

PUBLIC-PRIVATE PARTNERSHIP TO PREVENT AND DETECT CORRUPTION

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I. OVERVIEW

Corruption is a complex social, political and economic phenomenon that affects all countries. Corruption is an offence which has the potential to affect multiple sectors and which is very difficult, complex in nature and not easy to overcome. Confronting the challenges presented by corruption requires more practical mechanisms and strategies accompanied by strong legal and professional institutional frameworks.

The Royal Government of Cambodia (RGC) is committed to combating corruption with support, and endeavours to have the Anti-Corruption Law adopted along with other relevant laws and regulations, including the establishment of the Anti-Corruption Institution (ACI), which is empowered by law with independent operations. The participation from all stakeholders, both from the public and private sectors, is important and indispensable to fighting corruption. In order to achieve this, both sectors have to work together and offer full collaboration with the Anti-Corruption Unit (ACU).

II. BACKGROUND

The Royal Government of Cambodia has paid great attention to combating corruption since the UN-organized General Elections in 1993. In 1992, Cambodia adopted the Criminal Law Act in which three of its articles were related to corruption, namely embezzlement, bribe taking and bribe offering. In 1999, an anti-corruption mechanism was first established in Cambodia. It was called the *Unit Against Corruption Practices*. In 2006, the Unit was restructured and renamed the Anti-Corruption Unit.

On 17th April 2010 the first separate Anti-Corruption Law was promulgated and the Anti-Corruption Institution established. The Anti-Corruption Institution is composed of two bodies, the *National Council Against Corruption (NCAC)* and the *Anti-Corruption Unit*. Since its creation, the Anti-Corruption Unit has been implementing three intertwined approaches: Education, Prevention and Law Enforcement, which have been supported and encouraged by the government with the participation from the authorities at all levels, the private sector, the media and civil society. Due to the complicated and sophisticated nature of corruption, the anti-corruption work could not be undertaken solely by any particular ministry or institution. Therefore, the National Council Against Corruption sets out its exact strategy that the Anti-

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Corruption Unit needs the collaboration and support from relevant stakeholders, both at national and international levels, in order to fight corruption.

Prioritized policies and programmes on anti-corruption are clearly specified in roadmap papers such as the Rectangular Strategy Phase I, Phase II, and Phase III, and the National Strategic Development Plan (NSDP) 2014-2018 which reflects the government's political will.

III. PUBLIC-PRIVATE PARTNERSHIP TO PREVENT AND DETECT CORRUPTION

A. Government Political Will

1. National Level

The Royal Government of Cambodia views anti-corruption as a priority task. The will has been shown through:

- At the 8th Regional Assembly on Anti-Corruption and Building Trust in September 2014, Samdach Akka Moha Sena Padei Techo HUN SEN, Prime Minister of Cambodia, stressed that *“ I believe it is imperative that both sectors, the public and the private, join hands to fight corruption; this is because the anti-corruption policy and programme laid out by the government will not work to the fullest extent if the private sector does not come on board; of course, failing to do so for the private sector would inherently mean that they are not being privately and socially responsible in conducting their business. It is doubtless that when both the public and the private sector work together, it will not only help improve the effectiveness of the fight against corruption, but also create an environment attracted to investment and clean business in the region and beyond.”*
- The government's “Political Platform” and the continuation of putting forward the anti-corruption task which set forth the first angle of good governance — the core of “the Rectangular Strategy Phase III” of the government.
- The adoption of the Anti-Corruption Law in 2010 and the amendment of the law in 2011 which led to inception of the Anti-Corruption Institution with power, privilege, and independence in its operations.

2. International Level

Cambodia has become a party to international organizations and legal instruments such as:

- The ADB/OECD Anti-Corruption Initiative on 5 March 2003
- United Nations Convention Against Corruption (UNCAC) on 5 September 2007
- South East Asia Parties Against Corruption (SEA-PAC) on 11 September 2007

- ASEAN Treaty on Mutual Legal Assistance in Criminal Matters
- International Anti-Corruption Academy (IACA) on 14 December 2013
- International Association of Anti-Corruption Authorities (IAACA) since 2006
- MOU Cooperation with Thailand and Laos.

B. Public–Private Partnership to Prevent Corruption

1. Establishment of Government–Private Sector Forum (G-PSF)

The Government–Private Sector Forum (G-PSF) was established in 1999. It is a public–private consultation held bi-annually under the chairmanship of the Prime Minister. The objective of the forum is to take into account the progress reports by its 10 working groups, namely: (i) Agriculture and Agro-Industry (ii) Tourism (iii) Manufacturing, SMEs and Services (iv) Laws, Taxation and Governance (v) Banking and Financial Services (vi) Transport and Infrastructure (vii) Export Processing and Trade Facilitation (viii) Industrial Relations (ix) Rice, and (x) Mines and Energy. The aim of this meeting is to collect all comments and challenges faced by the private sector and then come up with immediate solution.

2. Signing Memoranda of Understanding (MOU)

In addition to the action taken related to the prevention tasks through the collaboration with the public institutions, the Anti-Corruption Unit also focused on the support, promotion for the exchanges of views and ideas, as well as to strengthen career development aiming to work even closer with the private sector, through the joint commitment and agreement under a form of signing MOUs on anti-corruption cooperation between the Anti-Corruption Unit and private national and international companies. So far, the Anti-Corruption Unit has signed MOUs with 22 national and international companies. This has been used as an example in an effort to jointly fight corruption and the practices of clean business in order to give a message to the other investors who have always been worried about the investment climate in Cambodia and feel reluctant to invest. These efforts ensure that clean business is being carried out widely, becoming deeply rooted day by day in Cambodia. In December 2013, the Anti-Corruption Unit signed an MOU on cooperation in fighting corruption with the Cambodia Beverage Company Ltd. (Coca–Cola Cambodia Company), and through this MOU the collaboration and exchange of information related to corruption among the two institutions can be made. In addition, in early October 2014, the Anti-Corruption Unit also signed the same kind of MOU with Prudential (Cambodia) Life Assurance PLC, which is one of the leading international life insurance companies in Cambodia.

❖ The Objectives of Memoranda of Understanding

- The company, in its going commitments to be a clean entity and to build a transparent culture, will continue to fully comply with all applicable laws and regulations relating to Anti-Corruption.
- The company will continue not to participate in any acts of corruption or bribery.

- The company will continue to educate all of its employees to promote a clean environment in dealing with government officials, suppliers, customers and other organizations or individuals.
- The company may take a proactive approach in keeping the Anti-Corruption Unit informed of any solicitations or improper payments demanded by government officials.
- The Anti-Corruption Unit will keep absolute confidentiality of corruption-related information sources and take all necessary measures to keep the corruption whistleblowers secured and commence investigation.
- The Anti-Corruption Unit will make its best efforts to cooperate with the company and to fulfill any reasonable requests from the company to contribute to the prevention and combating of corruption in Cambodia.

3. Establishment of Public Service Deliveries

In order to solve the problems faced by the private sector relating to illegal fees, the Anti-Corruption Unit has worked with 21 ministries/institutions to develop a list of public service fees with the joint efforts of the Ministry of Economy and Finance, through consultations with the private sector. The Anti-Corruption Unit, together with all the above-mentioned stakeholders, has worked to create the foundation for the effectiveness of all State public service deliveries at almost all ministries and government institutions. The standard of public service, which is set in the form of a joint proclamation between the Ministry of Economy and Finance and the relevant ministries/institutions, precisely determined the actual fee and time needed for the service to be delivered, the use of uniform receipts officially issued by the Ministry of Economy and Finance, the establishment of One Window Services, a complaint mechanism, the preparation of annual reports of revenues and expenditures, and in particular to give government officials incentives as a result of the public services fee collection work. This task has won applause from both ministries and institutions as the service providers and especially from the private sector as the service receivers who wish to see new development of the legal framework and the context of the country after the Law on Anti-Corruption has entered into force.

4. Observing Public Procurement

- The Anti-Corruption Unit also engages in observing the bidding process run by the Government's ministries/institutions and NGOs when requested by the host ministry/institution. The role of the Anti-Corruption Unit is to observe from the first stage of announcing the bidding process, the opening of the bidding envelopes and the final stage of awarding the contract to the winning bidder.
- The companies taking part in the bidding gained more confidence and trust in the result and the bidding process as the process was transparently undertaken in front of all relevant parties.

5. Anti-Corruption Programme in Education

With the government's long-term vision, the Anti-Corruption Unit collaborated with the Ministry of Education, Youth and Sports setting out policies and an anti-corruption education programme aiming to instill into younger generations a consciousness, clean mindset, disgust at corruption, love of justice, integrity, law abidance, and respect for themselves and others. The anti-corruption course books were developed and introduced into the school curriculum, including private schools. For High School (Grades 10-12), the curriculum is implemented in the academic year 2014-2015 onward and for Lower Secondary School (Grades 7-9) in the academic year 2015-2016 onwards.

6. Anti-Corruption Law Dissemination

- The Anti-Corruption Unit disseminates the Anti-Corruption Law to banks, private companies, private schools, and ministries/institutions. The Anti-Corruption Unit has worked with private schools and companies such as Beltei University, American Intercon School (AIS) and Prudential Life Assurance Company. The purpose of the anti-corruption law dissemination is to raise awareness about corruption and its negative impacts with the aim of making the whole society begin to accept the new mindset and perspective in order that they all join hands to fight corruption, our common enemy.
- The Anti-Corruption Unit has adopted 9th December as its National Anti-Corruption Day. The Anti-Corruption Unit annually takes this opportunity to engage in collective efforts to jointly combat corruption among the public and the private sectors. As an organizer, the Anti-Corruption Unit always broadcasts this event live on TV, which can attract millions of viewers and which results in the support from the public to fight corruption.

C. Public-Private Partnership to Detect Corruption

1. Mechanism of Reporting Corruption

- Companies have an important role to play in the prevention, detection and prosecution of actors involved in corruption, as companies can cooperate and assist anti-corruption authorities to understand how the corrupt act occurred, how it was uncovered and how proceeds of crime can be recovered.
- Companies can cooperate with authorities by self-reporting possible corruption and by providing actual evidence in relation to internal irregularities and business partners to the Anti-Corruption Unit.
- Companies can report corruption to the focal point of the Anti-Corruption Unit through all means which are easier and faster; for instance, via phone call, email or messaging.

2. Public Reporting and the Complaint System

The public can report complaints to the Anti-Corruption Unit as follows:

- Drop a complaint in the ACU white boxes
- Send a complaint to the ACU P.O Box

- Lodge a complaint via the ACU's email: complaint@acu.gov.kh
- Drop at the ACU office at #54, Norodom Blvd, Sangkat Phsar Thmei III, Khan Daun Penh, Phnom Penh or
- Call the ACU hotline 1282.

The complainants can also join the complaint analysis meeting if they wish.

3. Whistle-Blower Protection

-Anti-Corruption Law

- Article 13 : Duties of the Anti-Corruption Unit
 - Point 7: Keep absolute confidentiality of corruption-related information sources.
 - Point 8: Take necessary measures to keep the corruption whistle-blowers secured.
- Article 39: Leakage of Confidential Information on Corruption
 - “Any person who leaks the confidential information on corruption shall be sentenced from one to five years in prison”.

-Sub Degree No. 05 on the Organization and Functioning of the Anti-Corruption Unit

- Article 3: Duties of the Anti-Corruption Unit
 - Point 8: Keep absolute confidentiality of corruption-related information sources.
 - Point 9: Take necessary measures to keep the corruption whistle-blowers secured.
- Article 13: Department of Security
 - Point 5: Keep witnesses, complainants and corruption whistle-blowers secured.
 - Point 6: Request intervention and cooperation from competent authorities if necessary to protect witnesses and complainants.
- Article 16: Department of Legal, Complaint and International Affairs
 - Point 9: Keep confidentiality of corruption reported by complainants and witnesses.
- Article 19: Department of Investigation and Intelligence
 - Point 8: Cooperate with the Department of Security to keep witnesses, complainants and corruption whistle-blowers secured and safe.

D. Achievements

- Companies create teamwork and focal points to contact the Anti-Corruption Unit
- Companies gain confidence as a result of the fact that the Anti-Corruption Unit has signed MOUs with 22 private companies after Coca Cola Company preceded
- The Guidebook on Anti-Corruption Program for Business in Cambodia, which describes types of business relationships and other measures that are required to deter and prevent corruption, was published and distributed

- Unofficial payment has been reduced maximally and the business runs smoothly.

IV. WORK IN PROGRESS

- Organize serial consultation meetings with the private sector on a regular basis. For example, once a month or every two months
- Encourage private sector players to develop their own anti-corruption frameworks
- Encourage the private sector to create clean business clubs to combat corruption.

V. CONCLUSION

Though Cambodia has enjoyed full peace for only a short time, the Royal Government of Cambodia, under the clear-sighted leadership of Prime Minister Samdach Techo Hun Sen, has made remarkable progress in the economic and social sectors, especially good governance and combating of corruption.

The Royal Government of Cambodia is strongly committed to continue strengthening good governance and fighting corruption. Fighting corruption is a key to ensure equitable division of social resources and attracting foreign investment as well as social justice. The Royal Government of Cambodia and the Anti-Corruption Unit always encourage the private sector to continue collaborating to fight corruption in order to build a clean society and prosperity.

Cambodia continues to cooperate closely with the international community particularly in the implementation of the United Nations Convention Against Corruption (UNCAC). The private sector plays an important role to combat corruption in order to do business with transparency and integrity as well as fair competition. The Anti-Corruption Unit is committed to work with the private sector and all stakeholders to build a clean business environment.