

Cambodia

Law on Investment of the Kingdom of Cambodia (2021)

Unofficial translation

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The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

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CHAPTER 1 GENERAL PROVISIONS

Article 1:

This Law aims to establish an open, transparent, predictable and favorable legal framework to attract and promote quality, effective and efficient investments by Cambodian nationals or foreigners for socio-economic development in the Kingdom of Cambodia by:

1. Increasing Cambodia's competitiveness so its economic structure may diversify and become resilient to regional and global crises;
2. Modernizing and increasing the productivity of local industries and strengthening connectivity with regional and global supply chains by promoting increased capital inflows, and the transfer of technology, knowledge and know-how;
3. Establishing an investment incentive regime that is transparent, predictable, nondiscriminatory and competitive that supports socio-economic policies; and
4. Providing protection to investors' rights and legitimate interests in the Kingdom of Cambodia through the establishment of a comprehensive and equitable legal framework in line with national interests.

Article 2:

This Law applies to all Qualified Investment Projects, Expanded Qualified Investment Projects and Guaranteed Investment Projects registered with the Council for the Development of Cambodia or Municipal-Provincial Investment Sub-Committees.

Article 3:

The terms used in this Law are defined as follows: "Investment Project" refers to a Qualified Investment Project, an Expanded Qualified Investment Project or a Guaranteed Investment Project. "Qualified Investment Project" abbreviated as "QIP" refers to an investment project that has received a registration certificate from the Council for the Development of Cambodia or a Municipal-Provincial Investment Sub-Committee. "Export Qualified Investment Project" refers to a QIP that sells or transfers any proportion of its products to purchasers or recipients outside the Kingdom of Cambodia.

"Supporting Industry Qualified Investment Project" refers to a QIP in which any proportion of its products is supplied to export industries. "Domestically Oriented Qualified Investment Project" refers to a QIP that does not export. "Expanded Qualified Investment Project" abbreviated as "EQIP" refers to an expansion of a QIP in any form, including expansion of existing production, expansion through product line diversification within the same lines, expansion through the use of new technologies that enhance productivity or Unofficial translation by the CDC protect the environment, expansion of infrastructure to serve basic telecommunications services, or expansion in any other forms to be determined by the Sub-Decree. "Guaranteed Investment Project" abbreviated as "GIP" refers to an investment project registered with the Council for the Development of Cambodia or a Municipal-Provincial Investment Sub[1]Committee, and being clearly mentioned as a GIP not eligible for tax incentives. "Working Day" refers to a calendar day which is an official working day of the Royal Government of Cambodia.

"Production Inputs" refer to raw materials, semi-finished products and production accessories, and goods that are transformed in the production process, except for petroleum products and spare parts for motor vehicles. "Cambodian Legal Entity" refers to a company that has a place of business and is registered in the Kingdom of Cambodia, whose 51 (fifty one) percent or more of its shares are held by

registered in the Kingdom of Cambodia, whose 51 (fifty-one) percent or more of its shares are held by persons of Cambodian nationality. "Construction Equipment" refers to equipment that is assembled, made or produced to be used in or affixed to a construction to increase quality, comfort and ease of use, namely lamps, electric wires, fiber optic cables, sinks, faucets, bathtubs, elevators/escalators and pipes, except for air conditioners. The import of air conditioners for investment activities or projects in any sector will receive specific incentives to be stipulated in the Law on Financial Management or the Sub-Decree. "Person" refers to a natural person or a legal entity. "Registration Certificate" refers to the certificate issued by the Council for the Development of Cambodia or a Municipal-Provincial Investment Sub-Committee recognizing the investment project. "Investor" refers to a person carrying out an investment project registered with the Council for the Development of Cambodia or a Municipal-Provincial Investment Sub-Committee. "Investment Activity" refers to a business activity in the Kingdom of Cambodia that is established, acquired, sold, transferred, expanded or merged and authorized in writing by the institution in charge in accordance with the laws and regulations in force. "Investment Project Application" refers to an application submitted by a person to the Council for the Development of Cambodia or a Municipal-Provincial Investment Sub-Committee for establishing a QIP and a GIP. This application may include one or more phases, including a QIP expansion application. "Production Equipment" refers to heavy machinery, machine tools and other equipment used substantially in the production chain, except motor vehicles. The import of motor vehicles for investment activities or projects in any sector will receive specific incentives to be stipulated in the Law on Financial Management or the Sub-Decree. "Construction Material" refers to construction items wholly converted or used in construction including the Construction Equipment of a QIP used to carry out its investment activities in the initial construction phase or expansion. Construction Material, Construction Equipment and Production Equipment as stated in this Article shall meet technical standards and quantities relevant to the Investment Project. "Applicant" refers to a person who applies for registration of an investment project with the Council for the Development of Cambodia or a Municipal -Provincial Investment Sub-Committee. "Sub-Decree" refers to the Sub-Decree on the Implementation of the Law on Investment of the Kingdom of Cambodia.

CHAPTER 2 THE COUNCIL FOR THE DEVELOPMENT OF CAMBODIA

Article 4:

The Council for the Development of Cambodia abbreviated as "CDC" shall be established as an executive body acting as the "Etat-Major" and One-Stop Service of the Royal Government of Cambodia responsible for overseeing and managing development cooperation, private investment, and special economic zones.

Article 5:

The CDC is chaired by the Prime Minister and includes one or several vice-chairpersons and members as necessary. To ensure effective implementation of the missions stipulated in Article 4 of this Law, the Prime Minister may at his sole discretion delegate his authority to a member of the Royal Government or CDC management to undertake his duties to a certain extent or in any activities of the CDC. Such delegation includes management and use of budget and human resources in compliance with the laws and regulations in force. The appointment of the members of the CDC shall be made by Royal Decree.

Article 6:

The CDC has the following organizational structure: - General Secretariat of the CDC; - Cambodian Cooperation Development Board abbreviated as "CCDB"; and - Cambodian Investment Board abbreviated as "CIB"; The General Secretariats of the CDC, CCDB, and CIB shall each be led by one Secretary General assisted by Deputy Secretaries General as deemed necessary. The CDC may establish additional structures or mechanisms by the Sub-Decree as deemed necessary.

Article 7:

The CDC has its separate budget under the national budget, and civil servants and employees under contract in compliance with laws and regulations in force.

Article 8:

The organization and functioning of the CDC shall be determined by Royal Decree.

CHAPTER 3 INVESTMENT MECHANISM AT MUNICIPAL-PROVINCIAL LEVEL

Article 9:

To enhance the effectiveness of services rendered to Investors, the review and approval of private investments and settlement of disputes related to investment projects shall be delegated to municipal-provincial administrations in accordance with a decision of the Royal Government to establish Municipal-Provincial Investment Sub-Committees as the "Etat-Major" of the municipal[1]provincial administrations. Rights, authorities, size of investments, and the organization and functioning of Municipal-Provincial Investment Sub-Committees shall be determined by a separate Sub-Decree.

CHAPTER 4 REGISTRATION AND IMPLEMENTATION OF INVESTMENT

PROJECTS

Article 10:

Any person who wishes to implement a QIP, EQIP, or GIP shall submit a written application to the CDC or a Municipal-Provincial Investment Sub-Committee. The Investment Project Application may be made through information technology platforms.

Article 11:

The Investment Project Application shall be accompanied by information to be specified in the Sub[1]Decree.

Article 12:

Upon receipt of the Investment Project Application, the CDC shall review and make a decision on the application through the One-Stop Service mechanism. The One-Stop Service mechanism stipulated in paragraph 1 of this Article is the mechanism for reviewing and deciding on the Investment Project Application by representatives of relevant ministries and institutions seconded to the CDC according to the assignment and delegation of authority from the head of relevant ministries and institutions under the coordination of the CDC. If the proposed Investment Project is not on the Negative List, to be determined separately by the Sub-Decree, the CDC shall issue the Registration Certificate to the Applicant within 20 (twenty) Working Days. The Registration Certificate shall be affixed with a barcode with identification number or QR code or other technology that contains preliminary data related to the registered Investment Project for the benefit of other registrations and the implementation of the Investment Project. Relevant ministries and institutions requiring registrations and conducting compliance reviews of the Investment Project implementation shall not require the Applicants or Investors to provide documentation already included in the barcode with identification number or QR code or other technology affixed to the Registration Certificate issued by the CDC.

Article 13:

Investment Projects that have obtained a Registration Certificate may be implemented automatically but it does not exempt the Investment Project from obtaining other permits as required by the laws and regulations in force. All Investment Projects shall be subject to monitoring and inspection through the One-Stop Service mechanism coordinated by the CDC to ensure their compliance with the laws and requirements for obtaining the Registration Certificate. The person carrying out an Investment Project shall provide a report on the implementation of the project according to the specific schedule set by the CDC. The detailed format of the report template shall be determined by the CDC's guidelines. The provision of the report on the implementation of the Investment Project is not a basis for exemption from an on-site inspection if the CDC deems necessary or if there is any complaint from persons who claim to have been affected by the implementation of the Investment Project. Unofficial translation by the CDC.

Article 14:

The procedures for registration of Investment Project with Municipal-Provincial Investment Sub[1]Committees shall be determined by a separate Sub-Decree.

CHAPTER 5 INVESTMENT GUARANTEES AND PROTECTION

Article 15:

Investors will be treated without discrimination in relation to restitution, compensation or other economic remedies in the event that their investment suffers losses due to armed conflict, civil disturbance or state of emergency provided that there are laws and policies of the Royal Government of Cambodia on any reasonable restitution or compensation. Foreign investors shall not be subject to any discrimination on the basis of foreign nationality, except for land ownership as stipulated in the Constitution of the Kingdom of Cambodia and any other regulations in force.

Article 16:

The State shall not undertake any nationalization actions which may affect the assets of the Investors in the Kingdom of Cambodia.

Article 17:

The State shall not undertake any expropriation which may affect, either directly or indirectly, an approved Investment Project or undertake any measures similar to expropriation, except for the purpose of public interest and that such expropriation shall meet the following conditions: 1. Non-discrimination; 2. Fair and just compensation; and 3. Compliance with the laws and procedures in force for expropriation.

Article 18:

The Royal Government of Cambodia shall not fix the price of products or services created or rendered by the Investment Project.

Article 19:

In accordance with applicable laws and regulations, the Investors are entitled to freely purchase foreign currencies and to repatriate these foreign currencies to settle financial obligations associated with their

currencies and to repatriate those foreign currencies to settle financial obligations associated with their investment through authorized intermediary banks. These transfers include: 1. Capital contributions including initial capital contributions; 2. Income, capital gains, dividends, royalties, license fees, management and technical assistance fees, interest and other income from investments; 3. Income from total or partial sale or dissolution of the company implementing the Investment Project; 4. Payment of import and repatriation of both principal and interest of the loan; 5. Payment of compensation in case of civil disturbance, expropriation or confiscation by the State; 6. Payment arising from the settlement of a dispute by any means including court decisions or arbitration awards; and Unofficial translation by the CDC 6 7. Other income and salary of employees.

Article 20:

Investors' intellectual property is protected in accordance with the laws and regulations related to the intellectual property of the Kingdom of Cambodia.

Article 21:

Investors' ownership of land for the purpose of implementing Investment Projects is granted only to persons of Cambodian nationality in accordance with the laws and regulations in force. Investors have the right to use land through economic land concessions or perpetual leases or leases for a fixed duration in accordance with the laws and regulations in force.

Article 22:

A person who is considered as an Investor pursuant to this Law has the following rights: 1. The right to hire foreign employees to manage or operate an Investment Project within a quota not exceeding the number stipulated by the laws and regulations in force in the event that it is not possible to find qualified Cambodian employees to manage or operate the Investment Project. The permission to hire foreign employees is based on current circumstances and is not permanent. 2. The right to obtain a temporary long-term stay permit for oneself, spouse and children who are minors during the period when the Investment Project is operating. 3. The right to request temporary long-term stay permits for foreign employees and their spouses and children who are minors during the valid period of the employment contract. 4. The right to obtain a work permit and employment book for oneself and foreign employees. The CDC or the Municipal-Provincial Investment Sub-Committee shall issue a letter to certify the investment status for the persons involved in the Investment Project at the request of the Investor to be used for applying for a temporary long-term stay permit, work permit, employment book and other necessary purposes in accordance with the procedures in force. Special procedures for applying for work permits and employment books as stated in this Article shall be set out in the joint Prakas between the CDC and the Ministry in charge of Labor. Formalities and special procedures for applying for a temporary long-term stay permit as stated in this Article shall be determined by a separate Sub-Decree.

Article 23:

The Investor is entitled to receive after-care services for the Investment Project registered with the CDC or a Municipal-Provincial Investment Sub-Committee. Conditions, formalities and procedures for providing after-care services for the Investment Project as stated in paragraph 1 of this Article shall be determined by the Sub-Decree.

CHAPTER 6 INVESTMENT INCENTIVES

Article 24:

The following investment sectors and activities are entitled to investment incentives: 1. High-tech industries involving innovation or research and development; 2. Innovative or highly competitive new industries or manufacturing with high added value; Unofficial translation by the CDC 7 3. Industries supplying regional and global production chains; 4. Industries supporting agriculture, tourism, manufacturing, regional and global production chains and supply chains; 5. Electrical and electronic industries; 6. Spare parts, assembly and installation industries; 7. Mechanical and machinery industries; 8. Agriculture, agro-industry, agro-processing industry and food processing industries serving the domestic market or export; 9. Small and medium-sized enterprises in priority sectors and small and medium-sized enterprise cluster development, industrial parks, and science, technology and innovation parks; 10. Tourism and tourism-related activities; 11. Special economic zones; 12. Digital industries; 13. Education, vocational training and productivity promotion; 14. Health; 15. Physical infrastructure; 16. Logistics; 17. Environmental management and protection, and biodiversity conservation and the circular economy; 18. Green energy, technology contributing to climate change adaptation and mitigation; 19. Other sectors and investment activities not listed by this Law deemed by the Royal Government of Cambodia to have potential for socio-economic development.

Article 25:

The sectors and investment activities listed in Article 24 of this Law that are not on the Negative List shall receive basic tax and/or customs duties incentives in whole or in part after obtaining the Registration Certificate certifying the QIP status. The sectors and investment activities listed in Article 24 of this Law that are not entitled to both tax and customs duties incentives will be stipulated in the

Negative List of the Sub-Decree.

Article 26:

Investment activities registered as QIP are entitled to choose basic incentives under the following two options: 1. Option 1: o Income Tax exemption for 3 (three) to 9 (nine) years, depending on the sector and investment activities, from the time of earning its first income. Sectors and investment activities, as well as the period of income tax exemption, shall be determined in the law on financial management and/or the Sub-Decree. After the income tax exemption period has expired, the QIP is entitled to paying income tax at a progressive rate proportional to the total tax due as follows: • 25 (twenty-five) percent for the first 2 (two) years; • 50 (fifty) percent for the next 2 (two) years; and Unofficial translation by the CDC 8 • 75 (seventy-five) percent for the last 2 (two) years. o Prepayment Tax exemption during income tax exemption period; o Minimum Tax exemption provided that an independent audit report has been carried out; o Export Tax exemption, unless otherwise provided in other laws and regulations; or 2. Option 2: o Deduction of capital expenditure through special depreciation as stated in the tax regulations in force; o Eligibility of deducting up to 200 (two hundred) percent of specific expenses incurred for up to 9 (nine) years. Sectors and investment activities, specific expenses, as well as the deductible period, shall be determined in the Law on Financial Management and/or the Sub-Decree; o Prepayment Tax exemption for a specific period of time based on sectors and investment activities to be determined in the Law on Financial Management and/or the Sub-Decree; o Minimum Tax exemption provided that an independent audit report has been carried out; o Export Tax exemption, unless otherwise provided in other laws and regulations. In addition to the incentives stated in paragraph 1 of this Article: a. Export QIP and Supporting Industry QIP are entitled to customs duty, special tax and value-added tax exemption for the import of Construction Material, Construction Equipment, Production Equipment and Production Inputs; b. Domestically Oriented QIP is entitled to customs duty, special tax and value[1]added tax exemption for the import of Construction Material, Construction Equipment, and Production Equipment. The incentives for Production Inputs shall be determined in the Law on Financial Management and/or the Sub-Decree. QIP located in special economic zones is entitled to the same incentives and protections as other QIP set forth in this Law.

Article 27:

In addition to the basic incentives set out in Article 26 of this Law, investment activities registered as QIP receive additional incentives as follows: 1. Value-added tax exemption for the purchase of locally made Production Inputs for the implementation of the QIP. 2. Deduction of 150 (one hundred and fifty) percent from the tax base for any of the following activities: a. Research, development and innovation; b. Human resource development through the provision of vocational training and skills to Cambodian workers/employees; c. Construction of accommodation, food courts or canteens where reasonably priced foods are sold, nurseries and other facilities for workers/employees; d. Upgrade of machinery to serve the production line; and Unofficial translation by the CDC 9 e. Provision of welfare for Cambodian workers/employees, such as comfortable means of transportation to commute from their homes to factories, accommodation, food courts or canteens where foods are sold at reasonable prices, nurseries and other facilities. 3. Entitlement to income tax exemption for the Expansion of QIP which will be determined in the Sub-Decree.

Article 28:

In addition to the incentives set out in Article 26 and Article 27 of this Law, any specific sector and investment activities having high potential to contribute to national economic development may receive specific special incentives to be set out in the Law on Financial Management.

CHAPTER 7 ACQUISITION, SALE OR MERGER OF INVESTMENT PROJECT

Article 29:

Rights, privileges and other entitlements of the QIP may not be transferred to any third party, except the transfer through acquisition, sale and merger of the Investment Project.

Article 30:

Investment Project may be acquired, sold or merged without losing the incentives, investment guarantee and any obligations attached thereto if the acquisition, sale or merger is done in accordance with applicable laws and regulations and through a written request to the CDC or the Municipal[1]Provincial Investment Sub-Committee, where detailed procedures shall be determined by the Sub[1]Decree.

CHAPTER 8 NULLIFICATION OF INVESTMENT PROJECT

Article 31:

Investment Project may be nullified for any of the following cases: 1. Inability to continue to implement the QIP; 2. Dissolution of the legal entity implementing the QIP; 3. Failure to fulfil the obligations set out in the laws and regulations in force; 4. At the request of the relevant ministries/institutions for the Investment Project which has negative effects on investment or national security or public interests or

investment Project which adversely affects environment or national security or public interests or people's welfare or at the request of the Investor.

Article 32:

In the case of nullification under Article 31-1 of this Law, the Investor shall apply for nullification directly or through an authorized representative to the CDC or the Municipal-Provincial Investment Sub-Committee. The request shall be signed by the Investor or the authorized representative, stating the reasons for the inability with supporting documents. In the case of nullification due to dissolution under Article 31-2 of this Law, if the dissolution is made by voluntary liquidation and dissolution, the Investor shall apply for nullification directly or through an authorized representative to the CDC or the Municipal-Provincial Investment Sub-Committee. In the case of nullification due to dissolution under Article 31-2 of this Law, if the dissolution is made by a court decision, the Investor shall apply for nullification directly to the CDC or the Municipal-Provincial Investment Sub-Committee, enclosing the final court decision and relevant documents of Unofficial translation by the CDC 10 dissolution of the legal entity implementing the QIP, as well as a statement of interest with relation to the QIP to be nullified. QIP may be nullified at the discretion of the CDC or the Municipal-Provincial Investment Sub-Committee in accordance with the conditions set out in Article 31-3 of this Law. The detailed procedures for nullification by request and nullification by discretion under paragraphs 1 to 4 of Article 31 of this Law shall be determined by the Sub-Decree.

Article 33:

Even if the Investment Project is nullified, the Investor is not exempt from fulfilling tax and other obligations.

Article 34:

Investors may appeal the nullification of the Investment Project by submitting a written complaint to the CDC or the Municipal-Provincial Investment Sub-Committee in accordance with procedures in force. In case of appeal, the CDC or a Municipal-Provincial Investment Sub-Committee shall make a decision on such appeal. In case of dissatisfaction with the above decision, the appealing Investor may file a complaint to the relevant court of the Kingdom of Cambodia.

Article 35:

If the Investment Project is nullified, the Investor may transfer the residual assets abroad or use them in the Kingdom of Cambodia. If the Investment Project used imported Construction Material, Construction Equipment, Production Equipment or Production Inputs with the exemption of customs duty, special tax and value-added tax for less than 5 (five) years, the Investor is obliged to pay taxes on Construction Material, Construction Equipment, Production Equipment and other Production Inputs, which shall be determined by the Sub-Decree in accordance with the laws and regulations in force.

CHAPTER 9 DISPUTES AND DISPUTE RESOLUTION

Article 36:

Disputes between Investors and Investors related to the Investment Project may be resolved by the CDC or Municipal-Provincial Investment Sub-Committees through reconciliation in accordance with procedures in force and upon written request to the CDC or the Municipal-Provincial Investment Sub-Committees by any party to the dispute. Within 30 (thirty) days following receipt of the written request for reconciliation, the CDC or the Municipal-Provincial Investment Sub-Committee shall arrange for reconciliation with Investors and other stakeholders, as needed, to find a suitable solution. If the above reconciliation is not successful, the dispute may be resolved through: 1. National or international arbitration with the consent of the disputing parties; 2. Relevant courts of the Kingdom of Cambodia.

CHAPTER 10 IMPLEMENTATION

Article 37:

Upon the entry into force of this Law, the Royal Government of Cambodia shall issue a Sub-Decree on the Implementation of the Law on Investment of the Kingdom of Cambodia for an effective and comprehensive implementation of the provisions of this Law.

CHAPTER 11 TRANSITIONAL PROVISIONS

Article 38:

The following Sub-Decrees shall remain in full force until they are replaced by new Sub-Decrees or legal instruments: 1. Sub-Decree No. 111 ANK/BK dated 27 September 2005 on the Implementation of the Amendment to the Law on Investment of the Kingdom of Cambodia; 2. Sub-Decree No. 79 dated 8 June 2021 on the Establishment of Municipal-Provincial Investment Sub-Committees; 3. Sub-Decree No. 34 ANK/BK dated 23 April 2007 on the Amendment of Section 1, Annex 1 of Sub-Decree No. 111, dated 27 September 2005, on the Implementation of the Amendment to the Law on Investment of the Kingdom of Cambodia; 4. Sub-Decree No. 60 ANK/BK dated 5 April 2016 on the Organization and Functioning of the Council for the Development of Cambodia; 5. Sub-Decree No. 33 ANK/BK dated 13 February 2019 on the Revision of Article 15 of Sub-Decree No. 111, dated 27 September 2005, on the Implementation of the Amendment to the Law on Investment of the Kingdom of Cambodia; 6. Sub-

Decree No. 148 ANK/BK dated 29 December 2005 on the Establishment and Management of Special Economic Zones; 7. Other relevant legal instruments. Article 39: The CDC shall continue to perform its duties until the promulgation of a Royal Decree on the Organization and Functioning of the Council for the Development of Cambodia.

Article 40:

Investments that have received investment incentives and are authorized by the Law on Investment of the Kingdom of Cambodia promulgated by Royal Kram No. 03/NS/94 dated 05 August 1994, and the Law on Amendment to the Law on Investment of the Kingdom of Cambodia promulgated by Royal Kram No. NS/RKM/0303/009 dated 24 March 2003, and other Sub-Decrees are considered as QIPs under this Law and the relevant Sub-Decree. Investments that have not received investment incentives but received investment guarantees and are authorized by the Law on Investment of the Kingdom of Cambodia promulgated by Royal Kram No. 03/NS/94 dated 05 August 1994, and the Law on Amendment to the Law on Investment of the Kingdom of Cambodia promulgated by Royal Kram No. NS/RKM/0303/009 dated 24 March 2003, and other Sub-Decrees are considered as GIPs under this Law and the relevant Sub-Decree. QIPs that have been entitled to income tax exemption prior to the promulgation of this Law, shall continue to receive the incentives for the remaining income tax exemption. Unofficial translation by the CDC.

CHAPTER 12 FINAL PROVISIONS

Article 41:

The Law on Investment of the Kingdom of Cambodia promulgated by Royal Kram No. 03/NS/94 dated 05 August 1994 and the Law on Amendment to the Law on Investment of the Kingdom of Cambodia promulgated by Royal Kram No. NS/RKM/0303/009 dated 24 March 2003 and any other regulations contrary to this Law shall be abrogated. Article 42: This Law shall be promulgated immediately.