational restrictions

### 3.2.3. Provision of port services by third parties

**Description of the obstacle.** The Phnom Penh Autonomous Port (PPAP) and the Sihanoukville Autonomous Port (SAP) follow a public service port management model. The port authority owns the infrastructure and superstructure and provides port services (World Bank, 2018, p. 60<sup>[21]</sup>). The responsibilities of the port authority are set out in the legislation. In the Phnom Penh Autonomous Port, for example, legal instruments explain that the port authority is responsible for providing port services.<sup>59</sup> The port authority is also in charge of “organizing buildings, warehouses, land areas/premises, and water surface in the business centre of the Phnom Penh Port” and shall charge fees for the use of the facilities or to those who operate businesses within the Port centre.<sup>60</sup> The World Bank described PPAP as a “one-stop shop” in its provision of “lift-on and lift-off, stripping and stuffing, survey, dredging, compulsory pilotage and warehousing”. The participation of private operators is limited to “container repair and maintenance services” while in SAP, there is more private participation, notably in container freight stations and warehousing (World Bank, 2018, p. 61<sup>[31]</sup>). The OECD understands that the authority can outsource services, and that, as an SOE, it would need to comply with the public procurement regime when doing so (See Box 3.1 on OECD best practices in public procurement, concessions and fighting bid rigging).<sup>61</sup>

**Harm to competition.** The authority is the provider of services within the port. Exclusive rights may lead to monopoly pricing and potentially the provision of lower quality services. In addition, the current service provider was not awarded those rights following an open tender. Therefore, there was no competition for the market, in order to select the most suitable service provider, based on variables such as prices and quality of service. The World Bank has described the high cost of port services in Cambodia when compared to Viet Nam and Thailand, noting that “the provision of important maritime auxiliary services is currently monopolized by state-owned enterprises, leaving a large gap for competition to improve services’ quality and delivery” (World Bank, 2018, p. 48<sup>[39]</sup>). If a policy decision was made in favour of private involvement in the provision of port services, authorities should consider OECD best practices in concessions (Box 3.1).

#### Box 3.1. OECD best practices in public procurement, concessions and fighting bid rigging

The operation of ports or terminals (and the provision of certain port services) often function as concessions or public-private partnerships governed by similar rules to public procurement. The OECD’s comprehensive work on public procurement has led the organisation’s council to make a number of recommendations, including:

- a public-procurement system should be transparent at all stages of the procurement cycle

- the integrity of a public-procurement system should be preserved through general standards and procurement-specific safeguards, such as internal training, and compliance measures for relevant stakeholders
- access to procurement opportunities for potential competitors of all sizes should be facilitated
- transparent and effective stakeholder participation should be fostered in the design of public-procurement systems
- digital technologies should be employed to support appropriate e-procurement innovation throughout the procurement cycle to the greatest extent possible
- workforces should receive training to develop their public-procurement know-how
- oversight and control mechanisms should be applied to support accountability throughout the public-procurement cycle, including appropriate complaint and sanctions processes.

The OECD has also worked specifically on concessions and highlighted the importance of concession design. One crucial factor is the duration of the contract, as this can have a significant effect on investment. For example, while a longer period encourages the concessionaire to make the necessary infrastructure investments at the beginning of the period that incentive diminishes as the concession nears its end.

How a concession is awarded is also critical. Auctions are considered the most effective award method. Although negotiations are an option, experience has shown that public authorities are sometimes at a disadvantage to their private-sector counterparts. It is also important that a country's competition authority is involved in the concession process, including in tender design.

The OECD has also undertaken significant work on the design of pro-competitive tenders and fighting bid rigging.<sup>1</sup> The OECD Guidelines for Fighting Bid Rigging in Public Procurement are part of the OECD Council Recommendation adopted in 2012, which encourages governments to assess their public-procurement laws and practices to promote more effective procurement and reduce the risk of bid rigging in public tenders. The Guidelines for Fighting Bid Rigging help to identify:

- markets in which bid rigging is more likely to occur
- methods to maximise the number of bids
- best practices for tender specifications, requirements and award criteria
- procedures that inhibit communication among bidders and;
- suspicious pricing patterns, statements, documents and behaviour by firms.

Note: <sup>1</sup> For an overview of the OECD's work in procurement reform, see

[www.oecd.org/competition/cartels/fightingbidrigginginpublicprocurement.htm](http://www.oecd.org/competition/cartels/fightingbidrigginginpublicprocurement.htm).

Source: The OECD Recommendation on Public Procurement ([www.oecd.org/gov/ethics/OECD-Recommendation-on-Public-Procurement.pdf](http://www.oecd.org/gov/ethics/OECD-Recommendation-on-Public-Procurement.pdf)); the OECD Recommendation on Fighting Bid Rigging in Public Procurement

([www.oecd.org/daf/competition/RecommendationOnFightingBidRigging2012.pdf](http://www.oecd.org/daf/competition/RecommendationOnFightingBidRigging2012.pdf)) and the Guidelines for Fighting Bid Rigging in Public Procurement ([www.oecd.org/daf/competition/guidelinesforfightingbidrigginginpublicprocurement.htm](http://www.oecd.org/daf/competition/guidelinesforfightingbidrigginginpublicprocurement.htm)). Adapted from (OECD, 2019<sub>(41)</sub>).

**Policymaker's objective.** The monopoly of the port authority in the provision of port services likely reflects a primary concern for the safety of port operations, including the protection of port infrastructure, prevention of environmental hazards, and controlling maritime traffic in the port area.

**Recommendations.** The OECD recommends considering the advantages and disadvantages of the provision of port services by private entities. If a policy decision was made in favour of private involvement in the provision of port services, the authorities should create appropriate legal frameworks so that the provision of port services could be tendered based on fair, transparent and non-discriminatory terms to guarantee competition for the market.

### 3.2.4. Regulation of port tariffs

**Description of the obstacle.** Currently, the MPWT and the MEF set prices in Cambodia's two international ports, Phnom Penh Autonomous Port and Sihanoukville Autonomous Port, through administrative decisions (World Bank, 2018, p. 48<sup>[39]</sup>). Tariffs can be changed by the Board of Directors of the port authority, which contain representatives of Cambodian ministries (World Bank, 2018, p. 63<sup>[39]</sup>).

In relation to the Sihanoukville Autonomous Port (SAP), the Ministry of Public Works and Transport has set a framework for port tariffs, which can be charged by the port.<sup>62</sup> This decision refers to a proposal of Sihanoukville Port Authority (dated 22 October 1996). The annex sets out, for example, tonnage dues, berthage dues, pilotage charges, tug-boat assistance charges, stevedoring charges, container handling charges and storage charges. Most charges are fixed, with discounts or additional fees applicable if specific conditions are met. For pilotage charges, for example, rates are fixed but there is also a minimum rate that must be paid by a vessel. The OECD understands that this document is still in force but that the port authority can change these tariffs with permission from its board of directors. Several announcements have been made by the SAP to amend tariffs and conditions.<sup>63</sup>

For the Phnom Penh Autonomous Port (PPAP), there is an Inter-Ministerial Prakas of the MPWT and MEF, which sets out fixed rental fees and fees for using the domestic port, passenger terminal and Phnom Penh Port Centre. This Prakas does not cover fees at the International Port. The OECD understands that there is no price regulation set by the Ministry but that the PPAP publishes its tariffs on its website.<sup>64</sup>

**Harm to competition.** Price regulation in the provision of port charges and port services may limit operators' ability to set their prices and prevent them from competing on price. This can lead to inefficient outcomes as prices do not adjust to supply and demand and can alter the competitive structure of a given product or market.

In particular, when minimum prices are set above what the market would have set consumers pay higher prices while consuming less, and can be worse off than without government intervention. Moreover, higher prices keep inefficient, high-cost suppliers in the market, which may result in excess supply (with more output than real demand), preventing a more efficient reallocation of resources. Finally, minimum prices dampen competition between firms and prevent more efficient firms from innovating or increasing productivity to offer lower prices and increased quality to consumers in order to capture market share. Beyond their distortionary impacts, minimum prices can be challenging for governments to put in place. They are often set with the objective of ensuring that suppliers cover their costs and achieve a reasonable rate of return. This process is not straightforward, however, and assumptions regarding costs can be crucial.

Maximum prices can similarly lead to significant problems in market functioning. In practice, a maximum price can act as a focal point for firms, limiting price competition since firms will seek to charge a price as close as possible to the market price. It may lead to consumer demand outstripping supply, making shortages more likely. This form of price regulation does protect consumers and allows some form of competition as operators can grant discounts. However, firms that would have been able to compete in an efficient market may be forced to exit if they are unable to earn a sufficient return to cover their costs. It is therefore important that maximum prices enable operators to recover their costs, including a reasonable rate of return.

Some studies suggest that the current tariffs in Cambodian ports are excessive. According to the *OECD Investment Policy Review* "a recent cost benchmarking exercise carried out by members of EuroCham Cambodia (2016) suggest that port dues and charges relating to comparable vessels are 3.7 times higher at Sihanoukville than at Cai Mep, Viet Nam" (OECD, 2018, p. 202<sup>[41]</sup>). As discussed above, the World Bank has found that port-related services in Cambodia are high when compared with like services in Thailand and Viet Nam (World Bank, 2018, p. 48<sup>[2]</sup>).

**Policymaker's objective.** Fixed or maximum rates seek to protect port users from excessive prices. In the case of a natural monopoly or where competition is limited, price regulation prevents operators from taking advantage of their position.

**Recommendation.** Only maximum prices should be stipulated in any framework for setting port dues and charges. Maximum prices should only be set when there is a lack of competition. Maximum prices should be regularly revised to ensure they are in line with market dynamics and provide the necessary incentives for innovation.

### **3.2.5. Vessel registration: discretion of the decision maker**

**Description of the obstacle.** Under the Merchant Shipping (Registration) Act 1994, the Ministry has discretion to waive requirements for a specific applicant,<sup>65</sup> to refuse registration without reason,<sup>66</sup> and to cancel a certificate of registry "in the public interest".<sup>67</sup>

**Harm to competition.** The discretion to waive any requirements for registration, to refuse registration and to cancel a certificate of registry could result in actual or perceived bias towards certain operators. The registration requirements should be the same for all applicants, otherwise some operators will benefit if they are required to satisfy fewer criteria. Unfettered discretion could also give rise to irregularities in the registration process.

**Policymaker's objective.** The OECD has not identified any policy objective for the Ministry's discretion.

**Recommendation.** The OECD makes two cumulative recommendations:

1. Limit the discretion of the decision maker by removing the discretion or by providing clear, detailed and transparent guidelines, which set out the criteria for the exercise of discretion.
2. Ensure applicants have the right to reasons for the decision taken by the Ministry in relation to registration.

### **3.2.6. Permits and authorisations**

#### *Business licence for international sea transport: licence conditions*

**Description of the obstacle.** Under Chapter V (I) of Circular 006, a business licence issued by the Department of Commercial Vessels is required to conduct a foreign or cross border shipping business. The business licence is valid for one year and "can be used for one single purpose irrespective of the location in the same provincial/municipality". Under Chapter V (II), a second business licence must be obtained, whenever there is 1) a change of the destination or 2) a change of business objectives. The OECD thus understands, from reading Chapter V in full, that the business licence is linked to a specific foreign or cross border destination and to a specific business objective and that there are no further regulations governing this licence.

**Harm to competition.** The requirement that the business licence be used for one single purpose and for a specific destination may create a geographical barrier or limit the ability of operators to provide different services. The requirement to apply for a second business licence when the applicant wishes to change destination or business objective restricts the ability of the business owner to adapt flexibly to changing market conditions and to take advantage of new opportunities. It imposes an additional administrative burden and may cause delays for service providers.

**Policymaker's objective.** The licence requirement itself is likely in place to control market entry. The OECD has not identified the policy objective behind the condition for the business licence to be used for a "single purpose" and the geographic limitation, other than the general principle that the public authority aims to ensure quality of service.

**Recommendation.** The OECD recommends to clarify “single purpose” and any geographical restriction. Consider removing the requirement to stipulate a single destination and business objective in the licensing process and the requirement to obtain a second business licence.

### 3.2.7. Operational restrictions

#### *Approval to undertake repairs and re-inspection requirements*

**Description of the obstacle.** Inland water and sea transport operators are required to obtain approval to undertake repairs of their vessels and are subject to inspection requirements once repairs have been carried out.<sup>68</sup>

**Harm to competition.** The approval requirement for repairs and the requirement for re-inspection after the repairs have been carried out may increase costs for operators. Approvals and re-inspections are an administrative burden and may cause delays and decrease the efficiency of business operations as business owners must wait longer to introduce repaired vessels to the market. This permission requirement may be stricter than what is needed for consumer protection if the mechanic, shipyard or vessel repair yard is already licensed by the authority.

**Policymaker’s objective.** The approval and re-inspection requirements are likely in place to ensure safety and that repairs are carried out properly.<sup>69</sup>

**Recommendation.** Approval and ex-post inspections should only be required for significant renovations, not day-to-day repairs if these repairs are carried out by a certified mechanic or at an authorised shipyard or repair site.

## 3.3. Freight forwarding and Warehouses

### 3.3.1. Freight forwarding

The freight forwarding sector is not regulated. There is no specific licence required to operate a freight forwarding business. Operators only require a general business licence with freight forwarding as the purpose of this licence. Customs brokerage is, however, regulated and operators require a specific licence.<sup>70</sup>

The OECD thus identified no restrictive regulations for freight forwarding. It identified the licensing requirement for customs brokers but makes no recommendation as it did not identify any restrictive licensing requirements.

### 3.3.2. Warehousing

The OECD understands that there are two types of warehouses in Cambodia: general warehouses and warehouses for temporary storage of goods awaiting customs clearance. There is currently no regulatory regime for general warehouses. The Ministry of Public Works and Transport (MPWT) is currently drafting a “warehousing business regulation”, which would impose a licensing regime for general warehouses.

Warehouses used for temporary storage of goods awaiting customs clearance are licensed by the General Department of Customs and Excise.

The main pieces of legislation affecting the warehousing sector generally are:

- The Constitution and the Land Law (2001) in relation to land ownership requirements;
- Law on Investment (as amended in 2003).



Article 44 of the Constitution explains, all persons, individually or collectively, shall have the right to ownership. Only Cambodian legal entities (with more than 51% of shares held by Cambodians) and citizens of Cambodian nationality shall have the right to own land. Legal private ownership is protected by the law. This is reaffirmed by Article 8 of the Land law. According to the *OECD Investment Policy Review: Cambodia 2018*, the interests of foreign investors are protected through the available legal instruments such as “long-term leases for 15 years or more renewable, the creation of security interests (mortgage) and other contractual arrangements)” (OECD, 2018, p. 97<sup>[41]</sup>).

The main pieces of legislation affecting customs warehouses are:

- Law on Customs dated 20 July 2007 (Customs Law) and various Prakas which detail the requirements for Customs Bonded Warehouses and Customs Temporary Storage Warehouses.<sup>71</sup>

The OECD identified two restrictive regulations for warehouses and made one recommendation. This is set out in the Annex and relates to administrative burdens in customs warehouses.

### 3.4. Small-package delivery services

The main legislation affecting the small-package delivery service (SPDS) sector is the Law on Postal Sector of 11 July 2002 (Postal Law). The OECD understands that the Ministry of Post and Telecommunications (MPTC) is currently drafting a new Postal Law. It is expected to be finished by the end of 2021 and implemented in early 2022. The new law is projected to change up to 80% of the current law.<sup>72</sup>

#### 3.4.1. Overview of types of licences and scope of licences

Pursuant to articles 16 and 23 of the Postal Law, the MPTC issues licences to fulfil postal services. Accordingly, both foreign and domestic SPDS providers are required to obtain a licence from the MPTC to operate in Cambodia.

According to the MPTC, Joint Prakas 1120 dated 10 Nov 2006 sets out the licensing regime for international postal services and specifically international express mail. The OECD understands that the licensing regime set out in this Joint Prakas also applies to operators who provide SPDS in Cambodia. It therefore applies to both domestic and international SPDS operators. According to Joint Prakas 1120, MPTC must make a decision on whether to issue a licence within 15 days from receipt of an application yet the OECD understands that the process often takes longer. The licence is valid for one year and can be extended upon application to MPTC within 30 days prior to the licence expiry date. Inter-Ministerial Prakas 498 on Provision of Service Fees of the Ministry of Post and Telecommunication dated 08 May 2018, sets out the relevant licence fee (KHR 4 200 000).

The OECD team identified four restrictive regulations in the SPDS sector and made three recommendations concerning restrictions on operations, notably price regulation and the monopoly on the provision of specific services.

#### 3.4.2. Restrictions on operations

##### *Price regulation*

**Description of the obstacle.** Under the Postal Law, the Ministry of Posts and Telecommunications (MPTC) has the competence to fix service fees and set standard documents in relation to “postage charges”, “service fees”, fee exemptions and discounts.<sup>73</sup> These concepts are not defined in the Postal Law.

**Harm to competition.** The Ministry's discretion to set postage charges, service fees and exemptions may prevent price competition. If operators are obliged to follow fixed rates, they are unable to set their own prices and to compete on price (e.g. they will not be able to undercut prices of rivals in order to gain market share). Further, the discretion may create legal uncertainty, thus discouraging potential entrants.

**Policymaker's objective.** The discretion to set charges and fix rates of the universal service provider may be a means of protecting consumers from monopoly pricing or supporting the universal service obligation. The discretion to set charges and fix rates of non-universal service providers may aim to protect the universal service provider from "unfair" competition. However, the OECD understands that there is currently no price regulation for the postal sector in Cambodia, including for commercial services and those provided by Cambodia Post.

**International comparison.** In other ASEAN countries (e.g. Philippines, Thailand and Brunei Darussalam) there is no price regulation of courier services. In the EU, Article 12 of the Postal Directive provides guidelines for regulating prices of universal postal services only. Such prices should be regulated only "for each of the services forming part of the provision of the universal service".

**Recommendation.** Amend the legislation to remove any ability to regulate the rates of small package delivery services (SPDS). The legislation should reflect current practice where there is no price regulation of SPDS and where SPDS providers are free to set their own prices.

#### *Monopoly on the provision of specific services*

**Description of the obstacle.** Under the Postal Law, private businesses can carry out postal services, which are not carried out by the state postal business.<sup>74</sup> The extent of this monopoly (or possible monopoly) is not clear. The OECD understands that the legislation only provides for Cambodia Post to have a monopoly for mail or letters that weigh less than 500 grammes. This is set out in Joint Prakas 1120. According to the MPTC, this provision is not enforced in practice and so Cambodia Post operates in competition with other market players for all of its services.

**Harm to competition.** Depending on the extent of this prohibition, this may prevent operators from providing certain services, which may limit their operations. The mere existence of this provision in the legislation results in legal uncertainty and may discourage market entry.

**Policymaker's objective.** The OECD understands that the only relevant Prakas is Joint Prakas 1120, which outlines a limited monopoly (mail or letters that weigh less than 500 grammes). The OECD understands that in practice, private operators are able to provide these services as the relevant provision is not enforced.

**Recommendation.** Clarify the Postal Law to ensure that the monopoly does not include small package delivery services (i.e. courier services).

### 3.5. International agreements

Cambodia has concluded a number of multilateral agreements with other countries on international road transport; it is a co-signatory of the Geneva Convention on Road Traffic (1949), the Protocol on Road Signs and Signals (1949) and the Intergovernmental Agreement on the Asian Highway Network (2016).

In addition to such international agreements, Cambodia has signed several ASEAN-wide regional agreements.

In 2004, the heads of state and governments of all ASEAN countries signed the ASEAN Framework Agreement for the Integration of Priority Sectors.<sup>75</sup> The purpose of the agreement was to identify measures, with precise timelines, that would enable the progressive and systematic integration of such priority sectors within ASEAN. From the outset, logistics was not, however, included within the 11 priority sectors.<sup>76</sup> In

2006, the ASEAN Economic Ministers decided to add logistics as the 12th priority sector and developed a *Roadmap for the Integration of Logistics Services*, adopted in 2007 and which included specific measures to create an ASEAN single market “by strengthening ASEAN economic integration through liberalisation and facilitation measures in the area of logistics services”.<sup>77</sup>

Cambodia is also a party to the ASEAN Framework Agreement on Transport Facilitation, which includes more specific agreements:

- ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT);
- ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST); and
- ASEAN Framework on Multimodal Transport (AFAMT).

Finally, there are a number of sub-regional agreements signed between Cambodia and its neighbours such as Lao PDR, Thailand and Viet Nam. These include:

- Memorandum of Understanding between and among Cambodia, Lao PDR and Viet Nam on road transport (2013);
- Agreement between Cambodia and Viet Nam on waterway transportation (2010);
- Memorandum of Understanding between Cambodia and Thailand on the exchange of traffic rights for cross border transport through the Aranyaprathet-Poipet border crossing points (2008); and
- Agreement between Cambodia and Lao PDR on road transport (1999) and Protocol for the implementation of this agreement (2007);
- Agreement between Cambodia and Viet Nam on road transportation (1998), Protocol for the implementation of this agreement (2005) and Memorandum of Understanding on types and quantity of commercial motor vehicles for the implementation of these agreement and protocol (2009).

The OECD team identified two types of restrictive provisions in these international logistic agreements and made two recommendations, concerning the limited number of licences for cross-border road transport and the cabotage restriction.

### **3.5.1. Limited number of licences for cross-border road transport**

**Description of the obstacle.** Several international agreements reviewed by the OECD contain provisions limiting the number of operators or vehicles that can provide cross-border road transport into Cambodia. These agreements are:

- **Memorandum of Understanding between and among Cambodia, Lao PDR and Viet Nam on road transport (2013).** Pursuant to this memorandum, the quota of commercial motor vehicles of each contracting party is 150 vehicles for cross border transport. Article 7(2) explains that an increase in this quota can be agreed upon by the contracting parties “from time to time” and “in the basis of economic needs and mutual interest”. Article 7(3) provides that the agreed increase in quota may be determined in the Addendum signed by all parties to the MOU. The OECD understands that there has been no further amendment to this quota.
- **Memorandum of Understanding between Cambodia and Thailand on the exchange of traffic rights for cross border transport through the Aranyaprathet-Poipet border crossing points (2008).** Pursuant to this memorandum, in order to transport cargo by road from Cambodia to Thailand, it is necessary to obtain a specific licence for each vehicle. This licence is nominative, non-transferable and valid for one year. This memorandum further sets the number of licences for non-scheduled passenger and cargo transportation at a maximum of 40. Article 9(6) then provides for the possibility to discuss “from time to time” this maximum limit and consequently amend it. As of 2018, the maximum number of licences under this MoU was 150.

- **Protocol for the implementation of the agreement between Cambodia and Lao PDR on road transport (2007).** Under this protocol, Lao PDR and Cambodia authorise licensed transport operators (by the other contracting party) to provide inter-state transport of goods between their territories (Article 13). Article 4 provides for an initial limit on the number of goods vehicles allowed to perform cross-border transport (for an initial period of 12 months), to not more than 40 permits per country. The same article provides that “thereafter, the quantities of transport vehicles shall be discussed from time to time between the contracting parties”. According to Article 20, the parties meet every year to review and discuss this protocol. The OECD understands that there has been no further amendment to this quota.
- **Memorandum of Understanding on types and quantity of commercial motor vehicles for the implementation of the agreement and protocol between Cambodia and Viet Nam on road transportation.** Pursuant to this memorandum of understanding, the quota for commercial motor vehicles for cross border transport is 150 vehicles. Before this agreement, there was a quota of 40 vehicles in place. Article 5 provides that “the increase in quota of commercial motor vehicles for cross border transport between the contracting parties shall be discussed from time to time on the basis of economic needs and mutual interest”. The agreement was signed on 17 March 2009 and this provision was amended on 30 November 2012 to increase the quota of vehicles to 500 for each contracting party. The two countries then agreed to introduce annual 100-vehicle permit increases each year.

**Harm to competition.** All of the quotas discussed above limit the ability of some operators to provide cross border transport. As pointed out by World Bank, several Cambodian trucking companies are not allowed to operate in Thailand and Viet Nam and vice-versa beyond the allowed permit quota, which means that they are required to trans-load goods in the immediate border area (OECD, 2018<sup>[41]</sup>). Restricting the number of operators may reduce competition between suppliers and result in higher prices or lower quality for customers. It is a barrier to entry if interested companies cannot then participate in the market. Removing the need to trans-load goods in the immediate border area could lead to more efficient and competitive logistics and support greater global value chain activities in Cambodia (OECD, 2018<sup>[41]</sup>).

**Policymaker’s objective.** The likely objective of these provisions seems to be road safety, avoiding traffic congestion and protecting each country’s national road transport service providers against competition from foreign companies.

**Recommendation.** The OECD recommends one of the following options.

1. Remove these restrictive provisions setting quotas and replace with a licence system. The licensing criteria should be clearly defined in the international agreement or implementing laws or regulations.
2. Assess market need and demand every one to three years, and consider adapting the number of licences that can be issued.

Both these recommendations would require negotiations between signatory countries.

### **3.5.2. Cabotage agreement between Cambodia and Viet Nam**

**Description of the obstacle.** The agreement between Cambodia and Viet Nam on waterway transportation (2010) aims to establish a legal framework for the effective implementation of freedom of navigation in the Mekong river system and create favourable conditions for transit and cross-border navigation within the waterways designated by the agreement. It reduces a number of restrictions that existed for cross-border navigation between Cambodia and Viet Nam.

This agreement nevertheless provides for a cabotage restriction. Cabotage is generally known as the movement of goods between ports within the same country or coastal shipping. Pursuant to Article 10 of

this agreement, “cabotage shall be served to vessels of the contracting party [Cambodia or Viet Nam] in whose territory the relevant regulated waterways are located, unless the competent authority of that contracting party grants an explicit derogation.” Article 11 however allows consecutive calls at ports or terminals (e.g. loading goods consecutively at several ports or terminals within the territory of a contracting party for the purpose of carrying them to the territory of the other contracting party or discharging goods consecutively at several ports or terminals within the territory of a contracting party after having taken on board these goods within the territory of the other contracting party).

**Harm to competition.** The prohibition on vessels that are allowed to carry out cross-border transport to carry out general shipping within the domestic market of the contracting countries, prevents foreign firms from entering the national freight transportation market.

Licensed vessels of the contracting parties that carry out cross border transport are however allowed to make several stops within a foreign waterway to load/unload their goods. The OECD understands that they cannot pick up additional goods (i.e. operate in the domestic shipping market). A similar exemption was introduced in the Philippines to support imports and exports.

**Policymaker’s objective.** The policy objective behind the cabotage principle is to support and develop the domestic shipping industries of the contracting parties as the provision does not allow permit holders to operate in the domestic shipping market.

**Recommendation.** The OECD sets out three options:

1. Open the domestic shipping market to foreign competition by lifting the ban on foreign vessels carrying domestic cargo between ports in Cambodia, possibly based on reciprocity arrangements (i.e. between the contracting parties to this agreement) or between ASEAN members.
2. Amend the cabotage law to allow foreign ships to carry their own cargo (and other foreign cargo) domestically. A further step would then be to allow foreign ships to carry other domestic cargo from the port of entry to the port of final call if the foreign vessel has capacity after unloading goods at the port of entry.
3. Allow international ships to operate in domestic shipping market on specific routes where there is demand.

### 3.6. Horizontal

The OECD’s analysis has focused on laws and regulations that may reduce competition in the logistics sector. In addition to the specific regulatory framework of the logistics sector, the OECD has made some observations as to the quality of regulations and of regulatory practices in Cambodia that may affect the logistics sector. This chapter offers some suggestions for consideration, based on principles of good regulation and on the OECD work on regulatory policy.

Regulatory quality matters for competition. For example, a clear and easily accessible regulatory framework is essential for new entrants that are not necessarily familiar with the national legal framework, and for small competitors, for which compliance costs and administrative burdens are relatively more important than for larger companies. Most OECD countries have made efforts to lower regulatory burdens, particularly in the interest of improving economic activity and the ease of doing business (OECD, 2018<sup>[43]</sup>).

To improve regulatory quality, the OECD recognises the need for governments to undertake a comprehensive programme that includes systematically reviewing existing regulations, to ensure their efficiency and effectiveness, and to lower the regulatory costs for citizens and businesses, integrating Regulatory Impact Assessment (RIA) into the process for the formulation of new regulatory proposals, and employing opportunities of information technology and one-stop shops for licences, permits, and other procedural requirements (OECD, 2012<sup>[43]</sup>).

ASEAN has developed regional guidelines for good regulatory practices to improve the quality of regulations. Last revised in 2018, the ASEAN Guidelines on Good Regulatory Practices include recommendations for the design and implementation of regulations based on six core principles. According to these guidelines, regulations should:

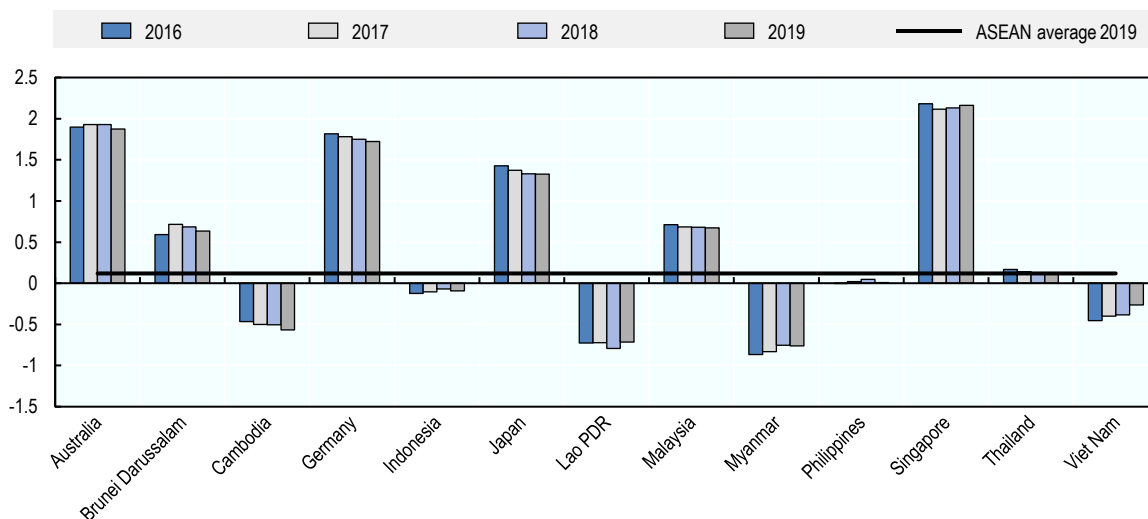
1. have a clear policy rationale, objectives, and institutional framework
2. produce benefits that justify costs and be the least distortive to markets
3. be consistent, transparent, and practical
4. support regional regulatory co-operation
5. promote stakeholder engagement and participation
6. be subject to regular review for continued relevance, efficiency, and effectiveness.

Box 3.2 summarises the corresponding principles of the OECD 2012 Recommendation of the Council on Regulatory Policy and Governance and the 1995 Recommendation on Improving the Quality of Government Regulation.

Since 2004, Cambodia has been undertaking regulatory reforms to reduce administrative burdens, lower compliance costs, simplify regulations, and improve the regulatory quality of its legislation. Cambodia has developed and installed ICT systems to allow certain administrative processes, such as registration and fee payments, to be carried out online. It has created several legal databases and has introduced RIA initiatives (OECD, 2018<sup>[44]</sup>).

However, challenges remain. Shortcomings in regulatory quality are reflected in the World Bank's Governance Indicator, shown in Figure 3.1. The regulatory quality estimate captures the perception of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development. Cambodia scores below the ASEAN average and needs to take steps in order to improve regulatory quality.

**Figure 3.1. Regulatory quality estimates for ASEAN and selected OECD countries, 2016-19**



Note: Lowest = -2.5; highest = 2.5. The regulatory quality estimate indicator captures the perception of a government's ability to formulate and implement sound policies and regulations that permit and promote private-sector development.

Source: World Bank's Worldwide Governance Indicators, <http://info.worldbank.org/governance/wgi>.

### Box 3.2. What is regulatory quality?

Regulations are the rules that govern the everyday life of businesses and citizens. They are essential for economic growth, social welfare and environmental protection, but can also be costly in both economic and social terms. In that context, “regulatory quality” is about enhancing the performance, cost effectiveness, and legal quality of regulation and administrative formalities. The notion of regulatory quality covers process – the way regulations are developed and enforced – which should follow the key principles of consultation, transparency, accountability and evidence. Beyond process, the notion of regulatory quality also covers outcomes, which should be regulations that are effective at achieving their objectives; efficient (do not impose unnecessary costs); coherent (when considered within the full regulatory regime); and simple (regulations and the rules for their implementation are clear and easy to understand for users).

Building and expanding on the OECD’s 1995 Recommendation of the Council on Improving the Quality of Government Regulation, regulatory quality can be defined by regulations that:

1. serve clearly identified policy goals, and are effective in achieving those goals
2. are clear, simple, and practical for users
3. have a sound legal and empirical basis
4. are consistent with other regulations and policies
5. produce benefits that justify costs, considering the distribution of effects across society and taking economic, environmental and social effects into account
6. are implemented in a fair, transparent and proportionate way
7. minimise costs and market distortions
8. promote innovation through market incentives and goal-based approaches
9. are compatible as far as possible with competition and trade- and investment-facilitating principles at domestic and international levels.

Source: OECD, Recommendation of the Council on Improving the Quality of Government Regulation, <https://legalinstruments.oecd.org/public/doc/128/128.en.pdf>.

### Box 3.3. World Bank’s Worldwide Governance Indicators: the Regulatory Quality Estimate

The Worldwide Governance Indicators (WGI) aim at capturing different aspects of governance across 200 countries. They include indicators on:

1. voice and accountability
2. political stability and absence of violence
3. governance effectiveness
4. regulatory quality
5. rule of law
6. control of corruption.

As data are based on a wide variety of sources, for each indicator researchers have used a statistical methodology known as an unobserved components model to standardise data and provide an

aggregate indicator of governance as a weighted average of variables. This reflects possible imprecisions in measuring governance.

Regarding specifically the Regulatory Quality (RQ) indicator, it aims to capture “perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development”. A country’s score is an aggregate indicator, ranging from -2.5 (lowest score) to 2.5 (highest score).

Source: Kaufmann, D., Kraay, A. & Mastruzzi, M. (2011), *Hague Journal of the Rule of Law*, 3:220, <https://doi.org/10.1017/S1876404511200046>.

While the OECD has not identified any barriers in horizontal legislation for the purpose of this report, it makes some policy suggestions on horizontal issues identified in the process of reviewing sector-specific legislation in Cambodia. These suggestions concern:

1. access to legislation, including the availability of online databases; and
2. online digital applications for transport licences

### **3.6.1. Access to legislation**

In general, a basic requirement for improving the quality of a regulatory framework is legislation that is accessible and organised in a user-friendly manner so that all rules and regulations enforced by agencies are clear and publicly available (see Box 3.2). Market participants need to have full transparency of those rules and regulations that apply to them. Government authorities should ensure that there is an up-to-date version of the legislation and guidelines they administer on their website and on the official government legal database. Importantly, this means that any amendments to a piece of legislation should be included in a new consolidated version (or alternatively be provided as a link) and obsolete legislation should be marked as such. While amending public legal databases, can be costly and time-consuming, it should be a long-term goal for all ASEAN member states.

#### **Box 3.4. Open government**

##### **OECD Recommendation on open government**

The 2012 OECD Recommendation of the Council on Regulatory Policy and Governance includes a recommendation to adhere to principles of open government. This includes transparency and participation in the regulatory process to ensure that regulation serves the public interest and is informed by the legitimate needs of those it interests and affects. This includes providing meaningful opportunities (including online) for the public to contribute to the process of preparing draft regulatory proposals and gathering high-quality supporting analysis. Governments should ensure that regulations are comprehensible and clear and that parties can easily understand their rights and obligations.

One key component of open government is that regulations should be easily accessible to the public. A complete and up-to-date legislative and regulatory online database should be freely available to the public in a searchable format and with a user-friendly interface.

Source: (OECD, 2012<sup>[43]</sup>).



**Description of obstacle.** While reviewing legislation in this project, the OECD team identified several issues, including:

1. A lack of primary legislation in certain sectors (e.g. water freight transport and ports). The World Bank has noted that there are three draft laws covering these sectors. They are not yet finalised however. The associated time lines are uncertain and “some of them were drafted 10 years ago or more” (World Bank, 2018, p. 61<sup>[39]</sup>). Due to the limited capacity of Ministries, there is a tendency to issue secondary legislation as the process of drafting and finalising primary laws is long and onerous. This leads to gaps in the legal framework and inconsistencies may arise.
2. A lack of a comprehensive legal database. It appears that there is no single official website, where all the laws, including secondary legislation or “prakas”, are published. This is especially important given the reliance on and preference for secondary legislation by Ministries (World Bank, 2018, p. 61<sup>[39]</sup>). The OECD has previously noted that:

*“The ECOSOCC database should include laws, decrees and sub-decrees. However, it does not include legislation at the level of Prakas or below, which would mean that it omits a significant body of regulatory and procedural information. Some Ministries maintain good records of regulatory policies relevant to their duties, while others do not. It can be difficult to track when old regulations have been superseded by new ones, as many new regulations simply say that any older ones are overruled without naming them” (OECD, 2018, p. 67<sup>[44]</sup>)*

Further, when available in an online database, legislation is often not available in an electronically searchable format.

**Harm to competition.** Difficulties in accessing logistics legislation creates legal uncertainty and increases costs for actual and potential market participants. Logistics providers and consumers are required to undertake additional work, allocate resources and endure additional costs (i.e. fees for legal advice) to understand the applicable legal framework at any specific point in time. This may consequently deter market entry and expansion.

International experience provides examples of good practices in this respect (see Box 3.5).

The OECD has three **policy suggestions**:

1. Publish all primary and secondary legislation in a single database. Alternatively, or until this is implemented, each logistics authority should publish a complete list of legislation it administers on its website along with its status. Obsolete legislation should be marked as such.
2. Update all logistics legislation in the database to include new amendments allowing stakeholders to access consolidated versions of relevant legislation. Alternatively, or until this is implemented, publish the original version of legislation with links to any amendments.
3. Ensure that published legal texts are electronically searchable.

### Box 3.5. Legal databases in Singapore, Australia and the United Kingdom

#### Singapore Statutes Online

In Singapore, the Attorney-General's Chambers provides a free service called Singapore Statutes Online (SSO; <https://sso.agc.gov.sg>), which consists of a complete list of current and historical versions of legislation, including revised editions.

#### Federal Register of Legislation, Australia

In Australia, all federal laws are published on the Federal Register of Legislation website ([www.legislation.gov.au](http://www.legislation.gov.au)). The latest consolidated version of the legislation is clearly marked as "In force – Latest version". Users are able to "View Series" to see all versions of the legislation in question and can easily find any amending acts. Users can easily see previous versions to understand which law was applicable at which time, and see any amendments and their date. The website also links to related bills.

#### Legislation.gov.uk, United Kingdom

The website [www.legislation.gov.uk](http://www.legislation.gov.uk) lists changes to legislation, including repeals, amendments and other effects, such as modifications and commencement information, made by subsequent legislation. The lists are updated generally within two weeks of new legislation being published.

Source: Singapore Statutes Online, Federal Register of Legislation, [www.legislation.gov.au](http://www.legislation.gov.au); [legislation.gov.uk](http://legislation.gov.uk), [www.legislation.gov.uk](http://www.legislation.gov.uk).

### 3.6.2. Online digital applications for transport licences

In 2020, the Global Innovation Index ranked Cambodia 123 in the provision of online government services and 126 in the e-participation index out of 131 economies (Cornell University, INSEAD, and WIPO, 2020<sub>(45)</sub>).<sup>78</sup>

Some of the logistics-related licences can be applied for online in Cambodia. For example, it is possible to apply online for the operator licence as well as the certificate of business registration that are needed for road freight transport, on the website of the MPWT.<sup>79</sup> However, logistics providers cannot currently apply online for all licences and accreditations. Certain authorisations, require applicants to submit hard-copy applications with the relevant agency. For example, applicants for international express mail service licences must submit a hardcopy application to the MPTC. The OECD understands however that an online application process will be implemented in early 2021.

**Harm to competition.** For logistics providers, specifically, the lack of digitalisation increases costs as they may be required to submit a different hard-copy application to the relevant agency for each authorisation. Handing in hard copies in person also increases the danger of irregularities. It may also slow down the processing of applications, resulting in delayed entry by new market players. In Cambodia, inadequate Internet access may limit the positive impact of digitalisation and online applications on market entry and competition.<sup>80</sup>

**Policy suggestion.** Introduce whenever practicable digitalisation of all application procedures for logistics-related authorisations and in addition to paper applications, allow online applications.

The majority of OECD countries allow online application processes for transport and logistics related licences and authorisations. In the UK, for instance, a user-friendly online procedure for transport-operator licences is available (with fees payable online by credit card), although it is also possible to file an application by post if the online service cannot be used. Decisions are usually issued more quickly for online applications (seven weeks) than applications by post (nine weeks).

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# Notes

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<sup>3</sup> World Bank and Turku School of Economics, Logistic Performance Index Surveys, <https://data.worldbank.org/indicator/LP.LPI.OVRL.XQ>.

<sup>4</sup> See for instance EC merger case COMP/M.7630 – *Fedex / TNT Express* of 8 January 2016, EC merger case COMP/M.6570 – *UPS/ TNT Express* of 30 January 2013.

<sup>5</sup> The separation between inland waterway transport and maritime transport is not always clear-cut, as shown for instance in Viet Nam by the overlap of responsibilities between the Vietnam Inland Waterway Administration (VIWA) and the Vietnam Maritime Administration (VINAMARINE).

<sup>6</sup> See <https://www.worldshipping.org/facts-figures>.

<sup>7</sup> See European Commission, Case AT.39850, *Container Shipping*, closed with commitments on 7 July 2016.

<sup>8</sup> The methodology followed in this project is consistent with the product market regulations (PMR) index developed by the OECD. To measure a country's regulatory stance and track progress of reforms over time, in 1998, the OECD developed an economy-wide indicator set of PMR (Nicoletti et al., 1999); this indicator was updated in 2003, 2008 and 2013, <https://www.oecd.org/economy/reform/indicators-of-product-market-regulation/>.

<sup>9</sup> Fournier, et al. (2015) find that national regulations, as measured by the economy-wide PMR index, have a negative impact on exports and reduce trade intensity (defined as trade divided by GDP). Differences in regulations between countries also reduce trade intensity. For example, convergence of PMR among EU member states would increase trade intensity within the European Union by more than 10%. Fournier (2015<sub>[15]</sub>) studied the impact of heterogeneous PMR in OECD countries and concluded that lowering regulatory divergence by 20% would increase FDI by about 15% on average across OECD countries. He investigated specific components of the PMR index and found that command-and-control regulations and measures protecting incumbents (such as antitrust exemptions, entry barriers for networks and services) are especially harmful in reducing cross-border investments.

<sup>10</sup> Arnold, Nicoletti and Scarpetta (2011<sub>[17]</sub>) analysed firm-level data in 10 countries from 1998 to 2004 using the OECD's PMR index at industry-level, and found that more stringent PMR reduces firms' MFP.

<sup>11</sup> Égert (2017<sub>[18]</sub>) investigates the drivers of aggregate MFP in a sample of 30 OECD countries over a 30-year period.

<sup>12</sup> The study of 15 countries and 20 sectors from 1985 to 2007 estimated the effect of regulation of upstream service sectors on downstream productivity growth. The productivity frontier refers to the most productive countries and sectors in the sample. The farther a sector is from the frontier, the less productive it is.

<sup>13</sup> Égert investigated the link between product and labour-market regulations with investment (capital stock) using a panel of 32 OECD countries from 1985 to 2013.

<sup>14</sup> Employment growth in France increased from 1.2% a year between 1981 and 1985 to 5.2% a year between 1986 and 1990. Between 1976 and 2001, total employment in the road transport sector doubled, from 170 000 to 340 000.

<sup>15</sup> The sample includes 18 countries over a 10-year period.

<sup>16</sup> Using the OECD's summary index of PMR in seven non-manufacturing industries in the energy, telecoms and transport sectors, (Causa, 2015<sup>[49]</sup>) found stringent PMR had a negative impact on household disposable income. This result held both on average and across the income distribution, and led to greater inequality. The authors noted that lower regulatory barriers to competition would "tend to boost household incomes and reduce income inequality, pointing to potential policy synergies between efficiency and equity objectives".

<sup>17</sup> Multi-factor productivity (MFP) is a measure of the "efficiency with which labour and capital inputs are used together in the production process". See, <https://data.oecd.org/lprdy/multifactor-productivity.htm>.

<sup>18</sup> World Bank, <https://data.worldbank.org/indicator/AG.SRF.TOTL.K2?end=2018&locations=KH&start=2018>.

<sup>19</sup> World Bank, <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=KH>.

<sup>20</sup> World Bank, <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=KH>.

<sup>21</sup> World Bank, <https://datacatalog.worldbank.org/dataset/gdp-ranking>.

<sup>22</sup> World Bank, <https://www.worldbank.org/en/country/cambodia/overview>.

<sup>23</sup> World Bank, <https://data.worldbank.org/indicator/NE.EXP.GNFS.CD?locations=KH>.

<sup>24</sup> World Bank, <https://data.worldbank.org/indicator/NE.EXP.GNFS.ZS?locations=KH>.

<sup>25</sup> ILO, [https://www.ilo.org/shinyapps/bulkexplorer47/?lang=en&segment=indicator&id=EMP\\_TEMP\\_SEX\\_ECO\\_NB\\_A](https://www.ilo.org/shinyapps/bulkexplorer47/?lang=en&segment=indicator&id=EMP_TEMP_SEX_ECO_NB_A).

<sup>26</sup> ADB, Key Indicators for Asia and the Pacific 2020, <https://www.adb.org/publications/key-indicators-asia-and-pacific-2020>.

<sup>27</sup> The ASEAN Framework Agreement on Services was signed in Bangkok on 15 December 1995; see, [https://asean.org/?static\\_post=asean-framework-agreement-on-services](https://asean.org/?static_post=asean-framework-agreement-on-services).

<sup>28</sup> The indicators used in the Global Competitiveness Report are based on a mix of hard data obtained from various international organisations and soft data collected via the global Executive Opinion Survey conducted by the World Economic Forum and its local partner institutions in the participating countries. The extent of market dominance is measured based on the response to the following survey question: "in your country, how do you characterize corporate activity? [1 = dominated by a few business groups; 7 = spread among many firms]." The indicator for competition in services is based on the average of the scores of the three components of the following survey questions: "In your country, how competitive is the provision of the following services: professional services (legal services, accounting, engineering, etc.); retail services; and network sector (telecommunications, utilities, postal, transport, etc.)? [1= not at all



competitive; 7 = extremely competitive].” Trade openness is computed by taking the average of the scores in the following indicators: prevalence of non-tariff barriers, trade tariffs, complexity of tariffs and boarder clearance efficiency. For further information, please refer to Appendix A of the Global Competitiveness Report.

<sup>29</sup> For the full list of countries with their respective rankings, see <https://openknowledge.worldbank.org/bitstream/handle/10986/32436/9781464814402.pdf?sequence=24&isAllowed=y>.

<sup>30</sup> Another factor is the time necessary to register property.

<sup>31</sup> This master plan follows the adoption of an earlier version, *Master Plan on ASEAN Connectivity 2010*. See <https://asean.org/storage/2016/09/Master-Plan-on-ASEAN-Connectivity-20251.pdf> for the full *Master Plan on ASEAN Connectivity 2025* report.

<sup>32</sup> Khmer Times, 25 June 2020, <https://www.khmertimeskh.com/50737975/up-to-15-percent-of-logistics-providers-heading-for-bankruptcy/>.

<sup>33</sup> According to Mordor Intelligence, the Cambodian freight and logistics market was valued at USD 1.7 billion in 2019, and it is expected to reach USD 2.0 billion by 2025, registering a growth rate of 2.8% during the forecast period (2019-2025) (Mordor Intelligence, 2020<sub>[48]</sub>).

<sup>34</sup> For example, *OECD Investment Policy Reviews: Egypt 2020* noted that in this lower-middle-income economy, logistics costs to GDP accounted for around 20% of GDP (OECD, 2020, p. 26<sub>[36]</sub>).

<sup>35</sup> SAP was established by Sub-Decree 50 on Establishment of Sihanoukville Autonomous Port (PAS) (July 17, 1998). The PPAP was established by Sub-Decree # 51 (RGC) on Establishment of Phnom Penh Autonomous Port (PPAP) (July 17, 1998). Article 1 in both of these sub-decrees explains that the PAS and the PPAP are SOEs under the technical supervision of the MPWT and with “financial supports from” the Ministry of Economy and Finance. They are “technically, administratively, and financially autonomous”.

<sup>36</sup> Website of Sihanoukville Autonomous Port, accessed 9 February 2021: <http://www.pas.gov.kh/en/page/statistics>.

<sup>37</sup> In 2018, the import–export volume through SAP amounted to 5 196 399 tonnes and 537 107 twenty-foot equivalent units (TEU), while the volume through the PPAP amounted to 12 899 000 tonnes and 205 000 TEU (ADB, 2019, p. 13<sub>[11]</sub>).

<sup>38</sup> Khmer Times, 9 January 2020, <https://www.khmertimeskh.com/50677964/solid-growth-in-nations-ports/>.

<sup>39</sup> Between 2015 and 2018, global exports of transport services increased from USD 902.8 billion to USD 1 trillion. Source: UNCTADStat, <https://unctadstat.unctad.org/wds/TableView/tableView.aspx?ReportId=135718>.

<sup>40</sup> UNCTAD explains that the current version of the index is based on six components: 1) the number of scheduled ship calls a week in the country; 2) deployed annual capacity in TEUs: total deployed capacity offered in the country; 3) the number of regular liner-shipping services from and to the country; 4) the number of liner-shipping companies that provide services from and to the country; 5) the average size in TEUs of the ships deployed by the scheduled service with the largest average vessel size; and 6) the number of other countries that are connected to the country through direct liner-shipping services.

<sup>41</sup> The Liner Shipping Bilateral Connectivity Index (LSBCI) comprises five components: 1) the number of transshipments required to get from country A to country B; 2) the number of direct connections common to both country A and B; 3) the geometric mean of the number of direct connections of country A and of country B; 4) the level of competition in services that connect country A to country B; 5) the size of the largest ships on the weakest route connecting country A to country B. For more details on the methodology, see “Table summary” (accessible through the information icon after “Liner shipping bilateral connectivity index, annual”) <https://unctadstat.unctad.org/wds/TableViewer/tableView.aspx?ReportId=96618>.

<sup>42</sup> The OECD understands that KAMSAB is no longer in operation.

<sup>43</sup> Ministry of Public Works and Transport, Organisation Chart, <https://www.mpwt.gov.kh/en/about-us/organization-chart>.

<sup>44</sup> Applicants can apply for this license through the Ministry’s automation system at <https://www.mpwt.gov.kh/en/public-services/transport-licensing>.

<sup>45</sup> See <https://mptc.gov.kh/en/mptc-structure/>.

<sup>46</sup> Ministry of Economy and Finance, <https://www.mef.gov.kh/>.

<sup>47</sup> See <https://www.competitionpolicyinternational.com/cambodia-to-finalize-antitrust-competition-draft-law/>.

<sup>48</sup> See <https://www.phnompenhpost.com/business/cambodia-post-registers-more-133-million-revenue-last-year>.

<sup>49</sup> Phnom Penh Autonomous Port, <http://www.ppap.com.kh/financial-highlight/>.

<sup>50</sup> Cambodian Securities Exchange, <http://csx.com.kh/>.

<sup>51</sup> For the purposes of the regulation, multi-manning’ means the situation where, during each period of driving between any two consecutive daily rest periods, or between a daily rest period and a weekly rest period, there are at least two drivers in the vehicle to do the driving. For the first hour of multi-manning the presence of another driver or drivers is optional but for the remainder of the period it is compulsory (art. 4 (o)).

<sup>52</sup> See, for example, UNESCAP, *Port Development and Operation in Cambodia*, PowerPoint Presentation dated 8-9 October 2019 (Vientiane, Lao PDR, presented by Mr Ros Sophornna), slide 23, <https://www.unescap.org/sites/default/files/Country%20presentation%20-%20Cambodia%20Session%206-1.pdf> accessed on 8 February 2021.

<sup>53</sup> See Chapter VII(A) Circular #003 on management of means of water transport.

<sup>54</sup> See Chapter VII (B) and Chapter VII (C) of Circular #003 on management of means of water transport.

<sup>55</sup> See Chapter V (I) Circular No 006 (MPWT) on Management of sea navigation (1 October 1999).

<sup>56</sup> National Policy on Port and Port Administration dated 10 May 2013, Glossary (port regulator). Sub-decree on The Organization and the Function of the Ministry of Public Works and Transport (No. 216, 13/10/2016) established the General Department of Waterway Maritime Transport and Port and the Port Administration Department.

<sup>57</sup> National Policy on Port and Port Administration dated 10 May 2013, 4. Strategy.

<sup>58</sup> The OECD understands that the Sihanoukville Port has issued various announcements to amend its service fees. For example, Announcement 009 dated 22 April 2019 set out modifications to the Lift-on-Lift-off tariffs at the container yard of the port (decrease in charges) and Notification 003 dated 29 January 2016 set out modifications to the Container Storage Tariff (Storage Charge) at the container yard of the port (no change in tariff but in application to encourage quick release of containers).

<sup>59</sup> Article 2 of Prakas 561.

<sup>60</sup> Article 5 of Prakas 561.

<sup>61</sup> See Law on Public Procurement dated 14 January 2012, <https://ppp.worldbank.org/public-private-partnership/sites/ppp.worldbank.org/files/documents/Law%20on%20Public%20Procurement%20%28draft%29%202011.pdf>.

<sup>62</sup> Ministry of Public work and Transport Prakas 053 on the Determination of Service Fees for Each Port of Service and other Taxes of the Port Authority of Sihanoukville (17 January 1997).

<sup>63</sup> The OECD understands that the Sihanoukville Port has issued various announcements to amend its service fees. For example, Announcement 009 dated 22 April 2019 set out modifications to the Lift-on-Lift-off tariffs at the container yard of the port (decrease in charges) and Notification 003 dated 29 January 2016 set out modifications to the Container Storage Tariff (Storage Charge) at the container yard of the port (no change in tariff but in application to encourage quick release of containers).

<sup>64</sup> See <https://www.ppap.com.kh/tariff/>.

<sup>65</sup> Merchant Shipping (Registration) Act 1994, Article 20.

<sup>66</sup> Merchant Shipping (Registration) Act 1994, Article 23(3) provides that “The Director after consultation with the Minister may refuse to register any vessel as a Cambodian ship under this Section without assigning any reason therefore”.

<sup>67</sup> Merchant Shipping (Registration) Act 1994, Article 37(2).

<sup>68</sup> For inland water transport, this requirement is set out in Circular #003 on management of means of water transport (Chapter IV (II and III)). In addition, the construction or development of a repair site must be authorised by the Department of Water Transport (Chapter IV (IV)). For sea transport, Circular No 006 (MPWT) on Management of sea navigation (1 October 1999) provides that a vessel owner, shipyard director or repair site owner must obtain authorisation to carry out repairs and that once repairs have been completed, the repair site owner shall issue a statement of repairs to the vessel owner and the vessel's specification shall be inspected prior to the issuance of the business licence. See Chapter II (Construction of vessels) 1-4.

<sup>69</sup> For inland water transport, Circular #003 on management of means of water transport, provides that its policy objective is “to ensure proper management of all kinds of vessels and/or boats navigating on the waterways” and “to ensure the safety, comfort, security, hygiene, traffic order, and to protect the lives of the crew, passengers, tourists, property, means of transport, and the environment”

<sup>70</sup> See Article 32, *Law on customs dated 20 July 2007 (S/RKM/0707/017)*. Section 9 of this law defines customs broker as “a person authorized to carry on the business of arranging for the customs clearance of goods directly with Customs on behalf of another person”.

<sup>71</sup> See, for example, Prakas 116 MEF dated 15 February 2008 on Customs Bonded Warehouse and Prakas 106 (15 February 2009) on customs temporary storage

<sup>72</sup> Feedback provided by MPTC.

<sup>73</sup> Postal Law, Chapter III (Competence of Ministry of Posts and Telecommunications), Articles 15 and 18.

<sup>74</sup> Postal Law, Chapter V (Postal Business Licence), section 23.

<sup>75</sup> For the full text of the agreement, see [https://asean.org/?static\\_post=asean-framework-agreement-for-the-integration-of-priority-sectors-vientiane-29th-november-2004](https://asean.org/?static_post=asean-framework-agreement-for-the-integration-of-priority-sectors-vientiane-29th-november-2004).

<sup>76</sup> The priority sectors included in the ASEAN Framework Agreement for the Integration of Priority Sectors were: agro-based products, air travel, automotive, e-ASEAN, electronics, fisheries, healthcare, rubber-based products, textiles and apparels, tourism, and wood-based products.

<sup>77</sup> <https://asean.org/asean-economic-community/sectoral-bodies-under-the-purview-of-aem/services/logistics-services/>

<sup>78</sup> The Global Innovation Index is produced by Cornell University, INSEAD, and the World Intellectual Property Organization (WIPO). In 2020, it looked at 131 economies using 80 detailed metrics including ecological sustainability, online creativity, and knowledge diffusion.

<sup>79</sup> See <https://www.mpwt.gov.kh/en/public-services/transport-licensing>.

<sup>80</sup> According to the Asian Development Bank, “more than 70% of people in Cambodia, Indonesia, the Lao People’s Democratic Republic, and Myanmar remain offline and so cannot fully participate in the digital economy” (Asian Development Bank, 2020, p. 15<sub>[47]</sub>).

## Annex A. Methodology

The assessment of laws and regulations has been carried out in four stages. The present annex describes the methodology followed in each of these stages.

### Stage 1: Mapping the sectors

The objective of Stage 1 of the project, which started in the first half of 2020, was to identify and collect sector-relevant laws and regulations. The main tools used to identify the applicable legislation were online databases, the websites of the relevant Cambodian authorities and local consultants. Over the course of the project, the lists of legislation were refined, as additional pieces were discovered by the team, while other pieces initially identified were found not to be relevant to the sectors or no longer in force. In total, 28 different pieces of legislation were identified.

Another important objective of the first stage was the establishment of contact with the market through the main authorities, industry associations and private stakeholders active in the sectors. In February 2020, the OECD team conducted a virtual fact-finding mission to meet with government and private stakeholders. Interviews with market participants contributed to a better understanding of how the sub-sectors under investigation actually work in practice and helped in the discussion of potential barriers deriving from the legislation.

Based on those meetings and the discussion on practical problems stakeholders face, and backed up by further research, the OECD team identified the legislation to be prioritised for areas in which *prima facie* barriers to competition existed and an impact on competition could therefore be expected.

### Stage 2: Screening of the legislation and selection of provisions for further analysis

The second stage of the project mainly entailed the screening of the legislation to identify potentially restrictive provisions, as well as providing an economic overview of the relevant sectors. Every piece of legislation was scanned by a team member or an outside national consultant, where no English translation was available.

The legislation collected in Stage 1 was analysed using the framework provided by the OECD *Competition Assessment Toolkit*. This toolkit, developed by the Competition Division at the OECD, provides a general methodology for identifying unnecessary obstacles in laws and regulations and developing alternative, less restrictive policies that still achieve government objectives. One of the main elements of the toolkit is a competition-assessment checklist that asks a series of simple questions to screen laws and regulations with the potential to restrain competition unnecessarily.

### Box A A.1. OECD Competition Assessment checklist

Further competition assessment should be conducted if a piece of legislation answers “yes” to any of the following questions:

#### A) Limits the number or range of suppliers

This is likely to be the case if the piece of legislation:

4. grants a supplier exclusive rights to provide goods or services
5. establishes a licence, permit or authorisation process as a requirement of operation
6. limits the ability of some types of suppliers to provide a good or service
7. significantly raises the cost of entry or exit by a supplier
8. creates a geographical barrier to the ability of companies to supply goods, services or labour, or invest capital.

#### B) Limits the ability of suppliers to compete

This is likely to be the case if the piece of legislation:

1. limits sellers’ ability to set the prices of goods or services
2. limits the freedom of suppliers to advertise or market their goods or services
3. sets standards for product quality that provide an advantage to some suppliers over others or that are above the level that certain well-informed customers would choose
4. significantly raises the costs of production for some suppliers relative to others, especially by treating incumbents differently from new entrants.

#### C) Reduces the incentive of suppliers to compete

This may be the case if the piece of legislation:

1. creates a self-regulatory or co-regulatory regime
2. requires or encourages information on supplier outputs, prices, sales or costs to be published
3. exempts the activity of a particular industry or group of suppliers from the operation of general competition law.

#### D) Limits the choices and information available to customers

This may be the case if the piece of legislation:

1. limits the ability of consumers to decide from whom they purchase
2. reduces the mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers
3. fundamentally changes the information required by buyers to shop effectively.

Source: (OECD, 2019<sup>[46]</sup>).

Following the toolkit’s methodology, the OECD team compiled a list of all the provisions that answered any of the questions in the checklist positively. The final list consisted of 50 provisions across the logistics sector.

The OECD also prepared an economic overview of the logistics sector (and refined it during later stages), covering industry trends and main indicators, such as output, employment and prices, including

comparisons with other ASEAN and OECD member countries where relevant. The analysis conducted during this stage aimed to furnish background information to better understand the mechanisms of the sector, providing an overall assessment of competition, as well as explaining the important players and authorities.

### Stage 3: In-depth assessment of the harm to competition

The provisions carried forward to Stage 3 were investigated in order to assess whether they could result in harm to competition. In parallel, the team researched the policy objectives of the selected provisions, so as to better understand the regulation. An additional purpose in identifying the objectives was to prepare alternatives to existing regulations, taking account of the objective of the specific provisions when required, in Stage 4. The objective of policymakers was researched in the recitals of the legislation, when applicable, or through discussions with the relevant public authorities and local consultants.

The in-depth analysis of harm to competition was carried out qualitatively and involved a variety of tools, including economic analysis and research into the regulations applied in other OECD countries. All provisions were analysed, relying on guidance provided by the OECD's *Competition Assessment Toolkit*. Interviews with government experts complemented the analysis by providing crucial information on lawmakers' objectives and the real-life implementation process and effects of the provisions.

### Stage 4: Formulation of recommendations

Building on the results of Stage 3, the OECD team developed preliminary recommendations for those provisions that were found to restrict competition. It tried to find alternatives that were less restrictive for suppliers, while still aiming to fulfil the policymakers' initial objective. For this process, the team relied on international experience— from the ASEAN region, and European and OECD countries – whenever available.

In total, the review makes 30 recommendations to the Cambodian government.





## Annex B. Legislation screening by sector

### Road transport

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
1	Law on Land Traffic 2017	Art. 7, para. 2	This provision sets out a requirement to have 1 driver and 1 assistance driver for a goods transport vehicle with a total weight of 16 tonnes and more.	<p>The OECD understands that the multi-manning requirement aims to ensure road safety. The fact that the requirement is only applicable to freight transport vehicles with a total weight of more than 16 tonnes suggests that the requirement aims to ensure road safety by securing sufficient rest for drivers operating heavy trucks, also considering that many roads in Cambodia are not paved.</p> <p>However, it would seem that such an objective can also be achieved by less restrictive measures such as appropriate rest requirements. In this case, travel may take longer since the vehicle would stop more frequently, compared to a scenario with two drivers. Businesses may have the flexibility to select which option would be preferable, depending on their customers' needs. It could also be envisaged to limit the application of the requirement to long travel in terms of time and distance.</p> <p><b>International comparison</b>  <i>Rules in the EU:</i>            In the EU, it appears that "multi-manning" is not a requirement but a possibility allowing more flexible working hours/rest requirements for drivers. In fact, while a daily rest period of at least 9 hours within the 24 hours is required in case of "single-manning", "multi-manning" allows to take these 9 hours within the 30-hour period.</p>	The requirement to have at least two drivers could restrict the ability of small and medium businesses with fewer drivers to compete effectively in the road freight transport market in Cambodia. Given the requirement, these businesses may not be able to serve many customers at the same time.	The OECD recommends offering additional options to ensure safety, so that transport operators can select the most suitable option for their needs. For instance, rest requirements could be envisaged to achieve the same policy objective.

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
2	Law on Land Traffic 2017	Art. 45, para. 2	According to this provision, the validity of the foreigners' driving licences obtained via an exchange of their previous national driving licences is one year, while the validity of their licences obtained via a driving test is the same as that of a Cambodian licence.	The different treatment of foreign licence holders (when they obtain a Cambodian licence through exchange) may be in place to protect Cambodian workers.	This provision appears to impose administrative burden on foreigners wishing to enter in the Cambodian market and would restrict the ability of foreign operators to compete effectively in the market.	The OECD recommends reconsidering the limitation to one year of the validity of the foreigners' driving licences (see row 3 below).
3	Law on Land Traffic 2017	Art. 45, para. 3	The provision seems to exclude the possibility for foreigners to exchange their driver's licence of certain categories for a Cambodian licence of the equivalent category. In particular, regarding the goods transport vehicles, foreigners holding their national licence for vehicles with a total maximum weight exceeding 3.5 tons are unable to exchange their licence against an equivalent Cambodian licence C (that is for vehicles with a total maximum weight exceeding 3.5 tons). They can only exchange it against a Cambodian licence B (that is for vehicles with a total maximum weight of less than 3.5 tons).	This requires foreign licence holders to become qualified in Cambodia following the Cambodian licencing process. This may be in place to ensure drivers comply with Cambodian standards concerning goods vehicles.	The provision would restrict the ability of foreign operators to compete effectively in the market since foreign drivers holding a licence for certain category of goods transport vehicles are not able to exchange their licence for the licence of the equivalent category in Cambodia. However, foreigners are not barred from obtaining a Cambodian licence through the same process as Cambodians.	The OECD recommends considering ways to recognise foreign driver's licences, e.g. under reciprocity agreements.
4	Law on Land Traffic 2017	Art. 47 and 48	Article 47 explains that 'All types of vehicles moving on the road must be attached with a vehicle identification certificate and a number plate'. The article provides that 'The registration for vehicle identification certificate and number plate must be determined in the sub-decree'.	Registration of vehicles is required worldwide.	The registration requirement is a barrier to entry.	No recommendation.
5	Law on Land Traffic 2017	49	Article 49 provides that 'All motor vehicles, trailers, and semi-trailers moving on the road must be attached with a technical inspection certificate issued by the Ministry of Public Works and Transport or a company	Technical inspections are likely required to ensure vehicles comply with safety standards.  Technical inspections are carried out by garages, licenced by the MPWT (barrier identified from	Frequent inspections increase costs for market participants and may be an administrative burden. During the inspection, the	No recommendation.

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
			<p>authorized by the Ministry of Public Works and Transport'.</p> <p>Specifically, under Article 49(3) new passenger or goods vehicles must apply to be inspected and this first inspection is valid for 2 years. After this period, a technical inspection must be carried out every year. The same rule applies for new trailers and semi-trailers (Article 49(5)). If the vehicle is second hand, it must be inspected every year (see section 49(4) for passenger/goods vehicles and 49(6) for trailers/semi-trailers). Article 49 explains that vehicle technical specifications and technical inspections must be defined in Prakas of the MPWT.</p>	<p>page 52 of WB report).</p>	<p>truck must spend time off the road and in the inspection centre and therefore cannot be used during this time for freight transport.</p> <p>The frequency of inspections appears to be in line with international practice. In the EU, The EU Directive 2014/45 of 3 April 2014 requires member states to carry out periodic safety and emission (roadworthiness) inspections. For vehicles over 3.5 tonnes, vehicles must be inspected no more than 1 year after initial registration and then annually.</p>	
6	Law on Land Traffic 2017	Article 50	<p>Article 50 provides for the licencing of vehicle technical inspection centres. Vehicle technical inspection centres must obtain an operating licence from the MPWT. Article 50 states that</p> <p>'The requirements and procedures for issuance of the operation licensing of vehicle technical inspection must be defined in Prakas of the Minister of Public Works and Transport'.</p>	<p>The requirement to obtain a licence to operate a technical inspection centre is a barrier to entry. Such requirements restrict entry into the market, limiting the number of suppliers and increasing entry costs for potential entrants.</p> <p>The OECD has not had access to the Prakas defining these requirements.</p>	<p>The licence is likely in place to ensure inspection centres are properly qualified to inspect vehicles.</p>	No recommendation
7	Law on Land Traffic 2017	52	<p>Article 52 provides that 'All vehicle repair or modification garages must obtain their business license, issued by the Ministry of Public Works and Transport and the Ministry of Industry and Handicrafts, and if</p>	<p>The requirement to obtain a licence to operate a repair or modification garage is a barrier to entry. Such requirements restrict entry into the market, limiting the number of suppliers and increasing entry costs for potential entrants.</p>	<p>The licence is likely in place to ensure garages are properly equipped and staffed and comply with safety standards.</p>	No recommendation

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
			<p>necessary, they must be inspected by the Ministry of Interior. The management of repairing or modified vehicle garages must be determined in a sub-decree'.</p> <p>Pursuant to Sub-Decree 180 on Management of Garage Businesses for Repairing and Processing Vehicles dated 3 November 2008, a natural person and legal entity who intends to obtain the license must have a mechanic with at least two years of experience, a location authorized by the local authority and standard tools and equipment.</p>			
8	Law on Land Traffic 2017	Art. 57	<p>This provision sets out to the maximum dimensions of vehicles authorised:</p> <ul style="list-style-type: none"> <li>- a maximum authorized width must not exceed 2.50 meters, except for tools-equipped vehicles but no longer than 3 meters;</li> <li>- a maximum authorized height should not exceed 4.20 meters;</li> <li>- a maximum authorized length of each vehicle must not exceed 12.20 meters;</li> <li>- a maximum authorized length of each vehicle with a semi-trailer must not exceed 16 meters; and</li> <li>- a maximum authorized length of each vehicle with a trailer must not exceed 18 meters.</li> </ul>	<p>Safety and consumer protection.</p> <p><b>International comparison</b> The maximum dimensions in Cambodia do not appear to be significantly different from those in other EU countries.<sup>1</sup></p>	<p>This could raise the cost of entry if the required size of vehicles are not in line with international standards as it may prevent companies from importing cheaper or better quality vehicles and requiring them to use vehicles made to fit local requirements.</p> <p>If the maximum dimensions are smaller than what is necessary for safety and consumer protection, it may raise the cost of providing services and decrease efficiency.</p>	<p>No recommendation.</p> <p>Cambodia should however should continue ensuring that maximum dimensions of vehicles are not imposed beyond what is strictly necessary for safety and consumer protection.</p>

<sup>1</sup> Source: ITF - Permissible Maximum Dimensions of Lorries in Europe, <https://www.itf-oecd.org/weights-and-dimensions>.

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
9	Law on Road	Art. 26	<p>This article provides for the maximum weight for a number of different categories of vehicles (e.g. 30 tons for automobile with four axles).</p> <p><b>Rules in other jurisdictions</b> International Transport Forum (ITF) provides an overview of permissible maximum weights of lorries in Europe.<sup>2</sup> The ITF's classification of vehicle is different from Cambodia's making the comparison difficult. As far as the possibly comparable categories are concerned, it seems that the maximum weight of 16 tons for automobiles with twin axles in Cambodia is lower than that of 18 tons applied in most jurisdictions in Europe.</p> <p>Protocol 4 (Technical requirements of vehicles) annexed to the ASEAN Framework Agreement on the Facilitation of Goods in Transit provides for a maximum weight of the vehicle/trailer (including any load carried on it). Such weight limits are between 21 and 38 tons, depending on the vehicle.</p>	Safety and consumer protection.	<p>If the maximum weight is lower than what is necessary for safety and consumer protection, it may raise the cost of providing services and decrease efficiency.</p> <p>The OECD understands that it might be difficult to compare across countries the maximum weight that is necessary for safety and consumer protection since the quality of roads differs across countries.</p>	<p>No recommendation.</p> <p>Cambodia should however should continue ensuring that vehicle weight limitations are not imposed beyond what is strictly necessary for safety and consumer protection.</p>

<sup>2</sup> See <https://www.itf-oecd.org/weights-and-dimensions>.

## Inland water transport

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
1	Circular #003 on management of means of water transport	Chapter III (I)	<p>Pilotage is a service provided by a pilot with local knowledge and skills, which enables him or her to conduct the navigation and manoeuvring of the vessel in and approaching the harbour.<sup>1</sup></p> <p>This circular provides for three types of piloting licences (for vessels/trailer boats of different capacities). The licence is issued by the Ministry of Public Works and Transport (MPWT). Applicants must pass an examination in order to be issued with a licence (see Article VI). The MPWT issues a temporary licence which is valid for 45 days, the holder of the temporary licence shall pick up his/her licence within 2 or 3 days prior to the expiration of the temporary licence (Article VI).</p>	The policy maker's objective is set out in the preamble to this legislative instrument. The requirement for pilots to be licenced is likely in place to ensure traffic management, security and safety and to protect the lives of crew, passengers, tourists, property, means of transport, and the environment.	The licence requirement is a barrier to entry but is justified on safety grounds and as it helps to ensure service standards are upheld.	No recommendation.
2	Circular #003 on management of means of water transport	Chapter III (II)	This circular provides that each boat shall have one licenced mechanic who is in charge of the boat engine. There are three types of mechanic licences (for vessels/boats with varying capacities). The licence is issued by the Ministry of Public Works and Transport (MPWT). Applicants must pass an examination in order to be issued with a licence (see Article VI). The MPWT issues a temporary licence	The staffing requirement likely aims at ensuring proper maintenance of vessels and thus at improving safety.	The licence requirement is a barrier to entry but is justified on safety grounds and as it helps to ensure service standards are upheld.	No recommendation regarding the licence requirement for mechanics working on boats.

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
			which is valid for 45 days, the holder of the temporary licence shall pick up his/her licence within 2 or 3 days prior to the expiration of the temporary licence (Article VI).			
3	Circular #003 on management of means of water transport	Chapter III (III)	This circular provides that each boat with an engine capacity of 15HP or more shall have one patron or pilot and one mechanic. The patron shall have a piloting licence and the mechanic shall have a mechanic licence.	The pilot and mechanic requirements likely aim at ensuring proper operation and maintenance of vessels and thus are aimed at improving safety and efficiency.	The requirement to have one pilot and one mechanic on vessels with a certain engine capacity may prevent new players from entering the market as it may significantly raise the cost of entry and operation	No recommendation regarding the requirement to have a licenced pilot and mechanic working on boats.
4	Circular #003 on management	Chapter IV(II) and (III)	Department permission is required to repair vessels operating in Cambodian waters. This circular provides that "a repair of any kind of vessel/boat shall be authorised by the Department of Water Transport of the general department of transport". It provides that a boat owner shall submit an application for boat repair, attaching a number of files (application form, list of materials, copy of boat design and copy of residential certificate). Once the repairs have been carried out, the owner must report to the Department for technical re-inspection.	The approval and re-inspection requirements are likely in place to ensure safety.	The approval requirement for repairs and then the requirement for re-inspection after the repairs have been carried out may increase costs for operators. Approvals and re-inspections may cause delays and decrease the efficiency of business operations.	Approval should only be required for significant renovations, not day-to-day repairs if these repairs are carried out by a certified mechanic.
5	Circular #003 on management of means of water transport	Chapter VII (A)	A boat owner wishing to conduct a water transport business must have a business licence. The application for a business licence must include several documents including the boat identity card, technical inspection book and	The policy maker's objective is set out in the preamble to this legislative instrument. It is in place in order to "ensure proper management of all kinds of vessels and/or boats navigating on the waterways and to ensure	The licence requirement may be a barrier to entry and may be an administrative burden if requirements are excessive. The licence requirement is likely justified on safety grounds and is common worldwide.	No recommendation.

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
			piloting and mechanic licence.	the safety, comfort, security, hygiene, traffic order, and to protect the lives of crew, passengers, tourists, property, means of transport, and the environment".  The OECD understands that water transport operators may lease vessels to conduct a water transport business as long as the lease arrangement is submitted to the MPWT.		
6	Circular #003 on management of means of water transport	Chapter VII (C)	The revocation of the business licence is at the discretion of the Ministry. Chapter VII (C) explains that failure to comply with the circular provisions in relation to the business licence shall result in its revocation. The Ministry of Public Works and Transport (Department of water transport) has the right to decide any revocation. The discretion is somewhat limited by the criteria stated in the circular, but it appears the Ministry still has broad discretion.	To supervise and control the market.	This discretion could lead to discrimination. Discretion leads to uncertainty and discourages market entry.	The OECD makes two cumulative recommendations: 1. Limit the discretion of the decision maker by removing the discretion or by providing clear, detailed and transparent guidelines, which set out the criteria for the exercise of discretion. 2. Ensure applicants have the right to reasons for the decision taken by the Ministry in relation to registration.
7	Circular #003 on management of means of water transport	Chapter VIII (Inspection of local ports and ferry ports)	Owners of local ports and ferry ports who wish to conduct a port or ferry business must obtain a business licence from the Ministry of Public Work and Transport (General Department of Waterway and Maritime Transport and Ports). The circular does not provide any clarity on the application process (time limits of	The licence requirement is likely in place to ensure certain standards of service and safety are upheld.	The licence requirement is a barrier to entry can be justified on the basis of safety and efficiency. The lack of clarity on the application process however may discourage new entrants.	No recommendation in relation to this licence requirement.  Ensure all licence requirements and processes are publicly available and clear.



Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
			granting licence, discretion of decision maker) but lists the documents to be included with the application form (construction licence, residential certificate, material/equipment using plan, receipt of tax payment).			
8	The use of transportation logbook of goods and passengers by land, by water and by sea (July 24, 2002)	1	A transportation logbook of goods and passengers by land, water and sea shall be created in order to follow up/keep track of the quantity of goods and passengers transported throughout the Kingdom of Cambodia. According to Article 4, The owners of vehicle / water vehicles or drivers shall be required to return the transportation logbooks to the General Department of Transport after they have been recorded for one year, and shall be attached the expired former business license for renewal.	The aim of this provision is to follow up/keep track of the quantity of goods and passengers transported throughout the Kingdom of Cambodia (Article 1).	This administrative burden may increase costs for market participants.	No recommendation.

## Note:

1. See (OECD, 2011, p. 7[38]).

## Maritime transport

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
1	Circular No 006 (MPWT) on Management of sea navigation (1 October 1999)	Chapter I (I-III)	Vessels, including commercial vessels, which are temporarily or permanently operating in Cambodia must have a vessel licence. The Ministry of Public Works and Transport (Commercial Vessel Department) or the provincial/municipal office issues the licence, depending on the type of vessel concerned. The list of documents required is not burdensome.	The OECD understands that this provision provides for the licence requirement for the vessel itself and not for the operation of the vessel. It is likely justified on safety grounds and is common worldwide.	The licence requirement is a barrier to entry but is justified on safety grounds.	No recommendation.
2	Circular No 006 (MPWT) on Management of sea navigation (1 October 1999)	Chapter V (I) and (II)	Under Chapter V (I) of Circular 006, a business licence issued by the Department of Commercial Vessels is required to conduct a foreign or cross border shipping business. The business licence is valid for one year and "can be used for one single purpose irrespective of the location in the same provincial/municipality". Under Chapter V (II), a second business licence must be obtained, whenever there is 1) a change of the destination or 2) a change of business objectives. The OECD thus understands, from reading Chapter V in full, that the business licence is linked to a specific foreign or cross border destination and to a specific business objective and that there are no further regulations governing this licence.	The licence requirement itself is likely in place to control market entry. The OECD has not identified the policy objective behind the condition for the business licence to be used for a "single purpose" and the geographic limitation, other than the general principle that the public authority aims to ensure quality of service.	<p>The licence requirement is a barrier to entry.</p> <p>The requirement that the business licence be used for one single purpose and for a specific destination may create a geographical barrier or limit the ability of operators to provide different services. The requirement to apply for a second business licence when the applicant wishes to change destination or business objective restricts the ability of the business owner to adapt to changing market conditions and to take advantage of new opportunities. It imposes an additional administrative burden and may cause delays for service providers.</p>	The OECD recommends to clarify "single purpose" and any geographical restriction. Consider removing the requirement to stipulate a single destination and business objective in the licencing process and the requirement to obtain a second business licence.

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
3	Circular No 006 (MPWT) on Management of sea navigation (1 October 1999)	Chapter II (Construction of vessels) 1-4	Applicants seeking to open a shipyard or vessel repair yard must apply for an authorisation, which is issued by the MPWT (Department of Commercial Vessel).	The licence requirement is likely in place to ensure minimum standards and safety.	The licence requirement is a barrier to entry.	No recommendation.
4	Circular No 006 (MPWT) on Management of sea navigation (1 October 1999)	Chapter II (Construction of vessels) 1-4	<p>An application must be made to construct a vessel by a shipyard owner. Any repair to a vessel must be authorised in the same way, and is to be applied for by the vessel owner, shipyard director or repair site owner. Once repairs have been completed, the repair site owner shall issue a statement of repairs to the vessel owner and the vessel's specification shall be inspected prior to the issuance of the business licence.</p> <p>Section III provides, in addition, that if the vessel engine is replaced, the replacement should be authorised by the institution issuing the registration licence for such vessel. The vessel owner must then apply for the new registration licence with a proper stamp but the licence plate remains the same.</p>	The permission requirement is likely in place to ensure safety and proper construction or repairs.	This permission requirement may be stricter than what is needed for consumer protection because the shipyard or vessel repair yard is already licenced. The application requirement is an administrative burden that may slow down the process of repair or construction and thus decrease efficiency as business owners must wait longer to introduce new vessels or repaired vessels to the market. Further, for repairs, once the work has been carried out, the vessel must be inspected again before it can obtain the business licence and thus operate.	<p>Remove permission requirement.</p> <p>Approval and ex-post inspections should only be required for new vessels or significant renovations that change the nature of the vessel, not day-to-day repairs or engine replacements if these repairs are carried out by authorised professionals or at an authorised shipyard or repair site. A new business licence should not be required following day-to-day repairs.</p>

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
5	Circular No 006 (MPWT) on Management of sea navigation (1 October 1999)	Chapter III (2, 3)	Vessels are required to be inspected every 6 months (for wood body) or once a year (for steel body). For special cases (this is not explained in the legislation) a shorter period may be set at the discretion of the technical inspector. They can also carry out a random inspection when deemed necessary. If the vessel is deemed to be not seaworthy, the competent authority shall order an immediate suspension of its operation. The owner is allowed to resume his/her business if the defects are rectified.	The inspection requirement is likely in place to ensure safety and the regular inspections can be justified.	<p>The inspection requirement is an administrative burden and may decrease efficiency as the vessel is required to be inspected and cannot operate during this period.</p> <p>The discretion to carry out random inspections could result in actual or perceived bias and might raise risks of irregularities in the process.</p>	<p>No recommendation in relation to the inspection requirement.</p> <p>Introduce guidelines or within the legislation, outline the reasons for random inspections. The OECD has published a Regulatory Enforcement and Inspections Toolkit, which sets out a checklist of 12 criteria that reflect the 11 "OECD Best Practice Principles for Regulatory Enforcement and Inspections" and "a twelfth criteria for a "reality check" of actual performance".<sup>1</sup></p>
6	Circular No 006 (MPWT) on Management of sea navigation (1 October 1999)	Chapter IV (II)(1)(2), (III)	The legislation sets out various staffing requirements for vessels. For example, Chapter IV (II)(1) provides that any vessel with a loading capacity of 20 tons or more shall have a captain assistant or mechanic if the vessel's engine is 30 horse power or more. There are three levels of captain assistant licences and 3 levels of mechanic licences. According to Chapter IV (II)(2), every vessel must have a licenced mechanic, 'responsible for maintaining the engine'. The required class of mechanic is dependent on the horsepower capacity of the vessel.	The staffing requirement likely aims at ensuring proper operation and maintenance of vessels and thus at improving safety.	These staffing requirements may prevent new players from entering the market as it may significantly raise the cost of entry and operation. It may also especially prevent smaller players from entering the market.	No recommendation.

<sup>1</sup> See <https://www.oecd.org/gov/regulatory-policy/oecd-regulatory-enforcement-and-inspections-toolkit-9789264303959-en.htm>

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
			Article 3 provides that any vessel of 30 horsepower or more shall have a captain.			
7	Circular No 006 (MPWT) on Management of sea navigation (1 October 1999)	M	<p>To obtain a captain licence from the Department of Commercial Vessel, the applicant must meet three criteria:</p> <p>A license valid for three years for a crew serving on board of a vessel for at least five years with a license of qualification issued by a supervising captain.</p> <p>A license valid for five years for a crew has completed captain training as evidenced by a degree or training certificate.</p> <p>A crew shall be at least 25 years of age and be in good health.</p> <p>These qualification requirements implement minimum standards for work experience, formal education, age and health.</p>	The aim of this provision is to impose minimum standards to ensure captains are properly qualified.	The licence requirement is a barrier to entry.	No recommendation on the licence requirement. The qualification criteria does not seem restrictive.
8	Merchant Shipping (Registration) Act 1994	Article 20	Notwithstanding any of the regulations made under this section, the Minister, on the Director's recommendation may subject to such conditions, as he thinks it's fit, waive any of the requirements for registration of a vessel for a specific applicant.	The OECD understands that the policy objective behind this provision could provide advantages to certain categories of service providers.	The discretion to waive any requirements for registration could lead to discrimination. The requirements should be the same for all applicants, otherwise some operators will be better off if they are required to satisfy fewer criteria.	The OECD makes two cumulative recommendations: <ol style="list-style-type: none"> <li>1. Limit the discretion of the decision maker by removing the discretion or by providing clear, detailed and transparent guidelines, which set out the criteria for the exercise of discretion.</li> <li>2. Ensure applicants have the right to reasons for the decision taken by the Ministry in relation to registration.</li> </ol>

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
9	Merchant Shipping (Registration) Act 1994	Article 23 (1-3)	To register a vessel, an applicant shall, in writing make a declaration declaring the name of the vessel, its net tonnage or tonnages; the place where it was built, the year of building, and the name and residence of the owner. The application shall include necessary documents, specified in regulations. Article 23(3) provides that "The Director after consultation with the Minister may refuse to register any vessel as a Cambodian ship under this Section without assigning any reason therefore".	We have not been able to identify the policy objective behind the broad discretion to refuse to register a vessel without giving reasons.	The broad discretion to refuse vessel registration without giving reasons could lead to discrimination and raise irregularities in the process.	The OECD makes two cumulative recommendations: 1. Limit the discretion of the decision maker by removing the discretion or by providing clear, detailed and transparent guidelines, which set out the criteria for the exercise of discretion. 2. Ensure applicants have the right to reasons for the decision taken by the Ministry in relation to registration.
10	Merchant Shipping (Registration) Act 1994	Article 32	When vessels are altered, it may need to be re-registered. Article 32 provides that "when a Cambodian ship is so altered as <i>not to correspond with the particulars relating to her tonnage or description contained in the certificate of registry</i> , the owner shall apply for the vessel to be registered anew". The Director or Deputy Director shall on receipt of the application and on production of a certificate from a recognized surveyor stating the particulars of the alteration proceed as in case of the first registry and on the delivery up to him of the existing certificate of registry and on the other requisites as to registry being complied with, shall make such registry anew and grant a new certificate of registry containing a description of the vessel as altered.	To ensure safety and that proper standards are upheld. Is it also likely in place to monitor the types of ships operating in Cambodia.	The re-registration requirement for alteration may increase costs for operators. Re-registration may cause delays and decrease the efficiency of the vessel and thus business operations.	No recommendation, if the re-registration requirement is limited to significant alterations.

Number	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
11	Merchant Shipping (Registration) Act 1994	Article 37(2)	The Director after consultation with the Minister may cancel the certificate of registry of a vessel if he is satisfied that it is not in the public interest for the vessel to continue to be registered as a Cambodian ship.	The ability to cancel registration "in the public interest" provides broad discretion to the decision maker.	The ability to cancel registration "in the public interest" provides broad discretion, which could lead to discrimination, could result in actual or perceived bias and might raise risks of irregularities in the process.	<p>The OECD makes two cumulative recommendations:</p> <ol style="list-style-type: none"> <li>1. Limit the discretion of the decision maker by removing the discretion or by providing clear, detailed and transparent guidelines, which set out the criteria for the exercise of discretion.</li> <li>2. Ensure applicants have the right to reasons for the decision taken by the Ministry in relation to registration.</li> </ol>

Ports

No.	Title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
1	Regulation of tariff on dues and charges of Sihanoukville Port 1998	Chapter I and II	<p>This "decision" defines the regulation of dues and charges of the Port Authority of Sihanoukville that is "all dues and charges to be levied on vessels and cargoes coming into and going out of the areas of Sihanoukville Port".</p> <p>1: Tonnage Dues – fixed rate US\$0,25/GT                  2: Berthage charges – fixed rates                  3: Channel dues: fixed rates                  4: pilotage charges- fixed rate (depending on vessels GT) and there is a minimum rate that shall be paid by one vessel.                  5: tugboat assistance charges: fixed rates based on GT                  6: Mooring and unmooring charges – fixed rates based on GT                  7: charges for opening and closing hatches – fixed rates based on GT                  8: charges for sweep cleaning hold – fixed rates based on GT                  9: garbage removal charges – fixed rates                  10: charges for fresh water supplied                  11: charges for delivery and receiving of cargoes                  12: charges for clearance</p> <p>Article 13 provides for "discount dues" – where certain categories of vessels are able to have a discount for certain charges, for example 13.2 "the Cambodian ship "local ship" exploiting in transportation from one port to another local port shall be discounted as follows: 20% for tonnage dues, 50% for channel dues".</p>	Price regulation may be justified in traditional monopoly sectors where a counterweight is needed to the lack of competing alternatives. Minimum rates are generally introduced to help port operators to raise sufficient funds to increase service quality through investment in advanced technology and infrastructure upgrades.	Price regulation which stipulates minimum or fixed prices limits the ability of service providers to set their prices.	Only maximum prices should be stipulated in any framework for setting port dues and charges. Maximum prices should only be set when there is a lack of competition. Maximum prices should be regularly revised to ensure they are in line with market dynamics and provide the necessary incentives for innovation



No.	Title of regulation	Article	Description of the obstacle	Policy maker's objective	Harm to competition	Recommendation
2	Regulation of tariff on dues and charges of Sihanoukville Port 1998	Chapter III (Charges)	<p>Fixed rate for stevedoring charges. The rates are determined by the type of cargo (i.e. livestock) and the cargo weight (tonnes). There are provisions for increasing these fixed rates (for example, for dangerous goods, cargoes are increasing from 50% and for cargo handling from 24h to 7h fees are increased by 50%).</p> <p>Container charges are also stipulated as fixed rates. The rate depends on the kind of container (size and whether it is full or empty). Container storage charges (applicable from 3 days after the completion of discharge from vessel) are fixed (by size and whether the container is full or empty).</p> <p>Other regulated charges include repacking of cargoes and charges for labour forces-technicians.</p>	Port services are often provided by a single provider and so price regulation is often used to prevent excessive prices.	Price regulation limits the ability of service providers to set their own prices.	Only maximum prices should be stipulated in any framework for setting port dues and charges. Maximum prices should only be set when there is a lack of competition. Maximum prices should be regularly revised to ensure they are in line with market dynamics and provide the necessary incentives for innovation.
3	Regulation of tariff on dues and charges of Sihanoukville Port 1998	Chapter III (Charges)	The legislation provides for price regulation of cargo transport operated in the port's areas (i.e. from vessel to quay) with individual labour handling and transportation charges by weight of cargoes and distance of transportation	Cargo transport services may be reduced within the port and so price regulation is likely used to avoid excessive prices.	Price regulation limits the ability of service providers to set their own prices.	Only maximum prices should be stipulated in any framework for setting port dues and charges. Maximum prices should only be set when there is a lack of competition. Maximum prices should be regularly revised to ensure they are in line with market dynamics and provide the necessary incentives for innovation
4	Regulation of tariff on dues and charges of Sihanoukville Port 1998	Chapter III (Charges)	Rates are fixed depending on the type of tug-boat/vessel used (i.e. tug boat above 1,000 HP: US \$0.07/HP/hour)	Tug boat services are often provided by a single provider and so price regulation is often used to prevent excessive prices.	Price regulation limits the ability of service providers to set their own prices.	Only maximum prices should be stipulated in any framework for setting port dues and charges. Maximum prices should only be set when there is a lack of competition. Maximum prices should be regularly

No.	Title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
						revised to ensure they are in line with market dynamics and provide the necessary incentives for innovation.
5	Inter-Ministerial Prakas # 561 (MEF+MPWT) on Management of Rental Fees and Fees for Using Domestic Port, Passenger Terminal and Phnom Penh Port Center (September 6, 2002)	Article 1	<p>This prakras concerns the Phnom Penh Autonomous Port.</p> <p>Royalties and fees for using domestic ports, passenger terminal and Phnom Penh Port Center shall be fixed /charged.</p> <p>Article 1 provides that The Phnom Penh Autonomous Port shall be authorized to apply the table of fees for carrying/lifting goods and using domestic ports/docks, passenger / tourist terminal and Phnom Penh Port Center to customers, who are the owners of goods and transportation means, passengers / tourists or persons operating business, service and other productions at Phnom Penh Port Centre and within the premises of domestic ports/docks.</p> <p>This Prakas (Proclamation) shall not specify/cover service fees in terms of imported/exported goods, and the implementation of fees at the International Port of the Phnom Penh Autonomous Port. Article 9 provides that fees which are not fixed in the legal instrument shall be determined between the port and clients.</p> <p>The OECD understands that there is no regulation on port tariffs that has been published by RGC for the international port but that the PHAP has published its tariffs on its website.<sup>1</sup></p>	<p>This provision allows for price regulation for some charges and services. Port fees are likely fixed to prevent excessive prices.</p> <p>The OECD understands that PPAP provides the port services and that any other freelance providers are under the supervision/direct control of PPAP.</p>	Price regulation limits the ability of service providers to set their own prices.	Only maximum prices should be stipulated in any framework for setting port dues and charges. Maximum prices should only be set when there is a lack of competition. Maximum prices should be regularly revised to ensure they are in line with market dynamics and provide the necessary incentives for innovation

<sup>1</sup> See <https://www.ppap.com.kh/tariff/>.

No.	Title of regulation	Article	Description of the obstacle	Polymaker's objective	Harm to competition	Recommendation
6	Inter-Ministerial Prakas # 561 (MEF+MPWT) on Management of Rental Fees and Fees for Using Domestic Port, Passenger Terminal and Phnom Penh Port Center (September 6, 2002).	Article 2	PPAP is responsible for providing port services and the port follows a public service port model. PPAP is the only service provider in the port. It can outsource services, and that, as an SOE, it would need to comply with the public procurement regime when doing so.	The monopoly likely reflects a primary concern for the safety of port operations, including the protection of port infrastructure, prevention of environmental hazards, and controlling maritime traffic in the port area.	The authority is the only provider of services within the port. Exclusive rights may lead to monopoly pricing and potentially the provision of lower quality services.	The OECD recommends considering the advantages and disadvantages of the provision of port services by private entities. If a policy decision was made in favour of private involvement in the provision of port services, the authorities should create appropriate legal frameworks so that the provision of port services could be tendered based on fair, transparent and non-discriminatory terms to guarantee competition for the market
7	Inter-Ministerial Prakas # 561 (MEF+MPWT) on Management of Rental Fees and Fees for Using Domestic Port, Passenger Terminal and Phnom Penh Port Center (September 6, 2002)	5	Article 5 provides that Phnom Penh Autonomous Port shall be in charge of organizing buildings, warehouses, land areas/premises, and water surface in the business centre of the Phnom Penh Port to have orderliness, beauty and sanitation, and shall charge fees from those who use the facilities or operate business within the Port Centre.	The OECD understands that PPAP is the sole provider of warehousing services within the port area. The monopoly of the port authority in the provision of port services likely reflects a primary concern for the safety of port operations, including the protection of port infrastructure, prevention of environmental hazards, and controlling maritime traffic in the port area.	Exclusive rights may lead to monopoly pricing and potentially the provision of lower quality services.	The OECD recommends considering the advantages and disadvantages of the provision of port services by private entities. If a policy decision was made in favour of private involvement in the provision of port services, the authorities should create appropriate legal frameworks so that the provision of port services could be tendered based on fair, transparent and non-discriminatory terms to guarantee competition for the market

## Warehouses &amp; freight forwarding

No.	Title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
1	Law on customs dated 20 July 2007 (S/RKM/0707/017)	9, 32	<p>Section 9 defines customs broker as "a person authorized to carry on the business of arranging for the customs clearance of goods directly with Customs on behalf of another person".</p> <p>Under Article 32, the Minister of Economy and Finance may by Prakas grant or withdraw authorisation to a person as a customs broker, and establish the locations for which the authorisation is valid, and any conditions or qualifications for such authorisation.</p> <p>Authorisation as a customs broker is granted on a personal basis. When a company is involved, authorisation must be obtained for the company and for anyone empowered to represent it.</p> <p>Authorised customs brokers may be required to provide security in relation to their operations in such form and amount as determined by Prakas of the Minister of Economy and Finance.</p> <p>Article 33.- Any person may, without exercising the profession of customs broker, make customs declarations for their own business. Such persons referred to in the first paragraph of this Article may obtain authorization to handle clearance for others. This authorization may be provided by the Minister of Economy and Finance on a temporary and revocable basis for operations involving specific goods.</p>	Supervision, to ensure brokers are properly qualified and trained.	The licence requirement is a barrier to entry.	No recommendation on the licence requirement.

No.	Title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
2	Prakas 106 (15 February 2009) on customs temporary storage		<p>"Praka 1" of this instrument provides that "the Customs Temporary Storage Facilities (CTSF) include customs warehouses and customs clearance areas under the management and control of customs authority". The conditions for the licence are outlined in "Praka 2". Licences are approved by the Ministry of Economics and Finance.</p> <p>The OECD understands that dry ports are included under "customs temporary storage" and licenced under this Act by the MEF. Praka 2(2) provides that "any person who wishes to apply for a license shall submit an application to the Director of Customs in the prescribed form, together with a detailed plan of construction and location of the proposed CTSF". Praka 2(3) provides that the licence may be issued if:</p> <ul style="list-style-type: none"> <li>- The applicant has good qualification.</li> <li>- The applicant has sufficient financial resources to enable him to provide the facilities, equipment, personnel and services required to operate the facility;</li> <li>- The site of the proposed CTSF is within a reasonable distance from main transportation routes and a customs office; and contains adequate space for the storage of imported and exported goods. The building structure of the CTSF must be suitable for operation Customs may manage and control the customs formalities of the goods stored in the proposed CTSF"</li> </ul> <p>The OECD understands that there are no other regulations that further describe these requirements.</p>	The law provides for broad requirements so that they can be detailed in sub-decrees.	The presence of broad conditions for granting the licence creates uncertainty and deters market entry. The legal instrument does not explain, for example, what is meant by "good qualification" or "sufficient financial resources".	<p>If these requirements are not further defined in sub-decrees, issue guidelines or equivalent to ensure all requirements are clear and publicly available.</p> <p>Requirements should not be stricter than what is necessary, for instance, the objective behind ensuring sufficient financial resources does not require imposing capital requirements but could be achieved by less burdensome means such as bank guarantees and insurance policies.</p>

No.	Title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
			<p>Praka 2(7) provides that "Every holder of CTSF license shall pay an annual license fee of 20.000.000,00 riels to the Customs and Excise Department for state budget".</p> <p>The handbook of the MEF on public services fees provides that the applicant is required to submit among others, financial statements of the company and the location and layout of the customs temporary storage.</p>			
3	<p>Constitution</p> <p>Land Law 2001 (Article 8)</p> <p>Law on Investment (as amended in 203) (Article 8)</p>	44	<p>Article 44 of the Constitution explains, "All persons, individually or collectively, shall have the right to ownership. Only Khmer legal entities (51% or more shares held by Cambodians) and citizens of Khmer nationality shall the right to own land. Legal private ownership shall be protected by the law". This is reaffirmed by Article 8 of the Land law.</p>	<p>According to the OECD Investment Policy Review: Cambodia 2018, the interests of foreign investors are protected through the available legal instruments such as "long-term leases for 15 years or more renewable, the creation of security interests (mortgage) and other contractual arrangements) (page 97).</p>	<p>This provision prevents foreigners from owning land. Foreign investors can however obtain long terms leases.</p>	No recommendation

## Small parcel delivery

No.	Title of regulation	Article	Description of the obstacle	Policy maker's objective	Harm to competition	Recommendation
1	Postal Law (NS/RKM/0702/012)	Articles 14,15 Article 4 (definitions) 18	<p>The OECD understands that the Ministry of Posts and Telecommunications has the competence to fix the service fees for postal services.</p> <p>The Ministry of Posts and Telecommunications has the power to set standard documents in relation to various aspects including: "postage charges, accessory service fees and service fees for all kinds of orders, reimbursement for any loss of item, items exempt from service charge and those who are entitled to be exempt from service charge and discount or profit provision". The OECD is not aware of any guidelines, which outline when the Ministry can intervene. The OECD understands that there is currently no price regulation for the postal sector in Cambodia.</p>	<p>The discretion to set charges and fix rates of the universal service provider may be a means of protecting consumers from monopoly pricing or supporting the universal service obligation. The discretion to set charges and fix rates of non-universal service providers may aim to protect the universal service provider from "unfair" competition. However, the OECD understands that there is currently no price regulation for the postal sector in Cambodia, including for commercial services and those provided by Cambodia Post.</p> <p><i>International comparison</i></p> <p>In other ASEAN countries (e.g. Philippines, Thailand and Brunei Darussalam) there is no price regulation of courier services.</p> <p>In the EU, Article 12 of the Postal Directive provides guidelines for regulating prices of universal postal services only. Such prices should be regulated only "for each of the services forming part of the provision of the universal service."</p>	<p>The Ministry's discretion to set postage charges, service fees and exemptions may prevent price competition.</p> <p>If operators are obliged to follow fixed freight rates, they are unable to set their own prices and to compete on price (e.g. they will not be able to undercut prices of rivals in order to gain market share).</p> <p>Further, the discretion may create legal uncertainty, thus discouraging potential entrants.</p>	<p>Amend the legislation to remove any ability to regulate the rates of small package delivery services. The legislation should reflect current practice where there is no price regulation of SPDS and where SPDS providers are free to set their own prices.</p>

No.	Title of regulation	Article	Description of the obstacle	Policy maker's objective	Harm to competition	Recommendation
2	Postal Law (NS/RKM/0702/012)  Joint Prakas 1120 dated 10 November 2006	Articles 16, 23, 24 and 25	<p>Private businesses wishing to operate in the postal and small package delivery services (SPDS) sector must obtain a licence from the Ministry of Posts and Telecommunications (MPTC). The licence is issued in accordance with Chapter V of the Postal Law, which explains that the conditions for issuing, withdrawing and amending a licence are set out in Ministerial 'Prakas' (Article 23). The OECD understands that both domestic and international operators must obtain a licence under Joint Prakas 1120 dated 10 November 2006. This joint prakas sets out the application process and licensing criteria. The MPTC has indicated that an online application process is not currently available but will become operational in early 2021.</p> <p>Article 24 of the Postal Law explains that a person or legal entity wishing to carry out postal services must obtain the licence and is able to carry out the services as prescribed in the licence and Article 25 provides that a licence is available to any person who meets the conditions. There is a penalty provision, which provides for a fine for those operating without a licence or for the inappropriate use of the licence (Article 48). It prescribes fines from KHR 5 million to KHR 10 million for operating without licence.</p> <p>MPTC has confirmed that these provisions are not enforced. There are a large number of market players in the "informal economy".</p>	Supervision of industry.	<p>This provision establishes that a licence is required to provide postal services. This may limit the number or range of suppliers in the Cambodian postal services market.</p> <p>Private providers are prohibited from carrying out services provided by the SOE. The OECD understands that the only relevant Prakas is Joint Prakas 281, which outlines the licence for international express delivery services.</p> <p>Depending on the extent of this prohibition, this may prevent operators from providing certain services, which may limit their operations and thus discourage market entry. The OECD understands that in practice, an international express service licence holder can provide both local and international delivery services.</p>	<p>No recommendation on the licence requirement.</p> <p>As it appears that in practice, all licences for postal services and small package delivery services are issued under Prakas 1120, despite the title referring only to international mail service, its wider application should be clarified so that market participants can more easily understand the regulatory framework.</p>



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			<p>Under Joint Prakas 1120, the MPTC must decide within 15 working days whether to approve or decline the application. The OECD understands that in practice however, this process takes longer.</p> <p>Pursuant to Joint Prakas 498 of the MEF and the MPTC dated 08 May 2018 on the Published Fee of the MPTC ("Joint Prakas 498"), the license fee is KHR 4 200 000 and the license is valid for one year.</p>			
3	<p>Postal Law (NS/RKM/0702/012)</p> <p>Joint Prakas 1120 dated 10 November 2006</p>	23	<p>According to the Postal Law, private businesses can carry out postal services, which are not carried out by the state postal business (Article 23). The extent of this monopoly (or possible monopoly) is not clear. The OECD understands that the legislation only provides for Cambodia Post to have a monopoly for mail or letters that weigh less than 500 grammes. This is set out in Joint Prakas 1120. According to the MPTC, this provision is not enforced in practice and so Cambodia Post operates in competition with other market players for all of its services.</p>	<p>The OECD understands that the only relevant Prakas is Joint Prakas 1120, which outlines a limited monopoly (mail or letters that weigh less than 500 grammes). The OECD understands that in practice, private operators are able to provide these services as the relevant provision is not enforced.</p>	<p>Depending on the extent of this prohibition, this may prevent operators from providing certain services, which may limit their operations. The mere existence of this provision in the legislation results in legal uncertainty and may discourage market entry.</p>	<p>Clarify the Postal Law to ensure that the monopoly does not include small package delivery services (i.e. courier services).</p>
4	Postal Law (NS/RKM/0702/012)	Article 26	<p>A licence holder must obtain authorisation from the Ministry of Posts and Telecommunications in order to relinquish or transfer its licence.</p>	Supervision of industry.	<p>If it is burdensome (and/or costly) to obtain an authorisation to exit the market, this may discourage potential entrants and so reduce the number of participants in the market over time.</p>	No recommendation.

## International agreements

No.	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
1	Law on the adoption of the agreement between Cambodia and Viet Nam on waterway transportation 2010	10	Article 10 provides that 'cabotage shall be served to vessels of the Contracting Party in whose territory the relevant regulated waterways are located, unless the Competent authority of that contracting party grants otherwise. Article 11 however provides for consecutive calls at ports or terminals (e.g. loading goods consecutively at several ports or terminals within the territory of a contracting party for the purpose of carrying them to the territory of the other contracting party or discharging goods consecutively at several ports or terminals within the territory of a contracting party after having taken on board these goods within the territory of the other contracting party'.	<p>The aim of this MOU is to facilitate water transport of cargo and passengers between the two countries and transit transportation to and from third states with the territory of the contracting parties. This agreement replaced the 1998 MOU on waterway transportation between Viet Nam and Cambodia.</p> <p>The policy objective behind the cabotage principle is to support and develop the domestic shipping industries of the contracting parties as the provision does not allow permit holders to operate in the domestic shipping market.</p> <p>The OECD understands that there is no general cabotage regime in Cambodia.</p>	<p>The prohibition on vessels that are allowed to carry out cross-border transport to carry out general shipping within the domestic market of the contracting countries, prevents foreign firms from entering the national freight transportation market.</p> <p>Licensed vessels of the contracting parties, in carry out cross border transport are however allowed to make several stops within a foreign waterway to load/unload their goods. The OECD understands that they cannot pick up additional goods (i.e. operate in the domestic shipping market). A similar exemption was introduced in the Philippines to support imports and exports.</p>	<p>The OECD recommends one of the following options. Remove these restrictive provisions setting quotas and replace with a licence system. The licensing criteria should be clearly defined in the international agreement or implementing laws or regulations.</p> <p>Assess market need and demand every one to three years, and consider increasing the number of licences that can be issued.</p> <p>Both these recommendations would require negotiations between signatory countries.</p>
2	Law on the adoption of the agreement between Cambodia and Viet Nam on waterway transportation 2010	15	Inland waterway vessels engaged in cross-border transport are required to carry with them a cross border transportation permit issued by the competent authority of their respective nationality (Article 15(1)(c)). Article 15(2)(a-c) provides for 3 types of Cross-border transportation permits: Category 1 – permits for vessels undertaking multiple trips, maximum validity 12 months	The licence requirement is likely in place to control the number and quality of operators in the cross-border transport market.	The licence requirement is a barrier to entry.	No recommendation.

No.	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
			<p>Category 2 – permits for vessels undertaking one round trip with a maximum validity of 60 days</p> <p>Special category – permits for vessels carrying dangerous goods, with a maximum validity of 60 days.</p> <p>There is power in Article 15(4) for the Cross-border transportation permits to prescribe specific routes or limit access to certain ports, terminals or port groups according to the type, capacity and purpose of the vessel. The parties to the agreement must provide each other with lists of their licenced cross-border transportation permit holders.</p>			
3	MOU between and among the governments of the kingdom of Cambodia, the Lao People's democratic republic and the socialist republic of Viet Nam on road transport	7	<p>The quota of commercial motor vehicles of each contracting party is 150 vehicles for cross border transport. Article 7(2) explains that an increase in this quota can be agreed upon by the contracting parties 'in the basis of economic needs and mutual interest'. Article 7(3) provides that the agreed increase in quota may be determined in the Addendum signed by all parties to the MOU. The OECD understands that there has been no further amendment to this quota.</p>	<p>To facilitate cross border transport of goods and people by commercial and non-commercial motor vehicles. The MOU was signed on 17 January 2013 and Article 4 provides that it does not affect the rights or obligations of the contracting parties under any existing agreements to which they are parties. The likely objective of the quota is the protection of national road transport service providers against competition from other neighbouring countries.</p> <p><b>International comparison</b></p> <p>The World Bank and IRU's Guiding Principles for Practitioners and Policy Makers on "Road Freight Transport Services Reform" (p. 45) observes that "access to international markets is still largely dominated by quantitative restrictions. Despite quota limitations, bilateral agreements have played a crucial role in</p>	<p>The quota limits the ability of some operators to provide cross border transport. Restricting the number of operators may reduce competition between suppliers and result in higher prices or less desirable contract terms for customers. It is a barrier to entry if interested companies cannot then participate in the market.</p>	<p>Option 1: remove this provision and grant a licence to all those that request it, based on qualitative criteria. Such qualitative criteria may include the good repute of the operator, its adequate financial standing and its professional competence. Each of these criteria should be clearly defined in the international agreement or implementing laws or regulations.</p> <p>Option 2: Regularly assess the market's need and demand, and consider increasing the number of licences that can be issued.</p>

No.	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
				<p>developing international road freight transport during decades. They supported the spectacular growth of export-import and transit operations as well as to a certain extent third-country road freight traffic. International organizations have done their utmost to harmonize these agreements, with mixed success. In order to maximize national reforms of the road transport sector, governments should overcome the drawbacks of bilateralism and quantitative restrictions."</p> <p>The report also contains interesting observations on the system of quotas for international transport as opposed to a system based on qualitative criteria to be met by operators for obtaining a licence. It refers to the Consolidated Resolution on the Facilitation of International Road Transport (R.E.4) as a good example and explains that R.E.4 was adopted to liberalize the international road transport market among the 56 UNECE (United Nations Economic Commission for Europe) Member States by providing some uniform minimum conditions and requirements to be met by international road transport operators to obtain a licence from the competent authority of their respective countries. It laid down three basic criteria:</p> <ul style="list-style-type: none"> <li>- Good repute, consisting in the absence of conviction for criminal offences (including commercial crimes), an assessment of whether the person is unfit for the occupation and has been convicted of serious breaches of labour, and transport law;</li> <li>- Adequate financial standing, i.e., the undertaking has available sufficient</li> </ul>		<p>The phrase "from time to time" in the provision should be more clearly defined in order to ensure regular and timely assessments.</p> <p>Both these recommendations would require negotiations between the contracting parties.</p>

No.	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
				<p>resources to ensure that the company is properly set up and managed;</p> <p>- Professional competence, which is met by the person managing the activity when he/she demonstrates that he/she has sufficient knowledge to “engage properly and viably in the occupation” in particular in the fields of commercial and business administration, technical standards and operations, road safety, access to market, elements of company law, social and labour law, and civil and fiscal law.”</p> <p>In the authors' view, this qualitative criteria-based system should replace the system based on quotas of licences. They also suggest that, in order to avoid certain countries feeling threatened by the sudden abandonment of quotas, a gradual approach may be desirable, towards the introduction of qualitative rather than quantitative conditions.</p>		
4	<p>Protocol for the implementation of the road transport agreement between the Government of the Kingdom of Cambodia and the Government of the Lao People's democratic republic</p> <p>1999 agreement provides for the authorisations (transport permit)</p>	4	<p>Under this agreement, Lao PDR and Cambodia authorise licenced transport operators (by the other contracting party) to provide inter-state transport of goods between their territories (Article 13).</p> <p>Cambodia issues 'cross border transport permits' and Lao PDR issues 'International transport permit for Lao PDR'. Article 20 states that the relevant Cambodian authority is the National transit transport coordinating committee (General Department of Transport).</p> <p>Article 4 provides for an initial limit on the number of goods vehicles</p>	<p>The aim of the Protocol as stated in the preamble is to “promote and facilitate cross-border transport”. Cross border transport' is defined in Article 1 as “inter-state transport and transit transport”. ‘Inter-state transport’ means “transport of goods or passengers between the territories of contracting parties.</p> <p>See international comparison above.</p>	<p>The quota limits the ability of some operators to provide cross border transport. Restricting the number of operators may reduce competition between suppliers and result in higher prices or less desirable contract terms for customers. It is a barrier to entry if interested companies cannot then participate in the market.</p>	<p>Option 1: remove this provision and grant a licence to all those that request it, based on qualitative criteria. Such qualitative criteria may include the good repute of the operator, its adequate financial standing and its professional competence. Each of these criteria should be clearly defined in the international agreement or implementing laws or regulations.</p>

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			<p>allowed to perform cross-border transport (for an initial period of 12 months), to not more than 40 permits per country. It is stated that "thereafter, the quantities of transport vehicles shall be discussed from time to time between the contracting parties". The agreement was signed on 14 December 2007.</p> <p>According to Article 20 (institutional arrangements) the parties meet every year to review and discuss this protocol. The OECD understands that there has been no further amendment to this quota&lt;</p>			<p>Option 2: Regularly assess the market's need and demand, and consider increasing the number of licences that can be issued. The phrase "from time to time" in the provision should be more clearly defined in order to ensure regular and timely assessments.</p> <p>Both these recommendations would require negotiations between the contracting parties.</p>
5	Protocol for the implementation of the road transport agreement between the Government of the Kingdom of Cambodia and the Government of the Lao People's democratic republic	Article 17 (representative office)	Article 17 provides that each contracting party "shall allow that transport operator of the other contracting party under this protocol to set up a representative office in its territory or appoint an agent registered under its laws and regulations".	<p>It is stated in Article 17, "in order to provide relevant authorities of each Contracting party points of communications with the transport operator of the other contracting party".</p> <p>It is for this reason, it appears to be compulsory.</p> <p>The office or agent requirement is likely in place to serve as a point of contact for regulatory authorities. For example, to verify business operations or to serve legal documents.</p>	If the office or agent requirement is compulsory, in each contracting country where the transport provider operates, this may deter new market entrants.	If this is a requirement, remove.

No.	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
6	Memorandum of Understanding between the Royal Government of Cambodia and the Government of the Kingdom of Thailand on the Exchange of Traffic Rights for Cross Border Transport through the Poipet-Aranyaprathet Border Crossing Points (MoU Thailand-Cambodia)		<p>In order to transport cargo by road from Cambodia to Thailand– it is necessary to obtain a specific licence for each vehicle. This licence is nominative, non-transferable and valid for one year. This is established in the following bilateral agreement:</p> <p>Memorandum of Understanding between the Royal Government of Cambodia and the Government of the Kingdom of Thailand on the Exchange of Traffic Rights for Cross Border Transport through the Poipet-Aranyaprathet Border Crossing Points (MoU Thailand-Cambodia)</p> <p>The agreement includes a maximum number of licences that can be issued. The original version of the MoU Thailand-Cambodia (2008) set the number of licences for non-scheduled passenger and cargo transportation at a maximum of 40. Article 9(6) then provides for the possibility to discuss “from time to time” this maximum limit and consequently amend it. As of 2018, the maximum number of licences under this MoU was 150.</p>	<p>The likely objective of these provisions seems to be the protection of each country's national road transport service providers against competition from foreign companies. The OECD understands that these agreements were introduced to encourage transportation services across the ASEAN region. In the absence of such international agreements, many domestic laws in ASEAN countries would not allow foreign transport service providers to operate.</p> <p>The World Bank and International Road Transport Union (IRU) observe that: “despite quota limitations, bilateral agreements have played a crucial role in developing international road freight transport”. “They supported the spectacular growth of export-import and transit operations, as well as to a certain extent third-country road freight traffic.”</p> <p>The OECD, similarly to the World Bank and the IRU, notes that governments should remove quantitative restrictions from bilateral agreements.</p>	Limiting the number of licences for transporting goods across the border constrains access to the market and constitutes a barrier to entry. As a consequence of this limitation, in case of unavailability of licensed trucks, cargo will need to be unloaded at the border from one truck and then re-loaded onto another truck with a domestic licence, which may result in additional costs for companies.	The OECD recommends repealing the provision limiting the number of licences in order to grant a licence to all who request it. As an alternative, Cambodia should regularly assess the market need and demand, and consider increasing the number of licences that can be issued. The phrase “from time to time” in the MoU Thailand-Cambodia should be more clearly defined in order to ensure regular and timely assessments. Both these recommendations would require negotiations between the co-signatories.

No.	No. and title of regulation	Article	Description of the obstacle	Policymaker's objective	Harm to competition	Recommendation
7	MOU on the types and quantity of commercial motor vehicles for implementation of the agreement and the protocol between Cambodia and Viet Nam	Article 3	Cross border transport operators are required to be licenced. Each contracting party provides a list of licenced operators to the other contracting party.	Article 1 provides the purpose of this MOU, which is to determine the types and quantity of commercial motor vehicles for cross border transport of goods and/or people between Cambodia and Viet Nam. It aims to facilitate cross border transport.		No recommendation on licence requirement.
8	MOU on the types and quantity of commercial motor vehicles for implementation of the agreement and the protocol between Cambodia and Viet Nam 2009 (Amended in 2012)	Article 5	<p>The quota for commercial motor vehicles for cross border transport is 150 vehicles. Article 5 provides that "the increase in quota of commercial motor vehicles for cross border transport between the contracting parties shall be discussed from time to time on the basis of economic needs and mutual interest". The agreement was signed on 17 March 2009 and this provision was amended on 30 November 2012 to increase the quota of vehicles to 500 for each contracting party.</p> <p>The OECD understands that there has been no further increase to this quota.</p>	<p>Article 1 provides the purpose of this MOU, which is to determine the types and quantity of commercial motor vehicles for cross border transport of goods and/or people between Cambodia and Viet Nam. It aims to facilitate cross border transport.</p> <p>See international comparison on licence quotas above.</p>	The quota limits the ability of some operators to provide cross border transport. Restricting the number of operators may reduce competition between suppliers and result in higher prices or less desirable contract terms for customers. It is a barrier to entry if interested companies cannot then participate in the market.	<p>Option 1: remove this provision and grant a licence to all those that request it, based on qualitative criteria. Such qualitative criteria may include the good repute of the operator, its adequate financial standing and its professional competence. Each of these criteria should be clearly defined in the international agreement or implementing laws or regulations.</p> <p>Option 2: Regularly assess the market's need and demand, and consider increasing the number of licences that can be issued. The phrase "from time to time" in the provision should be more clearly defined in order to ensure regular and timely assessments.</p> <p>Both these recommendations would require negotiations between the contracting parties.</p>





## OECD COMPETITION ASSESSMENT REVIEWS: LOGISTICS SECTOR IN CAMBODIA

Efficient logistics can play a significant role in increasing a country's economic development by facilitating international trade and improving its competitiveness. This report provides an overview of the logistics sector in Cambodia and offers recommendations to lower regulatory barriers to competition. It covers freight transport by land and by water, freight forwarding, warehousing, small parcel delivery and value-added logistics services.

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