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Cooperation Committee for Cambodia
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POLICY BRIEFS AND RECOMMENDATIONS ON ENVIRONMENTAL, SOCIAL, AND GOVERNANCE

ESG

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Partnerships for Sustainable and Democratic Development in Cambodia

POLICY BRIEFS/RECOMMENDATIONS ON ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (ESG)

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I. Introduction

Business impacts on the environment, human rights, and society could be positive and negative, which environmental damages, labour rights violations, forced evictions, and adverse impacts on the lives and livelihoods of communities, among others. The adverse impacts led to increased attention on how businesses manage harm arising from their activities. Consequently, businesses began introducing corporate social responsibility (**CSR**) activities and, more recently, **ESG** (environmental, social, and governance) considerations. However, CSR has been primarily centred on **corporate philanthropy**, rather than concrete policies and measures to avoid harm to the environment, human rights, and society. Due to these limitations, ESG began to gain traction, especially in the West. ESG investment, an investment approach considering environmental, social, and governance factors and financial criteria, emerged and gained popularity. In recent years, ESG has also gained attention in Cambodia, promoted by both the government, CSOs, the private sector, and other stakeholders as a means to promote responsible business conduct and sustainability.

II. Concept and Definition:

It is worth distinguishing between CSR and ESG. The European Union (EU) defines CSR as "the responsibility of enterprises for their impacts on society."[1] Essentially, CSR concerns the integration of social (and environmental) considerations in business decision-making. In Cambodia, CSR practices have been widespread but have primarily centred on corporate philanthropy. ESG, on the other hand, refers to a broad but more concrete framework with specific criteria for evaluating a company's overall performance pertaining to sustainability. ESG factors, which should be considered in a company's activities, operations, and decision-making, include:

- The 'environmental' aspect involves assessing how a company manages its environmental impact, i.e., climate change, resource management, pollution, and biodiversity. For example, the 'E' aspect includes a company's carbon emissions, waste management, resource usage, and sustainability practices. Companies are evaluated on their efforts to prevent, minimise, or mitigate their environmental impacts and their policies for addressing or adapting to climate change and other contemporary environmental challenges.
- The 'social' aspect involves assessing how a company manages its relationships with its employees, suppliers, customers, consumers, and affected communities. The 'S' aspect includes a company's labour practices (i.e., compliance with labour rights such as no illegal child labour, equality, freedom of association, occupational health and safety, etc.); community engagement; customer and product responsibility; and human rights, which is the less quantifiable and least developed aspect of the 'S.'
- The 'governance' aspect concerns the systems and processes under which a company is controlled and run. Governance considerations include corporate governance issues (e.g., board composition, board independence and diversity, executive compensation, and shareholder rights), business ethics, anti-corruption, legal compliance, risk management, risk mitigation, etc.

[1] https://single-market-economy.ec.europa.eu/industry/sustainability/corporate-sustainability-and-responsibility_en#:~:text=The%20Commission%20has%20defined%20CSR,their%20business%20strategy%20and%20operations

Essentially, ESG is part of the broader concept of responsible business conduct (RBC), which refers to the practices and conduct of companies that incorporate ethical, social, human rights, and environmental considerations. Unlike CSR, ESG and RBC are relatively new concepts unfamiliar in Cambodia. Moreover, unlike CSR, ESG has more concrete and numerous performance and reporting frameworks and standards. Some widely used ESG frameworks and standards include e.g., the Global Reporting Initiative (GRI),[2] the Sustainability Accounting Standards Board (SASB),[3] And the Task Force on Climate-related Financial Disclosure (FCFD).[4] Other relevant international instruments for ESG performance and reporting include e.g.,

- Sustainable Development Goals (SDG), which serves as a broad framework for aligning business with global sustainability objectives;
- UN Guiding Principles on Business and Human Rights (UNGPs), a leading authority on the issue of business and human rights that promotes business respect for human rights;
- OECD Guidelines for Multinational Enterprises (OECD Guidelines), a leading authority on responsible business practices that goes beyond respect for human rights and the environment;
- ISO 26000, which provides guidance on the social responsibility of companies;
- International Finance Corporation's (IFC) Performance Standards, which set out social and environmental requirements for investments by IFC's clients.

In addition to existing ESG frameworks and standards, some developed countries and the EU have introduced ESG-related laws and regulations. The EU introduced the Corporate Sustainability Reporting Directive (CSRD), which entered into force in January 2023, focusing on corporate sustainability reporting (i.e., ESG). In April 2024, the EU adopted the Corporate Sustainability Due Diligence Directive (CSDDD), under which EU-based companies will be required to conduct human rights and environmental due diligence in their supply chains and remediate harm that occurs. In 2020, the EU also introduced the EU Taxonomy for sustainable activities, classifying economic activities based on environmental sustainability. ASEAN is also developing its ASEAN Taxonomy for Sustainable Finance.

To sum, ESG is a useful framework for evaluating corporate performance on sustainability and shaping a more responsible business environment. For companies, it helps with competitiveness, long-term growth, regulatory compliance, and risk management. It thus allows companies to avoid or mitigate commercial, operational, reputational, and legal risks. Presently, investors and financiers increasingly target companies with sound ESG policies and robust performance. By factoring in ESG considerations, investors and financiers can make more informed decisions and invest in or finance companies that prioritise sustainability and promote positive global changes.

III. Global Perspectives and Trends on ESG

In the last two decades, there has been a rising trend of ESG-focused investments (e.g., a shift towards sustainable and impact investing) among investors who prioritise companies with strong ESG performance. Investors also increasingly recognise the financial risks associated

[2] which focuses on a company's broad sustainability impacts, see https://www.globalreporting.org/standards/
[3] which provides industry-specific standards for ESG disclosure, see https://sasb.ifrs.org/standards/
[4] which focuses on financial implication regarding climate risks, see https://www.fsb-tcfd.org/recommendations/

with climate change, making them consider climate risks in their investment decisions. Increased capital flows into renewable energy, sustainable agriculture, and technology driven by ESG considerations are reshaping markets, leading to the increased potential of sustainable industries. The growth of green and sustainability-related bonds indicates growing interest in financing projects that meet ESG criteria, signifying how ESG influences capital allocation.

While ESG is a useful tool for assessing companies' performance in terms of sustainability, there is also criticism that it can be used as a greenwashing tool. In response, some countries, particularly in the EU, have taken corrective measures through their policies on sustainable finance and green transition. The EU and some developed countries are developing rigorous indicators and classification systems to help companies and investors conduct or invest responsibly. Concurrently, international organisations, e.g., the International Financial Reporting Standards (IFRS), are developing standardised ESG reporting frameworks, aiming to improve consistency and comparability.

To recap, global ESG trends are reshaping capital markets, driving investment strategies, and influencing corporate behaviours towards sustainability and responsible practices. As these trends evolve, their impact on market dynamics and investment practices will likely deepen.

IV. ESG in Cambodia

Unlike CSR, ESG remains a new concept in Cambodia, and so does RBC. Currently, most companies are unfamiliar with ESG principles, standards, and tools, which are numerous and difficult to familiarise. There remains a general confusion between ESG and CSR, primarily centered on philanthropic activities. Noticeably, some companies, mainly subsidiaries of multinational corporations, incorporate ESG in their policies and/or self-regulatory instruments, e.g., codes of conduct, which they include in their operations and, sometimes, business relationships with their business partners. Similarly, some banks, especially those that are subsidiaries of foreign banks, have incorporated ESG principles and standards at varying degrees.

In recent years, ESG has gained increased interest and uptake in Cambodia, particularly in the banking and financial sectors. The mining sector also sees some adoption of ESG principles, with two notable good examples.[5] Although not referred to as ESG, the garment sector has also implemented ESG-related policies for years.

Given the rapidly evolving ESG-related regulatory landscape, both in Cambodia and globally, companies as well as financial institutions should assess their actual and potential risks to the environment and human rights and identify opportunities to contribute to Cambodia's long-term sustainable development. As ESG-related regulations are being continually introduced in Cambodia, there is a clear moral, business, and legal case for adopting ESG in business operations and decision-making.

4.1 ESG-Related Regulatory Frameworks

Cambodia has no specific laws on ESG performance and reporting standards. However, some domestic laws cover ESG considerations and have already been implemented and enforced. The Cambodian Constitution (1993) promotes ESG in terms of respect for human rights and

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[5] Renaissance Minerals (Cambodia) Ltd (RNS) and Angkor Gold Corp (ANK), see, https://www.ngoforum.org.kh/wp-content/uploads/2023/12/Final_Report_on_ESG_Practices_of_the_Gold_Mining_Industry_in_Cambodia-4.pdf

environmental protection.[6] As highlighted below, some domestic laws, directly or indirectly, impose environmental, social, human rights, and governance compliance requirements. Non-compliance with these laws may result in corporate legal liability for the business entity or its corporate officers.

The **'E'** aspect is regulated in laws addressing environmental issues related to business operations.[7] Noticeably, the Natural Resources and Environmental Code provides an overarching framework for environmental protection and requires businesses to avoid harming the environment and community and to remediate harm. The Code requires all project owners, either public or private, to assess their adverse impacts on the environment and natural resources.[8] Depending on their impact level, i.e., serious, medium, or minor, investment projects require a full Environmental Impact Assessment (EIA), an Initial Environmental Impact Assessment (IEIA), or an environmental protection contract.[9] Importantly, the Code mandates public participation and consultation in the impact assessment process.[10] To some extent, the Code incorporates the international principle of free, prior, and informed consent (FPIC) of affected people.[11] The Code also imposes obligations on project owners to prevent, mitigate, and address adverse impacts,[12] e.g., by ensuring the livelihoods and resettlement-related compensation of affected people.[13] Non-compliance may result in financial and/or criminal sanctions on the project owners, both natural or legal persons.[14] Furthermore, the Code requires banks and financial institutions to conduct sustainability risk assessments on projects they finance, thus incorporating sustainability in Cambodia's banking and financial sector.[15] Non-complying banks and financial institutions may face legal liability for damages or harm that arise.[16] Since 2021, the Ministry of Environment (MoE) has specifically required project owners in certain sectors to prepare initial environmental and social impact assessment (IESIA) reports of their projects. Public consultation with affected people is mandatory.[17] Previously, only investment projects financed by international financial institutions needed to conduct ESIA.

The **'S**' aspect is regulated by a number of domestic laws. Regarding labour practices, the Labour Law protects **workers**' rights, including wages, working conditions, and occupational safety. The Law on Social Security Schemes provides social protection for workers. Companies are also required to comply with supporting regulations, including those that are sector- or industry-specific. Labour protection is also regulated under sector- or industry-specific laws,

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[6] Cambodian Constitution (1993), Articles 31 and 59.
[7] Other applicable laws on 'E' include, e.g., Law on Forest Management and Conservation (2002), Law on Water Resources Management (2007), Sub-Decree on EIA Process (1999), Prakas on General Guidelines for Developing Initial and Full EIA Reports (2009). Also relevant in land-related sectors, Sub-Decree on Economic Land Concessions (2005) and Sub-Decree on the Promulgation of the Standard Operating Procedures for Land Acquisition and Involuntary Resettlement (SOP-LAR) for Externally Financed Projects in Cambodia (2018).
[8] Environmental Code, Articles 649, 650 & 651.
[9] Environmental Code, Article 657.
[10] On the mandatory public participation, see, e.g., Environmental Code, Articles 638, 643(c), 645, 649, 655, 687-693, 697.
[11] On provisions related to the FPIC principle, see, Articles 690, 691, 693, 697 of the Environmental Code.
[12] See, e.g., Environmental Code, Articles 718, 719, 722-725.
[13] Environmental Code, Article 691(2).
[14] The code imposes monetary and/or criminal sanctions on infringing project owners, either natural or legal persons. See, Book 10 of Environmental Code.
[15] See, Chapter 5, particularly Articles 678 and 679.
[16] Environmental Code, Article 680.
[17] Those sectors include livestock and aquaculture, tourism, construction, petrol and gas stations, and SMEs. See, https://www.dfdl.com/insights/legal-and-tax-updates/cambodia-procedures-and-implementation-guidelines-for-checklist-in-preparing-the-initial-environmental-and-social-impact-assessment-report/

regulations, and guidelines. For instance, the garment sector has a comprehensive set of legal requirements to ensure labour rights protection of workers.[18] For another example, construction projects must ensure workers' occupational safety and health on construction sites.[19] In relation to **consumers**, the Civil Code regulates the issue regarding product liability.[20] while the Consumer Protection Law imposes specific labelling, storage, and technical requirements on household chemical products to protect health safety for consumers.[21] Further, thematic issues are governed by specific laws. For instance, the Law on Food Safety specifies requirements and procedures on food safety, quality, and sanitation for all food production and food businesses, excluding street food businesses, to prevent and mitigate harm related to food consumption.[22] For **affected communities**, the Civil Code protects private rights and provides remedies for tortious acts that may be construed to protect individuals and communities impacted or may be impacted by business activities.[23]

As discussed, environmental-related laws and certain sector-specific laws also cover the 'S' aspect.[24] That is, socioeconomic impacts are considered in the IEIA or full EIA and IESIA. Those socioeconomic aspects address some human rights, namely the right to an adequate standard of living, the right to a healthy environment, the right to water, the right to education, the right to health, and indigenous peoples' rights to their lands and cultural practices. However, no laws require companies to respect and avoid violating human rights in the broader sense.

The **'G'** aspect is governed under the Law on Commercial Rules and Register and its amendments and Law on Commercial Enterprises, which regulate the legal structure of a company, its classification, shares ownership, legal rights, and obligations of the company and its corporate officers for all sectors.[25] Additionally, publicly listed companies and security companies are subject to reporting requirements regarding changes in their corporate governance.[26] Similarly, banks and financial institutions have their specific corporate governance and reporting requirements.[27] The 'G' aspect also covers anti-corruption, governed by the Law on Anti-Corruption. Banks and financial institutions are subject to additional legal requirements, e.g., anti-money laundering. Non-compliance with the applicable laws may give rise to criminal and/or civil penalties.

[18] See, https://betterwork.org/reports-and-publications/guide-to-cambodian-labour-law-for-the-garment-industry-revised-2019/
[19] Law on Construction (2019), Articles 7-9, 39.
[20] Civil Code, Article 751.
[21] Consumer Protection Law, Chapter 6.
[22] Law on Food Safety, Articles 1 and 2.
[23] Civil Code, Chapter 16 (Torts).
[24] See, e.g., the Environmental Code, Land Law, Sub-Decree on EIA Process, Sub-Decree on Economic Land Concessions, Prakas on General Guidelines for Developing Initial and Full Environmental Impact Assessment Report (2009).
[25] See also, Law on Accounting and Auditing (2016). It should be noted that, in April 2024, the Accounting and Auditing Regulator (ACAR) issued Notification No. 023/24 NSC/NCC on the adoption of International Financial Reporting Standard No. 18 (IFRS 18), "Disclosures and Disclosures in Financial Statements," which will take effect on 01 January 2027.
[26] E.g., Law on the General Stature of Public Enterprises (1996), Law on Securities (2007), which regulates Cambodia's securities market, Law on the Issuance and Trading of Non-Government Securities (2007), Law on Accounting and Auditing (2016); Prakas on the Implementation of Financial Reporting Standards (2009), Prakas on Corporate Governance for Listed Enterprises (2009), Prakas on Corporate Governance for Listed Public Enterprises (2010), Prakas on Code of Conduct of Securities Firms and Securities Representatives (2011) Listing Rules of the Cambodia Securities Exchange (2015).
[27] See, e.g., Prakas on Annual Audit of Financial Statement of Banks and Financial Institutions (2004), Prakas on the Implementation of Financial Reporting Standards (2009)
https://www.nbc.gov.kh/english/legislation/laws_applicable_to_banks_and_financial_institutions.php

Some sector- or industry-specific soft-law guidelines and codes of conduct are also relevant to, though not termed, ESG, e.g., soft-law tools for the garment sector. In the financial and banking sector, there are some recent guidelines and initiatives to integrate ESG considerations into banks and financial institutions' practices, e.g., responsible lending practices, client protection, and environmental and social risk assessments.[28] The National Bank of Cambodia (NBC) has also issued guidelines and promoted green financing, encouraging banks to develop financial products that support environmentally sustainable projects, e.g., loans for renewable energy projects.[29] The NBC has also cooperated with the International Financial Corporation (IFC) to develop the Cambodia Green Finance Taxonomy and Market to address climate change impacts in Cambodia and accelerate the country's transition to a green economy.[30] A kick-off workshop on the Cambodia Green Finance Taxonomy and Market was held on 3 May 2024, with the plan to finalize the taxonomy by the first quarter of 2025. However, besides being voluntary, many of these soft-law guidelines are too broad, vague, and lacking practical implementation tools.

Overall, Cambodia still lacks domestic law and soft-law instruments on ESG, which hinders the effective adoption, implementation, assessment, and monitoring of ESG performance and reporting.

4.2 Relevant Policies and Initiatives

There are increased policies and formal initiatives on ESG in Cambodia. The government has introduced national policies on sustainable development, e.g., the National Strategic Development Plan (NSDP),[31] and Policy on Green Growth 2013-2030, which promotes sustainable practices across economic sectors, including financial services.[32] Recently, green bonds have been introduced as a tool to promote sustainable development.[33]

The garment sector has led the way with the establishment of TAFTAC which has for years promoted ESG-related practices to members.[34] In the banking and financial sector, the Cambodia Sustainable Finance Initiative (CSFI) was introduced to enhance sustainable banking practices in the country. In collaboration with NBC and the MoE, the Association of Banks in Cambodia (ABC) launched the Cambodia Sustainable Finance Principles (CSFPs) in 2019. The CSFPs specify guidelines for environmental and socio-cultural risk assessment to be incorporated into local banking and financial policies.

There are also notable initiatives, collaborations, and capacity building by and between key relevant stakeholders, e.g., the abovementioned development of the Cambodia Green Finance Taxonomy and Market by the NBC and the IFC. To give another example, in July 2019, NBC, ABC, and MoE signed a tripartite memorandum of understanding (MoU) to promote sustainable and green finance and investments. Among others, the MoU aims to strengthen

[28] Cambodian Sustainable Finance Principles (2019).
[29] See, the National Policy and Green Growth 2013–2030, developed by the National Council for Sustainable Development (NCSD).
[30] https://www.nbc.gov.kh/english/news_and_events/news_info.php?id=770
[31] The government introduced the National Strategic Development Plan (NSDP) as an overarching policy framework outlining Cambodia's development goals towards sustainability. See also, Cambodian Sustainable Development Goals (CSDGs) Framework (2016-2030).
[32] Policy on Green Growth 2013-2030 aims to promote sustainable development practices across sectors, including financial services, encouraging investment in green projects and sustainable practices.
[33] https://gggi.org/cambodias-green-finance-takes-flight-three-local-companies-selected-for-the-sustainable-bond-accelerator-program-phase-ii/
[34] https://www.taftac-cambodia.org/

policy and technical collaboration, enhance capacity-building and awareness-raising, and promote information and data sharing between themselves and relevant stakeholders. To ensure environmental sustainability, the MoE has introduced several initiatives to encourage companies to adopt ESG principles in their operations, e.g., the Zero 2050 Emissions Campaign and planned installation of automatic monitoring equipment and data management systems in factories.[35] As noted, the Environmental Code mandates banks and financial institutions to conduct sustainability risk assessments on their financed projects.

Despite the aforementioned, some problems remain. Existing guidelines have not been widely adopted due to their non-binding, broad, and vague nature. For instance, the CSFPs' implementation remains very limited, being voluntary, broad, and lacking detailed implementation steps. Existing initiatives are also limited in their effectiveness. Some have been mainly focused on awareness-raising. Meanwhile, inter-ministerial cooperations still lack impactful measures and implementation guidelines.

4.3 ESG Implementation and Trend in Cambodia

ESG implementation in Cambodia remains limited and varied across sectors, with the garment and banking sectors leading the way. Overall, some companies and banks, especially subsidiaries of multinationals and foreign banks, have integrated ESG principles and aligned their practices with international frameworks and standards, e.g., GRI and, for banks, the UN Principles for Responsible Banking. Their ESG implementation can often be traced in the company's or bank's sustainability report and often seen under the CSR section (particularly the 'S' and 'E' aspects). At present, the 'S' and 'E' considerations are yet entirely in line with international standards and still focus on CSR or philanthropic activities.

With the rise of due diligence legislation in Europe, it is expected that Cambodian companies having a business relationship with covered companies will integrate more ESG considerations into their practices to avoid violating human rights and harming the environment. This requirement will raise more awareness and increase ESG adoption among Cambodian companies. The government and the private sector, e.g., investors and financiers, have increased interest in ESG and, more broadly, RBC. New laws, policies, and guidelines that promote ESG and RBC are expected, e.g., the revision of the Labour Law.

By adopting and implementing ESG, Cambodian companies can enhance their competitiveness and legal compliance, attract investors, and contribute to sustainable development. Essentially, implementing ESG is not only a moral responsibility but also serves the legal and business cases for companies to operate legally and remain competitive.

4.4 Challenges in Adopting and Implementing ESG

In Cambodia, most businesses, especially local companies and state authorities, remain unfamiliar with ESG principles, standards, and tools. Cambodia lacks comprehensive legal requirements and guidance on ESG performance, reporting, assessment, and rating. As discussed, a range of Cambodian laws and regulations, under the auspices of different ministries, regulate the different components of ESG. There is thus a lack of a cohesive ESG legal framework and guidelines. Moreover, these laws and regulations are not fully or evenly implemented and enforced. Their implementation varies across sectors and national and sub-national levels.

[35] See, e.g., https://ncsd.moe.gov.kh/node/12785

For companies, further to the lack of awareness, integrating and implementing ESG principles in their operations and business relationships is another challenge. Most companies may struggle to identify a suitable ESG framework or combination of frameworks and standards. This hinders the adoption and effective implementation. The rapidly evolving ESG regulatory environment is compounding the challenge, with new laws and regulations being introduced or amended. Another difficulty is meeting the expectations of various stakeholders, e.g., investors, financiers, and consumers. Furthermore, the required policies, actions, and implementation processes vary depending on the company's type, size, sector, and the extent and severity of their risks to the environment, human rights, communities, etc. Implementing ESG principles requires both financial and human resources; thus, it is costly and may be difficult to obtain internal buy-in within the company.

The lack of reliable data on ESG performance and reporting hinders learning, information, and experience sharing. The lack of a standardised reporting framework and assessment benchmarks also makes it difficult for companies to assess their impact and improve their practices. It also hinders effective monitoring of ESG performance by relevant state authorities, CSOs, and affected communities, imposing a risk that ESG can be used to greenwash irresponsible business conduct.

V. Roles and Challenges of CSOs in Enhancing and Monitoring ESG Adoption

In Cambodia's context, CSOs play important roles in enhancing the adoption and implementation of ESG and protecting the interests of affected communities and the environment. Some of their roles are highlighted below.

a. Raise awareness about ESG in society at large.

b. Study the company's operations, licensing terms, shareholders and investors, and ESG needs and values.

c. Address relevant key issues when developing and/or providing inputs or consultation on ESG and sustainable finance policies in the ESIA discussion and project management planning.

d. Increase community participation through community empowerment and community building, including specific and focused capacity-building activities.

e. Provide training, platforms, and/or materials for local and affected communities to record the actual and potential impacts and related information to better assess ESG impacts. The platforms should be user-friendly and accessible without technical jargon and should be available in Khmer.

f. Enhance collaboration among stakeholders to enhance the effective implementation and enforcement of ESG-related legal requirements, e.g., by creating a working group, a public forum, or an online platform for receiving complaints (real-time) and resolving disputes.

CSOs have faced some challenges in fulfilling their abovementioned roles. For instance, CSOs may not be familiar with existing international and regional instruments while new ones continue to emerge. The fast-evolving ESG regulatory landscape, especially at the global level, prevents them from keeping themselves up-to-date, while a few CSOs have joined ESG-related training or initiatives. CSOs often have limited business relationships and may be unable to directly engage with them to discuss the companies' ESG strategies and performance. Coupled with the lack of publicly accessible data regarding companies' information and legal compliance, it is hard for CSOs to enhance and monitor ESG adoption and implementation.

CSOs also have limited engagement with government agencies to influence their policies, though there is some progress in the banking and financial sectors. They also lack comprehensive advocacy strategies to influence policies and push the government to enforce existing laws and policies related to ESG. Their outreach (in terms of coverage, learning materials, and other relevant tools) to communities in general and (potentially) affected communities, in particular, is still very limited in terms of the development of related documents for them to learn as well as training and strategies to help communities meaningfully engage in advocacy on their own or capable enough to collect data or evidence for CSOs to implement effective advocacy at the national level.

VI. Roles and Challenges of Affected Communities in Enhancing and Monitoring ESG Implementation

Local communities also have important roles in enhancing and monitoring ESG implementation. That is, they can provide useful and timely feedback, through consultation, on the design and operation of the proposed investment project; raise ESG-related concerns or impacts to the company and relevant state authorities before the harm or conflict escalates; track and record the ongoing occurrences of ESG-related impacts; monitor the ESG implementation; and report to CSOs and/or accessible government channel for timely actions and remediation.

However, local communities face some significant challenges, which include the lack of awareness of or knowledge of the concepts, frameworks, and standards of ESG; limited access to ESG-related data or information; the lack of financial and human resources; the lack of inclusion for meaningful participation, consultation, and remediation; and threats of reprisal in their advocacy efforts. Moreover, excessive documents in languages other than Khmer also create another layer of difficulty. These limitations could significantly hinder affected communities from enhancing and monitoring ESG adoption and implementation without adequate support.

The lack of cooperation between the government and businesses' commitment to include affected communities and CSOs genuinely, legal threats, and harassment against affected communities have been other challenges that affected communities who wish to hold the businesses and the government accountable.

VII. Discussion and Conclusion

ESG has increasingly gained traction in Cambodia, particularly in the banking and financial sectors. The government, the private sector, and relevant stakeholders have promoted ESG adoption in business practices and decision-making. However, ESG, like RBC, remains a new and unfamiliar concept. Presently, there are no express policies, legislation, or guidelines on ESG frameworks and criteria. Various Cambodian laws address the different aspects of ESG to varying extents. They are sporadic, scattered, and have not been consolidated into a single document. The implementation and enforcement of related laws remain incomplete and uneven. For businesses, challenges include the continued focus on CSR; the lack of awareness, the lack of human and financial capacity in integrating, implementing, and reporting ESG; the lack of benchmarks for assessing ESG performance; obtaining commitment and support within the company; meeting the various stakeholder expectations; and keeping up with the fast-evolving ESG regulatory environment. Companies may not be able to follow recent domestic regulatory developments, e.g., the security and stock exchange sectors, and thus cannot adhere to ESG-related requirements or guidance. In such a case, it is crucial for the regulators to provide ongoing awareness and capacity-raising and monitor their practices rigorously.

ESG compliance is essential for companies to manage risks and remain competitive. It demands compliance with relevant legislation, guidelines, and principles for ensuring sustainability. Being ESG compliant involves more than being mindful of the environmental and social impacts and addressing internal governance issues within the company. It also entails showing concern for global problems, contributing to their solutions, and maintaining attractiveness in investment markets. Distinct considerations may exist between businesses that need foreign investors and international financial institutions and those local ones that do not. However, the local ones may still need domestic banks or financial institutions. Hence, domestic financial institutions should require their business clients to incorporate ESG into their operations, i.e., to follow the requirements in the Environmental Code. The rise of due diligence laws and increased expectations for more responsible business practices in the global supply chains will inevitably increase the uptake of ESG practices in Cambodia. In the current context, CSOs and affected communities find it challenging to ensure companies implement ESG in their business practices, especially given the unclear regulatory frameworks and limited data disclosure by companies and state authorities. The above challenges hamper ESG's usefulness as a framework to ensure responsible business conduct in the country and risk it being used for greenwashing.

VIII. Key Recommendations

In light of the discussions, some recommendations are outlined below to promote more effective ESG adoption and implementation in Cambodia.

For the State and Relevant Authorities

- Ensure rigorous legal enforcement at all levels, e.g., ensuring EIA, IEIA, and ESIA are conducted with meaningful prior consultation with affected peoples; making EIA, IEIA, and ESIA reports publicly accessible in the Khmer language; and ensuring effective follow-ups of their implementation throughout the business or project life cycle as required under the applicable laws. The government should ensure the meaningful participation of affected people and key stakeholders. The government should ensure that the recommendations in the ESIA report come up with concrete plans and schedules to avoid any strategic delays or omissions by the companies. Projects should proceed only after impacts are identified and sufficiently remediated, as mitigating plans and actions are formulated.
- Tailor the Cambodia Green Finance Taxonomy and Market with a detailed framework, steps, processes, incentives, and penalties for non-compliance to enable effective implementation in practice. Develop clear and detailed ESG policies, regulations, and implementation guidelines for respective sectors or industries, with specific ESG standards (documents) for businesses to adhere to. For example, the CSFPs may be used as an example but further incorporate the ‘G’ aspect that goes beyond corporate governance to cover issues regarding corruption and accountability. ESG guidance for business is required as the first step. It should not be very complicated to enable capacity-building and awareness-raising, e.g., by introducing short-, medium-, and long-term requirements or cumulative over the years to add more items to the requirement as a way of progressive learning. Consider introducing requirements for businesses, especially those operating in high-risk sectors or with medium to severe

risks, to disclose their ESG performance reports in accessible languages, i.e., Khmer and English.

- Provide various incentives for sound ESG performance, including financial support, tax incentives, ranking, etc.
- Enhance institutional transparency and accountability of relevant state authorities to set an example of good practice for the private sector, including full disclosure of existing EIA reports. Update company or project information and make it publicly available via a set of communication channels to ensure that relevant stakeholders are informed and ready to engage from the outset.
- Continue to enhance collaborations and hold regular dialogues between relevant ministries, NBC, ABC, CMA, banks and financial institutions, the private sector, business or industry associations, and CSOs, e.g., the Annual Dialogue between the Financial Sector and CSOs. The tripartite MoU is another good example, especially with a clear action plan, implementation processes, guidelines, and supporting initiatives. The government should ensure that recommendations are prioritised in a feasible manner and order of urgency. Cooperate with CSOs for implementation, especially at the sub-national levels.
- Ensure the meaningful participation of relevant stakeholders and affected people. For instance, ensure that public consultations are inclusive, accessible, and open to feedback and suggestions. The government should dialogue with affected communities, particularly those introduced by CSOs, who have concrete information about the impacts and work with them to understand the real issues and address practical bottlenecks.
- Create and/or enhance the effectiveness of complaint resolution mechanisms and promote the establishment of project-level or community-run dispute resolution mechanisms. For example, enable accessible, user-friendly, and effective grievance mechanisms to hear concerns or complaints about non-compliance by state authorities, companies, or financial institutions. The government should also create official but not bureaucratic working groups that communicate regularly with relevant stakeholders as a platform for sharing and communicating on time and building trust.
- Introduce joint business plans with local communities through government and donor funding on community empowerment, green credit, nature-based solutions, REDD+, climate finance, the blue economy, etc. Introduce benefit-sharing schemes with relevant stakeholders while contributing to upholding ESG compliance.
- Allocate sufficient funds to enhance effective ESG implementation and enforcement.
- Raise public awareness about ESG to drive more sustainable business practices. Create a public database, which the CDC and relevant ministries may run, to disclose detailed information about companies and their projects, e.g., corporate profiles, licenses, annual and/or sustainability reports, financial statements, project information (e.g., ELC, EIA/IEIA/ESIA reports, etc.) in accessible language. Identify champions and credit social recognition to raise awareness and share with their community.
- Establish a platform or programme to provide training and capacity development on ESG performance and reporting for state authorities, the private sector, CSOs, and communities. Enhance the capacity-building of relevant state authorities, especially those at the commune and village levels, and provide them with sufficient authority to

address the issues that arise or provide specific referral information to those with authority.

For Businesses

- Comply with applicable laws and regulations while ensuring respect for the environment and human rights in line with international standards.
- Observe international principles and standards on ESG and RBC, such as the UN Guiding Principles on Business and Human Rights (UNGPs), the UN Global Compact, the OECD Guidelines for Multinational Enterprises (OECD Guidelines), and industry-specific guiding principles, to guide overall business operations and decision-making.
- Develop a clear policy, implementation steps and processes, and tools on ESG performance, assessment, and reporting according to their operations, which may refer to international performance and reporting standards for guidance. This means:
    - set ESG goals for what to achieve and then choose the proper ESG framework and standards to develop concrete action plans, measures, and processes to achieve the goals.
    - develop ESG metrics for data collection and measurement.
    - designate a unit or staff to develop capacity with long-term sustainability. ESG result-based reporting capacity is essential to build momentum and make the business see the impact. It would be encouraging to see how they can present this. This must start as early as possible to embrace the opportunity and express adaptability to changes.
    - put in place ongoing, robust, and effective capacity building across the different levels and departments of the company.
- Disseminate their corporate and business information (e.g., business type, ownership, structure, business relationships, etc) as widely as possible.
- Assess actual and potential risks related to the environment, human rights, communities, and governance arising from own projects or business activities and business relationships with others. Prevent, mitigate, and redress the risks. Meaningfully engage with relevant state authorities, CSOs, and affected communities and address their concerns promptly and effectively. Establish or participate in an effective redress mechanism and remedy harms that arise.
- Ensure regular public disclosures of their ESG performance.
- Continually engage with relevant stakeholders to address challenges in adopting and implementing ESG and to improve their ESG performance. Companies should raise their challenges in ESG compliance with the government. This will better push the government to work with CSOs who are knowledgeable on ESG to support businesses and the government.

For Financiers

- Incorporate ESG considerations and strengthen ESG implementation across bank and financial institutions' operations and activities.

- Ensure responsible lending practices and client protection.
- Provide financial products specifically designed for environmentally friendly projects, such as renewable energy, sustainable agriculture, and infrastructure. Added information about their existing practices would be the business case in itself.
- Provide funds or offer lower interests for green investments.
- Conduct sustainability (e.g., environmental and social risks) assessments when providing loans as required under the Environmental Code.
- Share expertise and resources with businesses on how to meet international ESG standards and frameworks.
- Offer consulting services to help businesses develop and implement sustainable practices.
- Collaborate with relevant state authorities, the private sector, and CSOs to promote ESG initiatives and awareness and support ESG-related capacity-building.
- Require clients to comply with local and international ESG regulations.
- Encourage clients to disclose their ESG performance and impacts.
- Developing tools to help businesses track and report their ESG metrics effectively.

For CSOs

- Raise awareness and knowledge on ESG, engage meaningfully with stakeholders, and provide expertise and other support when needed, e.g., enhancing capacity on ESG-related laws and policies, supporting the development of operational guidelines and guidance, and advising on implementation challenges. For instance, in cooperation with the state, the private sector, financial institutions, and peer CSOs, produce and disseminate a concise booklet to provide an overall picture of ESG and enable clearer understanding. Provide ongoing practical and impactful training on ESG. Create a continuous learning platform, something like Cambodia's ESG Learning Hub. Experienced, relevant, and potential CSOs like FFC should be ready, identify a pool of experts, and strategize to align with the national, regional, and global development of ESG.
- Enhance meaningful cooperation and build trust with the state and businesses (regarding transparency) in a more meaningful rather than ceremonial way to help address ESG-related challenges. An effort should be made to address actual and perceived barriers to trust building between the state or the company businesses and CSOs.
- Align or justify ESG compliance as contributing factors to the country's development strategy, including Pentagonal Strategies and ESG-related laws. Advocate the government and/or the business to address the actual challenges and bottlenecks for the bureaucratic process and the corruption issues. Help the government monitor and evaluate ESG performance and reporting and provide constructive feedback and recommendations to improve ESG implementation.
- Raise awareness and provide a platform for local communities to raise ESG-related concerns in relation to investment activities or projects.

- Support community representatives and build their knowledge and capacity on ESG and how to report concerns to the relevant stakeholders. That is, support them in identifying and accurately recording actual and potential ESG-related concerns, the responsible actors, and remedies for harm that occurs.
- Record evidence-based concerns from local communities and propose appropriate solutions and/or policy recommendations to the state, the businesses involved and other relevant stakeholders. Importantly, ensure early and timely communication about ESG-related concerns to the state and the relevant stakeholders before the issues escalate. Help the state and the relevant stakeholders engage meaningfully with impacted communities to address the concerns.
- Support impacted communities in seeking remedies for harm that occurs. Help them identify the appropriate judicial or non-judicial complaint mechanisms for lodging complaints and follow up their cases. Where required, provide legal aid to impacted communities to enhance their understanding of the applicable laws and their rights.
- Engage or cooperate with academic institutions, especially with the most relevant majors such as law, economics, business management, etc., to research ways to strengthen ESG policies and their implementation in the country. For example, study the links to emerging schemes that would benefit the government and its policy commitment at the national scale and how they would jeopardise the government's effort if not adequately addressed.

For Impacted Communities

- Enhance knowledge and capacity on ESG legal frameworks and impacts, especially the community representatives, to be strong advocates for their rights.
- Learn their rights and exercise them through a rights-based approach. For instance, know their environmental rights to enhance more effective engagement, documentation, and advocacy on ESG-related matters.
- Build strong solidarity among the impacted community members, e.g., by linking their communities to the network to build strong solidarity.
- Properly identify, record, and raise ESG-related impacts (especially environmental and social impacts), implementation, and opportunities, e.g., economic benefits and environmental conservation value, and communicate them to the relevant stakeholders, including relevant authorities, the company, and CSOs. Record the existing natural resources in their communities and link with academics to convert the resources available to global credit schemes, including green credit, REDD+, etc.
- Discuss the impacts with relevant stakeholders. Prepare minutes and detailed reports and submit them to relevant stakeholders. Participants should be well-prepared when joining any forums, organise themselves with concrete evidence and suggestions, and record well for follow-up.
- Seek interventions, file petitions, and/or file complaints with relevant authorities through available complaint mechanisms (both courts and non-judicial complaint mechanisms). Seek support from local authorities and trusted CSOs regarding their rights and redress.

Other Consideration:

- Should financial institutions already under some ESG compliance instruments provide loans and require their clients to observe ESG compliance in some selected sectors? Should all FIs be on the same page regarding this?

About CCC

Cooperation Committee for Cambodia (CCC) is a leading membership based organization for NGOs in Cambodia with around 200 members working on various development sectors. CCC has been playing the unique roles as the Coordinator, Monitor, and Advocate to realize the enabling environment for CSOs and response to the development challenges in Cambodia.

Vision

Sustainable and democratic development for Cambodia.

Mission

As a membership based organization, CCC works in inclusive partnership for good governance, enabling environment and sustainablity of civil society organizations in Cambodia.

Goal

Strengthen civil society organizations (CSOs) by providing them with an improved enabling environment and democratic space.

Values

- Integrity
- Responsiveness
- Quality
- Cooperation
- Inclusiveness

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