

The background of the cover is a stylized map of Cambodia with various place names in French and Khmer. Overlaid on the map are three stylized human figures. In the center, a woman with long brown hair, wearing a light-colored shirt and a red tie, holds a large, flat, brown object. Behind her, a person in a green shirt and red skirt is bent over, reaching towards the ground. In the foreground, the back of a person's head and shoulders are visible, wearing a light-colored jacket over a red top. The overall style is graphic and illustrative.

Deconcentration and Decentralization Reforms in Cambodia

Recommendations for an Institutional Framework

Tariq H. Niazi

Asian Development Bank



Deconcentration and Decentralization Reforms in Cambodia

Recommendations for an Institutional Framework

Tariq H. Niazi

Asian Development Bank

© 2011 Asian Development Bank

All rights reserved. Published 2011.
Printed in the Philippines.

ISBN 978-92-9092-334-3
Publication Stock No. BKK113027

Cataloging-In-Publication Data

Niazi, T. H.

Deconcentration and decentralization reforms in Cambodia: Recommendations for an institutional framework.
Mandaluyong City, Philippines: Asian Development Bank, 2011.

1. Deconcentration. 2. Decentralization. 3. Cambodia. I. Asian Development Bank.

The views expressed in this publication are those of the author and do not necessarily reflect the views and policies of the Asian Development Bank (ADB) or its Board of Governors or the governments they represent.

ADB does not guarantee the accuracy of the data included in this publication and accepts no responsibility for any consequence of their use.

By making any designation of or reference to a particular territory or geographic area, or by using the term "country" in this document, ADB does not intend to make any judgments as to the legal or other status of any territory or area.


ADB encourages printing or copying information exclusively for personal and noncommercial use with proper acknowledgment of ADB. Users are restricted from reselling, redistributing, or creating derivative works for commercial purposes without the express, written consent of ADB.

Note:

In this publication, "\$" refers to US dollars.

Asian Development Bank
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
Tel +63 2 632 4444
Fax +63 2 636 2444
www.adb.org

For orders, please contact:
Department of External Relations
Fax +63 2 636 2648
adbpub@adb.org

 Printed on recycled paper.

Contents

List of Tables, Figures, and Boxes	v
Abbreviations	vi
Foreword	vii
Executive Summary	ix
1 Introduction	1
1.1 Purpose and Background	1
1.2 Methodology and Outline of Report	5
2 Overview of the Emerging Legal and Regulatory Framework	6
2.1 Introduction	6
2.2 The Constitution (as Amended 1999)	6
2.3 Law on Provincial and Municipal Budgets and Asset Management Regime (1998)	7
2.4 Law on Commune and Sangkat Administrative Management (2001)	8
2.5 Organic Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans (2008)	9
2.6 Law on Public Finance Systems (2008)	12
2.7 Draft Law on Financial Regime and State Property Management for Subnational Administrations	14
2.8 Law on Audit (2000)	16
2.9 Law on Taxation (1997 as Amended)	17
2.10 Overview and Assessment	17
3 The Institutional Setting for Deconcentration and Decentralization Reforms	20
3.1 Introduction	20
3.2 Ministry of Interior	20
3.3 National Committee for Democratic Development of Subnational Administrations	21
3.4 Ministry of Economy and Finance	23
3.5 National Audit Authority	26
3.6 Selected Line Ministries	26
3.7 Subnational Administration	28
3.8 Development Partner Activities	30

3.9	Related Reform Programs	34
3.10	Institutional Assessment	35
4	Intergovernmental Financing and Recent Fiscal Trends	38
4.1	Introduction	38
4.2	Financial Arrangements of Communes and Sangkats	38
4.3	Financial Arrangements of Provinces and Municipalities	43
4.4	Deconcentrated Expenditures of Central Ministries	47
4.5	Assessment – Likely Directions for Reform	50
5	Policy and Planning Framework for Implementing Reforms	53
5.1	2005 Strategic Framework for Decentralization and Deconcentration Reforms	53
5.2	Ten-Year National Program	56
6	Critical Issues for Reform	66
6.1	Introduction	66
6.2	Need for a Clearer Policy Framework	66
6.2	Systems of Public Administration Are Largely Dysfunctional	67
6.4	Better Coordination of Government and Development Partner Efforts	68
6.5	Strengthening the Legal and Regulatory Framework	69
6.6	Clarifying Assignment of Expenditure Functions	70
6.7	Finalizing Assignment of Tax and Nontax Revenues	72
6.8	Designing a System of Intergovernmental Transfers	73
6.9	Designing the Public Financial Management System at Subnational Levels	74
6.10	Stronger Governance and Audit Systems	75
6.11	Building Capacity	76
7	Strategic Issues for ADB	77
7.1	Introduction	77
7.2	ADB's Indicative Assistance Pipeline for Cambodia	77
7.3	Case Reviews	83
7.4	Issues for ADB to Consider	83
8	Medium- to Longer-Term Programming Considerations	96
8.1	Direct Support for Reform	96
8.2	Indirect (Sector-Focused) Support	98
Appendices		
1	Law on Provincial and Municipal Budgets and Asset Management Regime (1998)	101
2	Law on Commune and Sangkat Administrative Management (2001)	104
3	Organic Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans (2008)	109
4	(Draft) Law on Financial Regime and State Property Management for Subnational Administrations	122
5	Schedule of Persons Met	133
References		139

Tables, Figures, and Boxes

Tables

4.1	Commune and Sangkat Aggregated Fiscal Data, 2002–2007	39
4.2	Total Provincial Government Revenues, 2002–2008	44
4.3	Expenditures of Provinces and Municipalities, 2002–2008	46
4.4	Civil Service Staff at Central and Decentralized Locations, 2007	48
4.5	Vertical Allocation of Resources, Government Budget,	49
4.6	Horizontal Allocation of Resources, Government Budget, 2007	51
5.1	Summary of Program Funding Needs, 2010–2012	63
7.1	ADB Indicative Assistance Coded by Functional Characteristics	78

Figures

4.1	Breakdown of Commune Revenues, 2002–2007	41
4.2	Breakdown of Commune Expenditure, 2002–2007	42
4.3	Components of Provincial and Municipal Revenue, 1999–2008	45
4.4	Components of Provincial and Municipal Expenditure, 2002–2008	47

Boxes

3.1	(Draft) Principles for Harmonizing Future Development Partner Support	32
7.1	ADB Commune Council Development Project, Phases 1 and 2	84
7.2	ADB Tonle Sap Sustainable Livelihoods Project	86
7.3	Tonle Sap Poverty Reduction and Smallholder Development Project	88
7.4	Public Financial Management for Rural Development Program, Grant for Subprogram 1 and Grant Assistance	90
7.5	Agriculture Sector Development Program	92

Abbreviations

ADB	– Asian Development Bank
CPP	– Cambodian People’s Party
Danida	– Danish International Development Assistance
DPAF	– Development Partners Assistance Framework
FMIS	– financial management information system
MAFF	– Ministry of Agriculture, Forestry and Fisheries
MEF	– Ministry of Economy and Finance
MOI	– Ministry of Interior
MOWRAM	– Ministry of Water Resources and Meteorology
MRD	– Ministry of Rural Development
NAA	– National Audit Authority
NCDD	– National Committee for Democratic Development
PFM	– public financial management
PFMRP	– Public Financial Management Reform Program
PMU	– program management unit
PSDD	– Project to Support Democratic Development through Decentralization and Deconcentration
RILGP	– Rural Infrastructure and Local Government Project
TA	– technical assistance
UNCDF	– United Nations Capital Development Fund
UNDP	– United Nations Development Programme

Foreword

The Asian Development Bank (ADB) recognizes the importance of sound decentralization policies as an important part of the broader policy framework needed for successful economic development and reduced poverty levels. In this regard, ADB is developing a very close association with Cambodia in support of its deconcentration and decentralization reform program. I am pleased to present this economic and sector work as a starting point of the planned long-term engagement. We are confident that this work will contribute to the development of an institutional framework for deconcentration and decentralization reforms in Cambodia.

The current study focuses on the complex and challenging issues of establishing an institutional and regulatory framework, with associated provision for adequate financing and capacity building that is critical for the success of such a framework. Such policy and technical considerations have gained prominence after the passage of the 2008 Organic Law that promises steady devolution of functions and assignments to various levels of subnational administration. It is never easy to determine precisely the functions, financing arrangements, and structures appropriate to different levels of government, and the best available for supporting economic development and service delivery. In this sense, it is encouraging that the Government of Cambodia is taking a gradual approach to setting up the institutional framework, including policies and procedures for the new arrangements.

The study undertakes important work in assessing the emerging legal and regulatory framework and in identifying gaps and inconsistencies. The institutional setting and the large cast of complex, and sometimes competing, institutions and their incentives have been captured. The study suggests how to work with different incentive structures so that a joint and coherent framework could evolve over time. The intergovernmental financing and recent fiscal trends have been observed to inform the future establishment of the intergovernmental transfer system.

The study identifies 10 areas to be addressed in the broader deconcentration and decentralization reforms that are critical for its success.

These are (i) development of a clear framework for policy reforms; (ii) improved effectiveness of the public administration and civil service management system; (iii) better coordination of government and development partner efforts, especially through the National Committee on Deconcentration and Decentralization; (iv) addressing of gaps and inconsistencies in the legal and regulatory framework; (v) clarification of assignment of functions between tiers of government; (vi) formulation of assignment of tax and nontax revenues; (vii) design of a system of intergovernmental financing, particularly conditional and nonconditional grants; (viii) design of public financial management systems at subnational levels; (ix) development of a stronger governance and audit and supervision systems; and (x) development of both central government and subnational administration capacities to implement reforms.

While the deconcentration and decentralization reforms are timely, the transition to successful devolution is rarely an easy one. The study can help with the devolution process, as it sets out a gradual and orderly process for reform in complex areas of policies, institutions, systems, and human capacities. At the same time, it focuses on the emerging strategic issues for ADB and the policy implications for future ADB programs and projects in the wake of Cambodia's deconcentration and decentralization reforms. Currently most of ADB's support is provided through policy advisory and capacity building technical assistance grants, which are expected to lead to deeper policy and programmatic support in the coming years.

The paper was completed under the oversight and overall direction of Jaseem Ahmed, director, Financial Sector, Public Management, and Trade Division of the Southeast Asia Department; and Putu Kamayana, country director, Cambodia Resident Mission. The work was conducted by a team led by Tariq H. Niazi, senior public sector management specialist, and comprised James Lamont, staff consultant; and Chamroen Ouch, program officer, Cambodia Resident Mission. The paper was peer reviewed by Sandra Nicoll, director, Public Management, Governance, and Participation Division. Kimchoeun Pak acted as an external peer reviewer. The administrative support throughout was provided by Christy Planco, administrative assistant.

We are very grateful for the quality support provided by the Ministry of Economy and Finance, Ministry of Interior, National Committee on Deconcentration and Decentralization, and other government agencies and individuals in the completion of this study.

Kunio Senga
Director General
Southeast Asia Department
Asian Development Bank

Executive Summary

The goal of this study is to identify strategic and programming issues arising from the emerging reforms in Cambodia that will lead to deconcentration and decentralization of power. These issues are of relevance to the Asian Development Bank (ADB) as it designs its projects and programs; conversely, project design will be shaped by the reforms.

Background and Context

In Cambodia's history many approaches have been taken in the administration of its territories; the country's history is punctuated with periods which saw strong territorial leaders who sought independence for their regions. The movement to a unified state with a strong centrally controlled democratic government is relatively new. The nascent movement to democracy and citizen participation in the subnational administrations is an even newer feature, and a mere speck in Cambodia's long history.

Common themes that run through Cambodia's history with respect to administration of its territories are (i) recurring conflicts with strong emphasis on the security of particular regions; (ii) the importance of political power whether through monarchic rule, French colonization and Vietnamese occupation, or more recently through political parties closely linked to bureaucratic control; (iii) wide acceptance by the citizenry of the directives of political and bureaucratic elites with, until recently, no history of citizen participation; (iv) a strong tendency toward conservatism and patronage; (v) limited experience with accountability in management or the requirements of modern public financial management systems; (vi) strong, vertically deconcentrated approaches to territorial management through centrally appointed governors and officials whose loyalty is to the central leadership; and (vii) a heavy reliance on foreign funding of a national budget which is dualistic in nature and provides for negligible fiscal autonomy to the regions.

While the first signs of a shift toward more democratic, decentralized autonomy under subnational administrations are under way, the realities of history need to be understood, particularly by those who expect that

Western-style democratic subnational administrations will be installed quickly and easily. In many respects, deconcentration and decentralization reforms are being pursued because the political leadership has recognized that the existing centralized approach to administration has become largely dysfunctional. For development partners such as ADB, the choices are relatively straightforward—retain the dysfunctional centralized form of administration or, alternatively, support new approaches that over time provide the potential for delivering both local democracy and enhanced, more broadly based economic development.

Emerging Legal and Regulatory Framework

Important aspects of deconcentration and decentralization reforms have been codified, but significant gaps and inconsistencies remain. The revised 1999 Constitution and the 2008 Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans (Organic Law) on subnational administrations provide the core foundation for the reforms. The Organic Law is modern in nature, though it has unusual features, including indirect elections; provision for appointed governors and boards of governors; and quite limited definitions of roles, authorities, and functions of different tiers of administration. The 2001 Law on Commune and Sangkat Administrative Management is also of fundamental importance as it ushers in the commencement of local-level democracy, albeit with the provision of limited authorities, functions, or funds.

There are important inconsistencies between the 2008 Organic Law and the 2008 Law on Public Finance Systems. The latter takes a more centralist approach to the preparation and approval of subnational administration budgets and also to public financial management. These inconsistencies need to be addressed, and ongoing preparation of a subnational administration finance law provides one opportunity to do so. Other important elements of the legal framework are a 1998 law on management of the provinces and municipalities which provides the vertical deconcentrated framework still largely in use, the Law on Audit, and the Law on Taxation. While gaps and inconsistencies remain in our assessment, there are reasonable prospects that a fairly coherent and modern legal and regulatory framework for reforms will emerge over the next few years.

Institutional Setting for Deconcentration and Decentralization Reform

There are many key stakeholders in the reform process with a range of sometimes conflicting interests. Furthermore, underlying governance

arrangements and institutional capacities for reform are weak in many areas. The Ministry of Interior (MOI) and National Committee for Democratic Development (NCDD) are the key advocates of reform. However, issues abound, including the political roles assigned to the MOI and concerns about the capacity of the NCDD to perform the significant policy development and coordination roles assigned to it. Many still perceive that the NCDD is too close to the MOI. The Ministry of Economy and Finance (MEF), a critical player in the successful achievement of reform, remains a cautious player in supporting the effort.

The National Audit Authority (NAA) and the National Treasury have critical roles to play in ensuring subnational administration funds are managed effectively and with integrity. However, both entities face challenges, particularly the NAA, which has major capacity constraints on its ability to audit the subnational administrations. Many line ministries are critical players in the reform effort and remain reluctant to identify functions and resources to be decentralized; eventually they may need to be forced by the NCDD and MEF into new functional and funding arrangements. The NCDD is responsible for coordinating reform and closely integrating the initiatives, especially in public administration and public financial management. A significant number of development partners are involved in supporting the reforms, and they can play a useful role in finalizing policies and providing financing to subnational administrations. Rather than applying largely parallel efforts, development partners can achieve this goal by harmonizing the use of government systems and preferred funding models.

Data and Analysis on Existing Arrangements for Financing Subnational Administrations

The communes and *sangkats* (villages) rely heavily on transfers of funds from the central government and development partners. Speedy utilization of funds has been a challenge for many commune councils, resulting in a significant build up of reserve funds. Almost 60% of expenditures are utilized for local small-scale development projects, while the remaining 40% is spent on administration and councilors' allowances. Some elements of the commune funding formula support horizontal equity, while others work against it. The provinces and municipalities have modest powers to levy taxes. Though overall tax yields are poor, provinces and municipalities have demonstrated solid growth in recent years. About 75% of provincial and municipal funding is sourced from such taxes and revenues, while the rest comes through transfers from the central government. However, tax bases vary widely between locations and many rural provinces collect significantly less than the average.

Provincial expenditures are used mainly to meet basic recurrent costs of administration. Hence, negligible amounts are available for development expenditures. However, improved revenues in recent years have resulted in some modest improvements in development outlays. In most locations district administrations are starved of operating and development funding and have little scope to deliver services. The old Seila (a funds mobilization and coordination framework to support the deconcentration and decentralization reform agenda was developed by some development partners and later succeeded by other projects) structures still persist in most provinces through the provincial rural development committee and its executive committee. These structures are used by some development partners, most notably the Department for International Development of the United Kingdom (DFID), Swedish International Development Cooperation Agency (Sida), and the United Nations Development Programme (UNDP). Funds available are generally small and declining, and are typically managed off-budget through parallel systems with high transactions costs.

As a result of low funding, significant vertical inequity exists in the provinces and districts; the data also suggest there is major horizontal inequity in funding between provinces and districts. Vertically deconcentrated funding of line ministries is focused almost entirely on wages and operations. While significant numbers of central government staff have been physically deployed to the regions, funding has generally not followed. In particular, development funding, which is largely financed by development partners, is strongly controlled by the central ministries and agencies—an important and significant element of patronage.

The Policy and Planning Framework for Reform

Two documents provide the most relevant information: the 2005 Strategic Framework document, and the latest draft of the 10-year National Program. The 2005 framework is the basic document that guided development of the 2008 Organic Law. However, many of the proposed actions in the strategy are now some years behind schedule. The National Program was approved in March 2010 and discussed by the Council of Ministers. The National Program provides a reasonable strategic framework, however aspects of the unified administration approach are not well enunciated and the roles, authorities, and functions of different tiers of government remain very unclear. A programming approach to implementation is set out in the National Program, with five program areas establishing lists of objectives, outputs, etc., but the actions and strategies needed to achieve the desired results remain vague.

There is widespread concern that the program management structures and resourcing proposed in the National Program (mainly for the NCDD) will not be strong enough to deliver such a challenging and complex program; these concerns flow through to the financial estimates. The roles, authorities, and funding needs of different tiers of government are poorly defined, as are the strategies and actions to be pursued. Considerable time and effort has been spent to develop a document that preserves the interest of all stakeholders. However, the right balance must be struck between the interests of the stakeholders and actual reform implementation. Hence, we recommend a more focused effort to finalize the document in a timely manner.

Ten Critical Steps for Success

A number of steps seem critical for successful implementation of the deconcentration and decentralization reforms.

- (i) develop a clear reform policy framework;
- (ii) develop ways to address the dysfunctional system of public administration and civil service;
- (iii) obtain better coordination between the Government of Cambodia and development partners, especially through the NCDD;
- (iv) address gaps and inconsistencies in the legal and regulatory framework;
- (v) clarify uncertainties in the assignment of functions between tiers of government;
- (vi) formulate the assignment of tax and nontax revenues;
- (vii) design the system on intergovernmental financing, particularly systems of conditional and nonconditional grants;
- (viii) design public financial management systems at subnational levels;
- (ix) develop stronger governance and audit systems; and
- (x) develop capacities to implement the reforms.

Important Issues for ADB to Consider

These issues were developed in part by reviewing five recent programs and projects, mainly in the agriculture, rural development, and water sectors. Excluding international and regional components, an analysis of the ADB portfolio for 2009–2012 reveals that 23% of items to be funded are uniquely central government functions by nature, and 77% are likely to involve shared central government and subnational administration responsibilities.

Of the latter, considerable elements of service delivery responsibilities will be transferred to subnational administrations. The large quantum of ADB support is a compelling reason for ADB to be closely involved in the design and implementation of reforms. Since ADB support in the future will be under the jurisdiction of subnational administrations, it creates a need for ADB to keep reviewing the suitability of sector funding models.

It is important to rationalize parallel approaches to planning, budgeting, disbursements, accounting, reporting, and external audit that are currently observed in ADB projects in the country. It is equally important to rationalize the broader policy of utilizing government systems and improving the effectiveness of aid support.

Important considerations for ADB include assessment of the following questions:

- (i) Should direct support of reforms including support to advancing the 10 critical steps outlined above continue?
- (ii) Do line ministries of sector interest to ADB warrant support in developing plans and budgets for the devolution of functions to the subnational administrations?
- (iii) Do the approaches to the funding of wage subsidies and more generally to addressing dysfunctional elements of public administration and civil service at subnational administration levels need to be developed?
- (iv) Should large central government-based project or program management units be wound back?
- (v) Should future sector support needs focus on strengthening subnational administration institutions rather than persisting with parallel approaches?
- (vi) Should parallel grant fund schemes that have been developed by ADB projects to fund the communes be phased out?
- (vii) What are the most effective ways to deal with increasing tensions between ADB geographic targeting and the core objectives of intergovernmental financing for horizontal equity between subnational administrations?

Medium- to Longer-Term Considerations

Enhanced direct support for deconcentration and decentralization reforms will remain appropriate. In the next few years, the planned package of advisory and project preparatory technical assistance and support for rural infrastructure development, though modest, is appropriate. Reform-linked project support should assist with institution building in subnational administrations. It should be designed to use emerging government systems

of intergovernmental financing particularly targeting the district level. A number of options for initial reform-linked financing support range from highly conditional and closely monitored policies to gradually increasing amounts of discretion provided to the subnational administrations. In the longer term, subnational administrations will continue to have major financing shortfalls and longer-term ADB support for new transfer mechanisms should be seriously considered.

More indirect support through sector programs will also be an option available to ADB, though the entrenched project culture within ADB sectors may impede progress. Currently about 25% of the forward portfolio is uniquely the responsibility of the central government, and for these sectors little change is needed to existing models. However, for the significant portion of the future portfolio involving shared responsibilities of the central government and subnational administrations (around 75%), there will be a need for new financing approaches. This will involve opening and using new channels for onlending and on-granting of development partner funds between the center and different tiers of subnational administrations.

Design of the new structures will be important and worthy of ADB technical support. As a result of the new structures, the MEF and other line ministries will be funded directly without central control, which may prove to be a political challenge. A mix of leverage applied by development partners and incentives could aid the process. Within the new on-granting and onlending systems, development partners will have a range of choices, from very tightly conditioned and targeted project support (e.g., to a specific sector in a given geographic location) to support under more general sector conditions and financing arrangements. In some cases, special arrangements will be needed for activities that span a number of provinces, such as in extended river basins.

1 Introduction

1.1 Purpose and Background

The purpose of this study is to recommend an institutional framework in which reforms leading to devolution of powers from central control to the provinces and subnational entities can take place. For such recommendations to be vibrant and relevant, an analytical review of the current situation and a study of the historic evolution of power are essential.

The institutional framework for reforms has strategic implications for the country operations of the Asian Development Bank (ADB). In the short term, the design of technical assistance (TA) and financing support for deconcentration and decentralization reforms during 2009–2012 will impact ADB’s strategic interests. Conversely, and in the longer term, the emerging reforms in Cambodia are likely to impact the design of country support given by ADB, particularly in high-priority areas and sectors.

Debates over the nature and system of territorial government best suited for Cambodia have a very long history. Intense discussion over the sharing of power dates back to ancient times where, for significant periods, the country was divided into distinct regions under different leaders with limited concepts of a national Cambodia. In recent history, discussion of political and economic management has often sought the best way for the center to manage the far-flung regions, and, particularly, how to collect tribute from them. This has led to a variety of territorial management policies, including the strong rise of district administration during the French colonial period and early periods of independence, radical decentralization reform under the Khmer Rouge, and the growth of powerful provincial governors during the Vietnamese-controlled communist era. Interest in decentralizing the administrative machinery in pursuit of enhanced economic development is relatively recent and has never been free from a desire for central and security control or the need to maintain a keen focus on the ruling party’s political interests. Very recent history has seen an initial focus on central control of provinces and districts for political and security purposes.

In the last 70 years, the history of Cambodia's policies regarding the management of its territories can be divided into the following phases:¹

- (i) Under European colonization there was some interest after World War II to establish national democracy through election of a National Assembly but with no corresponding moves in the territories which were managed through appointed district governors.
- (ii) Following the first post-independence national elections in 1955, the National Assembly was led for 15 years by Prince Sihanouk's Sangkum Party. This period is commonly referred to as a "single person state," with autocratic rule of the territories through strong centrally appointed governors and tax collectors.
- (iii) The period 1975–1979 witnessed the gradual emergence of the single party—Cambodian People's Party (CPP)—communist state, followed by the Khmer Rouge and Pol Pot misadventure. This was a time of great chaos when, despite the ostensible aim of addressing exploitation of the largely rural and poor citizenry, no improvement in living conditions occurred and local governments acquired no powers.
- (iv) The period of Vietnamese single-party control from 1979 until the United Nations organized elections in 1993 continued the long history of centralized control and neglected the development of decentralized democratic institutions. However, the period saw the emergence of enhanced powers for strong, centrally controlled provincial governors.
- (v) Hun Sen first became prime minister in 1985 and, apart from the brief United Nations period of 1991–1993 (following which Prince Sihanouk returned), has remained the country's prime minister.

From 1993, Hun Sen has been in the forefront of the new Cambodian People's Party. During 1993–2008 the CPP was forced into coalitions with other parties, mainly the Funcinpec Party, though the CPP retained strong executive control over the bureaucracy, a feature that has been further strengthened following the decisive 2008 elections. Since 1993 there have been some attempts to decentralize powers to the territories and reduce the concentration of power at the center. The mid-1990s witnessed a movement to vertical deconcentration, which was followed by more democratic autonomy of the *sangkats* (communes) in 2001. In 2008, the Organic Law was passed; this law has the potential to usher in a period of bolder reforms, though strong central leadership which is intolerant of political dissent is likely to continue.

The Organic Law (discussed in detail in Appendix 3) requires the establishment of new subnational structures and systems; it also requires that

¹ This historical outline relies heavily on David Chandler (2008).

functions and resources be reassigned between national and subnational levels. The Organic Law created a framework to (i) establish three levels of subnational administration (provinces, municipalities or *khans* (districts), and sangkats) each with their elected councils; (ii) appoint boards of governors to act as both chief executives of the provinces and khans and supervisors of provincial departments of national ministries; (iii) enable councils to appoint their own staff members; (iv) enable councils to be responsible for their own financial administration, with budgets approved by the Ministry of Economy and Finance (MEF) and the National Assembly; and (v) establish the National Committee for Democratic Development (NCDD) to review ministries' functions and determine which functions would be assigned to subnational levels.

While it is not within the scope of this report to address the history of decentralization in detail, a number of important themes that have pervaded most approaches to management of the territories, and which to some extent continue into the current period, must be kept in mind. There is intense preoccupation with the notion of the unitary state and the importance of centralized government control focused on security issues—including control of the police, military, and security forces—through administrative arrangements in the provinces and districts. Although recent reforms give increasing attention to regional economic development and service delivery, the desire to maintain centralized political power through control of decentralized political institutions, including active branches of political parties throughout the country, has not diminished.

Until quite recently, no consideration was given to democratic forms of subnational administration. Strong control was exerted by the central government who appointed governors, deputy governors, and key staff at provincial and district levels, including leaders at the commune, sangkat, and village levels where allegiance to the center was implied, expected, and enforced.

In local governance and decision making, the citizens of Cambodia have not participated in any significant manner; deference to central leaders and their regionally appointed governors and staff has been the norm. An extensive literature has emerged on the neopatrimonial (patron–client) nature of political administration of the regions over long periods of time and under regimes with quite differing underlying ideologies.² Since the relatively recent emergence of political parties there has been a very close intertwining between the state, political party, and membership in the civil service. Typically, key members of the civil service in Phnom Penh, in the subnational administrations, and down to the commune level are

² For an overview of the literature on neopatrimonial arrangements at subnational levels refer to Rusten et al. (2004).

also members of the ruling Cambodian People's Party. New councilors are expected to feel beholden and accountable to their more senior party-affiliated board of governors than to local citizens.³

There have been recurring weaknesses in public financial management (PFM) systems at both the central and subnational administration levels, characterized in the latter by dualistic budgeting with little regional influence over the development budget and significant PFM-related weaknesses in governance. Often as a result of the patron–client approach, poor governance in regionally administered revenues, procurement, and most forms of nonwage-related expenditure is pervasive.

Much of the debate over subnational administration reform in Cambodia has not followed the nature of debate in many other countries, where the focus has been on the extent and nature of decentralization from central authorities. In Cambodia the debate has been largely about the nature of deconcentration that should occur, with scant attention being paid to bolder policies, such as full decentralization of resources and functions.

There has been heavy reliance on development partners for financing both central government and subnational administration outlays, particularly in relation to the development budget which, in recent years, has represented 40% of total government outlays. Development partners have funded about 80% of on-budget development outlays in most years. To a large extent this expenditure has accepted existing political and territorial arrangements and has been unable to enforce structural reform in governance arrangements. Most development partners have supported central government projects with only limited attempts (such as the Seila program)⁴ to build institutions, systems, and capacity at subnational administration levels. Due to fiduciary concerns, such practices have involved parallel approaches to planning, budgeting, accounting, reporting, and audit and the wide use of consultants and distortionary wage supplements to ensure good project implementation. Important structural problems such as civil service reform and public sector wage policies have not been addressed.

In terms of strategic directions for future ADB support, three broad options are explored. The first option is to continue pursuing centralized approaches to program and project development while providing limited support to decentralized administration and more harmonized use of government systems. This would continue to meet ADB funding objectives. The second option is to build and expand on recent experimentation involving some

³ On the intertwining of state and party officials, see Netra and Craig (2009).

⁴ Seila, a funds mobilization and coordination framework to support the deconcentration and decentralization reform agenda, was developed by some development partners. It was later succeeded by the Project to Support Democratic Development through Decentralization and Deconcentration.

use of subnational administrations as conduits for implementation of sector funding. To date communes and sangkats have been used as the conduits for such experimental support but districts and provinces are likely to become important additions under the reforms now being pursued. A third, bolder option would be to use emerging funds as channeling conduits to finance significant parts of sector objectives through the subnational administration elected councils. Simultaneously, ADB and other development partners should use their leverage to push through structural reforms in public administration and financial management.

1.2 Methodology and Outline of Report

The methodology for this study utilized the following: (i) semi-structured interviews with key stakeholders, including those within the government, development partners, ADB managers, and staff (a list of persons interviewed appears in Appendix 5); (ii) review of written materials and fiscal data of relevance to reforms (a list of references reviewed appears at the end of this report); and (iii) brief field visits to subnational administrations at provincial and district levels in Battambang, Kompong Chhnang, Pursat, and Siem Reap provinces and in Phnom Penh. Resources for the assignment did not allow for systematic field-based surveys, but these field visits gave some important insights and allowed the team to test, at the subnational administration level, some perceptions developed from interviews, data, and materials reviewed at the central level.

This report provides an overview of the emerging legal and regulatory framework for reform and analyzes the institutional setting under which these can take place. An overview of intergovernmental financing, including analysis of recent fiscal trends, allows an assessment of the current policy and planning framework and the changes needed to implement reforms. After looking at the critical issues for decentralization, the report summarizes strategic considerations for ADB and its medium- to longer-term programming policies. Relevant laws are outlined in Appendixes 1–4.

2 Overview of the Emerging Legal and Regulatory Framework

2.1 Introduction

The legal and regulatory framework is the backbone for reforms as it provides the rules of operation for different levels of government—administrative, political, and financial. The legal framework for deconcentration and decentralization reforms in Cambodia has been evolving gradually, particularly since the passing of the 1998 Law on Provincial and Municipal Budgets and Asset Management. Despite some progress in the ensuing decade, there are a number of important gaps and issues of inconsistency that remain to be addressed. This chapter reviews the emerging legal regime, initially covering the key legal instruments,⁵ and concludes with an overall assessment of progress.

2.2 The Constitution (as Amended 1999)

The Constitution (as last revised in 1999) is relatively silent on principles and policies for decentralization and the roles and responsibilities of different tiers of government. It is written from the perspective of a unitary kingdom or state; Article 3 provides that the Kingdom of Cambodia is an indivisible state, and Article 7 stipulates that the King of Cambodia “shall reign but not govern.” All power belongs to the people, who exercise these powers through the National Assembly, the Senate, the government, and the judiciary. Article 51 stipulates separation of power between the legislative, executive, and judicial branches. Articles 57 and 58 stipulate that tax collections, the national budget, and management of state property are to be determined by laws of the National Assembly. Article 118 stipulates that the Council of Ministers is led by the prime minister who, in turn, is assisted by deputy prime ministers, state ministers, ministers, and state secretaries as members.

⁵ Appendixes 1–4 provide more detailed summaries of the four legal instruments of most contemporary relevance.

Article 145 provides that the territory of the kingdom shall be administratively divided into provinces and municipalities and that (i) provinces shall be divided into *srok* (provincial districts); (ii) *sroks* into *khums* (provincial communes); (iii) municipalities into *khans* (urban districts); and (iv) *khans* into *sangkats* (urban communes). Article 146 provides that provinces, municipalities, *sroks*, *khans*, *khums*, and *sangkats* will be governed in accordance with the Organic Law. Beyond setting out these broad territorial divisions, the Constitution is silent on how the territories will be administered, leaving all such matters to the Organic Law, which was passed in 2008 and which enjoys a status higher than normal laws in Cambodia.

2.3 Law on Provincial and Municipal Budgets and Asset Management Regime (1998)

This law (full summary in Appendix 1) provided for early movement to more deconcentrated regional management, including nonelected provinces and municipalities (defined as legal entities) to manage budgets and assets through governors and deputy governors as representatives of the central government. In public finance matters, governors come under the authority of the Ministry of Economy and Finance (MEF). Although this law will eventually be overruled by a subnational administration finance law, it continues to be the main basis for public administration in provinces, municipalities, and districts.

Basic functional responsibilities are set out with obligatory expenditures for buildings and equipment; record keeping; salaries of staff and village and commune chiefs; travel; public lighting; fire fighting; garbage collection; socioeconomic support; sanitation; health; gardens, parks, and roads; water canals, wells, water pumps, and rainwater drainage; and other matters.

Budget and financial management authority is given to governors, though this is subject to supervision by the MEF and budget approval is required by the National Assembly in line with the Law on Public Finance Systems and regulations. The MEF may fund deficits but year-end surpluses are paid back to the state budget. Approval may be given to run commercial public enterprises with autonomous budgets.

Considerable tax and nontax revenues are assigned; tax revenues include unused land, stamp duty and excise on alcohol and cigarettes, patent and business licenses, slaughterhouses, street lighting, means of transportation, registrations and transfers, and hotel beds. Nontax revenues include electricity supply, water supply, fees on state assets, administrative and approval fees, and charges for public services.

Governors are authorized to recruit and manage staff in line with the Law on Civil Service.

2.4 Law on Commune and Sangkat Administrative Management (2001)

In a move toward democratic, decentralized management at local levels, this law (Appendix 2) recognized communes and sangkats as legal entities with legislative and executive powers, derived from elections, but in line with central government laws. Legislative powers are exercised by resolutions of council. All communes and sangkats have councils elected by a system of proportional representation for 5-year terms. Councils have a chair and 5–11 members. Councilors may be disqualified for breach of prescribed criteria and are liable to administrative and criminal sanctions. Council meetings and decisions are based on democratic principles and rules.

Council provisions allow for some sharing of leadership between and among political parties. The presiding councilor and first and second deputy chiefs come from different parties provided there were at least three party tickets at the elections. In reality many deputies abstain entirely from council affairs. Council structures provide for staff and committees, which are appointed by the chief councilor. A Ministry of Interior (MOI) official is appointed as clerk to support administration, and councils may also employ their own staff. Councils have a role in supervising villages; e.g., councilors vote indirectly to elect chiefs for every village, who then appoint a deputy and assistant. Village functions relate to security, public order, and socioeconomic development.

These councils focus on supporting national policies, representing the state, and addressing basic local needs, such as security and public order, essential public services, citizen well-being, social and economic development, preserving the environment, generating tolerance and reconciling conflicts, and responding to local needs. Councils are denied any powers on forestry, posts and telecommunications, defense, national security, monetary policies, foreign affairs, fiscal and taxation policies, and other matters in law including provincial powers.

The MOI is given the power to monitor, supervise, and intervene, when necessary, to address illegalities and to temporarily take over the duties of the councils, dissolve them, and call for fresh by-elections.

Annual council development plans, investment plans, and budgets are provided for. Annual budgets, which must be balanced, are approved by the council and managed in line with prescribed procedures, including preparation of annual performance reports. Councils have the authority to collect tax and nontax revenues, including land taxes, immovable property taxes, and rental taxes. Where the MEF collects these taxes, they do so on behalf of the councils. Such matters were to be set out in a separate law but this has never been issued.

The central government transfers funds which encompass tax and nontax sharing, grants, transfers, and agency fees. The Commune and

Sangkat Fund was established to transfer national funds from government and nongovernment sources to the council budgets in line with a formula covering periods of at least 3–5 years. Financial management and asset management requirements are clearly defined and councils must establish financial and asset management and audit systems to meet prescribed requirements. Financial management and asset management come under MEF supervision, according to *prakas* (government regulation) and guidelines following agreement of principles with the MOI.

2.5 Organic Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans (2008)

The important 2008 Organic Law (Appendix 3) provides the core administrative basis for deconcentration and decentralization reforms. In the first place, the Organic Law affirms the power of the subnational administrations in line with the Constitution and in keeping with the principles of a democratic unified administration in a unified state. All defined subnational administrations are legal entities and have a legally elected council. Entities promote democracy through public representation, local autonomy, citizen consultation and participation, responsiveness and accountability, promotion of quality of life, equity, integrity and transparency, and anticorruption practices.

Councils, indirectly elected by the commune councilors for 5 years, are central to the effective implementation of deconcentration and decentralization reforms. Each council has a chair, appointed based on the highest number of votes, and is responsible to the central government. Councilors can be disqualified for prescribed matters; they are paid from the council annual budget based on levels prescribed by the center. All abuses of powers (including corruption) are to be reported to the MOI. Regular meetings are to be held each month and decisions not following internal rules are invalid.

Councils have broad roles, duties, and authority and can make legislative and executive decisions. Councils are accountable directly to citizens. Councils may make legislative decisions—by-laws—on the following: new functions, obligatory functions, permissive functions, 3-year investment programs, 5-year unified area development plans, annual budgets and medium-term expenditure frameworks, public financial management (PFM) systems, structures and committees of council, asset management, citizen consultation, and other duties prescribed by law. Councils can impose fines for noncompliance and are responsible for implementing and enforcing by-laws, if necessary with support of the police.

Councils are required to formulate and adopt a 5-year development plan and a 3-year investment plan in line with prescribed criteria. Plans and budgets must distinguish between permissive and obligatory functions. There shall be annual monitoring and evaluation of plan performance.

Councils have rights to certain types of tax and nontax revenues (including revenue sharing) and national transfers, details of which are to be established under a subnational administration finance law. Conditional transfers shall be used for obligatory and permissive functions previously undertaken by central government, and for other obligatory functions. Unconditional transfers shall be used for legal commitments, promoting deconcentration and decentralization, administration, and permissive functions of the council's own choice.

Budgeting and public financial management are to focus on priorities, especially newly assigned and delegated functions; essential services, such as infrastructure; poverty reduction; and other priorities. All subnational administrations shall have their own budgets, except khans and sangkats in the capital and sangkats in municipalities whose budgets are subsumed within the budget of Phnom Penh. Budget preparation and management must follow laws on subnational administration financial management, and public finance systems.

Agreed assets will be assigned to the subnational administrations and managed in line with the proposed law on subnational administration financial management. The National Committee on Democratic Development (NCDD) shall coordinate and document an orderly transfer of state assets. Where councils are assigned functions but have inadequate assets, they shall be provided funds to acquire adequate assets.

Annual council reports are obligatory and must cover decisions and legislation, activities implemented, financial management, evaluations by boards of governors and officials, results of monitoring and evaluation, and other important improvements. All councils are to have a prominent information board.

A code of conduct is provided for councilors and council staff with councilors, committees, boards of governors, governors, and officials subject to penalties for illegal acts which can be adjudicated by the MOI. The MOI may ask districts to check the legality of matters pertaining to communes and sangkats. Those contravening this law are subject to administrative, civil, and criminal punishments. District councils are to support the councils of communes and sangkats and prepare integrated plans and budgets. Support is in conjunction with the MOI, which has overall responsibility for capacity building at all levels.

Councils must establish committees of (i) technical facilitation (with governor [as chair], all council unit chiefs, chief of finance, local heads of all central government ministries, and others), (ii) women's and children's affairs, and (iii) procurement. Additional committees may be set up. The technical facilitation committee coordinates national and local efforts through plans, the medium-term expenditure framework (MTEF), and the annual budget.

The provision that a board of governors will be appointed by the central government is an unusual feature of the Cambodian system. The board of governors is chaired by the governor and has several deputy governors. Governors of the capital and provinces are appointed by royal decree. Deputy governors of the capital and provinces and governors of municipalities, districts, and khans are appointed by subdecree, while the deputy governors are appointed by prakas of the MOI. All governors and deputy governors are paid civil servants who must meet and maintain prescribed eligibility criteria. Board of governors members are not councilors and cannot vote in council meetings, though they can participate. They can be dismissed by the central government for prescribed offenses at the request of the council.

The role of the board of governors is essentially administrative and advisory. They provide advice to councils and implement council decisions but cannot make decisions in the jurisdiction of the council. The board of governors is required to ensure that officials and units of the council perform satisfactorily. The boards assist and advise on administration, staffing, coordinating all agencies in the region, planning, budgeting, PFM, disputes, information dissemination, and other aspects of management of council business. Governors are representatives of, and are accountable to, the central government, the MOI, and central ministries and agencies. They are responsible for coordinating central government ministries in the area, particularly for security, social and public order, law, and human rights.

Councils have their own personnel and units but are managed by the boards of governors and administration director. Council personnel are appointed in line with legal provisions for subnational administration civil service personnel. They are immediately responsible to their unit chief and indirectly responsible to the director of administration (appointed by the MOI), the governor, the board of governors, and council. All councils must have a chief of finance appointed by council with approval of the MEF on advice of the MOI. All district councils have a commune support unit headed by a chief. Councils determine their own units, in line with a subdecree on structure guidelines.

Employees of the central government can be redeployed to subnational administrations for strategic goals in line with transfers in functions based on decisions of the NCDD and central government ministries, within a constraint that no new civil servants are hired. A new subnational administration civil service law is to be developed. Those redeployed should be no worse off and, where redeployment involves a change in location, can object and may remain where they are but with new duties. Where functions are transferred without an adequate number of employees, finance should be provided.

The NCDD, established by royal decree, is given an important implementation role and authority. It shall establish subcommittees with

working groups on functions and resources, fiscal and financial affairs, and personnel of subnational administrations.

The NCDD's secretariat must meet at least twice a month to review responsibilities at all levels and identify matters and resources to be transferred to subnational administrations in line with local autonomy. Prior to the transfer of functions, the NCDD should ensure central government ministries integrate subnational plans and budgets into the plans and budgets of relevant subnational administrations. The NCDD is responsible for implementation and ensuring that all actions and other laws are consistent. The NCDD shall provide progress reports to the government every 6 months. The NCDD has its own budget based on medium- and long-term programs, and an annual work plan and budget with an annual report on implementation progress. Development partners may fund the NCDD.

Only broad guidance is provided on the transfer of functions to subnational administrations. In reviewing functions for transfer, the following take priority: agriculture; education; forestry, natural resources, and environment; health and nutrition services; industry and economic development; land use; electricity production and distribution; water management; infrastructure and facilities; and special needs of particular subnational administrations. Reviews should focus on essential functions that impact poverty reduction and livelihoods and should be based on principles of relevance to the jurisdiction of the council, manageability and practicality for councils, benefit and usefulness for residents, and major impact within council jurisdiction.

A distinction is made between "obligatory and permissive" and "assigned and delegated" functions which are to be defined by an appropriate legal instrument. Where an obligatory function is fully transferred with resources, it is permanently assigned to the relevant tier of subnational administration with accountability to citizens. Where an ongoing permanent contribution of a central ministry is required, the function is delegated with the council becoming accountable to the appropriate ministry. Permissive functions may be transferred to councils who shall manage them at their discretion but may ask the NCDD to change or terminate the arrangement. Both assignments and resources transferred shall be permanent. The NCDD, in consultation with ministries, can change the mix of assigned and delegated functions and also the mix of obligatory and permissive functions.

2.6 Law on Public Finance Systems (2008)

Inconsistencies exist between the Law on Public Finance Systems and the subnational administration Organic Law.⁶ The Law on Public Finance Systems

⁶ This section focuses on decentralization and deconcentration aspects of the Law on Public Finance Systems (2008) and does not aim to provide a full summary of the law.

provides more centralist approaches to the approval, implementation, and supervision of budgets than the Organic Law, which allows for more autonomous fiscal management under elected councils. It may be possible to resolve differences through the proposed subnational administration finance law, though it is more likely changes will be needed in either or both the Organic Law and the Law on Public Finance Systems.

The principles of the Law on Public Finance Systems are relatively modern, providing for performance-based, medium-term program budgeting in line with relatively standard government financial statistics approaches to budget and accounting. An important weakness, particularly in the Cambodian context, is that full unification of recurrent and development budgets is not provided. Budgets are approved by the National Assembly, which oversees them, while external audit is provided by the National Audit Authority (NAA). Budget execution, accounting, and reporting requirements are set out in the law, which highlights the principles of accountability, transparency, and stability.

The law applies to subnational administrations but a further subnational administration finance law is also to be finalized. The national budget is the budget of the national administration, while subnational administrations are guided by subnational budgets. However, there should be consistency in principles, systems, and approaches to budgeting and PFM between the two levels of administration. The management of finances and assets of subnational administrations will be the subject of a separate new law.

In relation to revenues, the central government is given strong control. All taxation and excise matters must be addressed in a central government law with control, through the MEF, over revenues from state assets. No mention is made of subnational administration assets; revenues of provinces and municipalities belong to the state budget and cannot be managed directly by subnational administrations.

In addition, the center is given control over budget formulation and approval. The annual central government Budget Law allocates a financial envelope to subnational administrations, but no details are provided. The minister of economy and finance has authority for all public finance matters. Subnational administrations are responsible for developing and managing plans and budgets and ensuring accountability in line with policies of the central government. Governors of all subnational administrations must send to the MEF, by prescribed dates, proposed plans and budgets for approval. In August each year, the MEF will negotiate budget outcomes with governors of all provinces and municipalities; it is noteworthy that no mention is made of districts, communes, sangkats, and khans. Importantly, procedures for approval of the budget are limited to approvals by the National Assembly and do not refer to approvals by elected councils, as provided in the Organic Law. As is evident, a very centralized approach is thus taken to the preparation and approval of subnational administration budgets—at least at provincial and municipal levels—which conflicts with the Organic Law.

Budget Implementation, accounting, and reporting are based on very centralized approaches. Ministers are managers of their budgets but may delegate powers to subnational administration governors and to heads of their own provincial and municipal technical departments with prior approval of the MEF. All spending (including by subnational administrations) must have the approval of the MEF. Subnational administrations must follow national laws and regulations on procurement. Governors of subnational administrations are responsible for executing their budgets and for preparing and sending to the MEF standardized reports on budget and project execution. Governors of subnational administrations must develop frameworks and manage the operations of internal auditors (based on MEF guidelines). The MEF is provided powers to conduct financial inspections in subnational administrations. Financial operations—revenues, expenditure, and cash—and public accounting at subnational administrations shall be centralized in the National Treasury based on international accounting standards and in line with MEF-approved charts of accounts. There shall be an annual law on budget execution based on Treasury reports for all budget entities (including the subnational administrations). External audit applies to all entities (including subnational administrations) in line with the Law on Audit. All financial reports are to be regarded as public documents.

2.7 Draft Law on Financial Regime and State Property Management for Subnational Administrations

The May 2009 draft of this law is likely to undergo further revision. (A summary of the May 2009 draft is provided in Appendix 4.) There are some clear inconsistencies between the Organic Law and the Law on Public Finance Systems.

PFM responsibilities for key players are set out. Councils approve plans, budgets, financial statements, etc. The board of governors supports, advises, and coordinates budgets through the technical facilitation committee. The governor is responsible for financial management and control. The chief of finance is responsible under delegation of the governor for good PFM systems. The National Treasury provides accounting services.

The goal of subnational administrations' budgeting principles are to link budgets to policies and plans, provide legal status to revenues and expenditures, provide strong internal controls, and set out budget classification systems consistent with the national system. Recurrent and capital expenditures should distinguish between general administration, obligatory functions assigned or delegated, and permissive functions assigned. If functions are transferred from the center to subnational administrations, they must be funded accordingly.

A separate law determines subnational administration tax revenue authorities while a regulation applies to nontax and shared revenues. Subnational administrations have discretion to set their own tax bases and rates. Conditional and unconditional transfers are to be defined by law.

Budget formulation and approval arrangements provide for a budget formulation team working with the board of governors and technical facilitation committee to coordinate the budgets of the central government and subnational administration. There is provision for an independent external compliance agency⁷ to review the draft budget for procedural correctness. The board of governors also works with a financial affairs committee of council to prepare the budget, which is publicly available before the budget meeting. Provincial offices of the MEF and Treasury consolidate all budgets in the provinces and send them to the MEF; a consolidated budget is submitted by the minister of economy and finance to the National Assembly and Senate for further approval.

Amendment of subnational administration budgets by councils, where section outlays do not change, is permitted without approval of the external compliance agency, but notification to them is necessary. Provision is made for flexible use of contingency appropriations within guidelines.

Detailed arrangements are set out for execution of subnational administration budgets. These largely follow principles and rules as set out in the Law on Public Finance Systems (2008) with regard to accounting, procurement, and control. The governor has principal authority regarding collection of revenues and spending but may delegate with MEF approval. Treasury is responsible for payments, funds management, accounting, reporting etc., with payments to be verified by the chief of finance and authorized by the governor. All expenditures are also subject to prior review and control by MEF officials. The chief of finance and Treasury prepare annual financial statements, while the MEF prepares provincial and national consolidations for the National Assembly and Senate.

Details are given for subnational administration accounting, auditing, and reporting, requiring all subnational administrations to have effective MEF-approved accounting systems. Systems are managed by the head of finance, while the board of governors ensures effective internal controls. All subnational administrations are required to establish an internal audit function and performance monitoring, with reporting on these to the board of governors. Monthly, mid-year, and annual budget realization reports and financial statements are to be prepared for council and the MEF, with annual external audits conducted by the NAA. The external compliance agency is required to review the audit reports and subnational administration responses and report to the MEF on the adequacy of responses. The accounts

⁷ This is the provincial governor on recommendation of the MEF provincial office (for budgets of municipalities and districts), or the MEF (for budgets of the capital and provinces).

and performance may be subject to MEF and any other legal inspection. The boards of governors have to ensure proper accounting and that management of subnational administration assets are in line with MEF guidelines.

Provisions regarding misconduct of the Law on Public Finance Systems apply to subnational administrations as well. Members of council, boards of governors, staff, Treasury, etc. are legally liable for deliberate contraventions of this law, expenditures in excess of appropriations, illegal increases in appropriation levels, and other acts detrimental to subnational administration assets or finances.

2.8 Law on Audit (2000)

The Law on Audit establishes the National Audit Authority (NAA) responsible for executing the external audit function of government with broad powers to conduct audits of government institutions and transactions. Article 1 of the law establishes internal audit functions in government institutions. Article 2 stipulates institutions covered by this law, which includes municipalities, provincial and local government offices, and other organizations that have received financial assistance from the government. Although Article 2 does not specifically mention all territorial divisions referred to in Article 145 of the Constitution (there is no direct reference to communes, sangkats, districts, and khans), it is widely agreed that the NAA has responsibilities and powers to audit such bodies either through a broad interpretation of the nondefined term “local government” or as a result of such subnational administrations having received financial assistance from the government.

In terms of types of audit, broad responsibilities and authorities are provided in Articles 5–13 to the NAA, including audits of accuracy, completeness, systems, compliance, physical performance, etc. of financial statements of institutions, and consolidated financial statements of government. The NAA is an independent entity and reports directly to the National Assembly, Senate, and to the government (Article 14). There are no specific provisions in relation to reporting to councils at various subnational administration levels, no doubt because such councils did not exist in 2000 when this law was passed.

Articles 22–29 set out in more detail the type, nature, and time frames whereby the government shall finalize annual reports and the NAA will submit them to the National Assembly, Senate, and the government. Again, there is no consideration of the oversight role of recently elected councils and the need for the NAA to prepare reports and submit them to councils of all relevant subnational administrations. The Law on Audit should be updated and specify requirements regarding new arrangements for subnational administrations set out in the 2008 Organic Law.

The Organic Law is brief and has not been supported by more detailed lower-level regulations or auditing standards although, according to the NAA, international auditing standards apply. It would help if missing issues in relation to important oversight roles of the subnational administration councils were addressed and if the standards were updated to meet recognized best-practice standards. For example, there appears to be no provision that will compel institutions to respond to audit notices, and no arrangements for monitoring the extent to which findings and recommendations are followed up; penalties for offenses appear far too low to achieve desired responses.

Even if a more comprehensive legal framework can be put in place, the NAA has very limited capacity to implement comprehensive audit programs at subnational administration levels.

2.9 Law on Taxation (1997 as Amended)

Under Article 57 of the Constitution, all taxes are to be determined by a law of the National Assembly. The Law on Taxation 1997 was originally written from the perspective of a unitary kingdom, with all taxes regarded as taxes of the central government. Nevertheless, there are no restrictions on subsequent taxation laws (or amendments to the existing law) assigning specific taxing powers to subnational administrations. Indeed, some tax and nontax revenues have now been assigned to the provinces under the 1998 Provincial and Municipal Budgets and Asset Management Law (Section 2.3). Furthermore, in terms of administration, Article 93 indicates that responsibilities for the administration of tax provisions rest with the Taxation Department of the MEF and “other institutions of the Royal Government to which tax provisions have been empowered.”

The issue is not that the government is unable to devolve certain taxing powers to subnational administrations, but rather that it has chosen not to do so. As noted in Section 2.5, the Organic Law envisages the enactment of a new law to cover the assignment of tax and nontax revenues to subnational administrations, and this is also the position taken in the draft subnational administration financial management law. It may take significant time to finalize and reach agreement on such a law, and the immediate prospects of any substantial devolution of powers to subnational administrations through such a new law appear low.

2.10 Overview and Assessment

A relatively comprehensive set of deconcentration and decentralization laws and lower-level legal instruments is gradually emerging, though the legal

framework is far from complete and there continue to be shortcomings within a number of laws as well as conflicting approaches in play between some important laws. Some of the key issues relating to the emerging legal framework are as follows:

- (i) The Constitution is brief and, while it adequately sets out territorial administrative arrangements, it is not very helpful in terms of clarifying the roles, responsibilities, and authorities of different levels of government. However, it does form an adequate basis for the subsequent Organic Law.
- (ii) The 1998 Law on Provincial and Municipal Budgets and Assets Management Regime has played a formative role in defining basic revenue and expenditure assignments for the provinces and municipalities. While largely out of date following the passing of the 2008 Organic Law, it continues to provide for transitional arrangements pending issuance of a new law on subnational administration financial management.
- (iii) The 2001 Law on Commune and Sangkat Administrative Management has also played a useful role in guiding commune and sangkat development, even though many planned lower-level legal instruments were never prepared. While expenditure and other basic responsibilities have been narrowly defined, they are sufficient for this level of government, where limited budget resources will constrain activities.

Taken together, the taxing powers assigned to provinces, communes, and sangkats are significant, though implementation performance and collection yields have remained low. The assignment to communes and sangkats of land, immovable property, and rental taxes was important, though regulations on implementation have never been prepared and communes and sangkats were always going to be too small to implement such taxes. As part of finalizing proposed new legal instruments on revenue assignments, there is a need to reorganize the existing list of assigned subnational administration taxes and revenues, particularly to shift significant responsibilities to district and/or provincial levels:

- (i) A relatively small number of issues with the 2008 Organic Law are unusual and will warrant monitoring; e.g., the indirect nature of elections and the appointment of governors, boards of governors, and directors of administration by the central government. Furthermore, the roles and functions of different tiers of government are not well defined and the assignment of functions is vague. Prescriptive arrangements in relation to what transfers should be conditional and unconditional prevent preparation of a transparent, rules-based

transfer system. At the same time, there is lack of clarity with regard to unified administration, planning, and budgeting. A clearer statement on the roles of different subnational administration levels, the assignment of functions, and proposed approaches to unified administration should be set out within a revised Organic Law and not in lower-level legal instruments.

- (ii) The Law on Public Finance Systems takes a centralist approach to approving and implementing budgets and to accounting and reporting, which is inconsistent with the Organic Law. Inconsistencies need to be addressed, preferably through revisions and amendments to the finance systems law. There are also important issues relating to the definition of subnational administrations in this law. The general provisions take a broad view (cities, municipalities, provinces, districts, khans, communes, and sangkats under the jurisdiction of each council). However, many important articles relating to budget preparation, approval, and execution only apply to provinces and municipalities.
- (iii) The current draft law on subnational administration finances has a number of unusual and unsatisfactory features which result from the inconsistent Organic and Public Finance Systems laws. The resulting product is less than satisfactory in some areas. As the Law on Public Finance Systems itself requires the passing of a new subnational administration finance law, it is reasonable to expect that, in passing this law, some consequential amendments could be made to the Law on Public Finance Systems. This would be the preferred approach.
- (iv) Other broader legal developments—particularly those relating to political reforms, land tenure, and resource management arrangements—are likely to have important indirect implications for deconcentration and decentralization reforms, but have not been addressed.

3 The Institutional Setting for Deconcentration and Decentralization Reforms

3.1 Introduction

The large number of organizations involved in deconcentration and decentralization reform in Cambodia render the institutional setting complex, a situation that is further exacerbated by several country-specific features. For example, there is a lingering post-conflict nature in the administration; revenue collections are very low and rely heavily on external development partner budgetary and technical support. The civil service is poorly paid, which affects both their level of skills and performance and leads to some of the problems of patronage in personnel management. At the same time, there is a lack of integrity in many areas of public administration, including budgeting, payments, and procurement. The links between political party, state, and civil service also contribute to institutional complexities that are not well understood. Commune councilors are more accountable to the Cambodian People's Party than to citizens, including to governors who are appointed by the central government after reference to the Party (Rusten et al. 2004). While bearing in mind the complex social, political, and institutional arrangements, this chapter examines each of the key institutions involved in deconcentration and decentralization reforms before considering interrelationships and providing an assessment.

3.2 Ministry of Interior

The Ministry of Interior (MOI) stresses that the design and implementation of deconcentration and decentralization reform is not solely an MOI initiative but is required by the Organic Law, which is being managed by the National Committee for Democratic Development (NCDD) and involves stakeholders from throughout the government. In this regard, most development partner involvement is increasingly gravitating toward the NCDD. Nevertheless, the MOI remains a very influential player; it was instrumental in preparation of the 2005 strategic framework for deconcentration and decentralization

reform and was the sole player in development of the 2008 Organic Law. Furthermore, the MOI has about 9,000 employees spread across the country⁸ and has important continuing responsibilities in its own right. The Organic Law gives the MOI many important powers, both direct and indirect, in relation to the appointments of governors, boards of governors, deputy governors, and directors of administration, clerks, and finance directors at subnational administration levels. The MOI also supervises the performance of subnational administrations, supports central government efforts to build capacity of subnational administrations, and plays a lead role in addressing any irregularities committed by subnational administrations. In some cases, the MOI can facilitate the dismissal of councilors and councils. The MOI also chairs the NCDD and some important subcommittees of the NCDD, and provides the bulk of staff of the NCDD Secretariat.

These related roles and responsibilities have important political as well as administrative connotations. Until recently, significant development partner support has been channeled through the MOI and not the NCDD, though recent versions of the draft National Program indicate a review will be undertaken to possibly transfer such support to the program unit of the NCDD. Proposals to fully transfer capacity building responsibilities to the NCDD may be inconsistent with the Organic Law.

Both the MOI and the NCDD Secretariat welcome possible ADB support but view the NCDD, not the MOI, as the appropriate area for channeling support. This approach seems suitable because initial support is for reform policy development, which is clearly the NCDD's responsibility. However, there will be many matters where the respective roles of the MOI and NCDD will be hard to separate.

3.3 National Committee for Democratic Development of Subnational Administrations

The NCDD was formally established by royal decree in December 2008 to coordinate and lead implementation of the Organic Law. The NCDD has 16 members and is chaired by the minister of interior with two deputy chairs—the minister of economy and finance, and the minister of the Office of Council of Ministers. Other members are at levels of minister and state secretary. The minister of agriculture, forestry, and fisheries and minister of rural development are members, but the minister for water resources and meteorology is not. The chair of the NCDD Secretariat (which supports the NCDD) is also a member of the NCDD.

⁸ According to the National Program, the majority of these regionally based MOI employees will be permanently transferred to subnational administrations.

The broad mission and tasks given by the royal decree to the NCDD are to

- (i) design a national program;
- (ii) develop work plans to implement the national program;
- (iii) determine functions for transfer to subnational administrations;
- (iv) integrate plans and budgets of ministries at subnational administration levels into budgets of subnational administrations;
- (v) amend inconsistent laws;
- (vi) coordinate new subnational administration finance laws with the MEF;
- (vii) develop policies for deployment of civil servants to subnational administrations;
- (viii) revise civil service laws;
- (ix) monitor ministries and agencies to ensure consistency with deconcentration and decentralization policies;
- (x) review revisions to subnational administration boundaries;
- (xi) develop policies for urban municipalities;
- (xii) support subnational administration capacity building;
- (xiii) mobilize and harmonize development partner support;
- (xiv) mobilize domestic and foreign resources;
- (xv) transfer rights, administration, etc. from existing subnational administrations to new councils; and
- (xvi) report annually to the government on implementation progress.

The NCDD can refer any issues where there is a lack of consensus to the government. All ministries, agencies, and subnational administrations are required to implement decisions of the NCDD and, where they fail to do so, the prime minister is authorized to make final decisions. Any failure to implement NCDD decisions will be referred to the MOI to force implementation, as set out in the Organic Law.

The NCDD shall establish subcommittees on functions and resources, financial and fiscal affairs, and personnel administration. It may establish further subcommittees (composed mainly of relevant secretaries of state along with a subnational administration representative from each level) which consult and make recommendations to the NCDD. The subcommittees may appoint working groups and invite development partners to observe and even speak at meetings. The NCDD royal decree requires all ministries to establish working groups on deconcentration and decentralization (directly led by the minister) to support development of policy and to implement agreed reforms.

The NCDD Secretariat is located within the MOI; its chair is a secretary of state of the MOI and its three deputies hold the rank of director general. The secretariat is required to establish work units as set out in a subdecree. The secretariat supports the NCDD and its subcommittees with research,

administration, etc. The NCDD Secretariat welcomes possible ADB technical support and remains an appropriate place to locate leadership of the first proposed policy-based technical assistance (TA) project. The secretariat has been undergoing review to examine possible restructuring; one suggestion is to add a third unit (interministerial coordination) to the original two units—program management and policy. Revised duties of the three units are being worked out, which makes it difficult for development partners to know where best to locate their support within the secretariat.

At the political leadership level, the NCDD and its four subcommittees are not without their problems, with the work of the subcommittees proceeding very slowly; indeed a number of the subcommittees had not held any meeting about 10 months after establishment of the NCDD. In line with the legal requirements, the Ministry of Economy and Finance (MEF) has been deliberately cautious about demanding these reports for the initial meetings, but the NCDD Secretariat has not been able to facilitate this.

There are broader concerns regarding the role of the NCDD and its structure and resources. The concerns focus on whether the NCDD Secretariat has been provided with sufficient resources to undertake the large number of tasks assigned to it. There is some doubt that the proposed organizational structure is adequate to implement the National Program. Additionally, there are concerns that the NCDD may be more interested in becoming a large project or program management unit focused on managing a large number of projects and TA projects funded by development partners rather than being policy and coordination focused. Finally, there is a perception that it may want to take on a Grants Commission type role with responsibility for developing formulae, systems, etc. for the channeling of intergovernmental grants and shared revenues—an approach for which the MEF would be better suited.

3.4 Ministry of Economy and Finance

The MEF is a complex institution with varied perspectives on deconcentration and decentralization; most differences relate to the appropriate speed and scope of reform, though the importance of reform is generally recognized. Overall, MEF managers support a cautious and gradual approach to deconcentration and decentralization, taking into account capacity constraints at the subnational level.

Some operational areas of the MEF—particularly the Treasury, the Local Finance Department (where it is intended to locate ADB TA), and the Internal Audit Department—want to finalize the legal regime of deconcentration and decentralization and move on to implementation. They welcome proposals for ADB and other development partner technical support and seek to speed up its arrival.

Currently a centralized approach to treasury management exists in subnational administrations and, despite some opposition, the centralized model is likely to prevail. The Treasury in the MEF is very interested in possible development partner support in (i) TA to help design the subnational public financial management (PFM) system, training, and staff development, and also capital funding for a financial management information system (FMIS) down to provincial and district levels; and (ii) buildings and other investments for subnational administration treasury offices. It would be prudent for development partners to support the Treasury, as enhanced development partner use of government systems at subnational administration levels will depend heavily on strengthening the Treasury. At present, the Treasury receives little development partner support for matters related to deconcentration and decentralization.

The Internal Audit Department of the MEF is responsible for the internal audit function in all other ministries, including subnational administrations. At present, it has neither a mandate nor resources to develop subnational administration internal audit programs, though the 2008 Law on Public Finance Systems requires introduction of internal audit at subnational administration levels.

Some senior managers of the MEF are in favor of a cautious approach to deconcentration and decentralization reform. Virtually everyone recognizes the inevitability of such reform but point to the financial and economic risks of rushing into models that might not be fully thought out, including uncertain revenue and expenditure assignments and questionable fiscal sustainability. Some suggest that the Organic Law be scaled back to provide for better consistency with the more centralist 2008 finance systems law and to address unsatisfactory territorial arrangements. It is felt that there may be too many provinces and districts for efficiency, and that the communes are not providing the service delivery benefits that were promised. Some consider that it does not make economic sense for Cambodia to have four levels of government with large numbers of relatively small and sparsely populated provinces, districts, and communes. Certainly in terms of population levels, the provinces are more akin to the size of districts in many countries and the districts more akin to subdistricts.

Some also point to very uncertain proposed arrangements for the deconcentration and decentralization of functions and consider that these need to be resolved with neutral budget impact before proceeding. Others remain concerned that early devolution of revenues will weaken national revenue collection and lead to inequities in resource availability among regions. A few point to the time of Vietnamese occupation when significant devolution of revenue and expenditure powers to powerful governors in the provinces resulted in hyperinflation and a significant loss of fiscal control by the central government.

Some of these concerns are legitimate, particularly given the current economic difficulties confronting Cambodia. Finalization of the subnational administration finance law and lower-level legal instruments would certainly help resolve some issues, though this will not be straightforward if there is no willingness to address inconsistencies between the 2008 Organic Law and Law on Public Finance Systems, and unless a clearer framework for defining the functions and broad financing needs of different tiers of subnational administration can be agreed upon. It may take some time to finalize the subnational administration finance law and much longer to finalize the several lower-level legal instruments needed. This may mean continuation of a slow release of finance to the provinces at least until the 2011 budget and possibly beyond. The 2010 budget is prepared in line with pre-reform laws with little funding being provided to the districts.

Many members within the MEF welcome proposals for ADB TA support to finalize the subnational administration finance law and the early stages of its implementation. Most perceive a need for more policy development and advice on how to proceed, and indicate that one important reason for the slow pace has been the shortage of skills needed to forge policy and legal consensus within the MEF. ADB TA policy support would be best placed in the Local Finance Office of the MEF, but could also be used in other departments such as Budgets, Treasury, and Internal Audit. The TA should have some broad capacity development elements; e.g., it could raise awareness of fiscal decentralization matters within the MEF as well as support the United Nations Capital Development Fund (UNCDF), the World Bank, and others to finalize the fiscal policy and legal regime.

The MEF will have to coordinate its efforts with the UNCDF to finalize the legal regime, and with the World Bank, which may employ an advisor for fiscal decentralization under the Public Financial Management Reform Program (PFMRP). The World Bank, UNCDF, and ADB have agreed that cooperation is needed in fiscal decentralization. This coordinated support is to be closely related to the work of the NCDD subcommittee on financial matters and may be partially formalized through the deconcentration and decentralization working group of the development partners as well as between the three development partners mentioned.

Beyond the scope of the TA, there is agreement within the MEF that borrowing for deconcentration and decentralization capacity building is not appropriate. Such views should not prohibit structuring of lending related to deconcentration and decentralization (e.g., in the form of budget support program lending linked to subnational administration financing or infrastructure development), but they highlight the need to design subnational administration budget support that is suitable for Cambodia.

3.5 National Audit Authority

The National Audit Authority (NAA) is responsible for external audits of the subnational administrations (Section 2.8). However, the NAA has major capacity constraints, and is unable to meet these audit requirements; it has negligible involvement at the subnational administration level and can give only minor support at the commune and provincial levels. There are no clear plans as to how the NAA will address the 185 districts that have recently become budget and audit entities. The senior management of the NAA is supportive of any help development partners can offer.

Strengthening of external audit is a very important priority to underpin deconcentration and decentralization reforms. Moving development partner-related audits to the NAA is an important priority that should be pursued, even if for some time it means subcontracting work to private auditors with funding directly or indirectly coming from the development partners. Such outsourcing will be useful and sustainable only if more fundamental efforts are made to boost the resources and skills of the NAA that allow significant growth in outreach to the subnational administrations. The experience of other countries in expanding subnational administration audit services may be useful here. For example, in Indonesia external audit has made major progress since 2004 by allowing the recruitment of fresh graduates with degrees in accounting and auditing.

3.6 Selected Line Ministries

While central government staff have been relocated to the regions, the basic approach of the government ministries remains centralized and most regionally based initiatives are operated along vertical deconcentrated lines; subnational administration structures are generally not involved. Such vertically deconcentrated approaches drive development partner project funding, which constitutes the great bulk of discretionary development funding for ministries; it is from this source of funding that significant leakages occur.

The widely held perception that there is strong focus on vertical deconcentration was confirmed in field visits paid to the ministries of Rural Development (MRD); Water Resources and Meteorology (MOWRAM); and Agriculture, Forestry and Fisheries (MAFF). Attempts have been made to coordinate central government affairs at the local level (e.g., through Seila,⁹ provincial rural development committees and their executive committees,

⁹ Please see footnote 4.

workshops, etc.). However, the sums of money passing through these mechanisms are low and off-budget. Progress with real integration and unified administration has been slow at best, and the approach remains vertically deconcentrated because larger development partner projects have been captured by central government ministries and their project management unit (PMU) offices.

For example, many projects of the MOWRAM are relatively large and are handled directly by the central government. Where they try to work through smaller groups of farmers, they tend to establish such groups in line with local waterways rather than through the relevant subnational administration structures. Sometimes, where waterways cross subnational administration boundary lines, this makes sense, but in other cases there is no logical reason to ignore subnational administration institutions and staff.

The MRD and MAFF have more direct experience with coordination through subnational administration structures at provincial, district, and commune levels, but nonrecurrent development project funds are managed in Phnom Penh with long and inefficient payment and accounting trails. Staff of central government ministries, located in the field, are provided with low levels of operating funds, which prevents them from providing services to the large numbers of communes for which they are responsible.

All three ministries—MRD, MAFF, and MOWRAM—have a high number of staff members based in the head office at Phnom Penh; in some cases these numbers have grown despite sector plans and other policy documents setting targets for decentralization of staff to regional locations. Some 60% of MAFF staff, 47% of MOWRAM staff, and 27% of MRD staff are in Phnom Penh, even though their main function of service delivery is in rural locations.¹⁰

Each of the three ministries expressed an interest in working closely with any available ADB TA support, particularly to clarify policies on the assignment of functions and to define centralized, deconcentrated, and decentralized activities of their ministry. They also indicated their willingness to accept support for an analysis of the budgetary impact of such policies, including possible further deployment of staff and resources to the regions. Such advisory support from development partners should work closely with other initiatives within the ministries; e.g., the proposed ADB PFM program and existing ADB projects within all three ministries, and within MOWRAM the proposed ADB Water Resource Management Sectoral Development Program in 2010.

It is appropriate that the initial ADB policy TA for deconcentration and decentralization supports the development of policies and plans within the MRD, MOWRAM, and MAFF. These will not be easy assignments as the culture

¹⁰ MAFF estimates are for 2009 as provided by MAFF staff. MOWRAM and MRD estimates are for 2007 from the National Institute of Statistics *Statistical Yearbook of Cambodia 2008*.

of each institution remains rooted in a centralized approach to management and service delivery. Ultimately, higher authorities such as the NCDD, MEF, and Ministry of Planning may need to step in and force decisions where extended periods of discussion have not produced consensus. While advisors on deconcentration and decentralization reform could be located within line ministries, it is preferable to locate them within the NCDD initially because decisions on functional reassignments may need to come from the top.

3.7 Subnational Administration

Apart from the communes and sangkats which underwent the move to elected councils from 2002, other levels of subnational administration are moving to new structures provided for in the Organic Law, particularly following council elections in May 2009. (The new structures under the Organic Law have been outlined in Chapter 2, while budgetary and financial performance of the communes, sangkats, and provinces are dealt with in Chapter 4.)

Field visits confirmed that work is under way in subnational administrations to implement the structures outlined in the new Organic Law. However, as the reassignment of functions and funding has not made much progress, it is unclear whether the reforms will be implemented or how they will perform. The legacy of past systems and the challenging transition to new approaches raises a number of important issues that are briefly addressed in the following paragraphs, based mainly on insights gained in field visits to provinces and districts.

The provincial and municipal rural development committees and their executive committees have been seen as potentially important institutional players in coordinating plans, policies, investment programs, and projects of central and regional stakeholders. However, research suggests that their success has been modest at best (Horng and Craig 2008) and that limited funds flow through such arrangements. These were originally formed under the Seila Program in 2002 but were brought under the umbrella of the MOI (predecessor to the NCDD) in 2008. They are also closely linked to the work of the United Nations Development Programme (UNDP) Project to Support Democratic Development through Decentralization and Deconcentration which is now based in the NCDD and is a key part of NCDD regional outreach.

The full committees are chaired by the provincial or municipal governor. Members include all directors of line departments in the region and all district and khan governors in the region. Executive committees have the same chair, and directors from the MRD, Ministry of Planning, MEF, MAFF, MOWRAM, Women's Affairs, provincial treasury, and head of the local

administration unit. In most cases these old structures are still operating but are likely to be taken over by the new technical facilitation committees as provided under the Organic Law. It is too early to assess whether the new structures will deliver better results, but it appears that a greater attempt will be made to integrate plans and budgets of subnational administration and central government agencies in a region through the technical facilitation committees. However, full integration of central government and subnational administration budgets (which have different lines of power and authority) is not an easy task and it remains to be seen how successful the changes will be.

Newly appointed provincial and district councils are pushing ahead and organizing their operating procedures and have started preparing initial plans and budgets, despite major uncertainties as to their future functional responsibilities and budget resources. In most cases (particularly in the districts) new appointments of governors and boards of governors have not yet occurred, nor have the new administrative and finance directors under the councils been appointed. Effective management arrangements between the indirectly elected councils, the appointed governors and boards of governors, and the central government-appointed director of administration and director of finance and other staff are important. New subdecrees were approved in September 2009 setting out the new staffing and organizational arrangements but there is no experience yet of how they will work in practice. Many in the councils have a lower status in the Cambodian People's Party than do governors and deputy governors, who because of their greater experience may dominate.

It seems likely that the funding arrangements in 2011 will continue along pre-reform lines with the provinces, and especially the districts, continuing to be provided with limited funding via the central government and provincial budget and indirectly through development partner and other support. The current low funding of both subnational administrations and central government work units in provinces and districts makes the concept of money following function in Cambodia somewhat meaningless without significant reform to the national budget and particularly the development partner-funded budget. At present, apart from staff and largely rundown buildings, there is very little available to transfer to subnational administrations from the activities of central government ministries in the regions.

The proposed work of development partner assistance at central policy levels focuses on functional assignments; fiscal decentralization will allow provinces and districts to move forward if there is clarity as to roles and more relevant funding levels. However, success will hinge on the ability to restructure central government budgets, something that the central bureaucracy is likely to oppose.

3.8 Development Partner Activities

For some years, a group of 15 development partners have been in formal and informal communication with their key government counterparts through the Technical Working Group on the reform process. The subgroups are as follows:

- (i) European Group. This group is strong on democracy, accountability, citizen empowerment, and governance, and is supportive of grassroots approaches. It also supports decentralized approval of budgets and regional involvement in functional assignments. This group has indicated it wants enhanced decentralized governance if it is to continue funding deconcentration and decentralization.
- (ii) UNDP Group. This group is project-focused but influential on broad policy direction within the MOI and NCDD where it has long been seen as the principal decentralization adviser, through the large Project to Support Democratic Development through Decentralization and Deconcentration (PSDD), which followed on from the Seila Program. The European Group, key financier of the PSDD, is gradually withdrawing its support, including the Department for International Development of the United Kingdom (DFID) and the Swedish International Development Cooperation Agency (Sida).
- (iii) World Bank, UNCDF, and to some extent the United Nations Children's Fund (UNICEF) and German development cooperation through GIZ are interested mainly in fiscal aspects of decentralization.
- (iv) A group of others—Australian Agency for International Development (AusAID), Danish International Development Assistance (Danida), and Japan International Cooperation Agency (JICA) are mainly project-focused with some elements of related policy effort.

The development partners are harmonizing efforts under the National Program. For development partners choosing to focus on fiscal aspects of decentralization (mainly ADB, World Bank, and UNCDF), agreement has been reached on a closely coordinated approach, though coordination of terms of reference, work plans, and activities will be undertaken later, possibly during the inception phase of the first ADB advisory TA. Other development partners (especially UNICEF and GIZ) operate at the edges of fiscal decentralization, particularly in relation to the finalization of functional assignments and aspects of different UNDP projects. Given the extent of work that remains to be done, there should be adequate space for all development partners interested in fiscal decentralization and functional assignments, but good coordination and flexibility are essential. The following need to be considered:

- (i) UNCDF has prepared the draft of the subnational administration Finance and Assets Law and may also draft regulations for implementation. It is also trying to move quickly with developing

models and systems for planning and PFM development at the subnational administration level. UNCDF is important for policy and legal framework development, though it seeks cofinancing to support broader implementation.

- (ii) The World Bank has an interest, both through the Public Financial Management Reform Program (PFMRP) and the preparation of its second Rural Infrastructure and Local Government Program (RILGP). Under the PFMRP, the World Bank is considering placing a fiscal decentralization adviser within the MEF and it has been agreed this needs close coordination with similar ADB plans. Other possible areas of collaboration include broader advisory services in the MEF; rolling out the financial management information systems (FMIS) being developed at the central government level to subnational administration levels;¹¹ and training, development, and accreditation of PFM staff at both the central government and subnational administration levels.
- (iii) There are some synergies for ADB with the second RILGP that the World Bank is preparing, components of which include (a) commune fund financing, (b) district fund design and financing, (c) district council infrastructure development, and (d) central government policy and capacity building. The World Bank loan will support grant funding of 45% for districts—other development partners (including ADB) may want to consider funding the remaining 55%. One favorable feature of the first RILGP has been its ability to work largely within government systems and to meet fiduciary requirements. There are similar synergies with Danida's program and district initiative projects which have trialed conditional grant approaches to commune and district councils.
- (iv) GIZ and UNICEF have done considerable conceptual and sector-based work on functional assignments, though the National Program has not finalized a coherent nationwide framework acceptable to the government. ADB's work in the NCDD could support a national framework for functional assignments and outline implementation plans in a few ministries of most interest to ADB's sector program. Close coordination with GIZ and UNICEF on functional assignments will be needed.

The latest draft National Program proposes principles for the future harmonization of development partner support to deconcentration and decentralization (summarized in Box 3.1). Although this is only a draft, most of the principles appear achievable for ADB standard modalities,

¹¹ This is currently planned to go down to provincial levels, but current plans do not extend to district levels.

though some may not work, e.g., pooled funds, common procurement, and common reporting. The focus on making crosscutting and sector support programs and projects consistent with deconcentration and decentralization reforms could prove challenging. It remains uncertain whether the National Program can drive all forms of support from development partners, at least with regard to important deconcentration and decentralization matters.

Box 3.1 (Draft) Principles for Harmonizing Future Development Partner Support

Background

- The Development Partners Assistance Framework (DPAF) for deconcentration and decentralization matters will be based on negotiated principles in line with international and national agreements on aid effectiveness.
- The DPAF will shift from project- to program-based approaches to enhance sector results. The National Program for deconcentration and decentralization will be the basis for dialogue and design of reform.
- Deconcentration and decentralization will progress in parallel with other reform programs, particularly the Public Financial Management Reform Program (PFMRP) and the National Program Administrative Reform (NPAR).
- Platform 1 of the National Program (2010–2012) will be a transition period for development partner support, allowing existing development partner interventions to be completed but with new interventions designed to reflect the National Program.
- Government budget and public financial management (PFM) systems are to be pursued, though fiduciary risks will prevent full movement to country systems for all development partners immediately.
- Three financing modalities are being discussed to support implementation of Platform 1 of the National Program: (i) pooled funds managed by the World Bank, (ii) pooled development partners' funds managed by the government (National Committee for Democratic Development [NCDD]), and (iii) individual donor funds (e.g., Asian Development Bank [ADB]).

Draft Principles

Roles and Responsibilities of Each Party

- Policies in development partner–Government of Cambodia agreements are to be consistent with the National Program, PFMRP, or NPAR.
- Government and development partner funding is to be committed, predictable, and on budget.
- The government fully owns the National Program through NCDD structures.
- The NCDD defines needs for development partner support and may reject support inconsistent with the National Program.
- The NCDD in Ministry of Interior (MOI) commits to improve its own and subnational administration PFM systems in line with the PFMRP stage 2, and to provide staff training.

continued on next page

Box 3.1 *continued*

- The government commits to (i) designing a new incentive payment scheme eventually with the interim priority operating costs operational by July 2010, (ii) ensuring adequate operating and maintenance funding of subnational administrations through intergovernmental transfers, (iii) increasing cofinancing by platform 3, and (iv) meeting 80% of running costs of the NCDD by the end of platform 3.
- Government funding will allow for transparent accounting and financial reporting.
- The government commits to develop its annual work plan and budget to mirror comprehensive subnational administration planning and budgeting processes (including own-source revenues) in line with the proposed law on subnational administration financial management.
- Development partner support will be entirely within the National Program framework, including alignment with functions assigned to different levels of government, and will support the transfer of functions.
- Development partners will align and adapt other crosscutting and sector support where they have an impact on reforms, particularly as functions are transferred to subnational administrations.
- Development partner support and interaction with the government will be coordinated, with lead development partners for each of the NCDD subcommittee subject areas.
- Development partners will make increasing use of Cambodian institutions, systems, and procedures as standards improve.
- Development partners will try to synchronize new programs and projects with National Program platforms.

Consultation, Information, Coordination, and Decision Making

- The NCDD–development partner steering committee will meet biannually to discuss reports, audits, and progress.
- The Technical Working Group on reforms will meet quarterly to review progress, discuss legal reforms, and address program financing needs. Meetings to include representatives from technical working groups on public financial management (PFM) and relevant sectors.
- To develop a provincial technical working group, meetings will be held every quarter and review implementation of the National Program, development partner-funded activities, and issues.

Annual Planning Process

- Joint annual progress reviews and operational planning will include reviews of (i) legal reforms; (ii) transfers of functions, resources, and personnel; (iii) adequacy of PFM strengthening; (iv) human resources transfer and development; (v) implementation of capacity building plan; and (vi) NCDD Secretariat management.
- Development partner resources to be channeled through the NCDD annual work plan and budget process which will also identify needs for sector support to meet National Program objectives.

continued on next page

Box 3.1 *continued*

Disbursements and Financial Management

- Progressive reductions in fiduciary risks through improved government systems. Stage 2 will include implementation of financial management information system.
- A special pool of funds will support fiduciary oversight of development partner funds.
- Capacity building in subnational administrations will support movement of shadow budget systems into mainline systems.

Procurement

- Development partners to use common standards for procurement.
- The government commits to develop capacity for procurement in the MOI, NCDD, Ministry of Economy and Finance, and subnational administrations.

Reporting

- Annual program monitoring and evaluation will be based on performance indicators of the National Program.
- Development partner reporting requirements will be harmonized.

Additional Needs

- Mechanisms to admit new development partners and to allow development partners to withdraw.
- Mechanisms to amend the partnership agreement.
- Standard operating procedures for external projects and programs (2005) to be adjusted so as to include the above principles and to serve as standard operating procedures of the National Program.

Source: Draft National Program.

3.9 Related Reform Programs

A number of documents, including the National Program and the proposed Development Partners Assistance Framework (DPAF), stress the need for a close relationship between deconcentration and decentralization reforms and other reform programs, notably those relating to public finance and administration. There is also reference to the need for sector reform strategies and sector plans to be consistent with the National Program. While there appears to be reasonable consistency of approach between the proposed deconcentration and decentralization reforms and other reform efforts, there are a number of issues that will make full collaboration challenging. These include the following:

- (i) The PFM reform programs are moving very slowly. They are also more focused on central government than subnational administration

- at present, and may be unable to fully address the issues of deconcentration and decentralization reform.
- (ii) The PFMRP makes passing reference to deconcentration and decentralization reforms and does not envisage development of systems and capacity down to all subnational administration levels. For example, the proposed FMIS stops at the provincial level and it will be many years before it reaches there. Furthermore, important elements of the PFMRP, particularly the 2008 Law on Public Finance Systems, are inconsistent with the deconcentration and decentralization program and the 2008 Organic Law.
 - (iii) The PFMRP may lack the capacity to simultaneously address important deconcentration and decentralization reforms and pursue the stalled national reform program. There are important issues to address, such as clarifying the legal status of subnational administration civil servants, effecting transfers of staff from the central government to subnational administration levels, addressing outdated wage policies including wage supplementation issues, and addressing chronic governance problems in personnel management. If existing reform processes cannot move speedily, the NCDD Personnel Subcommittee may need to address them unilaterally.
 - (iv) While various sector plans and strategies exist, they are of varying quality and most do not address critical deconcentration and decentralization and government-related issues such as the respective roles of central government and subnational administrations. The NCDD and development partners could develop sector plans and strategies that are more explicit. However, many ministries, e.g., the MEF, remain deeply centralist in thinking. It remains to be seen if the NCDD will have sufficient strength to force reasonable solutions. Development partners operating at the sector level could use the leverage of program financing to ensure balanced policy outcomes.

3.10 Institutional Assessment

As this chapter suggests, there are many institutional challenges and bottlenecks to deconcentration and decentralization reform. Recent progress has been slow and, given the institutional realities, it is likely that this slow pace will continue. Some important implementation challenges are set out in the following paragraphs.

Underlying governance arrangements remain weak; the low integrity of PFM and personnel management systems is exacerbated by continued dependence on external financing, which is centrally managed.

The MOI and NCDD are positive channels for reform, but areas of concern exist. While the MOI has handed over many responsibilities to the NCDD, important aspects of administration within subnational administrations remain unresolved. Frequently these are matters of a political nature, including influence over the appointments of governors and key officials, and in relation to supervision and, ultimately, dismissal of councils. The NCDD has made slow progress in marking out its roles and structures and in pushing ahead with implementation. Its ability to deliver on a very large and complex program is far from proven. The NCDD may want to take on more than it is capable of, including operating as a large PMU and also as a grants commission—a role better suited to the MEF. The NCDD can play a major role in the development and coordination of policy, and it is here that it needs to perform.

The MEF is a critical body if reforms are to succeed, but whether it will respond positively remains to be seen. Getting the MEF to work productively with the NCDD is possible but challenging. Key elements of the MEF remain to be convinced of the merits of deconcentration and decentralization reform, and further policy work is likely to be needed within the MEF before policy consensus can be finalized. Brokering changes to the overly centralist 2008 Law on Public Finance Systems will be part of this. There are risks that the slow speed of the MEF, and central government sector ministries may frustrate speedy reform of functional assignments and the subnational administration financial management systems.

The NAA is a critical institutional player if fiduciary concerns of development partners are to be addressed. While the legal framework for external audit warrants strengthening, the more pressing concern is how to raise the quantum and quality of audit personnel and resources available to the NAA to significantly expand activities into the subnational administrations. Development partners could provide greater support to developing subnational administration activities of the NAA rather than supporting parallel arrangements by private auditors. Nevertheless, subcontracting of audit tasks to the private sector under the umbrella of the NAA could be an important part of the NAA's strategy in the early years of expansion into auditing subnational administrations.

Line ministries will need support to prepare deconcentration and decentralization plans and policies that develop balanced divisions of responsibilities between them and the different tiers of subnational administrations. There is a strong likelihood that the line ministries will seek to remain centralist, and they may find an ally in the MEF. Development partners and the NCDD will need to address the explicit desire of the central government for control over lucrative development partner projects if acceptable, balanced outcomes are to be achieved.

The subnational administrations need to become the focus of reform efforts both in terms of resource flows and institutional capacity building. While the central government can support elements of capacity building, the subnational administrations will need to accept primary responsibility. The central government should concentrate on the assignment of responsibilities and the flow of funds, personnel, and resources. Development partners need to ensure adequate funding to the subnational administrations, both from their own contributions and by applying pressure on the central government to restructure the budget.

Development partners need to recognize deconcentration and decentralization reforms as an important part of a government-wide effort. An important question for development partners is the extent to which deconcentration and decentralization reforms will drive large parts of existing projects and programs. This will require innovative approaches to the design of financing, with consideration of more direct forms of support to subnational administrations through conditional and unconditional transfer mechanisms from the government.

4 Intergovernmental Financing and Recent Fiscal Trends

4.1 Introduction

The perception that there are major deficiencies in design and implementation with resultant inefficiencies and inequities in financial arrangements is widely held. Indeed, intergovernmental financing is limited. While the new Organic Law should lead to some changes, it is worthwhile to review current policies so that important lessons for the future can be learnt. This chapter reviews recent and ongoing arrangements for communes/sangkats, provinces and municipalities, and deconcentrated expenditures of central government ministries.

4.2 Financial Arrangements of Communes and Sangkats

4.2.1 Tax and Nontax Revenues

The 2001 Law on Commune and Sangkat Administrative Management authorizes councils to collect tax and nontax revenues, including land taxes, immovable property taxes, rental taxes, and other administrative fees and charges. Where the Ministry of Economy and Finance (MEF) collects such taxes, it is to do so on behalf of the councils. Such matters were to be set out in a separate law but further legal or administrative instruments have never been issued. In addition, councils were to receive agency fees when they act on behalf of a central government ministry, but the subdecree stipulating this has also not been issued.

The aggregate commune and sangkat fiscal data (Table 4.1) indicates very low levels of council tax and nontax revenue collections to date. During 2002–2007 the trends for consolidated data of all councils have been as follows:

- (i) zero collection of taxes,
- (ii) negligible collection of agency fees from the central government,

Table 4.1 Commune and Sangkat Aggregated Fiscal Data, 2002–2007 (KR billion)

Code	Account	2002	2003	2004	2005	2006	2007	2002–2007
		Actual	Actual	Actual	Actual	Actual	Actual	%
A - Revenues:								
70	Local Taxes	–	–	–	–	–	–	0.0
71	Non-Tax Services and Property Revenues	0.04	0.22	0.24	0.29	0.46	0.52	0.3
72	C/S Fund Transfer – General Administration	13.85	19.39	19.33	20.71	24.65	32.51	23.5
73	Agent Functions Revenues	–	0.02	–	–	–	–	0.0
74	Other Recurrent Revenues	–	0.00	2.63	4.26	10.06	13.17	5.4
76	Reserve Fund	–	2.31	11.92	24.95	38.08	35.63	20.3
77	C/S Fund Transfer – Local Development	16.84	32.03	36.18	42.24	49.19	50.88	40.9
78	Local Contribution to Local Development Investment	0.85	1.72	2.00	1.84	1.49	1.37	1.7
79	Other Capital Revenues	0.118	0.01	16.52	16.43	5.26	5.37	7.9
Total Revenues		31.70	55.70	88.82	110.71	129.18	139.45	100.0
B - Expenditures:								
60	Salaries and Allowances	11.70	14.08	14.17	14.25	14.58	26.22	24.2
61	Administration Costs	1.95	2.59	4.08	6.77	9.49	8.52	8.5
62	Local Services Costs	0.00	0.00	0.31	0.89	1.50	1.51	1.1
63	Agent Function Costs	0.00	0.02	0.00	0.00	0.00	0.00	0.0
64	Social Intervention	0.03	0.01	0.17	0.60	1.69	4.73	1.8
65	Economic Intervention	0.00	0.00	0.00	0.01	0.28	0.03	0.1
66	Contingencies	0.00	0.01	0.01	0.05	0.08	0.04	0.0
67	Administration Investment	0.15	0.14	8.83	13.88	5.64	2.07	7.8
68	Local Development Investment	15.54	26.93	36.29	36.06	60.20	46.44	56.4
Total Expenditures		29.37	43.79	63.87	72.51	93.47	89.56	100.0
Surplus (A – B)		2.32	11.91	24.95	38.21	35.72	49.89	162.99

c/s = commune/sangkat.

Only preliminary aggregated data is yet available for 2008. This indicates (i) total revenues of KR161.2 billion (of which total administrative fund allocations were KR32.8 billion and total development fund allocations were KR60.2 billion), and (ii) total expenditures of KR10.8 billion.

Source: Local Finance Department, Ministry of Economy and Finance.

- (iii) nontax revenue collections of only 0.3% of total resources utilized, and
- (iv) low local contributions to investment projects of 1.7% of total resources utilized.

4.2.2 Buildup and Utilization of Reserve Funds

Commune and sangkat councils have not spent all the resources available to them. As a result, reserve funds built up and were later utilized, accounting for 20.3% of resources spent during 2002–2007. The trend toward surpluses in reserves has been attributed to low administrative experience, particularly in relation to preparing and implementing development projects. Inclusion of such funds as revenues is misleading because this is based on double counting.

4.2.3 Commune and Sangkat Fund Transfers

The Commune and Sangkat Fund was established by a 2002 subdecree to transfer national funds to the council budgets in line with a specific formula which must cover periods of 3–5 years. The fund can be resourced from state appropriations, and grants and loans from domestic and international sources. Provincial governors monitor and evaluate the release of funds and their usage.

Transfer amounts are set in relation to total recurrent revenues; these were 2.00% for 2003 rising to 2.50% in 2004, 2.70% in 2008, 2.75% in 2009, and 2.80% in 2010.

Distributions to councils are based on a general administration component (not more than 33% of amounts distributed) and a development component (not less than 67% of funds distributed). The general administration component is distributed to all councils in proportion to the number of elected councilors. The development component is based on one-third going to all eligible councils equally, one-third being proportionate to the population levels of councils, and one-third being proportionate to a poverty index weighted by population levels of councils. Transfers are contingent on participatory planning and budgeting, up-to-date financial reports, local contributions to development funding being in place, and capacity to implement.

Table 4.1 indicates that, over the consolidated period 2002–2007, 23.5% of total revenues came from general administration transfers (29.5% if reserve fund usage is excluded) and 40.9% of total revenues come from local development transfers of the fund (51.3% if reserve fund usage is excluded).

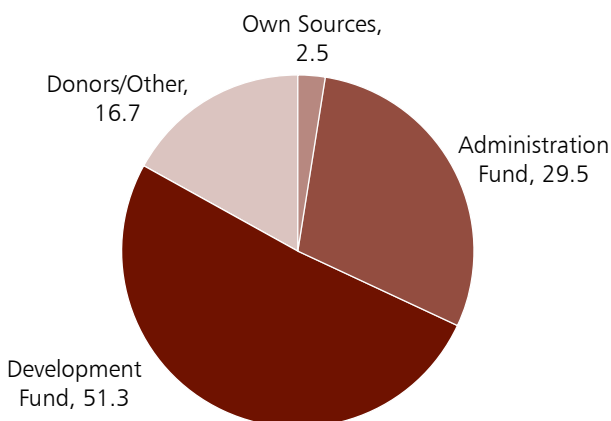
4.2.4 Other Recurrent and Capital Revenues

Table 4.1 also indicates that other revenues constitute about 13.3% of total revenues (16.7% if reserve fund usage is excluded). The bulk of this comes from contributions of development partner organizations to the councils. Not all development partners, including the Asian Development Bank (ADB) for some projects, use on-budget systems for contributing to councils.

4.2.5 Overview of Revenues Available, 2002–2007

Excluding drawdowns from the Reserve Fund, the main sources of revenues during 2002–2007 are set out in Figure 4.1.

Figure 4.1 Breakdown of Commune Revenues, 2002–2007 (%)

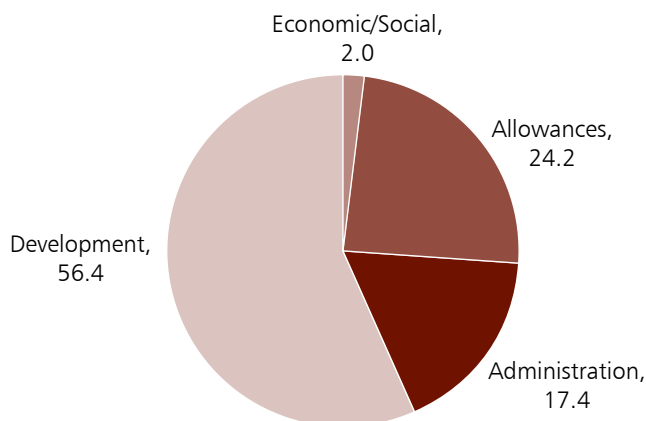


Source: Local Finance Department, Ministry of Economy and Finance.

4.2.6 Expenditures of Communes and Sangkats

Table 4.1 and Figure 4.2 set out the main expenditure patterns of communes and sangkats during 2002–2007. They show that

- (i) 24.2% is allocated to salaries and allowances (mainly allowances for councilors and to a lesser extent village officials);
- (ii) 17.4% is allocated to administrative and service expenditures, half of which is for development while the remainder is related to recurrent expenses;

Figure 4.2 Breakdown of Commune Expenditure, 2002–2007 (%)

Source: Local Finance Department, Ministry of Economy and Finance.

- (iii) 56.4% is allocated to investments for local development, mainly related to small local infrastructure projects; and
- (iv) 2.0% of total outlays are allocated for minor economic and social interventions.

4.2.7 Vertical and Horizontal Balance Issues

Total outlays of all communes and sangkats have been quite small, growing from KR43.8 billion in 2003 to KR89.6 billion in 2007. This represented about 1.5% of general government expenditure and net lending in 2003 (the first full year of operations) and 1.7% of general expenditure and net lending in 2007—from 0.24% of gross domestic product (GDP) in 2003 to 0.26% of GDP in 2007. While the expenditure assignments for communes and sangkats are limited, it is clear that there is not much vertical balance in the equation, with outlays confined to relatively minor localized administration and social and physical infrastructure.

In terms of horizontal balance between different councils, data for the 2007 budget year indicates a ratio of 3.3 between the highest (KR16,400 per head) and lowest (KR5,000 per head) allocation per council (Boex 2008). Without significant further work being undertaken on the fiscal needs and capacity of different communes and sangkats throughout Cambodia, it is not possible to determine if the above ratios (which are not particularly high by international standards) are equalizing or not. Conceptually, elements of the fund formula are equalizing; e.g., the population and poverty components

for the development fund. By contrast, all administrative allocations and one-third of development allocations are on a councilor or council basis and work modestly against horizontal equity. Additionally, the geographically targeted nature of much development partner expenditure in the communes and sangkats (including that of ADB) is a further important factor working against horizontal equity.

4.3 Financial Arrangements of Provinces and Municipalities

Until 2009, provinces and municipalities operated as extensions of the central government without the presence of elected councils. Notwithstanding this, they demonstrated some elements of a decentralized administration. They were assigned certain revenue-raising powers and had limited autonomy in preparing and managing their own budgets, known as the Salakhet or governor's budget.

4.3.1 Tax, Nontax Revenues, and Central Government Allocations

Under the 1998 Law on Provincial and Municipal Budgets and Assets Management, provinces and municipalities were provided with a range of tax and nontax revenues. They have also received additional subsidy transfers directly from the center to support approved budgets. Taxes assigned are

- (i) tax on unused land,
- (ii) stamp tax and duty,
- (iii) patent and business license tax,
- (iv) slaughterhouse tax,
- (v) means of transportation tax,
- (vi) registration and purchase taxes,
- (vii) street lighting tax;
- (viii) earmarked alcohol and tobacco taxes, and
- (ix) hotel bed tax.

Nontax revenues are derived from

- (i) local electricity supply;
- (ii) local water supply;
- (iii) managing state assets (markets, parking, harbors, etc.); and
- (iv) other nontax revenues, such as administrative and public service fees.

As set out in Table 4.2 and Figure 4.3, despite recent growth, provincial and municipal revenues remain minor compared to retained revenues at the center.

Table 4.2 Total Provincial Government Revenues, 2002–2008

Item	2002	2003	2004	2005	2006	2007	2008
In Billion Riels							
Tax Revenues	41.8	38.8	75.1	78.8	121.2	187.3	263.6
Nontax Revenues	8.4	9.9	14.6	17.5	14.5	17.6	19.4
Central Government Transfers	31.4	37.1	37.0	37.1	47.0	63.5	92.9
Total	81.6	85.8	126.7	133.4	182.7	268.4	375.8
As % of GDP							
Tax Revenues	0.25	0.21	0.35	0.31	0.41	0.55	0.70
Nontax Revenues	0.05	0.05	0.07	0.07	0.05	0.05	0.05
Central Government Transfers	0.19	0.20	0.17	0.14	0.16	0.19	0.25
Total Revenues	0.49	0.46	0.59	0.52	0.61	0.79	1.00
As % of General Government							
Prov/Mun. Taxes as % General Taxes	3.4	3.2	4.6	4.0	5.1	5.6	8.1
Prov/Mun. NT Revenues as % General NT	1.7	1.9	2.7	3.0	2.1	2.5	2.7
Prov/Mun. Tax/NT as % General Tax/NT	2.8	2.7	4.1	3.6	4.0	4.9	6.9

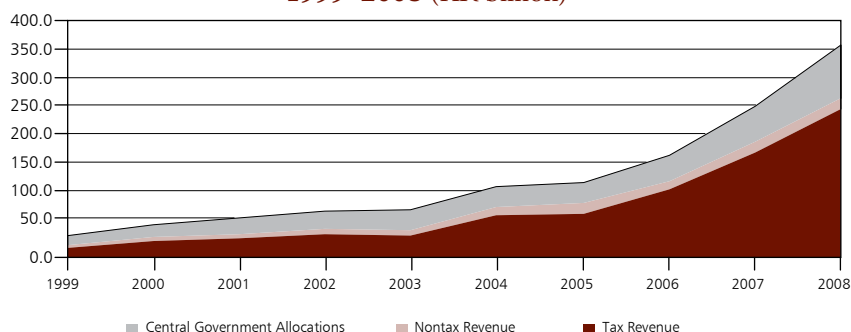
Mun = Municipal, NT = Nontax, Prov = Provincial.

Source: Local Finance Department, Ministry of Economy and Finance.

Some recent trends are as follows:

- (i) Tax revenues grew strongly from KR41.8 billion in 2002 to KR263.6 billion in 2008 (from 0.25% to 0.70% of GDP). Provincial and municipal taxes, as a percentage of total general government taxes, rose from 3.4% in 2002 to 8.1% in 2008, mostly due to the increase in stamp duty on property transfers which have burgeoned during this period along with the introduction of a new hotel beds tax.
- (ii) Nontax revenues grew modestly from KR8.4 billion in 2002 to KR19.4 billion in 2008 (remaining stable at around 0.05% of GDP over this period). Provincial and municipal nontax revenues as a percentage of total general government nontax revenues rose from 1.7% in 2002 to 2.7% in 2008.
- (iii) Fund transfers from the central government to provinces and municipalities also grew modestly from KR31.4 billion in 2002 to KR92.9 billion in 2008 (remaining stable at 0.20% of GDP for most years in this period).

Figure 4.3 Components of Provincial and Municipal Revenues 1999–2008 (KR billion)



Source: Local Finance Department, Ministry of Economy and Finance.

- (iv) Total resources available to provinces and municipalities grew from KR81.6 billion in 2002 to KR375.8 billion in 2008 (from 0.49% of GDP to 1.00% of GDP).

4.3.2 Expenditures of Provinces and Municipalities

The 1998 Law on Provincial and Municipal Budgets and Asset Management Regime sets out expenditure responsibilities (including obligatory expenditures) of the provinces and municipalities with responsibilities for delivering public services not directly provided by the central government.¹² Important trends in expenditures (outlined in Table 4.3 and Figure 4.4) are as follows:

- (i) Despite a recent rise, total expenditures of provinces and municipalities remain very low compared to total general expenditures—5.5% of the total in 2008, up from 2.8% in 2002. As a proportion of GDP, provincial and municipal total expenditures have risen from 0.5% in 2002 to 0.9% in 2008. Mean outlay per province or municipality (including all districts) was about \$3 million in 2008.
- (ii) The bulk of expenditures are recurrent in nature, with non-staff administrative costs being the largest contributor; e.g., 66.3% of all expenditures in 2008 were allocated for this purpose.¹³
- (iii) There has been modest growth in expenditures for capital, social subsidies, and staffing. Provinces and municipalities accounted for a mere 3.0% of total general government capital expenditures in

¹² For a list of obligatory provincial and municipal expenditures, refer to Section 2.3.

¹³ Staff costs in earlier years are understated due to them being charged to the Ministry of Interior.

Table 4.3 Expenditures of Provinces and Municipalities, 2002–2008

Item/Year	2002	2003	2004	2005	2006	2007	2008
In Billion Riels							
Staff Charges	0.90	0.67	0.74	1.04	1.27	17.64	24.54
Non-Staff Administration	78.84	84.72	108.97	129.18	179.29	164.47	222.51
Subsidies and Social Grants	–	–	–	–	–	11.17	15.00
Total Current Expenditure	79.75	85.39	109.71	130.22	180.56	193.27	262.05
Capital Expenditure	–	–	–	–	–	58.77	73.43
Total All Expenditure	79.75	85.39	109.71	130.22	180.56	252.04	335.48
As % of GDP							
Staff Charges	0.005	0.004	0.003	0.004	0.004	0.052	0.065
Non-Staff Administration	0.471	0.458	0.511	0.503	0.601	0.484	0.590
Subsidies and Social Grants	0.000	0.000	0.000	0.000	0.000	0.033	0.040
Total Current Expenditure	0.476	0.461	0.514	0.507	0.606	0.569	0.695
Capital Expenditure	0.000	0.000	0.000	0.000	0.000	0.173	0.195
Total All Expenditure	0.476	0.461	0.514	0.507	0.606	0.742	0.890
As % of General Government Expenditure							
Prov/Mun. Current as % General Current	5.05	4.63	5.77	6.41	7.15	6.35	7.08
Prov/Mun. Capital as % General Capital	–	–	–	–	–	2.77	3.04
Prov/Mun. Total as % General Total	2.82	2.81	3.45	3.94	4.26	4.88	5.49

Mun = Municipal, Prov = Provincial.

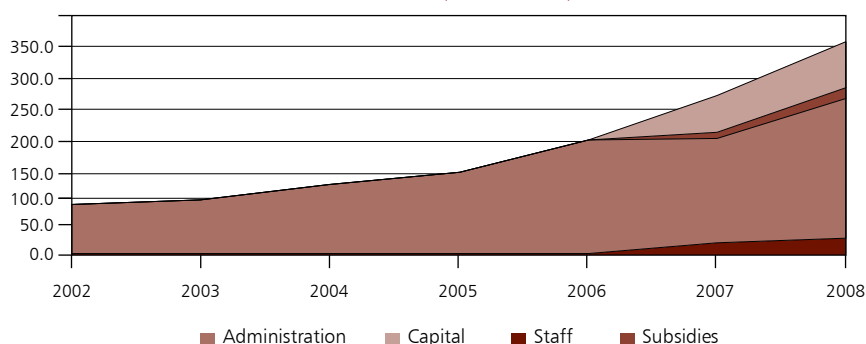
Source: Local Finance Department, Ministry of Economy and Finance.

2008, with most projects still managed through ministries of the central government.

4.3.3 Vertical and Horizontal Balance Issues

Despite recent growth, total outlays of all provinces and municipalities have been small since they have to cover expenditures of districts, khans, and some sangkats. While expenditure assignments for provinces, municipalities,

Figure 4.4 Components of Provincial and Municipal Expenditure 2002–2008 (KR billion)



Source: Local Finance Department, Ministry of Economy and Finance.

districts, khans, and sangkats are broadly stated, it is clear that there is no vertical balance in the equation because provincial and municipal outlays are confined mainly to wages and administration with relatively minor scope for social or physical infrastructure development. Expenditure assignments provided for by law suggest the subnational administrations have been seriously underfunded.

In terms of horizontal balance between different provinces and municipalities, data for the 2007 budget year indicates a very high ratio of 36.5 between the highest (KR132,000) and lowest (KR3,600) levels of expenditure per capita (Boex 2008). Without significant work on the relative fiscal needs and capacities of different provinces and municipalities throughout Cambodia, it is not possible to determine if the above ratio, which is high by international standards, reflect equalizing features. Discussions with government officials indicate that the different levels reflect different bargaining outcomes between provinces and the center and the geographically targeted nature of much development partner expenditure. A review of the effects of horizontal equity of existing funding arrangements is warranted.

4.4 Deconcentrated Expenditures of Central Ministries

4.4.1 Vertical Funding Trends

In recent years, despite some growth in the fiscal importance of communes, sangkats, provinces, and municipalities, the overwhelming expenditure in the regions occurs through deconcentrated expenditures of the central

Table 4.4 Civil Service Staff at Central and Decentralized Locations 2007

Ministry/Agency	Total CG Employees	CG Employees in Provinces/ Districts	% in Provinces/ Districts
Council Ministers	1,711	–	–
Royal Palace	227	–	–
Tourism	979	315	32.2
Education, Youth and Sport	105,050	99,375	94.6
Commerce	1,758	667	37.9
Rural Development	2,110	1,535	72.7
Culture and Fine Arts	2,874	1,361	47.4
Environment	1,436	869	60.5
Industry, Mines and Energy	1,605	1,000	62.3
MOWRAM	1,394	742	53.2
Women's Affairs	904	686	75.9
Foreign Affairs	622	–	–
Interior	10,456	8,676	83.0
Information	1,948	835	42.9
MAFF	7,627	3,866	50.7
Justice	1,046	882	84.3
Planning	1,610	992	61.6
Health	18,327	13,484	73.6
Religion and Cults	699	410	58.7
Social Affairs, Veterans and Youth	1,608	1,167	72.6
National Assembly and Senate	650	179	27.5
Public Works and Transport	3,885	2,371	61.0
Land, Urbanization and Construction	2,325	1,779	76.5
Post and Telecommunications	1,023	635	62.1
Economy and Finance	4,883	657	13.5
Labor and Vocational Training	1,720	837	48.7
State Secretariat – Public Service	204	–	–
State Secretariat – Civil Aviation	511	–	–
Total	179,192	143,320	80.0

CG = central government, MAFF = Ministry of Agriculture, Forestry and Fisheries, MOWRAM = Ministry of Water Resources and Meteorology.

Source: Bureau of Statistics, *Annual Statistics Yearbook* 2007.

government ministries, which have large offices and staff in provincial capitals and even at the district levels. Despite limited decentralization of finance, there has been a significant trend toward the relocation of central government staff in all the regions of the country.¹⁴ Table 4.4 indicates that 80% of all civil servants are in decentralized locations, led by education (94.6% of all staff), interior (83.0%), and health (73.6%). The ministries of particular interest to this study show mixed results—72.7% of the employees of the Ministry of Rural Development (MRD) are decentralized, but 53.2% of Ministry of Water Resources and Meteorology (MOWRAM) staff and 50.7% of Ministry of Agriculture, Forestry and Fisheries (MAFF) staff remain at the head office. Wider dispersion of civil servants would ease their transfer to subnational administrations should there be a further push toward deconcentration and decentralization.

Analysis of deconcentrated expenditures of central government ministries is made difficult by the limited expenditure classification system used, and particularly because much development spending in the regions is either off-budget or not well classified by location. An attempt to classify deconcentrated expenditures in the 2007 budget has been made, and the estimates are presented in Table 4.5.

Table 4.5 suggests that 77.6% of resources are spent at the central government level while 20.5% are spent in the provinces and districts, mainly as deconcentrated expenditures of central government ministries. About 1.9% of resources are spent by the commune and sangkat councils through fund transfers and other deconcentrated activities. The share attributed to “Other/Unallocated” in Table 4.5 is large and relates largely to development

Table 4.5 Vertical Allocation of Resources, Government Budget 2007 (%)

Item	Central Government	Province/District	Commune/Sangkat	Total
1. General Administration	8.2	0.5	0.0	8.7
2. Defense and Security	11.0	0.0	0.0	11.0
3. Social Sector	11.1	12.8	0.0	23.9
4. Economic Sector	3.8	1.7	0.0	5.5
5. Other/Unallocated	43.5	5.5	1.9	50.9
Total	77.6	20.5	1.9	100.0

Source: J. Boex, 2008, *Moving Forward with the Development of a National Fiscal Decentralization Policy Framework in Cambodia*, NCDD, Phnom Penh.

¹⁴ A recent study recommends caution with personnel data as many staff appointed to the regions do not turn up there or do not remain (Netra and Craig 2009).

expenditures which are heavily development partner-financed and not well classified by function.

About 30% of allocated recurrent expenditures are a result of the fact that 80% of civil servants are located in the provinces and districts. This implies that many central government offices in the regions do little more than pay staff, because they have few additional resources. The data also indicates that the bulk of project investment funding (including development partner funding) remains under the control of the head offices.

4.4.2 Horizontal Funding Trends

Table 4.6 presents the horizontal allocation of deconcentrated central government ministry resources between provinces and municipalities. There is considerable horizontal variation in the allocation of deconcentrated funding. In total, the difference between the highest- and lowest-funded provinces and municipalities is 5–6 times. These trends are even more pronounced in some sectors, including sectors of strategic interest to ADB.

The ratios between maximum and minimum per capita funding for selected sectors are (i) agriculture 26.2, (ii) rural development 34.9, and (iii) water 56.0. While geographical differences and differing regional needs account for some of the differences, these ratios are high in a nation that is largely agricultural and has a wide dispersion of both waterways and poverty. In part, this is due to an inequitable allocation of recurrent resources between regions, but the more fundamental reason is the unequal distribution of development funding across the country, particularly the development partner-funded components of investment.

More detailed work and analysis is warranted before the design of a new system of intergovernmental financing is finalized. It is important to review trends over time and to look in more detail at degrees of variation and the reasons underlying them. It is also necessary to undertake more econometric analysis of the varying fiscal needs and capacities of different regions before determining the level of funding subnational administrations should receive so they can finance public services.

4.5 Assessment – Likely Directions for Reform

The new Organic Law requires that a new approach be adopted for intergovernmental financing systems. While a fresh start is desirable, it is beneficial to incorporate lessons from the past.

The revenue-raising powers of the communes and sangkats are significant but they have never been employed. Moreover, the design and implementation of investment projects has been slow, leading to the buildup

Table 4.6 Horizontal Allocation of Resources, Government Budget 2007 (KR per capita)

Item	Average	Minimum	Maximum	Max/Min Ratio
Education	33.0	18.3	52.1	2.8
Health	11.7	4.8	27.7	5.8
Rural Development	3.3	0.4	13.9	34.9
Agriculture	4.8	0.7	18.2	26.2
Water	2.2	0.1	8.3	56.0
All Others	34.3	6.7	96.3	14.4
Total	89.3	37.4	198.9	5.3

Source: J. Boex, 2008, *Moving Forward with the Development of a National Fiscal Decentralization Policy Framework in Cambodia*, NCDD, Phnom Penh.

of reserve funds. Development partner support to the funding of communes and sangkats has been important and warrants continuation, though support to higher levels of subnational administrations at district, provincial, and municipal levels is an important emerging need. While salaries, allowances, and other administrative costs of communes and sangkats have been relatively high at around 40%–45% of total outlays, it is an achievement that around 55% of funding has been directed to small-scale social and physical infrastructure development.

In terms of vertical balance, the communes and sangkats have received less than 2% of total government expenditures, but given the planned rise of more efficiently sized districts and provinces it may be unrealistic for them to expect much more. Funding to communes and sangkats has demonstrated less horizontal imbalance than provincial and municipal funding. An important conclusion can be drawn from this: that despite the weaknesses of the current scheme, basic formula-driven approaches that take some account of capacities and needs will lead to more efficient and fairer outcomes than will bargaining between subnational administrations and officials of the central government.

Provincial and municipal revenue assignments are considerable but have not been elaborated or utilized to good effect, though collections have improved since 2006 as economic activity, especially in land and property transfers, has intensified. Though direct budget allocations to the provinces and municipalities have been sustained for a decade, total funding packages have not been adequate to allow assigned responsibilities to be seriously addressed and severe vertical imbalance in funding arrangements exist.

Despite recent growth, provinces and municipalities control a mere 5.5% of total general government expenditures and most of this is absorbed by

administrative costs. While some recent growth in capital and social spending by provinces and municipalities is welcome, such levels remain small. Funding arrangements for the provinces and municipalities demonstrate major horizontal variation, reflecting inadequate policies for resource allocation, especially in terms of development expenditures in a number of key sectors.

Funding of deconcentrated activities of central government ministries and agencies is the issue of greatest concern for future policy reform. While significant staff numbers have been located in the provinces and districts, they are constrained by limited resources and cannot deliver local services. Ministries and agencies in Phnom Penh have captured most discretionary forms of funding, particularly development funding.

It is unlikely that a better intergovernmental financing system will be developed unless there is recognition by both the Government of Cambodia and its development partners that there are major issues to be addressed with regard to both vertical and horizontal imbalances in the financing of subnational administrations. Such issues are of an endemic political and governance nature, and for deconcentration and decentralization reforms to succeed better systems of intergovernmental financing are required. Good fiscal design will have to be matched with better accountability.

5 Policy and Planning Framework for Implementing Reforms

While the emerging legal and regulatory framework outlined in Chapter 2 should largely shape and drive the reform program, two important documents at policy and planning levels—the 2005 Strategic Framework for Decentralization and Deconcentration Reforms and the 2009 (Draft) Ten Year National Program—will also play a role. Both these documents are briefly reviewed in this chapter.

5.1 2005 Strategic Framework for Decentralization and Deconcentration Reforms

5.1.1 Overview

While setting out broad policies and a vision, the government's 2005 strategic framework document provided direction for the preparation of the 2008 Organic Law and the National Program. A well-written document which remains relevant today, it provided guidelines for division of powers and duties among levels of administration.

5.1.2 Vision of the Government of Cambodia

The basic goal is to strengthen and expand democracy, and promote local development to reduce poverty. The basic principles for deconcentration and decentralization reforms are (i) democratic representation at all levels, (ii) participation of the population, (iii) public sector accountability through citizen oversight of local administrations, (iv) effectiveness of public service delivery through greater involvement with users of services, and (v) a focus on poverty reduction.

Management of subnational administrations will be based on principles of open democratic participation in pursuit of improved local service delivery and development. A new legal framework will define powers and responsibilities at all levels that are consistent with national policies but also provide flexibility

to address local needs and citizen demands. Adequate finance (including own resources) will be provided to meet defined responsibilities.

5.1.3 Government's Strategy

The long-term objective is for broad-based sustainable development with strengthened local foundations, citizen participation, effective environmental management, delivery of quality public services, and poverty reduction. Local democratic development involves citizen participation and accountability to citizens, improved service delivery, and the linking of participation and service delivery. New local structures will be critical, especially new democratic unified administrations at the provincial, municipal, and district levels and further strengthening of the communes and sangkats.

Reforms will focus on (i) indirectly elected councils and boards of governors driving unified administration with better plans, budgets, and resource management and more focus on service delivery; (ii) enhanced roles and responsibilities to be transferred to all subnational administrations with more decentralized administration to be supported by improved financial flows through a better system of intergovernmental financing and unified budget systems; and (iii) reform of central government ministries to ensure greater support to subnational administrations.

Administrative restructuring will see all subnational administration tiers pursuing effective unified administration under elected councils and governors. Councils will approve plans and budgets and monitor performance; governors will support and advise councils as representatives of the central government. The duties of the governors will be to maintain security and public order and deliver local public services with accountability to central government, boards of governors, and to the council. Subnational administrations will have unified budgets, local staff, and resources and will receive sufficient resources from the central government to address assigned responsibilities.

Provincial governors will oversee the performance of districts, khans, communes, and sangkats. A separate law will be passed on the management of Phnom Penh. Initially the rural districts and khans will have no budget; they will remain under the provinces. Communes and sangkats will be further strengthened and will be assigned additional public service responsibilities matched by additional resources.

The Organic Law is based on the principle that the delivery of public services is most effective and the administration most accountable when it is close to its citizens. On this principle, there will be significant reassignment of duties and responsibilities among government levels. Each level will be responsible for performance but subnational administrations will have flexibility to fund nondefined matters where it is in the interest of their constituents.

There will be clarity of revenue assignments in a new law and adequate budgets for subnational administrations. All subnational administrations shall have the following revenues: own source, shared, and transfers from higher levels. Links will be provided between revenues collected and services provided, with elected subnational administrations held accountable. Each level may develop effective approaches to collecting and managing revenues that are more suited to its purposes. Funds transfers between levels of government should follow a transparent formula that considers fiscal equalization, vertical compensation, incentives for revenue collection, and improvement of expenditure management. Reforms will foster improved planning, budgeting, procurement, asset management, accounting, reporting, evaluation, and internal and external audit with incentives and sanctions to promote improved public financial management (PFM) by subnational administrations. Capacity building programs will support improved PFM in subnational administrations.

5.1.4 Development of a National Program

A 5-year national program for implementing reforms focuses on policy and a regulatory framework, institutional issues, and sector service delivery. Priorities for 2005–2008, still being pursued, were to (i) finalize the Organic Law and lower-level instruments; (ii) establish unified administrations in subnational administrations, unified planning and budget systems, new personnel management systems, and elected councils; and (iii) mobilize domestic and foreign resources for developing subnational administration capacities.

The program is to be managed and implemented by a national committee with a strong secretariat, with the Supreme Council for State Reform providing overall coordination. Ministries, institutions, and subnational administrations will be the direct implementers of reforms and will be directly responsible for the improvement of public services. National ministries will develop sector policies, build capacity, and monitor performance at all levels. The Ministry of Interior (MOI) will support the national committee, control the legality of subnational administrations' decisions, and build capacity in subnational administrations. The Ministry of Economy and Finance (MEF) will develop a fiscal decentralization strategy, develop policies on subnational administration financial management, and strengthen capacities of the Department of Local Finance to support and monitor subnational administration financial management. Laws in relation to civil service arrangements at subnational administration levels will be revised.

Foreign assistance will be based on principles of harmonization and alignment of effort to support the government's priorities. It may include the use of basket and pooled funds along with more project-specific interventions through mechanisms that are yet to be established.

5.1.5 Assessment of the 2005 Strategic Framework

The concept of unified administration was never well elaborated, nor was the related term of unified budgets. The assumption was that new structures of elected councils and appointed boards of governors would automatically lead to well coordinated and unified central government and subnational administrations. Many problems with coordination are likely to continue unless there is a well-planned transitional movement to horizontal forms of deconcentration, and eventually to greater decentralization. In general, the tone of the 2005 Strategic Framework was bold in its emphasis on decentralization as compared with subsequent drafts of the National Program.

Many important steps and priorities that were highlighted for completion by 2008 are behind schedule. These include (i) the law on subnational administration finance, (ii) the law on revenue assignments, (iii) laws and/or regulations on civil service reforms, (iv) reassignment of functional responsibilities, (v) the development of subnational administration PFM budgetary systems, and (vi) reform of subnational administration coordination arrangements to support unified approaches. Importantly, the promised additional resource flows have not emerged. While all of these matters are scheduled for further work during implementation of the National Program, the actual work of preparing the program has not made much progress in terms of finalizing them.

5.2 Ten-Year National Program

5.2.1 Overview of the National Program

A 10-year National Program document was approved by the government in May 2010. The formulation team composed of foreign and domestic consultants and National Committee for Democratic Development (NCDD) Secretariat staff. There were a number of areas in the initial drafts that needed further work in a number of areas relating to both content and presentation.¹⁵ The four main sections of the document are briefly set out and analyzed here: (i) the strategic framework, (ii) the five proposed program areas, (iii) program management structures, and (iv) program financing.

¹⁵ Consolidated comments of the development partners on earlier drafts raised many concerns regarding (i) citizen participation; (ii) council empowerment; (iii) accountability to citizens; (iv) restructuring of central government administration; (v) increased attention to capacity building; and (vi) technical deficiencies with logframes, budgets, and other aspects of presentation.

A 3-year implementation plan for the National Program covering 2011–2013 is also being discussed between the government and development partners.

5.2.2 Strategic Vision

The strategic vision is guided by the 2005 Strategic Framework and the 2008 Organic Law. The strategic vision includes reference to democratic governance, improved service delivery and contribution to growth, development, and poverty reduction in the regions. An important goal is to transfer powers and resources to subnational administrations based on clear identification of roles, power, and accountability of all levels of government. Important policy commitments include (i) clear assignment of functions to subnational administrations matched by transfer of resources, which would allow subnational administrations to set their priorities; (ii) reasonable powers given to subnational administrations to raise local revenues and to set revenue policies and rates; and (iii) subnational administrations given control over a regional civil service, including powers to hire, manage, and fire staff.

Provincial administrations will focus on planning and coordination roles within the provinces and address cross-district matters and the implementation of national policies. Districts and municipalities will work closely with communes/sangkats and become a key service delivery point to take account of economies of scale. Communes and sangkats are to remain focal points and providers of localized village infrastructure and services.

The concept of “unified administration” and a phased movement to more horizontal forms of deconcentration and eventually decentralization are central to the strategy, though these are not yet fully explained, particularly as to the extent to which plans and budgets will be unified at subnational administration levels.¹⁶ The strategy relies on the problematic concept of continuing deconcentration through unified administrations, even though in the past provinces have demonstrated very low capacity to coordinate the large numbers of central ministries operating in their regions. Achieving unified administration is likely to represent even more of a challenge for newly established districts and municipalities. While better coordination is to be desired (perhaps initially through more integrated national and subnational administration budgets), eventually subnational administrations should become more autonomous and have clear responsibility and funding.

¹⁶ A new subdecree issued in September 2009 aims to clarify relationships between councils and boards of governors, including the roles of technical facilitation committees. However, this focuses on administration and not on ways plans and budgets of central government ministries and subnational administrations will be integrated.

The current draft goes a little further than earlier drafts, indicating that “the preponderance of functions assigned are (to be) transferred.”

The strategic framework also recognizes a need for close alignment with other related reform programs, particularly those for PFM and public administration. This includes unification of the recurrent and development plans and budgets. The proposed reforms are seen as challenging and requiring significant change in approach through a logical framework and programmatic structure. A master logical framework is presented, though arguably it excludes a number of important matters and is not at all clear as to what actions and strategies will lead to the desired outputs. Strategies and actions need better articulation in the master matrix as well as in the more detailed program area matrices. Five interlinking program areas form the basis for program implementation (Section 5.2.3) with two important crosscutting themes running through all areas—gender mainstreaming, and accountability. Capacity building at all government levels and across all program areas is also seen as important, though it is treated more strategically than practically in the document. Three platform periods are provided for implementation—2010–2012, 2013–2015, and 2016–2019.

The strategic framework assumes that improved transparency and integrity will automatically flow through to councils, mainly because of pressure from the electorate. Given the extent of perceived governance problems, this is unlikely to happen unless external audit and strong anticorruption mechanisms are put in place. Good governance, transparency, and anticorruption measures are a core part of the government’s Rectangular Strategy and need to be a core element of the reforms, particularly in program areas relating to personnel, budgeting, and financial management.¹⁷

5.2.3 Program Areas

The document provides for five program areas:

- (i) organizational and institutional development, especially at subnational administration levels;
- (ii) human resources management and development systems;
- (iii) reassignment of functions between levels of government;
- (iv) budget, financial, and asset management systems; and
- (v) strengthening of institutions for deconcentration and decentralization reform.

Each of the five program areas is explained in detail, including (i) provision of rationale, goals, priority outcomes, and outputs at different subnational

¹⁷ Rectangular Strategy for Growth, Employment, Efficiency and Equity phase 2 (2008–2013) is the policy document for the fourth mandate of the government.

administration levels; and (ii) a detailed logframe matrix which provides in each case for goals, assumptions, and key performance indicators; and (iii) targeted outcomes with division of delivery times in line with platforms (i), (ii), and (iii). In some matrices, it is not clear which actions and strategies will lead to the desired outcomes and which institution is responsible and accountable for delivering them. In part, such matters are to be addressed later by preparation of more detailed annual work plans by the NCDD Secretariat.

Earlier drafts of the National Program contained larger numbers of program areas, and reduction to five program areas is appropriate. Program area (v) reflects parts of the proposed NCDD Secretariat program management role, whereas other NCDD Secretariat tasks have been left outside the five program areas. Some consistency is needed here. Some development partners still favor the addition of one further program area to support demand-side strengthening through promotion of electoral participation, and enhanced accountability arrangements, etc.

It is not within the purview of this report to fully review each of the five program areas. A few important issues follow, but these are by no means exhaustive. An extensive compendium of comments has been gathered from all interested development partners and is separately available.

Program area (ii) indicates that MOI personnel in the districts and provinces will be transferred to the subnational administrations by the end of 2009, which has not happened yet. This is a bold and appropriate move. While it would require changes to the Organic Law, consideration should be given to a limiting of MOI and/or government powers in the appointment of governors, deputy governors, boards of governors, and administrative directors. These powers could be given to councils or electors, which would remove likely tensions between government-appointed governors, boards of governors, and subnational administration staff.

Problems are likely to stem from multiple *prakas* (regulations) articulating the different functions and assignments, because the legal status of a *prakas* is low and will lead to uncertainties in relation to higher legal instruments, e.g., the legal structure. Over time, consolidation of decisions in a higher-level legal instrument, such as an Organic Law (as envisaged in the 2005 Strategic Framework), would be preferable. Program area (iii) importantly recognizes that the NCDD, MEF, and Ministry of Planning will have an important role to play in finalizing policies on functional assignments, which cannot simply be left to sector ministries.

Program area (iv) is defined by important roles for internal and external audit. However, there is no indication here or in other parts of the document as to how such major objectives will be pursued. Like many proposed outputs, an element of faith seems inherent. Both these matters are left to program area (ii); this is inappropriate. Subject to the provision of resources, the National Audit Authority (NAA) is ready to move immediately and it

should be allowed to do so. This matter is at the heart of any additional audits that development partners consider necessary for their own purposes.

Also, in program area (iv) there is a very rigid interpretation of the Organic Law requiring that transfers of obligatory functions must be in the form of conditional grants. This entails the risk of locking transfer amounts into existing sector and/or ministry allocations, which in many cases is inappropriate. It also introduces a need for annual bargaining between the subnational administration and the central government agencies as to how the allocations will be adjusted over time for inflation, productivity, growth, etc. This will help continue current high leakages to the regions. The National Program should not preempt a fair, transparent, and rules-based intergovernmental transfer system being developed under the subnational administration finance law; there are risks that current approaches in the draft will do this. In any event, requirements of the Organic Law need not be over-read. Conditionality can come in many forms. For instance, it might state that certain core grants be spent only on obligatory functions, or even more simply on agreed priority functions. However, options for more conditional specific grants should be considered.

5.2.4 Program Management Structures

The national program sets out proposed arrangements for program management. The program will have an impact on most ministries and agencies within the central government and on institutions within subnational administrations; this will require that both political and technical management mechanisms are put in place, including both national and subnational representation. Management must address policy and legal reforms as well as program implementation and coordination. The NCDD, with backing of the Organic Law and the royal decree promulgating the law, is given the pivotal role in implementation. Important elements of program management will be the four NCDD subcommittees and related working groups.

There is also the Technical Working Group, which provides for coordination between the government and development partners. The full-time secretariat of the NCDD has critical day-to-day implementation and coordination responsibilities in relation to the National Program. The secretariat will have three main work units: policy support, interministerial matters, and program support. The interministerial nature of the NCDD needs to be seen as reaching out across all ministries and subnational administrations and not be seen simply as a part of the MOI.

The NCDD will prepare an annual work plan and budget which it will discuss with development partners with regard to funding and implementation support. The annual work plan is an important document as it outlines actions

and strategies necessary to achieve the desired outcomes and outputs for each of the program areas. Through this work plan, the NCDD Secretariat work units will manage and coordinate a complex range of activities likely to involve many actors at central and subnational levels. Despite the fact that many of the critical required outputs are policy and interministerial in nature, the program support unit is given the largest role of managing the annual work plan and, indeed, the longer-term outcomes and outputs of the entire program.

The NCDD Secretariat will play a key role in project management, accounting, reporting, facilitating, and monitoring, together with a new subcommittee to oversee comprehensive evaluation of all national program activities. Initially parallel approaches to audit are envisaged, with the NAA responsible for external audit of government funds. At the request of development partners, private auditors will be contracted for stronger and more independent approaches to auditing. The proposed use of private auditors arguably needs to be better merged with the current goal of strengthening the NAA; any use of private auditors should occur under the umbrella of the NAA.

For many stakeholders, intergovernmental financing and recent fiscal trends (as outlined in Chapter 4) do not adequately articulate how the program will be managed and how the management structures will drive attainment of the required results. The role and organizational structures for the NCDD Secretariat need elucidation. There is a lack of clarity as to whether the secretariat is a policy body to support the subcommittees of the NCDD, if it is to be turned into a grants allocation commission along the lines of Australian or Canadian grants commissions, or if it is to become a large program management unit managing large numbers of subprojects along the lines of an extended Project to Support Democratic Development through Decentralization and Deconcentration (PSDD) approach.

Some stakeholders consider that the NCDD Secretariat role should be policy-based, along with coordination of modest amounts of pooled or well-coordinated capacity building support. Subject to further discussion in preparation of the subnational administration finance law, the grants allocation role might well be undertaken elsewhere, either in the MEF or as an independent offshoot of the MEF and NCDD. Ideally, projects should be kept to an absolute minimum and the main focus of future funding should be conditional and nonconditional grants to subnational administrations.

The three proposed work units of the NCDD Secretariat need further elaboration as to their roles, responsibilities, staffing, and resource levels. It remains unclear as to how these units will manage different parts of the program. Significant weight is given to the role of the program support unit in the current document, but there is some question about this unit's ability to support policy and legislative reforms in civil service policy, and in fiscal

decentralization and functional assignments. There is also concern that many managers and staff of the secretariat units have other senior positions in the MOI and will be available only on a part-time basis. A clearer outline of the role, structuring, and staffing of the NCDD Secretariat, including specific organizational charts, is an imperative.

5.2.5 Program Financing

Chapter 5 of the draft covers finance and budget matters. It commences with some principles relating to funding models and approaches and concludes with estimates of financing needs for the first stage—2010–2012. Financing by development partners in this period is seen as somewhat transitional, allowing existing and imminent projects and programs to be worked through. Also during this period the goal is to align deconcentration and decentralization activities with the Public Financial Management Reform Program (PFMRP) and the National Program Administrative Reform (NPAR), and to arrange an orderly transition from the currently large PSDD program, which underpins most of the national work plan and budget of the NCDD and provides significant consulting, wage supplement, and project support through the subnational administrations.

In terms of preferred financing approaches, the key elements of the document are as follows:

- (i) Funding should be program-based and on-budget at central government and subnational administration levels as appropriate. The annual work plan and budget of the NCDD Secretariat is seen as an important means for doing this.
- (ii) Development partner funding is likely to flow through the annual work plan and budget in a number of ways, including technical assistance (TA), bulk program funding, project funding, operational support, wage supplements, and funding for private accountants and auditors, etc.
- (iii) The funding mechanisms are likely to include (a) direct conditional and unconditional budget support to subnational administrations channeled through the Treasury; (b) pooled funds to support reforms; (c) pooled funds for independent audits; and (d) bilateral arrangements which are at least notionally on-budget and on the annual work plan of the NCDD Secretariat, even though funds may not pass directly through government accounts.

Proposed financing approaches for development partners will be set out in a joint partnership arrangement to be negotiated between them and the Government of Cambodia. (The current draft of the agreement is set out and commented on in Box 3.1 of this report.)

Table 5.1 Summary of Program Funding Needs, 2010–2012
(\$ million)

Commune		District/ Municipal	Province/ Bulk SNA	National/ NCDD	Total
2009 (Actual Budget)					
RGC	17.1	0.0	89.2	0.0	106.4
DPs	25.7	13.8	22.0	14.1	75.6
Total	42.8	13.8	107.7	14.1	182.0
2010 (Committed)					
RGC	24.5	41.5	57.5	0.0	123.5
DPs	26.0	17.5	32.7	17.0	93.2
Total	50.5	59.0	90.2	17.0	216.7
2011 (Required)					
RGC	27.5	47.2	63.1	0.0	137.8
DPs	26.0	14.2	32.7	16.7	89.6
Total	53.5	61.4	95.8	16.7	227.4
2012 (Required)					
RGC	29.5	55.2	69.0	0.0	153.7
DPs	26.0	14.2	32.7	17.1	90.0
Total	55.5	69.4	101.7	17.1	243.7
Total 3-Year Requirement 2009–2012					
RGC	98.6	143.9	278.8	0.0	521.4
DPs	103.7	59.7	120.1	64.9	348.4
Total	202.3	203.6	395.4	64.9	869.8

DPs = development partners, NCDD = National Committee for Democratic Development, RGC = Royal Government of Cambodia, SNA = Subnational Administration.

Source: Adapted from Draft 4(a) of National Program, August 2009.

Table 5.1 summarizes program funding needs in each of the five program areas for 2009–2012. Total funding over the 4-year period is assessed at \$869.8 million, about \$521.4 million (60%) to be provided by the government and \$348.4 million (40%) by development partners. Part of the problem with the estimates is that they are not based on clear strategies as to how the outputs will be achieved and thus there is no clear basis for costing. Some of the assumptions also seem implausible. Hence, in the view of many stakeholders, financing estimates need considerable work.

For example, assumptions have been made as to the nature of future conditional and unconditional grants and other funding to different tiers of

government which sees approximately equal amounts flowing to communes, sangkats, and districts and almost double these levels flowing to provinces. While 2009–2012 will be a transitional period, one would expect the estimates to reflect a greater shift to the funding of districts as compared with provinces and communes. Similarly, the estimates suggest that government funding at all levels will grow from \$106.4 million in 2009 to \$153.7 million in 2012. The MEF has not yet agreed to these figures. Further work will be needed to assess the extent to which current central government funding can be shifted to fund the transition to subnational administration financing. Until new revenue assignments and intergovernmental transfer systems are in place, it is largely conjectural to present cost estimates of this nature. Modeling and presentation of a range of funding options under differing assumptions may have been more useful.

There are also presentational problems with tables based around enunciation of a mix of inputs, funding sources, and only a few outputs. The format of the budget needs to follow the government's own budget classification and charts of accounting systems. From the perspective of many development partners (including the Asian Development Bank) it would be useful to get a clearer picture of funding needs for the following:

- (i) NCDD and NCDD Secretariat running and capital costs, by work unit and by input;
- (ii) direct budget support funding, for channeling directly to communes, districts, and provinces through a new intergovernmental financing system;
- (iii) project funding, by institution (e.g., commune, district, province, NCDD, and MEF), by description of type of assistance needed, and by indicative input costs; and
- (iv) technical assistance, by institution (e.g., commune, district, province, NCDD, MEF, and sector ministry), and by description of type, quantity, and length of assistance needed in line with the five program areas.

The current financial and budget plan seeks in part to continue expanding the NCDD Secretariat into a large project management unit managing significant amounts of project and technical support. Given past weaknesses and risks, such an approach needs to be viewed cautiously. Consideration should be given to setting strategic targets for each of the main spending components. Depending on how the framework and systems develop, a major portion of total funding by the start of program area (ii) (50%–75%) could be channeled through direct budget support to subnational administrations. This should be allocated to conditional and unconditional direct expenditures in line with details of the subnational administration finance law and regulations related to intergovernmental financing. Such a target may seem high but is consistent with preferred program and bulk funding modalities of key development partners who are supporting reforms.

The following are other issues that warrant further discussion:

- (i) The budget implies continuing support to salary supplementation in the NCDD Secretariat and in the subnational administrations. There needs to be a clear and early exit strategy from such distortionary and inappropriate approaches.
- (ii) The proposal to set up working groups to address consistency with the PFMRF and NPAR may duplicate the role of the NCDD subcommittees.
- (iii) The discussion of pooled approaches to development partner funding under the aegis of the United Nations or World Bank seems inappropriate. The government is the right choice if adequate fiduciary arrangements are in place.

6 Critical Issues for Reform

6.1 Introduction

Several challenging issues are being faced by the Government of Cambodia in its effort to pursue reforms; these issues are of relevance to the strategy and programming of the Asian Development Bank (ADB) and other development partners. (Specific issues faced by ADB, particularly in relation to longer-term country programming, are addressed separately in Chapters 7 and 8.) Reform design and implementation is already well behind the 2005 Strategic Framework targets and is likely to move slowly given the breadth and complexity of the issues to be addressed.

6.2 Need for a Clearer Policy Framework

Following preparation of the 2005 Strategic Framework and the 2008 Organic Law, much effort and time was expended on finalizing the policy and programming framework of the 10-year National Program document. Some fundamental policy questions that need to be more clearly answered in the context of the National Program include the following:

- (i) What is the extent and nature of deconcentration and the extent to which the approach is transitional leading to greater autonomy eventually?
- (ii) To what extent is it transitional, and what actions and strategies should be pursued to move from vertical deconcentration toward a horizontal approach?
- (iii) What authority and powers will be given to provincial, municipal, and district councils and governors over recurrent and development budgets?
- (iv) What are the respective roles of the provinces, municipalities, districts, and communes? Will districts become the major focus for service delivery implying need for major increases in resources and capacities?

- (v) What functions are to be assigned to different tiers of government?
- (vi) What additional revenues are to be assigned to different tiers of government, and will there be reorganization of existing revenues for communes/sangkats, provinces, and municipalities?
- (vii) Given proposed expenditure and revenue assignments under the National Program, what are the broad intended levels of intergovernmental transfer flows and the technical arrangements for a new system of transfers covering all subnational administration levels?
- (viii) What are the proposed fiduciary arrangements for subnational administrations and, in particular, how will current inconsistencies between the Organic Law and the 2008 Law on Public Finance Systems be resolved?
- (ix) How will audit and external supervision of subnational administration finances be strengthened?

These policy matters are complex and a resolution on technical or political matters could not have been expected in 1 year. However, it is possible to set them out in a broad framework which makes the direction of change clearer. Unfortunately, the current draft of the National Program lacks clarity of vision and direction. It is to be hoped that the final version will be clear and timely so that the real work can commence.

6.2 Systems of Public Administration Are Largely Dysfunctional

Deconcentration and decentralization reform is strongly linked to broader public administration reform; it is difficult to see how decentralized management can be successful while public administration systems and particularly civil service remain somewhat dysfunctional. Elements of dysfunction for regionally based civil servants are endemic and are outlined as follows:

- (i) There is endemic patronage with respect to appointments, transfers, and promotions.¹⁸
- (ii) Significant numbers of ghost workers appear on the payroll.
- (iii) Wages for subnational administration civil service officers are low, especially for district and lower-level provincial officials.
- (iv) There is virtually no operational funding in recurrent budgets for central government line ministries in the regions, making it difficult for staff to perform effectively.

¹⁸ Research indicates the typical price to procure a location transfer is \$2,000, while the typical fee to procure a new appointment is \$3,000 (Netra and Craig 2009).

- (v) There is high reliance on development partner–financed projects for operating funds to allow limited and geographically isolated operations to proceed.
- (vi) There is continued control of development partner–funded projects in the regions through central government ministries and their project or program management units, with significant use of patronage arrangements in the allocation of project funds and subsidized positions.¹⁹
- (vii) There are acute housing problems for staff in the regions (particularly the districts), with many living in government offices.

While the deconcentration and decentralization strategy stresses the need to align closely with the National Public Administration Reform Program, this program itself is rather dysfunctional and there are political and bureaucratic pressures to maintain the status quo. Given the very low proportion of budget expenditures assigned to wages, it should not be difficult to restructure the national budget so it can pay living wages for all civil servants. Development partners should change piecemeal approaches to wage subsidies and address systemwide reform.

Given the lack of will and inadequate capacity of the central government to pursue meaningful civil service reform, the National Committee for Democratic Development (NCDD) could consider moving away from current policies that favor a single national civil service and prepare a law that provides for a totally separate subnational administration civil service with considerably better terms and conditions. While this would provide incentives to civil servants to seek employment in the regions, it would not be possible to implement this without appropriate funding for subnational administrations. Technically it is possible to design such improvements at zero net cost to the national budget, but given current power structures this is unlikely to happen without political support. Pressure and funding from development partners would aid the process. On both counts this seems unlikely.

6.4 Better Coordination of Government and Development Partner Efforts

Weak governance arrangements in Cambodia intensify the challenges of the reform process. There are strong vested interests to maintain the status quo, particularly with regard to control of discretionary budgets. Much of the government’s efforts in the coordination of reform have gone into establishing the NCDD. This approach seems reasonable on paper

¹⁹ A recent study estimates that “processing” type leakages—mainly at the central government level—can account for 20%–30% of project total funds (Kimchoeun and Craig 2008).

though there are emerging concerns that it may lack capacity both at the higher levels, particularly the four key subcommittees, and also at the level of the secretariat. There are also concerns that the NCDD Secretariat is underresourced and that it may lose its policy and coordination focus.

A major question is whether the Ministry of Economy and Finance (MEF) will fully embrace the NCDD structures and become actively engaged in the assignment of functions, preparation of the subnational administration finance law and related legal instruments for revenue assignments, intergovernmental transfers, and systems for public financial management (PFM) in subnational administrations. Currently the MEF favors strong central control of the development budget. The MEF needs to get fully involved, ideally through NCDD structures. If that proves difficult, the NCDD (and/or the government) can delegate specific powers to MEF to finalize arrangements for fiscal decentralization. In the absence of a clear reform policy framework (such as in the National Program), there are risks that the MEF will design a system with central control or, worse still, do nothing.

There are further problems in coordinating line ministries and agencies, particularly as NCDD attempts to have them design appropriate strategic and budget plans that will lead to devolution of responsibilities. Over time, this can happen if provinces, municipalities, and districts have greater control over their central government budgetary resources or if more autonomy and resources are given to subnational administrations. It is unrealistic to expect line ministries to voluntarily devolve powers; eventually the NCDD, MEF, and Ministry of Planning will have to play a greater role in forcing the reassignment of functions in line with an agreed national strategic framework. This task would become easier if the National Program could build a stronger framework and provide clearer direction.

Development partners can play a potentially useful role in strengthening the government's coordination efforts, including (i) appropriate policy support to the NCDD and MEF, (ii) working with selected line ministries to develop strategic plans for further devolution, (iii) linking their related work in PFM and public administration reform more closely to deconcentration and decentralization reform, and (iv) amending current centralized thinking.

6.5 Strengthening the Legal and Regulatory Framework

The emerging legal framework outlined in Chapter 2 highlights the fact that, while significant legal and regulatory work has been done, considerable further work is needed. It is a universal fact that basic administrative and fiscal laws for decentralization define the administrative and financial rules, and regional political pressures typically force broad adherence to them.

A sound legal framework will be more enduring and important than planning or policy documents such as the National Program. Hence, the following important gaps should be addressed:

- (i) Many lower-level legal instruments still need to be finalized under the Organic Law.
- (ii) Once the assignment of functions has been agreed upon, they should be set out in a higher-level legal instrument, ideally at the level of an Organic Law. Inconsistencies between this new law(s) and sector laws and regulations will subsequently have to be dealt with.
- (iii) The proposed subnational administration finance law needs to be finalized; it is being held up because of lack of clarity and consensus on the reassignment of functions between tiers of government.
- (iv) Once the subnational administration finance law is passed, a number of related legal instruments will have to be developed and passed, including tax and nontax revenue assignments, an intergovernmental transfer system, and planning and PFM systems for subnational administrations.
- (v) Important inconsistencies between the Organic Law and the Law on Public Finance Systems need to be addressed through legal amendment, particularly with regard to the extent of decentralization of powers relating to the approval, revision, and management of subnational administration budgets.
- (vi) Many of the required lower-level legal instruments under the 2001 Law on Communes and Sangkats have never been passed and should be addressed to provide greater certainty.

6.6 Clarifying Assignment of Expenditure Functions

While the Organic Law and the 2001 Law on Commune/Sangkat Administrative Management provide some direction as to the assignment of functions, this is far from complete; the definition of assignments is limited and the tier of government is unclear. To date the work on the National Program has not made much progress in this matter. The expectation that central ministries will assign themselves out of their existing business is unrealistic, because projects in the development budget are lucrative. Strong leadership and decision making will be needed before a clear set of assignments emerges with the backing of law.²⁰

²⁰ This will not be easy for Cambodia's leaders. Research suggests a culture that is averse to power sharing and to change. As new institutions are established, old moribund ones are allowed to continue. Partly as a result, the central government has 39 major budget entities (Rusten et al. 2004).

While detailed consultation with line ministries will remain an important part of finalizing functional arrangements, a report commissioned recently by the NCDD provides an indication of important work that can be done at the macro level (Boex 2008). Using the broad framework in this report but adapting the numbers to our own policy perspective, one possible framework for interim discussion and consideration might be as follows:

- (i) A clear model along with transitional arrangements that will give details on the movement from vertical deconcentration to horizontal deconcentration is required.
- (ii) The communes and sangkats should remain small and be responsible for no more than about 2% of total general government expenditures with continued focus on the basic needs of villages.
- (iii) Provinces should focus on coordination and supervision of the municipalities, districts, communes, and sangkats. This would allow them to shrink their current *Salakhet* (Governor's office) budgets from about 5.5% to 3.0% of general government expenditures.
- (iv) The districts and municipalities should become the major focus of decentralization efforts and eventually be given significant additional resources with responsibility for the delivery of all major services suitable for this jurisdiction under the principle of subsidiarity. Over time, districts and municipalities should become responsible for 30%–35% of overall government expenditures. This growth would be funded in part by reduced provincial expenditures but mainly through redirection of recurrent and development outlays at the center.
- (v) Apart from matters such as defense and foreign affairs, which naturally fall under the purview of the central government, the center should focus on setting national policies and standards and attend to matters that cross provincial borders, e.g., environmental issues, national waterways, national highways, etc. Expenditures of the central government need to decline to about 27%–32% of general government expenditures.

If a strategic framework could be agreed upon, it would not be difficult to define the subfunctions that are to be shifted, initially toward a more horizontal form of deconcentration and eventually towards fuller devolution. A coherent approach to the reassignment of functions is vital. One of the major risks of failure of the deconcentration and decentralization program in Cambodia is that the central government budget will not be restructured and, while functions and current staff in the regions may be transferred to subnational administrations, the transfers will not be matched with operational or development funding, leading to continuing dysfunctionality in the regions.

6.7 Finalizing Assignment of Tax and Nontax Revenues

It has been suggested that reforms to the assignment of tax and nontax revenues should await finalization until the overall assignment of functions has been completed. However, if responsibility for expenditures is to be shifted to subnational administrations (30%–35% of general government expenditures in the tentative framework above), it is unlikely that sufficient revenues for subnational administrations to close the funding gaps will be reassigned. Work on revenue policy could precede work on expenditure assignments. Unless major taxes (particularly taxes on salaries, profits, or the value-added tax) are reassigned, the central government will have to provide financing to the three tiers of subnational administration.

Studies conducted to examine how revenues can be raised for subnational administrations could provide a guide for the future. Further clarity to taxing powers between the three subnational administration levels is required; e.g., existing (but unused) taxing powers of the communes and sangkats should be removed and in most cases reallocated to districts and municipalities. This would leave the communes with localized nontax revenues, mainly in the form of service charges. Some existing tax and nontax revenue powers of the provinces could be moved directly to districts (e.g., slaughterhouse taxes, local water supply charges, revenues linked to local public assets, and local administrative and service delivery charges). More significant provincial taxes—stamp taxes and alcohol and tobacco taxes—warrant further study but may be suitable for continued collection by the provinces, possibly on the basis of revenues being shared with districts.

Issues regarding land and property taxes warrant further study. The 2001 Law on Communes and Sangkats gave powers for land taxes, immovable property taxes, and rental taxes. In addition, provinces have been assigned taxes on unused land, but in the absence of legal and administrative arrangements along with capacity and political constraints, these have not been implemented. Taken together these could be important revenue sources for larger districts, municipalities, and provinces if packaged in the form of land and building taxes.

The major municipalities would be able to implement such taxes independently, though further study would have to assess whether the districts can handle land and building registration systems, valuations, and collections. It appears likely that provincial approaches to assessments and collections with sharing of proceeds to lower levels would foster economies of scale. Since the government has not pursued land or building taxes, it will take time to develop the political commitment and technical systems needed for success. Over the long term, these and other forms of local revenues can make a significant contribution, particularly in more developed and urbanized locations.

Development of an appropriate subnational administration taxation regime could be facilitated by the MEF. While a small number of new taxes and higher rates for existing ones might be considered at subnational administration levels, the main task is to devise effective land and property taxes at subnational administration levels and reallocate existing taxes between levels. Development partners could provide information on subnational administration taxation systems elsewhere and organize study tours to countries that have been successful in collecting subnational administration taxes.

6.8 Designing a System of Intergovernmental Transfers

Designing a system of intergovernmental transfers will be one of the most important and difficult issues to address. While conceptual and modeling work could proceed immediately, the system cannot be finalized without greater clarity on revenues and expenditures reassigned to different levels of government and the gap which needs to be filled by intergovernmental transfers to allow vertical balance.

A provision in the Organic Law, which allows for obligatory and permissive functions and links obligatory functions to conditional grants and permissive functions to unconditional grants, has added unnecessary complexity to the design of the transfers system. Budget resources at subnational administration levels are scarce and delivered poorly; it is misleading to divide budget resources into two levels—obligatory and permissive. Scarcity of resources in relation to needs would suggest that only very high-priority matters should make it to the approved budget stage at subnational administration levels.

The central government does not have the capacity to set minimum service standards or standard unit costs as a basis for tailoring specific sector grants to subnational administrations. Nor can it monitor and respond to breaches of any conditionality that might apply. There are also risks that conditionality will serve to ossify existing structures that are not working well, e.g., excessive administrative staff who cannot be dismissed, workers with no resources to travel or undertake fieldwork, and a misallocation of teachers and health workers with too many in favored locations and too few in disfavored locations. For the subnational administrations to function effectively, they must have the power to set their own priorities and allocate resources to productive activities.

Empowering subnational administrations is not an argument against a degree of monitoring in relation to central government transfers or the setting of conditionalities and incentives, but these should be reasonable and easy to monitor. Subnational administrations must have the autonomy to set

their own priorities (albeit within a context of national priorities) and enough flexibility to shift resources from low to high priorities. This will particularly apply to the employment of civil servants where, within a national code of civil service rules, the draft National Program envisages that subnational administrations will have the power to hire and fire.

An important consideration in the design of the transfer system is whether current dualistic approaches to budgeting will be continued, with most of the development budget controlled by the central government through the MEF and sector ministries. It is recommended that this nexus be broken and subnational administrations get more direct development budget financing than is currently the case. This would require a very significant change in approach to development partner funding and would involve either (i) more bulk funding of development transfers to subnational administrations as part of a new national transfer system, or (ii) targeted onlending for specific sectors and locations to allow subnational administrations to undertake certain conditional matters.

It is too early to be prescriptive about the nature of the intergovernmental system that might emerge. Ideally, the great bulk of transfers would pass through a lightly conditioned scheme based on an equalization and fiscal gap approach, with the fiscal gap being defined by formulae relating to assessed revenue-raising potential and expenditure needs of different subnational administrations. Development partners could assist the process by providing information on intergovernmental transfer systems elsewhere and by organizing study tours to countries which have been relatively successful in the design and implementation of such systems.

6.9 Designing the Public Financial Management System at Subnational Levels

Cambodia is a unitary state. The 2008 Law on Public Finance Systems gives significant attention to unified aspects of PFM and foresees a major role for a national treasury responsible for running large parts of the payments, accounting, and reporting systems at all levels of government, including subnational administration levels. The same law also gives the central government power to approve subnational administration budgets, including negotiation and vetting by the MEF and ultimate approval by the National Assembly. It must be noted that these budgetary powers of the central government are in direct conflict with the Organic Law, wherein approval powers are given to subnational administration councils.

While centralized treasury powers tend to be something of an anathema to supporters of decentralization, they provide some safeguards and benefits, at least in the early stages of Cambodia's deconcentration and decentralization reforms. First, provinces and municipalities are already quite

familiar with the Treasury- and MEF-based systems. Second, districts where many resources are likely to flow have limited experience with budgeting and PFM matters, and may well benefit in the early years from Treasury support in installing systems and providing support to the finance director and staff of the district. Third, the Treasury has plans to introduce computerized financial management information systems (FMISs) down to the provincial and municipal levels, and, while there are no plans to go down further to the district level, it will not be difficult to do so.

Endorsement of the nationalized treasury system does not come without some caveats, one of the more important being that weak capacity and governance concerns already exist in the Treasury. Additional problems will emerge as greater numbers of inexperienced personnel are employed to staff the new district offices proposed.

Providing more detail in relation to budget and PFM systems to apply at subnational administration levels will be an important task in drafting the subnational administration finance law and related legal instruments. As the national finance systems law and regulations will largely drive such legal instruments, the task ahead can be managed, though reconciling inconsistencies between this law and the Organic Law remains a major challenge.

Of greater importance is the need for centrally developed systems (including, over time, FMISs) and training materials to develop capacity at the Treasury and the MEF. These are areas where development partners can provide significant support both at the center and in well-coordinated ways in the regions.

6.10 Stronger Governance and Audit Systems

Major governance issues have pervaded the management of budgets, PFM, and personnel management at all levels. Without changes to past practices, problems are likely to persist and may even intensify as subnational administration officials have additional resources to support existing lines of patronage and to develop new ones. There are no easy solutions to this problem.

It remains to be seen whether the voting public will feel sufficiently empowered by political and administrative reforms to exert pressure on their elected representatives and demand integrity and good governance. There is some evidence of voter reaction at the commune and sangkat levels. Despite indirect elections and strong links between the party, state, and civil service, democratic systems are in place and must be given time to mature.

The public's grievances are effective only when due process of law is permitted and the guilty are brought to justice. Supervisory and audit agencies need to be strengthened; in particular the National Audit Authority (NAA) needs to be strengthened as it audits the subnational administration. For this purpose, development partner financing should be employed if necessary and the outsourcing of audits to private auditors could be considered.

This strategy is not without its risks as many agencies providing financial oversight, supervision, inspection, and audit are themselves widely thought to have weak governance.

Development partners can play an important role and use their financial leverage to ensure broader coverage of subnational administrations by the NAA; development partners could also build capacity in the NAA.

6.11 Building Capacity

For the reforms to be effective, it is important to build capacity at the levels of the central government and the subnational administration. The draft National Program sets out a capacity building plan, though it is a broad strategic framework for capacity development rather than a plan of action. One important issue for the future is how to finalize and finance a better plan than the current one.

Capacity building is much broader and more difficult than the simple provision of training for councilors and new staff of the subnational administrations. Improved organizational and institutional structures are required, as are better systems. It is also necessary to address attitudinal and governance issues. Better facilities, more advanced computerized information systems, together with improved scope for service delivery and development of positive attitudes to serve the public are required.

Capacity will be harder to improve if subnational administrations are not able to attract the best-skilled and motivated staff to work with them. Past sector-specific policies of development partners have often worked against the development of a well-skilled and motivated civil service. Rather than trying to work with subnational administration officials and improve their skill levels, there has been a tendency to use consultants at higher remuneration levels than what civil servants receive. Thus the civil service has not been able to attract the most qualified employees. Similarly, payment of wage supplements in relation to projects has led to further distortions with excessive emphasis on making project-specific matters work, rather than on making the government system as a whole work. Development partners can best assist capacity building by providing broader budget support to subnational administrations allowing them to raise the wage levels instead of engaging consultants to undertake parallel civil service tasks.

Finally, while the central government and development partners can support aspects of capacity building, there are constraints because of the large number and broad spread of subnational administrations around the country. Interventions such as training courses for a small number of subnational administrations are likely to be far less productive than accounting and computer systems training, generic training materials, and the nationwide use of regionally based training institutions.

7 Strategic Issues for ADB

7.1 Introduction

To assess issues stemming from reforms that will be of greatest importance for the Asian Development Bank (ADB), we analyzed the indicative pipeline of ADB assistance during 2009–2012. This helped us determine the tiers of government likely to have functional responsibility for proposed projects and programs. Secondly, we reviewed five recent or ongoing projects in the priority sectors of agriculture, water, and rural development to determine if there are lessons that will help improve service delivery in decentralized locations. This allowed us to judge the extent to which design will be different in a future world where reforms are more entrenched.

7.2 ADB's Indicative Assistance Pipeline for Cambodia

Table 7.1 lists ADB's indicative assistance by sector for 2009–2012. All planned assistance was coded and categorized into four groups according to their structure of functional assignments. The four groups include projects that will be under the aegis of (i) the central government, (ii) subnational administrations, (iii) international agencies or those that are cross-country or regional by nature, and (iv) the subnational administration and the central government jointly.

Such a coding exercise is somewhat arbitrary, given that the future nature of functional assignments in Cambodia remains unclear. The broad framework used for coding is set out in Section 6.5. The general conclusion is that significant elements of service delivery will shift to subnational administrations, particularly in the districts, and that apart from matters such as defense and foreign affairs that are naturally under the purview of the center, most line ministries will focus on setting national and investment policies, plans, standards, and regulations for the provinces. Underlying these principles and coding is the principle of subsidiarity and concepts of

Table 7.1 ADB Indicative Assistance Coded by Functional Characteristics (\$ million)

Coding by Functional Characteristics									
Total					100% CG	100% SNA	100% International/Regional	Shared CG and SNA	
2009–2012									
2009					2010	2011	2012		
1. Education									
1.1 Loans/Grants									
Enhancing Technical/Vocational Education (1 and 2)		24.5	–	–	–	20.0	44.5		✓
Education Sector Development Program 3		–	–	20.0	–	–	20.0		✓
1.2 TA/Nonlending									
Education Sector Development Program 3		–	0.8	–	–	–	0.8		✓
Enhancing Technical/Vocational Education 2		–	–	0.7	–	–	0.7		✓
Capacity Development Secondary Education Development 3		–	–	0.5	–	–	0.5		✓
2. Finance									
2.1 Loans/Grants									
Financial Sector Development Program (Clusters 2 and 3)		10.0	15.0	15.0	15.0	15.0	55.0	✓	
Trade Finance		2.5	–	–	–	–	2.5	✓	
Equity Participation in MFIs		2.5	–	–	–	–	2.5	✓	
2.2 TA/Nonlending									
Financial Sector Development Programs 2 and 3		0.75	0.7	–	–	–	1.5	✓	
3. Water Supply, Sanitation, and Waste Management									
3.1 Loans/Grants									
Rural Water Supply and Sanitation 2		21.0	–	–	–	–	21.0		✓

continued on next page

3.2 TA/Nonlending						
Sustainable Urban Development in Tonle Sap Basin	–	–	–	0.7	–	✓
Rural Water Supply and Sanitation 3	–	–	–	0.8	0.8	✓
4. Agriculture and Natural Resources						
4.1 Loans/Grants						
Tonle Sap Poverty Reduction/Smallholder Development	30.7	–	–	–	30.7	✓
Water Resources Management Sector Development Program	–	32.8	–	–	32.8	✓
Tonle Sap Resource Management and Conservation	–	–	–	15.3	15.3	✓
4.2 TA/Nonlending						
Tonle Sap Technology Demonstration	0.3	–	–	–	0.3	✓
Capacity Development for Income Restoration Programs	0.5	–	–	–	0.5	✓
Strengthening Farmer Water Use Groups	–	–	0.5	–	0.5	✓
Tonle Sap Resources Management and Conservation	–	–	1.0	–	1.0	✓
5. Energy						
5.1 Loans/Grants						
Power Transmission Line Expansion, Phase 2	5.0	–	–	–	5.0	✓
6. Transport and Communications						
6.1 Loans/Grants						
Provincial and Rural Roads Asset Management Project	–	35.0	15.0	35.0	85.0	✓

continued on next page

Table 7.1 *continued*

		Coding by Functional Characteristics								
		2009	2010	2011	2012	Total 2009–2012	100% CG	100% SNA	100% International/ Regional	Shared CG and SNA
6.2 TA/Nonlending										
PPTA Provincial and Rural Roads Asset Management Project		–	1.0	0.8	–	1.8				✓
7. Law, Economic Management, and Public Policy										
7.1 Loans/Grants										
Decentralized Rural Infrastructure		–	–	20.0	–	20.0				✓
PFM for Rural Development (SP 2, 3)		–	25.0	–	–	25.0				✓
Promoting Economic Diversification		–	25.0	–	–	25.0	✓			
7.2 TA/Nonlending										
Developing Institutional Framework for D&D Reforms		0.8	–	–	–	0.8				✓
Capacity Building for National Petroleum Authority		0.3	–	–	–	0.3	✓			
Capacity Building for National Economic Policy Analysis 3		0.15	–	–	–	0.2	✓			
PPTA for Decentralized Rural Infrastructure		–	0.8	–	–	0.8				✓
8. Regional Programs (GMS)										
8.1 Loans/Grants										
Northwest Provincial Road Improvement		16.3	–	–	–	16.3			✓	
Supplementary Railways		48.0	–	–	–	48.0			✓	
Communicable Diseases Control 2		–	10.0	–	–	10.0			✓	
Biodiversity Conservation Corridor		–	15.0	–	–	15.0			✓	
Improved SPS Handling in Cross-Border Trade		–	–	15.0	–	15.0			✓	
Renewable Energy		–	–	–	20.0	20.0			✓	

continued on next page

Corridor Town Development	–	–	25.0	25.0	50.0	✓
Flood and Drought Risk Management and Mitigation	–	–	30.0	–	30.0	✓
8.2 TA/Nonlending						
Improved SPS Handling in Cross Border Trade	0.8	–	–	–	0.8	✓
Communicable Diseases Control 2	0.5	–	–	–	0.5	✓
Biodiversity Conservation Corridor	1.0	–	1.0	–	2.0	✓
Renewable Energy Development (Cambodia)	–	2.0	–	–	2.0	✓
Corridor Towns Development	–	1.0	1.2	–	2.2	✓
Climate Proofing of GMS Corridors	–	–	–	1.0	1.0	✓
Total	165.60	164.1	145.7	132.8	608.2	
\$ Value						
					91.90	–
					15.1	–
					23.1	–
% Share if Regional Activities Excluded						
					210.80	305.50
					34.7	50.2
					...	76.9

CG = central government, D&D = decentralization and deconcentration, GMS = Greater Mekong Subregion, MFI = microfinance institution, PFM = public financial management, PPTA = project preparatory technical assistance, SNA = subnational administration, SP = subprogram, SPS = sanitary and phytosanitary, TA = technical assistance.

Source: Adapted ADB pipeline data as provided by the Cambodia Resident Mission with functional coding.

efficiency, equity, economies of scale, spillovers, etc. that best define the location of the particular functions of government. It must be remembered that full transition to decentralization will be slow and will probably be preceded by an intermediate movement from vertical to horizontal deconcentration.

Table 7.1 indicates the following allocations for ADB's assistance:

- (i) 15.1% will be under the domain of the central government;
- (ii) 34.7% will be to affairs that are international or regional in nature; and
- (iii) 50.2% will be shared by the central and regional governments.

It must be noted that nothing is allocated to subnational administrations. The presence of a large regional component within the Cambodian country program, particularly the Greater Mekong Subregion program, complicates the picture. While it might be expected that much of this component will be managed by the central government, development of border towns, agricultural support, and local and provincial roads improvements are likely to become the responsibility of subnational administrations. If the regional and international programs are left out of the analysis, 23.1% of all functions will be under the purview of the central government and 76.9% will be the shared responsibilities of the central government and the subnational administrations.

These results are not surprising for a unitary state such as Cambodia and bearing in mind the forms of assistance planned by ADB. In recent years, ADB has supported projects that are distinctly national in nature, e.g., national highways, finance sector reform, and support to the central government and subnational administrations. In a period when vertical forms of deconcentration have prevailed and the subnational administrations have had limited discretionary resources of their own, the preferred counterparts for ADB projects have been the central ministries and their regional staff. However, as discussed in the case studies below, recently many projects have tried to be innovative and reach officials of the central government in the regions. Implementation has been pursued through communes, provincial and district governors, and in some cases through less-formal groupings of local communities.

ADB's choices will become starker as reforms progress. ADB will continue dealing with its central government counterparts in areas that are the shared responsibility of the central government and subnational administrations. Where ADB chooses to support the formulation of national policies, it will continue dealing with its existing central government counterparts, but where ADB chooses, either separately or within the same project, to support the funding of service delivery in priority sectors, it will have to deal more directly with subnational administrations and with the districts. Dealing with so many subnational administrations will be difficult, especially if project-centric and region-specific approaches are favored.

7.3 Case Reviews

This section reviews five recent ADB projects in the areas of agriculture, rural development, and water. The reviews were mainly desk-based studies but, where possible, were supplemented by discussions with (i) ADB staff, particularly those in the Cambodia Resident Mission; (ii) officials from the Ministry of Agriculture, Forestry and Fisheries, Ministry of Water Resources and Meteorology, and Ministry of Rural Development; and (iii) provincial and district officials in Battambang, Kompong Chhnang, Pursat, and Siem Reap.

The projects reviewed are complex and impossible to describe fully here. The main aim is to review how these projects, which were managed by central government officials, are reaching out to service delivery points in the far flung regions of Cambodia. Another goal is to determine how design will be affected when reforms have taken greater hold in Cambodia. Boxes 7.1–7.5 present the findings.

7.4 Issues for ADB to Consider

ADB support for reforms is justified. ADB has a vital role to play in the pursuit of reforms. If regional and international components of the country program are excluded, about 75% of future ADB programs will involve subnational administrations. Given the dispersed and largely rural nature of the country's economy, such significant correlation between the ADB program and subnational administration responsibilities is likely to remain well into the future. The notion that ADB has a choice between supporting reforms or focusing on particular sectors has limited validity. The deconcentration and decentralization reforms will fundamentally affect most sectors in years to come; sector issues and reforms are integrally related and need to be considered jointly.

Direct support for reforms will be possible in a variety of forms. Chapter 8 provides suggestions on possible medium-term modalities, while Chapter 6 set out the broad policy and implementation issues that will need to be addressed in coming years. There is a need to

- (i) develop and regularly update a clear policy framework,
- (ii) improve coordination of government and development partner efforts,
- (iii) strengthen the legal and regulatory framework,
- (iv) clarify the assignment of expenditure functions,
- (v) finalize assignment of tax and nontax revenues,
- (vi) design and implement a system of intergovernmental transfers,
- (vii) design the public financial management system at subnational administration levels,
- (viii) develop stronger governance and audit systems, and
- (ix) develop central government and subnational administration capacities to finalize and implement reforms.

Box 7.1 ADB Commune Council Development Project, Phases 1 and 2

Project Overview

Phase 1 of the Commune Council Development Project operated from early 2003 to late 2006, and phase 2 from 2007 to 2009. The main components were (i) provision of facilities to rural communes and sangkats, (ii) capacity building, (iii) land photo mapping (phase 1 only), and (iv) developing the civil registration system. The Ministry of Interior (MOI) was the executing agency through its Department of Local Administration.

Under component 1 of phase 1 about 519 communes received new centrally designed, low-cost office buildings at an average price of \$16,000 per unit including typewriters, radios, radio telephones, motorcycles for 325 communes, and renovations and computers for 24 provincial local administration unit offices. During phase 2, a further 178 communes received council offices. The 697 councils supported represent about 45% of all 1,621 communes and sangkats. Selections were confined to rural areas but then dispersed throughout the country based on a review of existing facilities, poverty indicators, and population levels. All designs were centered around a central meeting space for about 70 people with four adjoining offices. Councils had to self-fund additional requirements of water supply, latrines, fencing, etc. In the MOI the project was managed by a small coterie of civil servants supported by a technical assistance (TA) team. A simple but detailed implementation manual was prepared for participating councils, including procedures for tendering, contracting, construction supervision, and funds flows. Initial and preconstruction briefing meetings with councils (and their technical expert and builder) occurred on a group basis at the provincial center. However, initial visits to all sites were undertaken by the supervising engineers and architects who provided local-cost estimates as a basis for determining the amount of block grants. On finalization of an agreement, councils were provided with a block grant and were required to procure and make construction payments with support of an independent local building expert. On completion of construction, the MOI signed a handover certificate with future responsibility for maintenance, etc. assigned to the council.

Under component 2 of phase 1, commune councilors and staff received training and community members were also provided with information on the roles and duties of the councils. TA and scholarships were provided to the MOI and the national committee to support the commune and sangkat councils. Similar support was continued in phase 2. Under component 3 of phase 1 there was collaboration with the World Bank and Japan to prepare digitalized photo maps covering the whole country. This component was completed in phase 1. Under component 4 of phase 1 considerable progress was made in using communes to substantially clear major backlogs in the registration of births, deaths, and marriages. Phase 2 is continuing this work, including national computerization of records.

continued on next page

Box 7.1 *continued*

During phase 1, funds—particularly for building construction—were channeled through council treasury accounts at the provincial center. For phase 2 these were channeled through private bank accounts, usually closer to the commune—a more efficient system. As a result, the nationally mandated treasury system was bypassed or used in parallel. The appointed bank, Acleda, performed a number of documentation and verification checks before releasing funds to contractors, etc.

Assessment of Design Suitability after Decentralization

This project demonstrates many desirable design features and will be appropriate in a decentralized Cambodia. Favorable elements include (i) the role of the Department of Local Administration in the MOI as an executing agency was appropriate as it has an administrative oversight and support role for communes and the project was genuinely national in character; (ii) the head office project team was small with no project team members at provincial or district levels; (iii) most of the work and effort was focused on the appropriate government institution—the commune—with no parallel institutions established; and (iv) conditions attached to grants were of a reasonable nature and manageable by councilors and their staff, and extensive use of salary supplements was avoided.

Areas that might warrant consideration in a more decentralized Cambodia are as follows:

- (i) The exclusion of 55% of communes raising concerns of horizontal inequity. Ideally establishment-type grants should be universally available and where this is not the case they should be reflected in adjustments to commune fund transfers.
- (ii) The grant allocation system ran somewhat parallel to the government commune fund approach though in the future a specific grants mechanism (e.g., for council buildings) may be established.
- (iii) Systems need to be developed to allow the use of private bank accounts while not subverting the Treasury payments or accounting system.
- (iv) Accounting and reporting requirements should be consistent with broader commune accounting and reporting requirements.
- (v) External audit of communes needs to be strengthened and comprehensively undertaken under the umbrella of the National Audit Authority, including incorporation of audits of specific grants of this nature.

Supporting planning and budgeting in key ministries to deconcentrate and decentralize functions and resources will be important. Key ministries need to be part of a process which will ultimately see the National Committee for Democratic Development (NCDD), Ministry of Economy and Finance (MEF), and Ministry of Planning take strategic national decisions in a planning and budgetary context. Support of this nature has been provided

Box 7.2 ADB Tonle Sap Sustainable Livelihoods Project

Project Overview

The Tonle Sap Sustainable Livelihoods Project was approved in 2005 and was initially due for completion in June 2010; however, by mid-2009 only 23% of approved funding, or \$20.3 million, had been committed. The project has progressed well since mid-2009 and closing down in December 2010. Implementation arrangements provide for a complex array of central government involvement as well as commune and community participation. The executing agency is the Ministry of Interior while the Council for Agricultural and Rural Development (CARD) heads a steering committee with involvement of several ministries. The implementing agency for components on Support to Community Driven Development and Development of Skills and Awareness is the Ministry of Interior. More than 90% of funds were budgeted for the first component, particularly the development of a community livelihood fund (CLF) to provide specific grants to some 37 identified communes spread through five provinces in the Tonle Sap region.

Eligible activities for commune grants from the CLF under component 1 include social infrastructure, income-generation activities, and community fishing activities. These are similar though somewhat broader than activities allowed under the government's own Commune Fund. Activities under the CLF are to be incorporated into the medium-term plans of communes, and considerable consulting resources are provided to support this. Total CLF funds of \$2.7 million were disbursed to 37 councils in approximately 3 years, an average of \$73,000 (or \$24,300 per year) per council. These amounts are well below project limits, which allow for average grants of about \$260,000 per commune over 4 years, or \$65,000 per year. These amounts compare with average annual amounts of \$13,350 (2008 data) under the government's own Commune Fund. Management of the CLF is extremely top-heavy, with 50% of costs attributed to administration. Several consultants have been engaged. Notwithstanding such costly outlays, significant delays were experienced in preparing subprojects and identifying contractors to implement them. Quality and financial management problems were experienced in implementation, with control and supervision problems due to limited capacity of the commune councils to absorb the funds. These issues have improved since the CLF guideline was revised in June 2009 and subsequent training on its use was provided to all commune councils and project staff.

Activities for the other component included (i) assisting capacity building within CARD, especially for coordination (progress is slow); (ii) raising awareness in all levels of government of the CLF (work is under way but is to be retargeted mainly at the commune level); and (iii) assembling and disseminating materials on environment and natural resource management to all levels of government (work is under way but progress is slow).

continued on next page

Box 7.2 *continued***Assessment of Design Suitability after Decentralization**

While this project does make innovative attempts to integrate with decentralized structures, particularly the communes through the CLF, it does so in ways that are distortionary and contrary to sound principles. While some useful lessons may be learned from this project, some important considerations for future projects are as follows:

- (i) The arrangements for execution and implementation at the central government levels are excessively complex and costly and are not well linked to functional or policy areas to be addressed in the regions.
- (ii) The project is not national in scope though it does cover some provinces (closer coordination and implementation through the five provinces may be appropriate).
- (iii) The CLF runs parallel to the government's Commune Fund with different rules for approval, accounting, reporting, and audit.
- (iv) Provision of significantly higher amounts by the CLF distorts the government's efforts for horizontal equity through an equalization approach. Under a properly functioning equalization scheme, government grants to the 37 communes would cease with reallocation to communes with lower resources. This is a tricky area for development partners wanting to target specific geographical areas as development partner funding to subnational administrations is likely to be met by reduced government funding as equalization formulae cut in.
- (v) The CLF has very high overheads, both directly through significant use of consultants and wage subsidies and indirectly through additional use of council time and resources.
- (vi) Systems need to be developed to allow the use of private bank accounts while not subverting the Treasury payments or accounting system; this is not technically difficult.
- (vii) Accounting and reporting requirements should be consistent with broader commune accounting and reporting requirements.
- (viii) External audit (currently nonexistent) of communes needs to be strengthened and comprehensively undertaken under the umbrella of the National Audit Authority, including incorporating audits of specific development partner grants of this nature.

for some time by ADB; e.g., under the Agriculture Sector Development Program, the Public Financial Management for Rural Development Program, and preparation for the Water Sector Development Program. The proposed ADB technical assistance support to the NCDD to clarify national policy on functional assignments can be closely linked to ADB sector-focused interests.

Box 7.3 Tonle Sap Poverty Reduction and Smallholder Development Project

Project Overview

This is a \$55.3 million project of which ADB will fund \$30.7 million. It encompasses areas of agricultural and fisheries development, rural infrastructure, rural credit, and broader regulatory and policy reform. It was approved in December 2009 but implementation has not yet begun. Comments provided here relate to its design. The Ministry of Agriculture, Forestry and Fisheries (MAFF) is the executing agency and the MAFF, National Committee for Democratic Development (NCDD) Secretariat, and National Information and Communication Technology Development Authority (NIDA) are the three implementing agencies. The project area encompasses 4 provinces, 28 districts, and 196 communes.

Component 1 (Commune Development) takes up 85% of project funding and has important links to reform policy. Much of this component will use communes, and to a lesser extent districts and provinces, as conduits mainly to support localized agricultural development and improvements to livelihoods. Significant amounts of spending, particularly on local infrastructure, produce parallel approaches to the existing legal and budgetary framework for communes. Furthermore, other significant aspects of the component involve the communes taking on new functions that were never envisaged in the foundation 2001 Law on Commune and Sangkat Administrative Management or in current planning and budgetary frameworks. These tasks include agricultural and fisheries extension, field-based research, credit promotion, management of revolving credit funds, distribution of agricultural inputs, provision of post-harvest facilities, and development of information and communication technology-based agricultural marketing and other services. Significant provision is made for project-funded staff and consultants at all subnational administration levels to support the main agricultural objectives of the project (seven in each province, seven in each district, and three in each commune—a total of 592 persons). Most proposed support at provincial and district levels runs parallel to work of the line provincial departments of the MAFF and Ministry of Rural Development (MRD) which are currently responsible, in unified cooperation with councils, for most matters to be supported, though over time some of these matters are likely to be reassigned to subnational administrations. Flexibility is needed in view of emerging reforms, and additional roles may need to be switched from communes to districts over time. The implementing agency for this component is the NCDD Secretariat, which has no expertise in agricultural development and has been chosen because it has experience in channeling development partner funds to the subnational administrations.

Component 2 (Improving Agricultural Policy) accounts for just 3% of total project funds and is appropriately central government based. Component 3 provides for three large project management units (PMUs) to cover the implementation and

continued on next page

Box 7.3 *continued*

execution functions, with 11.4% of total project funding assigned for this and related activities of the centralized PMUs.

Assessment of Design Suitability after Decentralization

It is too early to say whether the subnational administration arrangements will work effectively. Issues that warrant monitoring from the perspective of reforms are as follows:

- (i) The heavily centralized PMU approach has, in the past, led to unsatisfactory governance practices. Overhead costs of the project are much higher than the government-delivered grants scheme.
- (ii) Major new agricultural and other roles assigned to the communes are outside the law and are generally not suited to this level of administration. The district is a better choice for service delivery.
- (iii) Some tasks assigned to the subnational administrations, particularly revolving credit funds, are better assigned to the private sector.
- (iv) Many of the new subnational administration staff and/or consultants are not well integrated in the existing structures and payment arrangements will prove unsustainable over time.
- (v) The size of grants to communes will significantly exceed grant sizes under the government's own Commune Fund and will lead to horizontal imbalance problems which will be exacerbated by overlaps, with many of the same communes also receiving special development partner grants under other Asian Development Bank and development partner projects.
- (vi) A raft of new parallel infrastructure planning, approval, accounting, and reporting requirements are being added to existing government scheme requirements, adding to the burden on already stretched commune councils.
- (vii) As the project traverses provinces, closer coordination and implementation through the four provinces may be appropriate.
- (viii) Systems need to be developed to allow the use of private bank accounts while not subverting the Treasury payments or accounting system as proposed.
- (ix) Accounting and reporting requirements should be consistent with broader commune accounting and reporting requirements and not parallel as proposed.
- (x) There should be stronger auditing of communes.

Public sector employment and wage-related policies in subnational administration locations are dysfunctional. The ADB practice of incentive payments to civil servants and employing large numbers of consultants and special staff at above civil service wages to implement projects has led to significant distortions. Reforms will not work well if fundamental weaknesses in civil service employment and wage policies are not confronted. ADB can support the needed reforms here through technical advice and the leverage

Box 7.4 Public Financial Management for Rural Development Program, Grant for Subprogram 1 and Grant Assistance

Project Overview

Subprogram 1 recently disbursed general budget support of \$6.7 million for actions achieved under the subprogram 1 policy matrix covering 2006–2008. A grant of \$4.1 million has been approved to provide technical assistance (TA) support to the subprogram 2 policy matrix with further draw down of subprogram 2 budget support of around \$15 million targeted for 2010. Although in other countries rural development is assigned to decentralized management, almost all of the activities in the subprogram 1 and 2 policy matrices and in the supporting TA grant are heavily centralized, and are closely linked to the Public Financial Management for Rural Development Program (PFMRP). Overall policy guidance is provided by the Economic Policy and Financial Committee. The program steering committee is the same as the Public Financial Management Committee. The executing agencies for pillars 1 and 2 are the Ministry of Economy and Finance (MEF), and for the audit function it is the National Audit Authority (NAA). Public financial management (PFM) working groups in the Ministry of Agriculture, Forestry and Fisheries, Ministry of Water Resources and Meteorology, and Ministry of Rural Development effectively act as implementing agencies.

The subprogram 1 and 2 policy matrices have three core pillars: (i) strengthening the PFM framework—policies, regulations, incentives, payments system, and debt management; (ii) strengthening PFM in the three rural development ministries—water resources framework, budget comprehensiveness, procurement, budget execution, accounting, monitoring reporting, internal audit, and framework for decentralized service delivery; and (iii) strengthening external audit and effectiveness of the NAA.

The policy actions in both matrices are heavily focused on the policies of the central government. The only two exceptions are (i) the subnational administration finance law to be drafted and discussed (2008), and (ii) rural development ministries to develop plans defining new responsibilities for subnational administration service delivery—including financial arrangements (2010). A number of other actions have potentially important implications for subnational administrations, including (i) PFM rural development ministry action plans (2009); (ii) expanded use of the banking system for receipts and payments (2010); (iii) regulations to allow water user charges (2009); (iv) movement to integrated recurrent and development budgets, improved classification systems, and at least 50% of foreign development partner funding on-budget (2009/2010); and (v) internal audit units to be operating in rural development ministries (2010).

The grant assistance project has four components closely related to policy matrix requirements: (i) improving PFM capacities in rural development ministries,

continued on next page

Box 7.4 *continued*

(ii) strengthening internal audit in rural development ministries, (iii) strengthening debt management in the MEF, and (iii) strengthening effectiveness of the NAA. The grant focuses heavily on consulting support (particularly foreign consulting) for the rural development ministries, the MEF, and the NAA. It also provides special salary allowances for 15 senior central government officials in each of the three rural development ministries. No spending of the grant appears to be directly targeted to the subnational administration levels.

Assessment of Design Suitability after Decentralization

It is appropriate at this phase of the PFM and deconcentration and decentralization reforms to target PFM support at the central ministry level. However, as the reforms move forward it is likely that further support will be needed of PFM in deconcentrated and decentralized aspects of rural development. If trends elsewhere are any indication, the three central government ministries will shrink considerably in size (perhaps to 35%–45% of existing levels) as important service delivery and customer contact subfunctions are reassigned to subnational administrations. The final shape of Cambodia's reforms for rural development is far from certain, but a two-phased approach is possible. The first phase might see movement to more horizontal deconcentration where subnational administration plans and budgets for rural development matters would come under more direct control of subnational administration council plans and budgets at provincial and district levels. The second phase might involve movement to fuller autonomous decentralization to subnational administration councils. In both phases it should be possible to address currently unsatisfactory overlapping roles and activities of each of the three ministries and thus instill efficiencies in rural development expenditure. In both phases the extent to which development funds (particularly development partner financed projects) can be shifted from central government to subnational administration plans and budgets will be important. The current Public Financial Management for Rural Development Program recognizes that important changes are coming at some stage and that more deconcentrated and decentralized approaches to planning, budgeting, and PFM will be needed. Some activities in the current Asian Development Bank (ADB) program phase will be important in preparing for the future, including support for preparation of plans for functional and financial reassignments and for the preparation of more unified budgets with greater transparency (and portability) of development partner-financed development projects. Should the current ADB program go into subprograms, it would be appropriate to finalize and shift assignments and finance to subnational administrations and to ensure that technical assistance supports systems and other forms of capacity building in rural development plans, budgets, and PFM systems at subnational administration levels.

Box 7.5 Agriculture Sector Development Program

Project Overview

This program was approved in 2003 and was due for completion in mid-2009 but was extended to mid-2010 due to slow implementation. There are three parts to the program: (i) a policy-based program loan of \$25.0 million (with two tranches), (ii) a project loan of \$4.7 million, and (iii) technical assistance (TA) of \$1.0 million. Implementation is centralized, with all three modalities being executed jointly by the Ministry of Agriculture, Forestry and Fisheries (MAFF) and the Ministry of Economy and Finance. The MAFF is responsible for overall implementation for the program loan through an interministerial program secretariat and project support unit, and for the project loan through a project coordination unit (PCU). The unit was to coordinate closely through the Seila program, provincial rural development committees and their executive committees, and provincial and district staff of the MAFF. The PCU has grown to major proportions, with 160 staff and consultants in mid-2009 (12 in the head office, 40 in 4 provinces and 108 in 18 districts). Much of the PCU staffing and payments systems run parallel to existing MAFF permanent staffing arrangements and at considerably higher rates of pay.

The first tranche of the program loan was drawn down, while disbursement of the second tranche was delayed due to slow implementation. Components of the program and the closely related TA would be the responsibility of the central government under most decentralization models, mainly involving national regulatory, policy, and budget-related reforms. The main subcomponents are (i) land policy; (ii) water policy; (iii) policy and regulation of seeds; (iv) research development; (v) national standards; (vi) privatization of state owned enterprises; (vii) restructuring the MAFF; (viii) international marketing, including World Trade Organization membership; (ix) disseminating market information; (x) policy and organizational arrangements for agricultural extension and information dissemination; and (xi) enhancing resources in the MAFF budget, especially for the regions.

The project loan aims to support productivity growth and commercialization of small-scale agriculture for 2,800 farmers groups (56,000 farmers) in four southern provinces covering 280 communes. The main subcomponents relate to (i) strengthening extension support to farmers' groups; (ii) promoting support services to speed up commercialization, including inputs and market information; and (iii) institutional strengthening to support commercialization. The project, although centrally focused, sought to work through government institutions in the regions, including the officials of provincial rural development committees (and executive committees) and the MAFF in the provinces and districts. However, weaknesses in the civil service wage system have led to significant use of wage supplements to project staff. The PCU management costs were originally estimated at a high 23% of total project costs and, according to the MAFF, are running at even higher levels.

continued on next page

Box 7.5 *continued***Assessment of Design Suitability after Decentralization**

After decentralization takes effect, it can be expected that most policy and regulatory matters addressed by the program loan will remain the responsibility of the central government as they are essentially national in nature. One of the central policy aims of the program is to restructure the MAFF and its budget and to devolve greater resources to the regions. These objectives have not been achieved; in 2002 39% of total MAFF staff were based in the head office; in 2009 this ratio had grown to 60%, with numbers of field-based staff having fallen sharply over this period.

Deconcentration and decentralization of appropriate MAFF services, staff, and funding is critical. Lessons from limited policy success to date under the program (despite significant financial leverage and TA) may be important. On the project side, attempts have been made to work closely through the right subnational administration institutions but these have been frustrated by poor capacity at the provincial and district levels, particularly given the very limited nonproject resources available for extension staff and the funding of extension activities. This has led to parallel field activities as well as parallel accounting, reporting, and audit arrangements at much higher unit costs than government services. Nevertheless, at least some progress has been made in delivering information extension and other services to farmer groups according to program monitoring statistics, though the overall impact on productivity and production is not monitored. In a post-decentralized environment, it is likely that provinces and particularly districts will take on greater responsibilities for the delivery of services to farmer groups. Such a switch will not assist much if it is not matched by significant additional resources to support such activities. Most provincial and district extension units receive no funds for operations in the recurrent budget. One major challenge will be to build local institutional capacity in delivery of agricultural services. Part of the solution will lie in new funding arrangements to support rather than run parallel to subnational administration systems at much lower unit costs. The challenge may be insurmountable if the reforms do not address terms and conditions of employment for decentralized field staff and if development partners do not start addressing the institutional development needs of subnational administration service delivery points.

of policy-based program financing, particularly in relation to the new Civil Service Law and policies for subnational administrations.

Large central government-based project management units should be gradually wound back. ADB can continue to provide technical and policy support to ministries at the central government level, but project-related support should be increasingly channeled through the subnational

administration transfers system.²¹ Possible modalities for doing this, including use of conditional transfers, are addressed in Chapter 8. Such a transition will receive significant resistance from line ministries and the MEF as central control of projects is a source of significant patronage and other unsavory governance practices.

Future support should focus on strengthening relevant institutional parts of subnational administrations. The current practice of using large numbers of project staff and/or consultants for project-related work needs to change; it is important to strengthen the service delivery units of subnational administrations, particularly at the district levels. Some services could continue to be outsourced to the private sector but the focus of decision making on service delivery mechanisms should switch from the center to the appropriate subnational administration level.

Tensions exist between development partners seeking decentralization and intergovernmental fiscal systems that pursue horizontal equity as a core objective. ADB has placed a high priority on service delivery improvement projects, for example to the Tonle Sap region. Regional targeting by development partners is likely to remain available under intergovernmental financing systems that are being developed. However, in a well-functioning transfer system which seeks to achieve horizontal equity in service delivery across all regions, there will be offsets to those receiving special assistance development partner funding. These offsets will be in the form of cuts in government-funded pool transfers to those receiving disproportionate development partner support. This will be the case if a fiscal gap approach to formulae setting is chosen where the gap is assessed in relation to revenue potential from all sources minus assessed expenditure needs. At present, in many cases, targeted per capita ADB grants are much larger than government per capita grants so there would be partial, not full, offset. ADB will have to decide whether to continue current geographic targeting, thereby contributing to horizontal inequity which will work against core objectives of deconcentration and decentralization funding mechanisms.

Establishment of parallel development partner funds schemes for subnational administration financing will need to be phased out. Establishment of special parallel funding, such as those provided for in the ADB Sustainable Livelihoods Project and the Tonle Sap Poverty Reduction and Smallholder Development Project, will not be appropriate if an efficient system of intergovernmental financing and funds transfers can be established in the future. Alternative

²¹ For a comprehensive review of benefits from decentralizing service delivery for most forms of infrastructure development relevant to Cambodia, refer to Petersen et al. (2007).

parallel fund schemes can only lead to distortion and inefficiency, including higher administrative and transactions costs for participating subnational administrations. It is likely the new subnational finance law and its regulations will ban such approaches in the future.

Parallel approaches to planning, budgeting, funds disbursement, accounting, reporting, and external auditing need to be addressed. Given the extent of weak governance and public financial management policies at all levels of the government, personnel and institutional strengthening is an imperative. Current policies of development partners regarding disbursement, accounting, reporting, and audit have failed to address poor governance at all levels, particularly rampant nepotism and patronage in employment, wage incentives, procurement, licensing, and land registration. Institutional support and incentives, including a wage structure that lifts civil service families above the poverty line, should be developed as a matter of urgency. Among other things, this entails (i) developing the subnational administration treasury, particularly at the district level; and (ii) strengthening the National Audit Authority so that it can audit the subnational administration.

8 Medium- to Longer-Term Programming Considerations

8.1 Direct Support for Reform

Recent agreement between the Government of Cambodia and the Asian Development Bank (ADB) have laid out some guidelines for direct support for reforms during 2009–2012. Proposed funding levels are modest and the tentatively agreed areas of support are as follows:

- (i) Policy advisory technical assistance (TA) in 2009 articulates policies for the assignment of functions and fiscal aspects of decentralization (\$800,000).
- (ii) Project preparatory TA in 2010 will be linked to designing support for decentralized rural infrastructure (\$800,000).
- (iii) Project and program financing in 2011 will be linked to decentralized rural infrastructure (\$20.0 million).

The 2009 policy advisory TA was appropriate for policy development allowing ADB access to the key policy making decisions for reforms. It is likely that all policy and institutional reform issues will not be finalized in the proposed 24-month TA period, so further advisory TA commencing around 2012 should be considered.

There are risks that the 2010 project preparatory TA and the 2011 financing for decentralized rural infrastructure will have a narrow project focus with a central government-based project management unit (PMU) and implementation through provincial staff of the Ministry of Rural Development. A somewhat bolder and more innovative approach is recommended to support development of subnational administration systems and institutions, though the timing of such policies will depend on the speed at which new subnational administration financing mechanisms are put in place. It is possible such new mechanisms will not be in place by 2011. The broad options for this financing are as follows:

- (i) A project along the lines of the first and second Commune Council Development Projects, either continuing with communes not yet

supported or providing similar support to districts which have significant need for infrastructure, particularly council and National Treasury buildings and offices.

- (ii) Assuming the proposed system of conditional grants for subnational administrations has been put in place, grants could be directly given to district councils for agreed forms of infrastructure development. The 2010 project preparatory TA provided policy support for government design of conditionality, accounting, reporting, and monitoring and evaluation for a specific grants scheme for district infrastructure development. Depending on the outcome of further discussions between ADB and the government, the scheme could address a range of infrastructure options or be specific in nature. Ideally, the support should be based across all district councils eligible for conditional financing. If administrative costs were kept to a minimum, funding of \$20 million would allow for average infrastructure grants of about \$100,000 per district over a 2–3 year period, which is significant for districts that currently operate with almost no recurrent and investment funding.
- (iii) General unconditional budget support could be given to subnational administrations in line with the still-to-be-developed pooled unconditional grants scheme. It should be subject to meeting conditions of an agreed ADB–government program policy matrix to be developed with support of the 2010 project preparatory TA. Policy matrix conditions could focus on satisfactory progress being made with core unfinished elements of the reform program, particularly
 - (a) functional assignments;
 - (b) fiscal aspects of decentralization;
 - (c) civil service and wage policy reforms and redeployment of staff and budgets; assuming a broad framework for funds distribution similar to that set out in Section 6.6 and low administrative costs, the approximate proportions of ADB program funds going to different levels of subnational administrations would be
 - (i) communes 7%,
 - (ii) districts 83%, and
 - (iii) provinces 10%; and
 - (d) assuming ADB-funded grants were disbursed over 3 years, annual grants to each level would be
 - (i) communes \$465,000 or \$300 per commune,
 - (ii) districts \$5,500,000 or \$30,000 per district, and

- (iii) provinces and municipalities \$650,000 or \$27,000 per province or municipality.²²

After 2012 the subnational administrations are likely to have considerable financing shortfalls if they are to effectively address the array of functions to be assigned to them. The widely stated notion underlying decentralization that “money must follow functions” is of limited relevance in Cambodia, as minimal funding is provided to the key stated priority functions of government at any level. Depending on the nature of design and ultimate success with implementation of the 2011 project and/or program financing, further support to subnational administrations of both conditional and unconditional financing could be considered by ADB along the lines proposed above for the 2011 financing. Many other alternative forms of conditional financing are also available for consideration, including

- (i) cofinancing proposed initiatives of the World Bank and Danish International Development Assistance (Danida) in providing district infrastructure and other investment support using subnational administration government systems,
- (ii) developing regional infrastructure in all 24 provinces and municipalities to establish a presence for the National Audit Authority (NAA) in all provinces,
- (iii) developing regional infrastructure in a large number of districts for the National Treasury,
- (iv) supporting the Ministry of Interior (MOI) plan to establish a training academy for subnational administration officials and councilors, and
- (v) supporting computer and internet services for district offices and perhaps rolling out the financial management information system (FMIS).

8.2 Indirect (Sector-Focused) Support

Many ADB staff and consultants with experience anchored in traditional project approaches will find it difficult to accept subnational administrations as one of the important conduits for future sector financing. Similarly, there may be skepticism about moving away from the concept of projects executed and implemented by ministries at the center and doubt regarding the capacity of subnational administrations to be useful partners in the

²² These figures are averages. Assuming grants were distributed according to formula-based equalization principles, actual grants to individual councils in each subnational administration would vary considerably according to population levels and other agreed criteria to determine fiscal capacities and needs as provided for in the transfers formula.

delivery of targeted services. Accordingly, given the focus on traditional lending modalities within ADB, it is likely that any movement away from old fashioned modalities focused on the center will happen slowly.

Significant ADB support—about 23% of noninternational and regional matters in the 2009–2012 indicative pipeline—is likely to be applied to matters that are inherently the responsibility of the central government in Cambodia. Such matters will continue to be supported by ADB and will be largely unaffected by reforms. However, future policy work should articulate the responsibilities of the center in relation to the subnational administrations, both in terms of functions that are the unique responsibility of the center and those functions that will be shared by the central government and the subnational administrations.

The remaining 77% of noninternational and regional ADB funding is likely to involve shared responsibilities and financing between the central government and different subnational administration levels. Policy- and planning-based program support for the development of national policies, strategies, regulations, and standards may warrant close ADB execution and implementation with the central government as well as the executing and implementing agencies. Included in the program support may be projects that contain innovative or broad national features.

Sectors or subsectors where service delivery and other functional responsibilities have been reassigned to subnational administrations will have to open channels for on-granting and onlending of development partner support to different subnational administration levels. In most cases, new onlending arrangements will not totally remove involvement of the center in sector programs and projects. This involvement can be reduced if standard sector policies and conditions are in place for channeling conditional financing to subnational administrations.

Reducing bureaucratic controls is an important step in reducing transactions costs—a stated goal of the government. Appropriate government regulations are needed to address on-granting and onlending from the central government to subnational administrations. Appropriate policies and drafting can provide for relative simplicity, efficiency, and speed for such transactions, but this will depend on the Ministry of Economy and Finance agreeing to such approaches.

For debt products, important policy areas will need to be worked through, including the central government accepting responsibility for debt servicing and foreign exchange risks, thus providing for on-granting to the subnational administrations from debt-financed support. In several countries with intricate bureaucratic procedures, delays and frustrations have limited the flow of development partner debt funds to service delivery areas that are the responsibility of the subnational administrations. Indonesia offers an example of on-granting and onlending mechanism designs to be avoided.

Development partners can offer TA support to Cambodia for the purpose of designing on-granting and onlending mechanisms, and use their leverage for this purpose.

If additional sector financing is accompanied by growth in on-granting and onlending to the subnational administrations, the following broad modality options are likely to emerge:

- (i) Targeting project support to specific geographical regions and subnational administrations. Here there will be a need (within the context of national guidelines) for more direct negotiations with the selected subnational administrations. At least in terms of institutional strengthening and in the interests of pursuing horizontal equity in service delivery, it would be appropriate to wind back project support targeted to specific geographic regions and subnational administrations.
- (ii) Targeting more generalized sector support across all or most subnational administrations at a particular tier through sector-based conditional grant funding. Once the proposed system of sector-specific conditional grants for subnational administrations has been put in place, it should be possible to provide financing directly to the relevant subnational administration in line with agreed conditions for the provision and implementation of such grants. It is expected that the National Committee for Democratic Development will design policies and conditional funding arrangements for subnational administrations, including standardized systems for preparation, approval, accounting, reporting, and monitoring and evaluation for agreed priority sectors. For purposes of horizontal equity, it is desirable that such support be available across all subnational administrations, though there will be sector-specific cases where narrower targeting will be appropriate.

Finally, some matters will require collaboration between the central government, provincial subnational administrations, and development partners. A case in point is water management policy, which covers extended river flows and river basin management spanning a number of provinces. It is possible that new regional institutions that span multiple provinces will have to be considered. Multiprovince approaches are not part of reform legislation or the National Program, but examples can be found in other countries. Cambodia's participation in the Greater Mekong Subregion program offers one example. Such domestically based arrangements are likely to be among the more difficult modalities to design and support.

Appendix 1 Law on Provincial and Municipal Budgets and Asset Management Regime (1998)

This 1998 law preceded the 2001 Law on Commune and Sangkat Administrative Management and, by making provisions for provinces and municipalities to manage budget resources and assets, indicated a move to deconcentrated management of the affairs of state. It followed on from an earlier 1994 Ministry of Interior (MOI) *prakas* (regulations) which set out broad roles and responsibilities for provincial and municipal administrations and for district or *khan* governors.

A. General Provisions

Provinces and municipalities are legal entities which derive their authority—with respect to budgets and asset management—from laws. Provinces and municipalities are managed by governors and deputy governors who represent the central government as set out in laws. In public finance matters, governors come under the authority and control of the minister for economy and finance. Governors are given responsibility for administration and implementation by the central administration.

B. Powers Given to Provinces and Municipalities

Provinces and municipalities are responsible for delivering public services not directly provided by the central government. Governors are authorized to be budget officers and are required to formulate and implement provincial and municipal budgets, including administration of tax and nontax revenues and expenditures. Governors also manage and maintain public assets assigned to them in their territory in line with rules and regulations. Budget and asset matters are supervised by the Ministry of Economy and Finance (MEF) in line with a *prakas* of the MEF as endorsed by the MOI.

C. Fixed Assets of Provinces and Municipalities

The government delegates the right to use and manage assigned fixed assets in line with a joint *prakas* of the MOI and MEF as formally agreed by governors. Assets expended in the provision of services in the region are to be transferred by the central government. Governors are responsible for maintenance of assigned assets but cannot lease or dispose of assets without approval of the MEF following agreement of the MOI.

D. Budgets of Provinces and Municipalities

Budgets must meet the requirements of the Law on Finance Systems (1993). Budgets cannot run in deficit and must be balanced; no borrowing is authorized. Obligatory expenditures of provinces and municipalities are (i) maintenance of offices and buildings; (ii) maintenance of documents and records; (iii) salaries and allowances of provincial and municipal staff and allowances of the village and commune or *sangkat* chief; (iv) travel, public lighting, fire fighting, garbage collection, socioeconomic support, sanitation, and health; (v) preparing and maintaining public buildings and equipment, e.g., offices, classrooms, hospitals, public grounds, parks, and exercise and cultural equipment; (vi) maintenance of roads and public gardens; (vii) maintenance of water canals, wells, water pumps, rainwater drainage, canals, etc.; and (viii) other matters assigned to provinces and municipalities defined in rules and regulations.

Provinces and municipalities may also budget for miscellaneous (nonobligatory) expenditures such as hospitality, meetings, and study tours. All investment projects with costs exceeding a prescribed ceiling can be included in the budget only with prior approval of the MEF.

Provinces and municipalities are given tax and nontax revenues. Tax revenues assigned are (i) tax on unused land, (ii) stamp tax or duty, (iii) patent or business license tax, (iv) slaughterhouse tax, and (v) means of transportation tax. Nontax revenues assigned are (i) local electricity supply revenue, (ii) income from local water supply, (iii) revenue from managing state assets (markets, parking, harbors, storage facilities, etc.); and (iv) other nontax revenues. Other own-source tax revenues were to be codified in separate rules, and include (i) fees and charges in relation to administration (e.g., provision of documents, certification of documents, etc.), (ii) administrative approvals, and (iii) charges for public services provided. Other nontax revenues shall be defined in a subdecree of the government following agreement with involved ministries who will determine maximum charges to apply.

Governors are required to prepare draft budgets in line with a *prakas* of the MEF. The draft is to be submitted to the MEF by 1 September of each year. Budgets are finally approved by the National Assembly as part of a package with the national budget. Budgets for individual provinces and municipalities are notified by *prakas* of the MEF (including specific internal allocations). Development programs with large components for provincial and municipal expenditures are considered as resources and expenditures of those provinces and municipalities. Budgets may be amended during the year in line with the finance systems law and regulations. In case of unavoidable budget deficits, the MEF can fund the shortfall; in case of surpluses at the end of the year, the balance is paid back to the state budget.

Budget execution occurs in line with the general state budget rules. Financial and accounting operations and procurement, controls, etc., must be in line with national rules and regulations. The MEF shall issue a prakas to define budget execution rules for provinces and municipalities. Accounting functions shall be handled by a Treasury accountant appointed by the MEF.

E. Management of Provincial and Municipal Public Services

Provinces and municipalities will formulate policies and procedures for the provision of public services. Charging of fees and other revenues on public services is to be approved by the MEF. Operation of provincial or municipal revenue offices shall be in line with a subdecree as proposed by the MEF following agreement of the MOI. Revenues and expenditures of the revenue offices are to be recorded in the budget and are to be fully and properly accounted for. Provinces and municipalities may also seek approval to operate public enterprises (with industrial and commercial characteristics) which have autonomous budgets and do not operate through the revenue office, though must be established and operate in line with rules and regulations.

F. Provincial and Municipal Staff

Governors are authorized to recruit and employ staff in line with the Law on Civil Service and staff must meet all obligations required of civil servants.

Appendix 2 Law on Commune and Sangkat Administrative Management (2001)

Chapter 1. General Provisions

The law provides for management of all communes or sangkats through a policy of decentralization allowing for local governance. Communes and sangkats are legal entities and have legislative and executive powers which are derived from free and fair elections and are in line with the Constitution, laws, royal decrees, and other legal instruments. Territorial changes to establish or change boundaries need to be set out in subdecrees initiated by the Ministry of Interior (MOI), but where these affect boundaries of provinces or districts, they must be addressed in a royal decree following advice of the MOI and the prime minister. Territorial disputes must be resolved by the MOI. Where commune and sangkat elections are delayed by force majeure, the MOI can temporarily manage them, in which case the National Assembly needs to be notified.

Chapter 2. Commune and Sangkat Councils

All communes and sangkats have councils which are elected by a system of proportional representation for 5-year terms in line with the Law on Election of Commune/Sangkat Councils. Councils have 5–11 members according to demographic and geographic criteria, as set out in a subdecree issued by the MOI. Councils have a chair who convenes and chairs meetings at least monthly, in line with internally set rules and procedures and Article 24 of this law. Councilors must be native Khmers at least 25 years of age and be able to read and write Khmer, and be registered voters in the area.

Councilors are disqualified on (i) death, (ii) resignation, (iii) loss of professional capacity, (iv) conviction or imprisonment by a court, (v) breach of internal rules and regulations, and (vi) dissolution of the council. Council vacancies are filled by the next person from the relevant party who got the highest numbers of votes at the previous elections. In the case of newly established councils, by-elections shall be held (providing the by-election is not within 180 days of the next elections for communes and sangkats). Boundary or name changes, new councils, etc. should not lead to any increase in the number of councilors, at least not until the next elections.

The first council meeting must be within 14 days of declaration of election results and is presided over by the MOI. Before taking office, internal rules and procedures of the council must be prepared and adopted based on MOI guidelines. Councils thereafter must meet at least monthly. A quorum (absolute majority) is needed for adoption of (i) the development plan;

(ii) the budget; (iii) imposition of taxes, fees, and charges; (iv) internal rules and regulations; and (v) other MOI prescribed matters. In case of a tie, the chair has a casting vote.

Council meetings are democratic and public, though there may be secret meetings in line with MOI guidelines. Councilors within constraints of the law have freedom of expression and cannot be subjected to civil or criminal proceeding for such free expression.

Chapter 3. Structure of Commune and Sangkat Councils

The councils govern staffing and administration of the communes and sangkats. A presiding councilor is appointed and he or she is also the commune or sangkat chief. The chief has two assistants—a first deputy chief (appointed on the basis of getting the second-highest number of votes) and a second deputy chief (appointed on the basis of getting the third-highest number of votes). Where results are based on only one candidate's list, all three appointees come from their order on that list. Where results are based on only two candidates' lists, the first deputy is the second person on the winning candidate's list while the second deputy is the first person on the second-placed candidate's list. Where a council chief is disqualified from the council, the three leadership positions are reopened with appointments made in relation to principles above on votes recorded by different candidates' lists. Similar new appointment arrangements apply if a first or second deputy chief is disqualified.

The chief may appoint committees of the council and any councilor or citizen may chair them. Each council shall have an MOI-appointed staff clerk (who is a member of the ministry) to support administration. Following the decision of the council and advice of the chief, the clerk shall be replaced by the MOI. Councils may also choose to employ their own staff from outside the state structure.

The council chiefs' duties are to (i) implement council decisions; (ii) implement council rules and procedures; (iii) prepare performance reports for council at least monthly; (iv) recommend and assist with planning, budgeting, and financial management; and (v) perform other tasks assigned. The first deputy assists with finance and economics while the second deputy assists with administration, social affairs, public services, and other duties.

Each council shall hold simple elections in line with MOI guidelines to appoint a village chief for every village in the area. Each village chief shall appoint a deputy and an assistant. These three have no mandate but have defined duties in line with MOI guidelines as set out by the commune and sangkat councils and chiefs, particularly relating to security, public order, and socioeconomic development. They can make recommendations to the council and should consider the advice of the council chief.

Chapter 4. Roles, Functions, and Powers of Commune and Sangkat Administration

Council administrations should use all resources to address basic community needs, serve common interests, and support national policies. They are to address local needs but also represent the state where assigned or delegated state functions. They operate solely within their boundaries. In the case of disputes over responsibilities between councils, the MOI shall mediate.

Local affairs involve the following: security and public order, essential public services, well-being of citizens, socioeconomic development and better living standards, environmental preservation, generating tolerance and reconciling conflicts, and generally responding to local community needs.

As agents of the state, powers and responsibilities should be assigned or delegated in line with higher laws and regulations. Such assignments should be matched with capacity building, resources, and available finance.

Councils shall have no powers with respect to forestry, posts and telecommunications, defense, national security, monetary policies, foreign affairs, fiscal and taxation policies, and other matters set out in laws including those defined as provincial powers. Further details on roles and functions of councils shall be set out by a subdecree proposed by the MOI.

Councils have executive and legislative powers, with legislative powers exercised by resolutions of council in line with guidelines issued by the MOI which can only cover the local area and which must be publicized. Resolutions cannot contradict higher laws, decrees, international treaties, etc. and, if they do, they become null and void.

The council may delegate powers to the council chief based on guidelines from the MOI, except in the following areas: adopting the budget; imposing tax and nontax revenues; adopting rules, regulations, and resolutions of council; adopting the development plan; and other areas prescribed by the MOI. The chief may not delegate powers given to him or her. Where councils delegate powers, they remain responsible for the matters delegated. Where delegations are revoked, they do not revoke actions already taken.

Chapter 5. Follow-up Monitoring and Interventions

The MOI, through a commune and sangkat unit, shall issue guidelines for monitoring and evaluation to ensure legality in the use of powers given to the communes and sangkats over expenditures incurred and to evaluate capacity performance and capacity development needs of the communes and sangkats. In case of illegal acts, the MOI must intervene urgently. The MOI may share its powers to evaluate, follow up, and intervene with different tiers of government. Powers of the MOI include those of review and evaluation, issuing written instructions to councils, and taking over duties of councils.

Interventions by the MOI are to be reasonable and proportional and provide scope for councils to address irregularities. Where requested corrections cannot be made within 6 months, the MOI may dissolve the council and call for fresh by-elections. In cases where irregularities relate to the national interests, dissolution can be immediate.

Chapter 6. Commune Development Plans

Councils shall prepare, adopt, and implement development plans (in line with MOI guidelines) which are compatible with national plans and which provide scope for community participation. Plans are to be adopted in the council's first year and are to be updated annually. Planning policies shall provide for evaluation of existing development; prioritizing needs in relation to resources; preparing service delivery plans for budget consideration; delivering budget-supported services; monitoring and evaluating performance of programs, projects, etc.; and publicizing results of plans to citizens. Where planning policies are inconsistent with this law, the MOI may demand rectification, following which council must address the matter within 45 days. Councils will provide for performance monitoring and evaluation in line with MOI guidelines.

Councils must prepare and adopt, within 45 days, the year-end annual reports on priorities, service delivery targets, development plans; performance results for service delivery, investments, etc.; unfinished work; and current year progress. The annual reports must go to the MOI, the public accountant and/or Treasury, and citizens and key stakeholders. Comments received on the annual reports should be built into future development plans.

Chapter 7. Commune and Sangkat Finances

Councils have financial resources, budgets, and assets. They have the right to collect tax and nontax revenues, including land taxes, immovable property taxes, and rental taxes. Where the MEF collects these taxes, they do so on behalf of the councils. Such matters are to be set out in a separate law.

Councils are entitled to a share of national revenues, including taxes, nontax revenues, grants, and transfers to be processed through the provincial treasury system. Arrangements for transfers shall be set out in a subdecree. Councils should also receive agency fees where they act on behalf of a central government ministry, in line with a subdecree to be issued. A commune and sangkat fund should be established to transfer national funds to the council budgets in line with a specific formula covering a 3–5 year period. The fund should be resourced from state appropriations in line with a formula set out in a subdecree, and grants and loans from domestic and international sources.

Councils must prepare and adopt budgets annually in line with the national budget calendar. Budgets must balance with no deficits, debts, or financial obligations. Budgets should reflect priorities as set out in plans and investment programs. Procedures for preparing and adopting budgets shall be set out in a subdecree.

Councils can acquire assets by transfer of state assets and by self-acquisition. Councils may generate and use income from their assets. They cannot sell or transfer assets assigned by the state without prior approval of the MEF following agreement of the MOI. Proceedings regarding the management of assets are to be set out in a subdecree.

Councils are to establish financial management systems for financial standards, accounting practices, asset management, and audit requirements; and financial management transparency, efficiency, and accountability. Such financial management systems are to be set out in a subdecree.

Financial management and asset management is to come under MEF supervision following agreement of principles with the MOI.

Chapter 8. Penalty Provisions

Councilors not complying with this law are potentially liable for disciplinary actions, including reprimands, deduction of allowances with prior approval of the MOI, and removal from council on absolute majority vote. Councilors are also subject to criminal actions. Where a council is hearing a charge against the president or chief, another councilor or MOI-appointed (but nonvoting) official should chair the meeting.

Chapter 9. Transitional Provisions

Numbers, names, and boundaries of councils shall be proclaimed by the MOI 9 months before an election. The MOI, on proposal of the national committee to support commune and sangkat councils, may change names and boundaries of councils after the first elections have been held and also consider other recommendations of the national committee. The national support committee shall terminate its work 9 months before the second council elections.

Chapter 10. Final Provisions

Any other legal provision that is inconsistent with this law shall be repealed.

Appendix 3 Organic Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans (2008)

Chapter 1. General

The law defines administrative management arrangements in subnational administrations in line with democratic and unified administration within a unified state, as provided by deconcentration and decentralization arrangements. Communes or *sangkats* are not covered here but by their own 2001 law.

Phnom Penh, the capital, is divided into *khans* (districts) and sangkats. Provinces are divided into municipalities and districts; the municipality into sangkats. The district is divided into communes and sangkats. All defined levels of government are legal entities with authority coming through the constitution, laws, royal decrees, subdecrees, and other legal instruments consistent with this law. Each defined entity has a council elected by the relevant law on subnational administration elections.

Changes in capital and provincial boundaries are to occur by royal decree. Changes in boundaries of municipalities, districts, and khans are to occur by subdecree.

Entities foster democratic development defined as public representation, local autonomy, citizen consultation and participation, responsiveness and accountability, promotion of quality of life, equity, integrity and transparency, and anticorruption policies.

Chapter 2. Councils

Section 1. Capital, Provincial, Municipal, District, and Khan Councils

Council elections occur indirectly in line with the Law on the Election of Commune/Sangkat Councils. Elections cover 5-year terms of councils, which can undertake only caretaker duties once their term has expired. The council is chaired by the person who gets the most votes.

The capital has a maximum of 21 councilors, provinces have 9–21, municipalities 7–15, and districts and khans 7–19. The actual number in each location is based on demography and geography and is set out in a subdecree.

Councils operate democratically and represent all citizens. Councilors can be male or female and must be at least 25 years old and meet other criteria of the election law. Based on decisions of the Ministry of Interior (MOI),

councilors can lose their positions if they cease to meet eligibility requirements, on resignation, death, non-attendance at meetings, dismissal in line with the law, if convicted of crime, or if they lose membership of the political party whose platform they were elected on. In case of a vacancy, the next highest number on the candidate's list provides the replacement (in line with a *prakas* [regulations] of the MOI).

Councils must follow the constitution, laws, subdecrees, and instructions of the MOI, and failure to do so can lead to dissolution of the council by issue of a subdecree. In cases of dissolution or establishment of a new council, there shall be an election, but there shall be no by-elections within 6 months of the next council elections. The MOI may manage a dissolved council. Councilors are paid from an annual budget of the council based on levels set out in a subdecree.

Section 2. Roles, Duties, and Authorities of Councils

Councils operate democratically and pursue functions and duties as delegated and assigned in line with this law. Councils can make legislative and executive decisions. They pursue functions and duties through decisions of council and are accountable directly to citizens. Councils can acquire information including by surveys and through the governor and board of governors. They are accountable to the government for following the Constitution, laws, royal decrees, subdecrees, and other legal instruments.

Councils shall make legislative decisions on matters relating to new functions, obligatory functions, permissive functions, 3-year investment programs, 5-year area development plans including activities of central agencies and ministries, annual budget and medium-term expenditure plans, financial management matters, structures and committees of council, asset management, citizen consultation, and other duties as stipulated by law.

Councils shall formulate and adopt a 5-year development plan which is updated annually, and also a rolling 3-year investment plan. The development plan must be prepared after consultation with citizens, other councils, ministries, stakeholders, etc. as set out in a subdecree of the ministries of Interior and Planning. The development plan shall include (i) vision, goals, objectives, (ii) a status report; (iii) a needs assessment as to functions, services, poverty reduction, etc.; (iv) a development framework for land and natural resources; (v) a disaster management plan; (vi) a financial plan, investment plan, and annual and 3-year budgets; (vii) a strategy for plan implementation based on transparency and accountability; and (viii) key targets and performance indicators.

The plan and budget must distinguish between permissive and obligatory functions. Procedures for preparing, adopting, and implementing plans are to be set out by subdecree. There shall be annual monitoring and evaluation of performance in relation to the plan involving all stakeholders. The plan is

to be made available to the public at the council office and to be distributed without charge.

Public financial management is to be transparent and accountable stressing democracy and priority development needs and focusing on newly assigned and delegated functions, essential services and infrastructure, poverty reduction, and other priority needs. The capital, provinces, municipalities, and districts shall have their own budgets (this does not apply to khans and sangkats in the capital city which have budgets within the capital city budget or to sangkats in municipalities which have budgets within the municipality budget).

Councils shall approve sound and balanced budgets in line with the central government budget calendar. Councils are to prepare a medium-term expenditure plan and update it annually. Budget preparation, execution, and monitoring should follow a proposed law on subnational administration financial management that is to be enacted in line with this law and the Law on Public Finance Systems. Councils are to follow sound public financial management (PFM) standards, rules, systems, etc. as defined in the aforementioned laws. This applies to (i) budget preparation, approval, and implementation; (ii) accounting; (iii) reporting; (iv) assets and liabilities; (v) transparency and accountability; (vi) own-revenue policies; (vii) shared revenues; (viii) ministry and agency fees; (ix) other revenues; (x) public procurement; (xi) internal audit; and (xii) external audit. A law shall set out the approach to ownership and management of subnational administration assets.

All abuses of powers in relation to finance, assets, persons, etc. are to be reported to the MOI. Abuses relate to legal rights, human rights, assets and resources, the environment, state funds and assets, payments and gifts, adoption of irregular legislation, and provision of benefits to families.

Councils shall prepare and approve annual reports on decisions and legislation, activities implemented, financial management, evaluations by boards of governors and officials, results of monitoring and evaluation, and other important improvements. All councils are to have a prominent information board.

Section 3. Council By-Laws (Deika)

By-laws or rules can cover the scope of functions (assigned and delegated), roles, duties, authorities, resources, and other areas of council. Generally, by-laws cover the entire council area but may exclude certain parts. By-laws cannot be retroactive and must be consistent with higher national laws and legal instruments. They cannot discriminate by race, religion, sex, age, color, nationality, or disability. They can provide for fines for noncompliance. Procedures for preparing, approving, amending, and repealing by-laws are to be set out in a subdecree. Council is responsible for implementing and enforcing by-laws, if necessary following written request with support of the police.

Section 4. Meetings and Internal Rules

The MOI chairs the first meeting of the council, to be held within 14 days of election results. Subsequent meetings are chaired by the council chair in line with internal rules. When the chair is absent, the next highest in voting precedence chairs the meeting. A voting quorum for by-laws is at least 50%, with the chair having a casting vote in the event of a tie. Councils are to meet in public but may have confidential meetings in line with guidelines issued by the MOI. Internal rules of the council are to be confirmed by a by-law at the second meeting of the council. Decisions not following internal rules are invalid. Councilors are allowed full freedom of expression. At least 12 ordinary meetings of council per year are to be held, based on an annual schedule which is publicized. Extraordinary meetings can be convened by council as required.

Section 5. Illegal Conduct of Council and Council Officials

Councilors, committees, boards of governors, governors, and officials are all liable for any illegal actions; illegal expenditures may be declared invalid. The MOI shall advise the council and governor in writing of any illegal actions and they must respond within 1 month, following which the MOI will decide on the illegality within 1 month. The council and board of governors can consult with the MOI on sensitive matters, who can advise on how to resolve illegal decisions. Where illegal decisions cannot be resolved, they are to be cancelled with the cancellation decision publicized. Persons affected by cancelled decisions (e.g., tax or service charge payers) may claim reimbursement and, in case of disputes, may apply to the MOI and, if not satisfied, to the courts. Councilors and boards of governors are responsible for recovery of any illegal expenditures and, where individuals are found responsible, they can be made personally liable for reimbursement. The MOI may delegate authority to districts to check on the legality of commune and sangkat matters based on this law and the 2001 commune and sangkat law.

Section 6. Solving Local Conflicts

Councils should facilitate local conflicts on written request of one or more parties. Where mediation fails or is outside of their jurisdiction, council will advise the parties on other legal alternatives. Councils shall not mediate on divorce, violence, crimes, matters before courts, and where laws provide other solutions. Procedures for resolving local conflicts will be based on laws or a subdecree.

Section 7. Special Provisions for Districts and Their Communes and Sangkats

District councils are to support all their commune and sangkat councils to develop democratically. The district council is responsible and accountable to

its commune and sangkat councils and all citizens in the district for its actions and performance. Districts are to regularly communicate with communes and sangkats and build capacity, resources, and awareness of councilors and staff in conjunction with the MOI, which has overall responsibility for capacity building at all levels, so they can address functional requirements. The district, communes, and sangkats are to integrate 5-year development plans and 3-year investment plans and annual and medium-term budgets. Two or more councils may share resources. Where districts are not able to build capacity in the communes and sangkats, they must report to the MOI, who should support the districts.

Section 8. Phnom Penh Capital

Khan and sangkat councils within Phnom Penh are supervised and managed by the capital council, which shall delegate functions and roles to the khan and sangkat councils. Working arrangements between the capital, khans, and sangkats shall be set out in a subdecree.

Section 9. Municipalities Other Than Phnom Penh

Sangkat councils within a municipality come under the supervision and management of the municipality, which delegates functions and duties to the sangkat councils. Working relations of the provincial council, the municipal council, and sangkat councils are to be set out in a subdecree.

Chapter 3. Committees of Councils and Boards of Governors

Section 1. Formation of Committees

Councils are obliged to have the following committees: technical facilitation, women's and children's affairs, and procurement. Additional committees may be set up providing they do not overlap. Council is to ensure secretarial and other support for committees. Councilors, the governor, members of boards of governors, and officials can be committee members, which may have external advisers. The council determines structures and compositions of committees. Women are to be represented on all committees and may chair them. The council is responsible for the work of committees and may dismiss them and its members.

Section 2. Technical Facilitation Committee

This committee is composed of governor as chair, all unit chiefs of council, chief of finance, local chief of all central government ministries and agencies present in the region, and others as needed. The role of the committee is to coordinate national and local efforts through the 5-year development plan, the 3-year investment plan, the medium-term expenditure framework, and

the annual budget. The MOI may allow two or more councils to share a single technical facilitation committee. Procedures for forming and operating this committee are set out in a subdecree.

Section 3. *Women's and Children's Affairs Committee*

This committee is to be composed of women councilors and other women. Two members of this committee can participate in any council, committee, or board of governors meetings though they cannot vote and must receive agendas, papers, etc. as per other members. An annual report of this committee should go in the council annual report. The MOI may issue guidelines on the roles and operations of this committee.

Section 4. *Procurement Committee*

The aim of the committee is to ensure proper procurement practices (integrity, openness, transparency, and fairness) in line with a proposed Law on Procurement. The ministries of Economy and Finance and Interior are to issue a joint *prakas* (regulations) on the roles and operations of this committee.

Section 5. *Board of Governors*

A board of governors is to be established in all subnational administrations. The board of governors is chaired by the governor and contains a prescribed number of deputy governors as set out in a subdecree. The capital has a maximum of 7 members; provinces have 3–7 members; and municipalities, districts, and khans have 3–5 members.

The governor of the capital and provinces is appointed by royal decree on a request by the prime minister which, in turn, is based on proposals of the MOI. Deputy governors of the capital and provinces and governors of municipalities, districts, and khans are appointed by subdecree based on a request of the MOI. Deputy governors of municipalities, districts, and khans are appointed by *prakas* of the MOI.

Governors of the capital and provinces are selected from eligible senior civil servants in the MOI. They must be at least 35 years of age, hold first rank, have 7 years of public administration experience and a bachelor's degree, be a registered voter, and have no criminal record. Deputy governors of the capital and provinces are selected from eligible senior civil servants in the MOI. They must be at least 35 years of age, hold second rank, have 5 years of public administration experience and a bachelor's degree, be a registered voter, and have no criminal record. Governors of municipalities, districts, and khans are selected from eligible senior civil servants in the MOI. They must be at least 30 years of age, hold third rank, have 5 years of public administration experience and a bachelor's degree, be a registered voter, and

have no criminal record. Deputy governors of municipalities, districts, and khans are selected from eligible middle-ranking civil servants of MOI. They must be at least 25 years of age, hold first rank of middle level, have 3 years of public administration experience and an associate degree, be a registered voter, and have no criminal record.

Governors and deputy governors have maximum terms of 4 years and can be given another term. They are not councilors and cannot vote in council meetings though they can participate in them. They can resign or be terminated for loss of qualifications, incapability, poor performance, poor health or incapacity, abandonment of duty, and abuse of professional ethics. The council may request the MOI to terminate on these grounds, following which they shall investigate and report to the prime minister regarding governors and deputy governors of the capital and provinces and governors of municipalities, districts, and khans. The MOI may directly decide on deputy governors of municipalities, districts, and khans.

Governors and deputy governors receive remuneration in line with a subdecree requested by the MOI after first consulting the Ministry of Finance and Economy (MEF). Governors represent, supervise, and coordinate the central ministries and agencies operating in the area (particularly issues of security, social and public order, law, and human rights). The governor is accountable to the central government, the MOI, and central ministries and agencies. The roles and authorities of the governor may be set out in a subdecree requested by the MOI.

The board of governors (i) provides advice on strategies, structure, systems, resources, and monitoring and evaluation of performance; (ii) implements council decisions; and (iii) supports council so they can meet their goals. In addition, the board of governors provides reports (including reports of committees) to council. The council monitors the performance of the board of governors and may seek clarifications at council meetings. Boards of governors cannot make decisions in the jurisdiction of the council and, if they do, these are invalid.

The board of governors shall ensure that officials and units of the council perform satisfactorily. The board of governors advises council on organizational units, roles and terms of reference of staff; appointment, promotion, termination, etc. of staff; salaries of staff; administrative and financial procedures; and capacity building strategies. The board of governors prepares and submits to council for approval a 3-year investment plan, a 5-year development plan and medium-term expenditure framework, and an annual report on performance for distribution to public.

The board of governors also submits to council strategies, procedures, consultative mechanisms, etc. to include citizens, other parts of council, central ministries and agencies, and other stakeholders. The board of governors also reports to all ordinary meetings of council on obligatory functions, permissive

functions, 3- and 5-year investment plans, annual budgets and medium-term expenditure frameworks, financial status, and by-laws. The board of governors consults closely with the technical facilitation committee to ensure activities of all levels of government are well coordinated.

Additional roles of the board of governors include advice to council and the MOI on complaints and abuses of power, the work of committees, transparent information dissemination, and ensuring citizens have access to information. The MOI may propose a subdecree setting out roles, duties, procedures, etc. of the board of governors.

Chapter 4. Personnel and Units of the Council

Section 1. Personnel of the Council

All councils can employ and deploy personnel who come under the direct management and supervision of the board of governors. Council personnel do not include regional staff of central ministries and agencies or those provided by the central government for security and public and social order, laws, and human rights. Personnel are to be appointed, in line with legal provisions for personnel of subnational administrations, by transparent competition keeping geographic balance in mind. The council decides on appointment conditions but in line with standardized personnel provisions for subnational administrations. Personnel are responsible to their immediate superior for carrying out decisions of the council and the board of governors, and are indirectly responsible to the administration director, the governor, board of governors, and the council.

All councils must have a chief of finance appointed by the council with approval of the MEF and on advice of the MOI. The chief of finance is responsible for financial management and procurement and ensuring proper audit occurs.

All district councils have a commune support unit headed by a chief in line with organizational and funding arrangements set by prakas of the MOI.

Section 2. Administration Director

All councils have an administration director appointed by the MOI with responsibility for managing administrative work of the council and the board of governors. This post reports directly to the council and the board of governors. The board of governors may delegate work to the administration director and take his or her advice and recommendations. The administration director ensures work performance of all work units including the finance unit, implements by-laws, participates in council meetings, and advises the council and board of governors. Procedures for appointment, roles, duties, etc. for this post shall be set out in a prakas of the MOI.

Section 3. Units of the Council

The council determines its own units but in line with a subdecree providing guidelines on functions, positions, etc. for units. Units come under the overall responsibility, supervision, and management of the board of governors on behalf of council, but are the direct responsibility of the unit chief who is directly responsible and accountable to the administration director.

Chapter 5. Implementation Process

Section 1. National Committee for Democratic Development

The National Committee for Democratic Development (NCDD) shall be established by royal decree on request of the prime minister following proposal of the MOI. The NCDD shall establish subcommittees on functions and resources, fiscal and financial affairs, and personnel of subnational administrations. Roles, duties, membership, etc. of the subcommittees are to be set by subdecree. The subcommittees shall consult widely before making recommendations to the NCDD. They may establish working groups. The NCDD shall have a secretariat located within the MOI in line with procedures in a subdecree. At a minimum, the NCDD must meet twice a month and can set its own internal rules.

The NCDD shall review responsibilities and functions of ministries and agencies at all levels to identify functions to be transferred to subnational administrations. Identification and transfer is to be followed by transfer of resources (revenue powers, finance, personnel, assets, and capacity building), empowerment to get access to resources needed to manage assigned functions, and powers and duties to manage in line with local autonomy and accountability. Prior to transfer of functions, the NCDD should ensure central government ministries integrate their subnational plans and budgets into the relevant council plans and budgets.

The NCDD is responsible for ensuring the law is implemented and that central ministries, agencies, and subnational administrations are aligned with policies and strategies. The NCDD should ensure other laws and legal instruments are amended to make them consistent with the Organic Law. The NCDD is to advise the government on inconsistencies in implementing the Organic Law, and resolve those issues. Subcommittees of the NCDD, councils, ministries, etc. must implement decisions of the NCDD and, where they fail to cooperate, the NCDD can report to the prime minister in the case of ministries and the MOI in the case of councils. The NCDD shall provide a progress report to the government every 6 months.

The NCDD shall have its own budget as part of the budget of the MOI. It shall have medium- and long-term programs which will be updated annually. There shall be an annual work plan and budget to implement

the National Program. There shall be an annual report on implementation progress. The NCDD can receive funding and support from development partners and other sources.

Section 2. Council Functions

In the context of democratic development, councils at all levels shall effectively manage functions transferred to them. In reviewing functions for transfer from ministries, the NCDD shall give priority to issues relating to the following sectors: (i) agriculture; (ii) education; (iii) forestry, natural resources, and environment; (iv) health, nutrition, and services, including the needs of men, women, children, youth, vulnerable groups, and indigenous people; (v) industry and support to economic development; (vi) land use; (vii) electricity production and distribution; (viii) water management; (ix) infrastructure and facilities; and (x) special needs of particular subnational administrations including on tourism, historical sites, and cultural heritage.

The review of functions to be transferred should take into consideration essential functions that impact poverty reduction and livelihood, and should identify responsibilities to be transferred to specific tiers of government and those that can reside with the central government. Reviews should ensure that transfer of functions is matched with resource transfers and that they are well planned, phased, and coordinated, and are transparent.

Reviews of functions for transfer are to be based on the following principles: relevance to the jurisdiction of the council, manageability and practicality for councils, benefit and usefulness for residents, and provision of major impact within the council's jurisdiction.

Section 3. Obligatory Functions

Obligatory functions shall be defined by law, royal decree, subdecree, or other legal instrument based on requests of the NCDD, ministries, and agencies with clear definition of obligatory requirements (standards) and time frames for implementation. Where an obligatory function is fully transferred with resources, it is permanently assigned to the relevant tier of subnational administration. Where an ongoing permanent contribution of a central ministry is required, that function shall be delegated with the council accountable to the delegating ministry.

Section 4. Permissive Functions

Permissive functions may be transferred to councils, who shall manage them based on capacity and resources transferred but may ask the NCDD to change or terminate the arrangement. All resources transferred for permissive functions shall be at the council's discretion to manage in line with standards and procedures set out in laws, royal decrees, and subdecrees.

Section 5. Assignment and Delegation of Functions

Both assignments and resources transferred shall be permanent, not temporary. Before the transfer of functions, the NCDD shall decide on resources required and capacity development needs of the recipient subnational administrations. The NCDD and ministries may assign or delegate functions to two or more councils with transferred resources to be shared among them. The NCDD, in consultation with ministries, can change the mix of assigned and delegated functions and also the mix of obligatory and permissive functions. Assignments and delegations shall be set out in laws, royal decrees, subdecrees, and other legal instruments. All existing laws, decrees, etc. shall be reviewed by the NCDD in relation to assignments and delegations and shall be made consistent with the Organic Law. The NCDD, in deciding on assignments and delegations, shall coordinate with ministries and agencies and ensure clarity as to the nature of the legal instrument, timing of changes, and whether changes are assigned or delegated. The NCDD shall broadly publicize to all tiers of government decisions on assignments and delegations.

Section 6. Financial Regime of Subnational Administrations

Councils shall have budgets as set out in Section 2 of Chapter 2. Councils shall have sufficient financial resources to undertake agreed obligatory and permissive functions to cover administrative costs and legal requirements and to perform its duties towards democratic development. All finances are to be managed with accountability to the citizens and the central government. Councils have rights to receive revenues from local and national sources in line with the proposed subnational administration finance law and the existing Law on Public Finance Systems. Khan and sangkat council budgets shall be included within the budgets of the capital and municipalities.

The governor is the officially delegated signatory on behalf of the council. The board of governors is responsible for preparing the 5-year development plan, the 3-year investment plan, the annual budget, and the medium-term expenditure framework for approval. Procedures for preparing and implementing budgets shall be set out in the proposed subnational administration finance law and in the Law on Public Finance Systems.

Local sources of revenues shall include (i) local taxes; (ii) fees, charges, and other nontax revenues; (iii) revenues of district councils to be shared between districts, communes, and sangkats; (iv) donations; and (v) others as per laws and legal instruments. Subnational administration revenues shall be established in a law within the framework of the proposed subnational administration finance law. National sources of revenues shall include shared revenues, national transfers, and agency fees from ministries, etc. Shares of revenues received from license issues, service fees and charges, and nontax revenues will be set out in the subnational administration finance law.

Councils may receive national revenues on a conditional or nonconditional basis. Conditional funds shall be used for obligatory and permissive functions previously undertaken by a central ministry, and other obligatory functions. Unconditional transfers shall be used for performing legal duties, promoting deconcentration and decentralization, administrative costs, and permissive functions of the council's own choice.

Councils cannot borrow or issue bonds or guarantees or otherwise generate liabilities. In preparing the financial regime, the NCDD shall consult and coordinate with the MEF and other ministries to ensure effective planning.

Section 7. Asset Management of Subnational Administrations

Assets include transferred state assets and own acquired assets. Transferred assets can be used and generate revenues but cannot be sold or transferred without agreement of the MOI and approval of the MEF. Procedures for managing all forms of assets shall be set out in the proposed law on subnational administration financial management. The NCDD shall consult and coordinate a phased and orderly transfer of state assets as part of the review and transfer of functions, and may decide that certain assets are shared by two or more councils. Where councils are assigned functions but have inadequate assets, they shall be provided with finance to acquire adequate assets. Legal documents or a formal NCDD decision shall clearly document assets transferred. Failure of a ministry to hand over assets or to document the handover shall be reported to the NCDD by the council. All councils shall prepare asset maintenance plans and fund maintenance through the annual budget and prepare and update an inventory of assets.

Section 8. Personnel

The NCDD and ministries shall review and concurrently redeploy personnel in line with functional transfer decisions and consistent with a redeployment strategy. The NCDD shall determine categories of employees to be transferred, but within the constraint of hiring no new civil servants. Management of civil servants in subnational administrations will be in line with a new law to be developed. Redeployment principles should be consistent with the transfer of functions; be consultative, rational, and transparent; and take into account interests of councils and personnel affected. Where an existing function is transferred, personnel currently doing the work should also be transferred.

Redeployments may involve individuals or categories of employees. Those redeployed should be no worse off in terms of duties, salaries, and conditions. Where resources are transferred without adequate employee numbers, financing should be provided. Where redeployment involves a change in location, personnel can object in writing within 1 month and may remain with their central ministry but must be provided with new duties. Redeployment comes into effect on formal notification of the NCDD and

relevant ministries. The MEF shall transfer salary and other benefits from the outset. Councils shall inform the NCDD of any transferees who do not show up for work. Procedures to apply to redeployment are to be set out in a subdecree.

Chapter 6. Punishment

Councilors, boards of governors, staff, and others contravening this law are subject to administrative, civil, and criminal punishments as appropriate. Councilors are subject to punishments set out in Chapter 2, Section 1 of this law. Others are subject to punishments set out in Chapter 3, Section 5 of this law and as per the Law on Civil Service and the proposed law on personnel of subnational administrations.

Chapter 7. Transitional Provisions

Section 1. Transfer of Rights and Responsibilities

Existing administrations will be replaced by councils at levels of capital, province, municipality, district, and khan. Governors at these levels will remain in place until new councils take over and new boards of governors are established. Appointments of new boards of governors shall occur within 14 days of results declaration of the first council elections. Existing by-laws, regulations, contracts, agreements, works, assets, revenues, and funds shall continue to be implemented by the new regime. Unit officers and personnel shall continue to work under the new regime until redeployment arrangements are finalized. The MOI shall determine and maintain records on all transfers and receipts of rights, obligations, assets, revenues, funds, and personnel.

Section 2. Commune and Sangkat Councils

These councils shall continue to implement provisions under the 2001 law, except for Article 88 (Sections 6, 7, 8, and 9 of Chapter 2 providing some supervision powers to district governments) and the principles of Chapter 5 outlining implementation processes of this law. The NCDD shall prepare legal instruments to support communes and sangkats to implement these provisions. Also, the NCDD will review the 2001 law and other legal instruments and prepare any consequential amendments arising from the deconcentration and decentralization principles set out in this law.

Chapter 8. Final Provisions

Any other legal provisions contradicted by this law shall be abrogated. The law is declared urgent.

Appendix 4 (Draft) Law on Financial Regime and State Property Management for Subnational Administrations

Chapter 1. General Provisions

The objective of the draft law is to set out principles, rules, structures, and procedures for financial systems and asset management in subnational administrations. The term “subnational administration” applies to the capital, provinces, districts, municipalities, and *khans* (urban districts). Finances and assets of communes and *sangkats* (urban communes) will continue to be under the 2001 Law on Commune and Sangkat Administrative Management and not this law unless otherwise stated. The law is developed pursuant to the Organic Law and the Law on Public Finance Systems.

Chapter 2. Financial Management Responsibilities

Councils are responsible for the following: (i) development, 3-year investment planning, and the medium-term expenditure framework; (ii) reviewing and approving draft budgets prepared by the board of governors; (iii) reviewing amendments to budgets proposed by the board of governors; (iv) adopting year-end financial statements; (v) disposing of assets in line with rules; (vi) monitoring performance of boards of governors and the administration; and (vii) approving contracts, agreements, etc. that create commitments beyond the current year. Councils shall establish a permanent committee for financial affairs.

The Board of Governors

The board of governors, under guidance of the governor, is responsible for (i) preparing the development plan, 3-year investment program, and medium-term expenditure framework; (ii) preparing the annual budget; (iii) coordinating planning, budgeting, and investment through the technical facilitation committee; (iv) overseeing the implementation of the annual work plan and budget; (v) reporting regularly to council on plan and budget implementation; (vi) preparing year-end financial statements and reports; and (vii) reporting regularly to national authorities on financial performance.

The Governor

The governor is responsible on behalf of the board of governors and with the assistance of the chief of finance for financial management and ensuring the following: (i) effective use of resources; (ii) complete records; (iii) comprehensive

financial reporting; (iv) effective internal control; (v) prevention of waste; (vi) discipline and penalties for officials accused of financial misconduct; (vii) revenue management system; and (viii) procurement in line with laws, etc.

The Chief of Finance

The chief of finance is responsible under the authorization of the governor for good public financial management (PFM) and will ensure the following: (i) efficient resource usage, (ii) full and proper records, (iii) effective internal controls, and (iv) prevention of wasteful expenditures. The chief of finance is appointed by the board of governors from a list of Ministry of Economy and Finance (MEF) certified chiefs of finance (as set out in an MEF *prakas* [regulations]). The draft provides an alternative selection method to be based on meeting qualifications criteria set by the MEF.

National Treasury

The National Treasury, in line with Articles 82 and 93 of the Law on Public Finance Systems, will provide subnational branches to act as public accountants for subnational administrations.

Chapter 3. Subnational Administration Budget

Section 1. Budget Management Principles

The capital city and all provinces, municipalities, and districts shall prepare and execute an annual budget in line with an MEF *prakas*. Khans and sangkats in the capital city will be part of the capital's budget, and sangkats in municipalities will be parts of the municipality budget and all these will not be independent budget units.

Subnational administration budgets outline policies, plans, and a medium-term expenditure framework; provide legal status to revenues and expenditures; and provide internal control for sustainability and expenditure control. The capital, municipalities, provinces, and districts prepare and adopt a development plan and 3-year rolling investment plan in line with a subdecree. They shall also prepare a medium-term expenditure framework for 3 years in line with an MEF *prakas*.

Subnational administration budgets shall be split into recurrent and capital parts, with revenue and expenditure estimates to be provided in each. Budget classifications are to be consistent with the national system and include an economic, functional, and administrative entity. The budget will distinguish between its own functions and delegated functions. Budget formats are to be set out in an MEF *prakas*.

Subnational administration budgets will be guided by the following principles: (i) there shall be no off-budget items—all subnational administration

revenues and expenditures are to be included; (ii) all revenues and expenditures are to be part of a single budget; (iii) all revenues are to be recorded in gross amounts; (iv) the calendar year (January to December) is the fiscal year; (v) no revenue shall be earmarked unless allowed by a regulation or contract; (vi) the budget must balance; (vii) there must be full disclosure of budget information; (viii) existing and future recurrent costs are to be appropriated; and (ix) there must be realistic revenue forecasting.

Section 2. Subnational Administration Revenues and Expenditures

Recurrent and capital expenditures should relate to general administration, obligatory functions assigned or delegated under the Organic Law, and permissive functions—whether assigned by central government or by own discretion. Expenditure responsibilities are to be matched by adequate revenues; funding should be provided where functions are transferred.

Financial resources include own revenues (tax and nontax), shared revenues between different tiers of government, transfers from the center, and others allowed by laws and regulations. A law shall determine tax revenues to apply to subnational administrations while a regulation shall apply to nontax revenues and also to shared revenues. These laws and regulations will provide subnational administrations discretion to set their own tax bases and rates.

Subnational administrations are entitled to receive conditional and nonconditional grants from the center for purposes of closing vertical and horizontal gaps and creating incentives for good PFM practices by subnational administrations. Unconditional grants can be used for assigned permissive functions, general administration, and other legal duties. Conditional transfers which include agency fees from the center can be used for obligatory and permissive functions previously undertaken by the center. Details of the transfer system are to be set out in a new law which provides for stability, predictability, transparency, and equity for subnational administrations. An optional article provides that a provisional general purposes unconditional grants system be established by subdecree for districts and municipalities with resources to provide for start-up and initial operations.

Section 3. Subnational Administration Budget Formulation

The following budget calendar is to be followed: (i) spending priorities are to be prepared by May of each year; (ii) the central government is to notify transfer levels by mid-July at the latest; (iii) revenue forecasts are to be made by July; (iv) coordination of subnational administration and central government spending plans are to be completed by July; (v) draft budgets must be completed by August; (vi) the financial affairs committee review of the draft must be done by mid-September; (vii) the council must adopt the

draft by the end of September; (viii) the compliance authority must complete its review by October; and (ix) MEF provincial offices must be notified once compliance tests are completed.

During May, the board of governors updates and presents the medium-term expenditure framework to council, with the approved framework to drive budgeting processes along with the 5-year plan, 3-year investment program, previous year closing information, current year progress, and other information. The budget—investment and recurrent—is then prepared by a team, chaired by the head of administration and including the chief of finance, the chief of local development, and other administrative staff appointees of the governor. Detailed annual work programs, in line with guidelines of the law, are prepared for the annual investment program, and annual service delivery operations program. The budget team should first consider recurrent expenses, and send residual resources to the capital.

The board of governors reviews the draft and sends it to the financial affairs committee of council, which can request changes within the law that are binding on the board of governors. Review of the draft ends with a joint meeting of the financial affairs committee and the budget team. The governor then sends the draft budget to the council, while at the same time the board of governors makes it publicly available to interested citizens. A council meeting is scheduled to discuss the budget with at least a 2-week notice to the public. The board of governors and public attend the meeting but cannot vote on the draft budget.

Once the council has endorsed the document, the governor sends five copies to the compliance control authority along with the financial affairs committee report, annual investment, and service delivery programs; council's resolution; and a board of governors report on citizens' involvement. The compliance check is based on formats and classifications, budget principles in this law, meeting of conditional funding commitments, involvement of citizens, and other legal compliance tests. The compliance test cannot change resource allocation decisions. The compliance control authority is composed of (i) the provincial governor, following recommendations of the MEF provincial office, for budgets of municipalities and districts—in case of disagreement, the minister of economy and finance is the final authority; and (ii) the MEF, for budgets of the capital and provinces. Once approved and signed off, copies go to the provincial treasury director and the MEF provincial office which consolidates all provincial budgets and sends them to the local office of the MEF. This office then consolidates nationally for the minister of economy and finance who submits them to the National Assembly and Senate.

If the compliance control authority declines to approve, it must provide written reasons to the relevant council, following which the financial affairs committee and council should consider and rectify within 15 days of receipt.

In cases of nonresponse, disputes, etc., the governor and the compliance control authority submit the matter to the minister of economy and finance for a final decision. Where decision making is delayed beyond 1 January, the minister of economy and finance can authorize monthly revenues and expenditures as per the previous year's budget.

Section 4. Specific Arrangements for the Capital and Municipalities

The capital budget shall include all revenues and expenditures of sangkat, council, and khan administrations, thus treating them as administrative subdivisions of the capital. The following rules apply to budget preparation:

- (i) khans and sangkats are administrative units;
- (ii) the budget format is to be set by MEF prakas;
- (iii) budgets are formulated under the authority of boards of governors but approved by the council;
- (iv) grants and transfers are to be allocated by the government;
- (v) pending design of the transfer system, commune and sangkat grants are to be included in cities' capital budget;
- (vi) pending the new transfer system, the board of governors is to ensure adequate funding to sangkat councils with no reductions from 2009 levels; and
- (vii) the board of governors and the council are to ensure involvement of sangkat councils in budgeting as set out in a prakas of the MEF.

The following rules are to be followed for implementing the capital budget:

- (i) the governor is the coordinator;
- (ii) there is a single account with the National Treasury;
- (iii) sangkat councils and khan subadministration's recurrent administrative and service delivery functions and areas are delegated by the city;
- (iv) sangkat and khan procurement committees work under supervision of the capital's procurement committee;
- (v) sangkat council chiefs and khan governors are to act as budget authority officers for delegated expenditures; and
- (vi) payments are to be processed by the finance unit of the capital through a single account at the National Treasury.

Municipalities shall have a unified budget to include all revenues and expenditures of sangkat councils, which are to be treated as administrative units of municipalities. Identical rules to budget preparation, approval, and implementation will apply as per the capital above, with the exception that the municipalities do not have khans, only sangkats.

A possible option to the above three paragraphs is proposed for consideration. The capital and municipality budgets have three sections: capital, khan, and sangkat, with the khan and sangkat as annexes to the

city and municipality budget. A more direct role is provided for khans and sangkats in their own budgeting, including those having their bank accounts at the Treasury office for implementation purposes. A new MEF prakas would set out these alternative arrangements.

Section 5. Amendment of Subnational Budgets

The board of governors can seek budget amendments based on changed conditions, error correction, etc. Lower than budgeted revenues can lead to reductions in expenditures; higher than budgeted revenues, including previously unknown surpluses from the prior year, can only be applied to already budgeted expenditures.

Approval of the controller is not required for adjustments within a section of the budget and investment project where total section outlays do not change. However, the governor has to notify the legal controller, the local branch of Treasury, and the provincial MEF office of such changes within 5 days of council approval.

Contingency appropriations can be used without amendment where consistent with guidelines in place, provided such funds are not already appropriated or are appropriated but not sufficient. The governor is to keep the council abreast of contingency use.

Section 6. Execution of Subnational Budgets

Principles and rules identical to the state budget shall apply to accounting, procurement, and control, subject to provisions of Section 6.

The governor has principal authority regarding collection of revenues and spending in line with approved budgets. The governor may delegate these powers to deputies of the board of governors or to administrative staff. Approved delegates are to be accredited by the relevant public accountant.

Subnational branches of Treasury shall be responsible for payments and funds management, recording all transactions, periodic financial reports, and documents. The MEF is to issue guidelines to the National Treasury on the use of subnational accountants.

Each subnational administration budget entity is to hold a deposit account with the National Treasury branch, to be managed in line with rules. However, the MEF can authorize use of commercial bank accounts. The MEF is to issue a prakas on opening and use of commercial bank accounts.

The rules for expenditure management are as follows: (i) spending must be in line with budgets; (ii) the governor is responsible for recording commitments and authorizing payments, following verification; (iii) commitments are contractual agreements; (iv) the chief of finance is to confirm to the governor that categories are correct, resources are appropriated and available, proper procurement procedures are followed, and expenditure is recorded in the execution monitoring system; and (v) the chief of finance is to certify to

the governor that goods and services are delivered, and documentation is acceptable. If all is in order, the governor submits an “order to pay” to the public accountant. The board of governors, in consultation with council, reduces expenditures where revenues are lower than the budget.

Before payment, the public accountant checks that the following processes are adequate: authorization, certification of receipt of goods and services, documentation, designation of beneficiary, availability of funds, and the absence of other claims. Where the subnational administration and local treasury are in dispute over validity of a payment, the governor submits them to a higher treasury level—the general director of the Treasury for Phnom Penh in the capital and the director of provincial treasury for others—for arbitration and final decision.

The MEF must ensure enough public accountants are sent by the National Treasury to all subnational administration budget entities. Provincial treasuries assign subnational administration treasurers to all levels gradually over 3 years and work within the subnational administration offices in space provided by them. The National Treasury monitors implementation and ensures full localized establishment within 5 years, in line with MEF-issued instructions for decentralizing treasury locations.

In line with Article 64 of the Law on Public Finance Systems, all proposed expenditures of subnational administrations are subject to prior review and control of the MEF and officials at different levels in Phnom Penh, provinces, and districts. Pending establishment of district offices of the MEF, the district is subject to monthly inspections by the MEF provincial chief. Details of these control arrangements are to be set out in an MEF prakas. An alternative option to the foregoing MEF control arrangements is also set out for consideration, whereby there would be no prior checks of expenditures but there would be regular monthly spot checks.

The minister of economy and finance, in consultation with the Ministry of Interior (MOI), is to prescribe guidelines for procurement management. Procurement by subnational administrations should be consistent with the Procurement Anukret 105/2006, and ensure rules of openness, transparency, fairness, and cost-effectiveness have been observed. A procurement committee, as per Article 37 of the Organic Law, must be established and contracts above pre-prescribed amounts should go to subnational administration councils for approval.

The chief of finance and the public accountant are to prepare annual financial statements based on reconciled records of both. Statements shall include revenues, committed and paid expenditures, cash balances, and inventory of durable assets.

Requirements for annual financial statements are to be set out in an MEF prakas. The governor shall submit the annual financial statements to the council by 30 June and the council shall pass a resolution endorsing

the statements, cancelling any unused appropriations and transferring any surpluses to a reserve fund account to be available for future budgets. This resolution, along with the financial statements and a narrative of activities and achievements, shall go to the legal controlling authority and the relevant MEF chief within 7 days of signature. The provincial office of the MEF prepares and sends consolidated financial statements to the Local Finance Department of the MEF, in line with formats prescribed in an MEF prakas. The Local Finance Department shall prepare national consolidations, which the minister shall present to the National Assembly and Senate.

Chapter 4. Subnational Administration Accounting, Auditing, and Reporting

All subnational administrations shall have an effective accounting system consistent with a chart of accounts set out in a prakas by the MEF. This will be based on a modified cash accounting approach with accruals received or due during the financial year, or the period immediately following. The system will be managed by the head of finance and provide for legal obligations; timely reports, including monthly revenue and expenditure reports and trial balances; management reporting; monitoring and control; monthly bank and cash reconciliations; commitments; cash flow projections; and annual financial statements.

The board of governors shall ensure effective internal controls exist for asset management, accuracy of financial records and statements, compliance with council policies and procedures, and efficiency and effectiveness of operations.

All subnational administrations shall establish an internal audit function reporting to the board of governors to review, evaluate, and report on internal control systems. Internal controls must ensure accuracy of financial records and statements, compliance with rules and regulations, reports and recommendations to management for improving operational efficiency, and risk reduction.

All subnational administrations, as part of internal control and audit, shall establish systems of performance monitoring and evaluation and regular reporting, based on (i) measurable targets for capital investments, services delivered, and institutional and management capacities; (ii) actual activity and output achievements in relation to planned results; and (iii) the extent to which structures and management are effective. The MEF and MOI will issue a joint prakas giving guidelines for internal audit management.

In reporting on budget performance to executive management and council, national authorities, and citizens, subnational administrations shall adhere to monitoring, evaluation, and reporting systems. The board of governors shall be responsible for ensuring monthly and mid-year budget execution reports and an annual report.

Monthly budget reports shall be prepared within 7 days of the month for the council and the regional MEF office, and will include actuals compared to budget for revenues, expenditures, analysis of variances, and projections to the end of the year.

Mid-year budget reports shall be prepared by 25 July and include monthly cumulative budget execution, progress in implementing the investment program and the delivery of services, progress in addressing issues in the past annual report, and recommendations regarding budget amendments.

The annual report shall be prepared by 30 June and include activities during the year, performance against plans and budget, and an accountability report to citizens. The report must incorporate (i) annual financial statements; (ii) a National Audit Authority (NAA) report; (iii) a performance report on investments and services delivered; (iv) arrears in revenues and debt collections; (v) a performance assessment of revenues and expenditures against budgets and plans; and (vi) corrective actions taken or required in relation to the external audit report. The board of governors is to ensure the report is tabled in council and available to citizens for comments.

Council is to discuss the annual report and the written comments of citizens in a meeting open to the public. The board of governors shall attend and answer questions. The representative of the NAA may attend and speak. The council shall adopt the report by resolution, which then becomes a public document. The board of governors shall send the resolution to regional chiefs of the National Treasury and the MEF.

All subnational administrations shall prepare annual financial statements which compare performance against budget, and set out management of revenues, expenditures, assets, liabilities, and financial position. Statements are to be prepared in accordance with accounting practices prescribed by the MEF and contain the following statements: revenues and expenditures, reconciliation of Treasury and subnational administration accounts, trial balance, cash flow statement, and fixed assets statement.

The board of governors is to ensure the annual financial statements are prepared and submitted to the NAA; the NAA will audit and return the audited statements to the governor within 2 months. The NAA may subcontract audits to private auditors. The audit report analyzes the financial position; evaluates financial and accounting performance; and sets out irregularities, breaches of rules and regulations, inefficiencies, delays, and nonattainment of objectives.

The Legal Control Authority reviews the audit reports and subnational administration responses and reports to the MEF on the adequacy of responses. The accounts and performance may be subject to inspection by the MEF and by a state agency as authorized by law.

Chapter 5. Subnational Administration Asset Management

Assets include physical property with a life of more than 1 year and in line with definitions prescribed by the MEF. Assets of subnational administrations include those that are sourced by them, donated to them, permanently assigned to them by central government agencies, used under delegation, and assigned by a public authority which retains property rights over them.

Boards of governors are to ensure efficient, authorized, and safe use of assets; there is an annual operations and maintenance plan; and due care and diligence is shown by asset users. A register of assets is maintained, with regular physical asset checks and an annual assets statement is to go in the annual financial statements.

Internal control arrangements must be provided to effectively manage assets, including identity tags and annual physical counts and reconciliations. Boards of governors may test for consistency between asset statements and actual holdings.

Subnational administrations have no right to sell or transfer assets received from the central government unless the minister for economy and finance, with agreement of the MOI, approves it. The board of governors shall obtain approval of the council before seeking higher approval. A joint prakas by the MOI and MEF shall provide guidelines on sales and transfers.

On approval of the council, the subnational administration can dispose of other (unencumbered) assets that were not provided by the central government and are no longer needed. Disposals of assets should occur through a transparent and fair competitive process. With approval of the board of governors, other methods can be used, including direct negotiations, transfers to other subnational administrations, and donations to nonprofit institutions.

Chapter 6. Financial Misconduct

Misconduct provisions of the Law on Public Finance Systems apply also to subnational administrations. Members of council, boards of governors, staff, the public accountant, and other officials are legally liable for deliberate contraventions of this law, expenditures in excess of appropriations, illegal increases in appropriation levels, and other acts detrimental to subnational administration assets or finances.

Chapter 7. Transitional and Final Provisions

Within 30 days of elections of district and municipal councils, the minister for economy and finance shall set transfer grant amounts based on a prescribed

formula. Financial transactions for districts and municipalities are to be managed through the provincial administration system (Salakhet).

The minister for economy and finance, in consultation with the interior minister, shall issue further guidelines to implement this law. This law shall prevail in relation to financial matters in the event of inconsistencies with other laws. The minister for the council of ministers, minister for economy and finance, and the head of the NAA are responsible for implementing this law.

Appendix 5 Schedule of Persons Met

Name	Position and Institution
A. Government Officials	
1. Boeur Bang	Chief, One Window Service, Municipality of Siem Reap
2. Bou Vong Sokha	Deputy director, Department of Local Finance, Ministry of Economy and Finance
3. Caking Yourin	Chief, Agriculture Department, MOUNG RUESSEI District, Battambang Province
4. Chan Darong	Director general, Technical, Ministry of Rural Development
5. Chea Touch	Deputy director, Planning, Krakor District, Pursat Province
6. Chea Vuthna, PhD	Director, Internal Audit Department, Ministry of Economy and Finance
7. Cheng Nhan	Deputy governor, Kampong Chhnang Province
8. Chhim Vachira	Deputy director, Department Agriculture, Battambang Province
9. Chim Kim Sean	Deputy director, MEF, Siem Reap Province
10. Chou Kimleng	Deputy secretary general, Ministry of Economy and Finance
11. Chuop Samath	Director general, Administration, Ministry of Rural Development
12. Churn Sokchan	Agent for MOWRAM, Kampong Tralach District, Kampong Chhnang Province
13. Cuf Puy	District administrator, Krakor District, Pursat Province
14. Dank Bumthon	Director, MOWRAM, Kampong Chhnang Province
15. Duong Kim Sorn	Chief of Finance Office, Battambang Province
16. El Say	Deputy governor, Battambang Province
17. Hang Chuon Naron, PhD	Secretary general, Ministry of Economy and Finance; and secretary general, Supreme National Economic Council
18. Heang Sophary	Staff member, MOUNG RUESSEI District, Battambang Province
19. Heng Sok Eng	Director, Rural Development, Siem Reap Province
20. Hiv Sovann	Advisor to prime minister and first deputy chair of National Treasury, Ministry of Economy and Finance

continued on next page

Appendix 5 *continued*

Name	Position and Institution
21. Hoeung Homg	Chief of PLAU, Pursat Province
22. Hol Chantho	Deputy governor, Kampong Tralach District, Kampong Chhnang Province
23. Kem Sothoeun	Head of Cabinet Secretariat, Pursat Province
24. Keo Chea	Director of Audit Department 3, National Audit Authority
25. Keo Vey	Director, MOWRAM, Pursat Province
26. Kim Sarum	District staff, Kampong Tralach District, Kampong Chhnang Province
27. Kong Vutha	Environment Department, Krakor District, Pursat Province
28. Koung Hong	Deputy director, MEF, Battambang Province
29. Koul Stephann	Secretary, Krakor District, Pursat Province
30. Lay Chhan	Vice chief, Office of Director, National Institute of Statistics
31. Leang Seng	Director, Rural Development, Kampong Chhnang Province
32. Lim Chanthai	Director, National Treasury, Pursat Province
33. Liv Bunhay	Director, Department of Local Finance, Ministry of Economy and Finance
34. Lom Som	Governor, Moug Ruessei District, Battambang Province
35. Long Atichbora	Director, Technical Department, National Audit Authority
36. Lorn Hearp	Chief of Cabinet, Moug Ruessei District, Battambang Province
37. Luk Nhep	Secretary general, National Audit Authority
38. Lun Sam Oi	Director, Provincial treasury, Siem Reap Province
39. Ly Moy	Deputy governor, Krakor District, Pursat Province
40. Ma Saroeum	Chief of Planning, Moug Ruessei District, Battambang Province
41. Mey Mou	Vice director, MEF, Kampong Chhnang Province
42. Moun Arily	Governor, Kompon Leng District, Kampong Chhnang Province
43. Ngan Chamroeun	Deputy director general, Ministry of Interior and NCDD

continued on next page

Appendix 5 *continued*

Name	Position and Institution
44. Ngin Hun	Vice director, Agriculture Department, Kampong Chhnang Province
45. Nhan Chan	Director Agriculture, Kampong Tralach District, Kampong Chhnang Province
46. Nhiem Hong	Deputy governor, Krakor District, Pursat Province
47. Nou Sithoeun	Deputy governor, MOUNG RUESSEI District, Battambang Province
48. Noy Romper	Vice director, MEF, Pursat Province
49. Ny Kim San	Deputy director, Department of Local Administration, Ministry of Interior
50. Pen Moun	Deputy governor, Krakor District, Pursat Province
51. Pen Thirong	First deputy director, Department Investment and Cooperation, MEF
52. Phan Phallay	Chief, Rural Development, MOUNG RUESSEI District, Battambang Province
53. Phoeng Sophat	Vice director, Ministry of Rural Development, Pursat Province
54. Pok Sarith	Director Social Affairs, Krakor District, Pursat Province
55. Ros Borrom	Deputy director, Department Investment and Cooperation, MEF
56. Sa Kon	Social Affairs Department, Krakor District, Pursat Province
57. Sak Setha	Secretary of state, Ministry of Interior
58. San Sy Than	Director general, National Institute of Statistics, Ministry of Planning
59. Sau Kom	Chief of Agriculture, Krakor District, Pursat Province
60. Siron Khemasen	Director, Provincial Treasury, Battambang Province
61. So Khan Rithykun	Acting director general, General Directorate of Agriculture, MAFF
62. Sok Leakhena	Vice governor, Siem Reap, Provincial Government
63. Sok Saravuth, PhD	Director, Budget Department and Manager, PFM Reform Committee
64. Sok Van Oueun	Director, Rural Development, Battambang Province
65. So Munyraksa	Deputy director of Policy Team, NCDD, Ministry of Interior
66. So Platong	Deputy governor, Municipality of Siem Reap

continued on next page

Appendix 5 *continued*

Name	Position and Institution
67. Sor Blak	Council member, Krakor District, Pursat Province
68. Sor Saray	Vice director, National Treasury, Kampong Chhnang Province
69. Soum Bunna	Chief of Transportation, Kampong Tralach District, Kampong Chhnang Province
70. Suon Rindy	Deputy governor, Pursat Province
71. Suos Kong	Secretary of state, Ministry of Rural Development
72. Tang Saroen	Governor, Kampong Tralach District, Kampong Chhnang Province
73. Tem Saren	Governor, Krakor District, Pursat Province
74. Tep Bunchhay	Governor, Municipality of Siem Reap
75. Tet Somhouen	Director, Department of Agriculture, Pursat Province
76. Thao Sokmuny	Director of Administration and Personnel, General Department of National Treasury, Ministry of Economy and Finance
77. Tim Sarin	Governor, Krakor District, Pursat Province
78. Tou Chhorn	Director, Audit Department 2, National Audit Authority
79. Tuon Phyum	Department of Personnel Administration,
80. Uth Kim Hoeung	Deputy governor, Moung Ruessei District, Battambang Province
81. Veng Sakhon	Secretary of state, Ministry of Water Resources and Meteorology
82. Veung Mony	Assistant to governor, Battambang Province
83. Yin Malyna	Director, Department of Local Administration, Ministry of Interior
B. Other Persons Met	
84. Chamroen Ouch	Senior program officer, ADB
85. Cheap Sam An	Senior program officer, Danida
86. Crosta, Nicola	Chief technical advisor, UNCDF
87. Duoung, Patrick	UNDP adviser to Ministry of Interior, DDLG Project
88. Duvall, LeRoy D. L. (Jr)	Institutional development specialist
89. Hubner, Katharina	Program officer, Administrative Reform and Decentralization, GTZ

continued on next page

Appendix 5 *continued*

Name	Position and Institution
90. Goudsmit, Into A.	UNDP governance advisor, National League of Communes and Sangkats, DDLG Project
91. Hall, Barry	Senior NRM technical advisor, Program Support Team, NCDD
92. Ide, Naoko	JICA local governance project coordinator, Ministry of Interior
93. Ikemoto, Nao	Natural resources management specialist, CARM, ADB
94. Kim, Sedara	Senior researcher, Cambodian Development Research Institute (CDRI)
95. Kimble, Deborah	Team leader, National Program Formulation Team, NCDD
96. Kung Munichan	Operations officer, World Bank
97. Lampertz, Eric	Program analyst, UNDP, Governance Cluster
98. Leiper, Scott	Senior program advisor, UNDP PSDD Project, Ministry of Interior
99. Lim Rathpiphos	JICA deconcentration and decentralization reform researcher, Project on Improvement of Local Administration
100. Makin, Ian W.	Senior water resources management specialist, ADB
101. Min Muny	Co-team leader, National Program Formulation Team, NCDD
102. Mao Moni Ratana	Senior program officer, Danida
103. Marija de Wijn	Program officer, UNICEF
104. Morikawa, Emi	Facilitator, Public Policy Training Program, ADB
105. Murphy, Peter	Senior public sector management specialist, World Bank
106. Nordlund, Per	Counselor governance, Sida, Embassy of Sweden
107. Osada, Hiromi	JICA expert, Local Administration, Project on Improvement of Local Administration
108. O'Driscoll, Brendan	UNDP policy advisor, NCDD
109. Pigey, Juliana H.	Fiscal decentralization specialist, National Program Formulation Team, NCDD
110. Rayner, Michael J.	Agricultural economist
111. Sidgwick, Eric	Senior country economist, ADB

continued on next page

Appendix 5 *continued*

Name	Position and Institution
112. Terada, Minori	JICA project formulation advisor
113. Thach Savy	UNCDF national local finance advisor
114. Tucker, Stevens	Advisor, Deconcentration and Decentralization Development Partner Group
115. Wingfield, Tom	Governance adviser, first secretary development, DFID

ADB = Asian Development Bank; CARM = Cambodia Resident Mission; Danida = Danish International Development Assistance; DFID = Department for International Development of the United Kingdom; GTZ = Deutsche Gesellschaft für Technische Zusammenarbeit; JICA = Japan International Cooperation Agency; MAFF = Ministry of Agriculture, Forestry and Fisheries; MEF = Ministry of Economy and Finance; MOWRAM = Ministry of Water Resources and Meteorology; NCDD = National Committee for Democratic Development; NRM = Natural Resource Management; PFM = Public Financial Management; PLAU = Provincial Local Administration Unit; PSDD = Project to Support Democratic Development through Decentralization and Deconcentration; UNCDF = United Nations Capital Development Fund; UNDP = United Nations Development Programme; UNICEF = United Nations Children's Fund; DDLG = Democratic and Decentralized Local Governance.

Note: A number of the persons in the schedule were met on more than one occasion and a number of key contacts were met on multiple occasions.

References

A. Government of Cambodia – Laws

- Kingdom of Cambodia. 1993. *Law on Finance Systems*. Phnom Penh.
- . 1997. *Law on Taxation*. Phnom Penh.
- . 1999. *Constitution of Cambodia*. Phnom Penh.
- . 2000. *Law on Audit*. Phnom Penh.
- . 2001. *Law on Commune and Sangkat Administrative Management*. Phnom Penh.
- . 2004. *Law on the Election of Commune and Sangkat Councils*. Phnom Penh.
- . 2005. *Statistics Law*. Phnom Penh.
- . 2006. *Amended Law on Election of Commune and Sangkat Councils*. Phnom Penh.
- . 2008a. *Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans*. Phnom Penh.
- . 2008b. *Law on Public Finance Systems*. Phnom Penh.
- . 2008c. *Law on Election of Councils of Capital, Provinces, Municipalities, Districts and Khans*. Phnom Penh.
- . 2009. *(Draft) Law on Financial Regime and State Property Management for Subnational Administrations*. Phnom Penh.

B. Government of Cambodia – Subdecrees and Other Legal Instruments

- Government of Cambodia. 2000. *Anukret on the Organization and Functioning of the Ministry of Economy and Finance*. Phnom Penh.
- . 2002a. *Sub Decree on Decentralization of Powers, Roles and Duties to Commune and Sangkat Councils*. Phnom Penh.
- . National Council to Support the Commune Councils. 2002b. *Sub Decree on Establishment of the Commune and Sangkat Fund*. Phnom Penh.
- . National Council to Support the Commune Councils (NCSC). 2002c. *Sub Decree on Commune and Sangkat Financial Management System*. Phnom Penh.

- . 2004a. *Sub Decree on Organization and Functioning of Internal Audit for Institutions, Ministries and Public Enterprises*. Phnom Penh.
- . 2005. *Decision on Establishment of One Window Service Office and Ombudsman's Office at District and Khan Level*. Phnom Penh.
- . 2008a. *Decision on Establishment of Provincial, Municipal Commune, Sangkat Fund Accountability Working Group*. Phnom Penh.
- . 2008b. *Sub Decree on Numbers of Councilors in Capital, Provinces, Municipalities, Districts and Khans for the First Mandate*. Phnom Penh.
- . 2008c. *Sub Decree on Organization and Functioning of the Cadastral Commission*. Phnom Penh.
- . 2009. *Sub Decree on Relationship of Provincial/Municipal Councils with Boards of Governors*. Phnom Penh.
- King of Cambodia. 2001. *Royal Decree on Establishment of National Committee to Support Communes and Sangkats*. Phnom Penh.
- Ministry of Economy and Finance. 1994a. *Prakas on the Management of Municipal and Provincial Treasuries*. Phnom Penh.
- . 1994b. *Prakas on Management of the National Treasury*. Phnom Penh.
- . 1994c. *Prakas on Structural Reorganization of the National Treasury*. Phnom Penh.
- . 2003. *Prakas on Amendments to Commune and Sangkat Accounting Forms, Budget Classification and Chart of Accounts*. Phnom Penh.
- . 2005a. *Code of Conduct for Internal Auditors*. Phnom Penh.
- . 2005b. *Policy Statement on Internal Control*. Phnom Penh.
- . 2005c. *Prakas on Guidelines for Commune and Sangkat Procurement*. Phnom Penh.
- . 2005d. *Standards for the Professional Practice of Internal Auditing*. Phnom Penh.
- . 2007. *Letter on Allocation of Commune and Sangkat Fund for 2008*. Phnom Penh.
- Ministry of Interior. 1994a. *Prakas on Roles, Duties, Rights of Commune and Sangkat Clerks*. Phnom Penh.
- . 1994b. *Prakas on Roles, Responsibilities and Organizational Structure of the Provincial and Municipal Administrations*. Phnom Penh.
- . 2002a. *Establishment, Structure, Roles and Responsibilities of Provincial and Municipal Rural Development Committees of the Seila Program*. Phnom Penh.
- . 2002b. *Prakas on Delegation of Powers to Provincial and Municipal Governors in Support of Commune and Sangkat Councils*. Phnom Penh.
- Ministry of Interior and Ministry of Planning. 2002. *Inter-Ministerial Prakas on Commune and Sangkat Development Planning*. Phnom Penh.
- National League of Communes and Sangkats. 2006. *Establishment of the National League*. Phnom Penh.

C. Government of Cambodia – Plans, Reports, and Strategies

- Government of Cambodia. 2005a. *National Strategic Development Plan*. Phnom Penh.
- . 2005b. *Strategic Framework for Decentralization and Deconcentration Reforms*. Phnom Penh.
- . 2006. *Governance Action Plan II, 2005–2008*. Phnom Penh.
- . 2007. *Inter-Ministerial Working Group–Guidelines on Preparing Commune and Sangkat Development Plan and Investment Program*. Phnom Penh.
- . 2008. *Public Financial Management Reform Program Stage 2*. Phnom Penh.
- Ministry of Education, Youth and Sport. 2004. *Enhancing Education Decentralization – District Education Office Functional Analysis*. Phnom Penh.
- National Council to Support the Commune Councils. 2005a. *Good Governance for Commune and Sangkat Councils*. Phnom Penh.
- . 2005b. *Review of Decentralization Reform in Cambodia*. Phnom Penh.
- National Institute of Statistics. 2007. *Statistical Master Plan for Cambodia*. Phnom Penh.
- . 2008. *Statistical Yearbook of Cambodia 2008*. Phnom Penh.

D. National Committee for Democratic Development at Subnational Level

- Deputy Prime Minister Sar Kheng. 2008. *Closing Speech – NCDD, Workshop on Annual Work Plan and Budget*. Phnom Penh.
- Government of Cambodia. 2008. *Sub Decree to Establish Sub Committees of NCDD*. Phnom Penh.
- King of Cambodia. 2008. *Royal Decree to Establish NCDD*. Phnom Penh.
- National Committee for Democratic Development. 2007a. *Decision on Establishment of Sub Committees of NCDD*. Phnom Penh.
- . 2007b. *Guidelines on the Committee for Women and Children at Commune and Sangkat Levels*. Phnom Penh.
- . 2007c. *Guidelines on Commune and Sangkat 2008 Budget Preparation*. Phnom Penh.
- . 2008a. *December 2008 – December 2009 Calendar of NCDD Activities to Implement the Organic Law*. Phnom Penh.
- . 2008b. *Decision on the Establishment of the National Accountability Working Group*. Phnom Penh.
- . 2008c. *Decision on the Establishment of National Support Group on National Accountability Working Group*. Phnom Penh.

- . 2008d. *Prakas on Revised Structure etc. of Provincial/Municipal Development Committee and Executive Committee*. Phnom Penh.
- . 2009a. *Internal Dialogue on Sub-National Finance and Budget*. PowerPoint presentation. Phnom Penh.
- . 2009b. *NCDD Capacity Building Plan for 2009*. Phnom Penh.
- . 2009c. *Draft 2 of 10 Year National Program for Sub-National Democratic Development*. Phnom Penh.
- . 2009d. *Draft 3 of 10 Year National Program for Sub-National Democratic Development*. Phnom Penh. June.
- . 2009e. *Draft 4a of 10 Year National Program for Sub-National Democratic Development*. Phnom Penh. August.
- . 2009f. *Draft 2 of 10 Year National Program for Sub-National Democratic Development*. PowerPoint presentation. Phnom Penh.
- . 2009g. *Draft 4a of 10 Year National Program for Sub-National Democratic Development*. PowerPoint presentation. Phnom Penh.
- National Committee for Democratic Development Secretariat. 2008. *Preliminary Implementation Framework for Support to Sub-National Administration Reform, Prior to the National Program*. Phnom Penh.

E. Miscellaneous Studies and Reports

- Boex, J. 2008. *Moving Forward with the Development of a National Fiscal Decentralization Policy Framework in Cambodia*. Phnom Penh: NCDD.
- Chandler, D. 2008. *A History of Cambodia (Fourth Edition)*. Bangkok. Economic Institute of Cambodia.
2009. *Cambodia Economic Watch*. Phnom Penh.
- Ferrazzi, G. 2008. *Exploring Reform Options in Functional Assignments*. Jakarta.
- Graves, S. 2008. *Technical Cooperation and Capacity Development in Support of Decentralization and Deconcentration – Phase 1 Report, Technical Cooperation Personnel Arrangements*. Phnom Penh.
- Hang, C. N., and P. Gilbert-Desvallons. 2009. *Public Finance in Cambodia*. Phnom Penh.
- Hornig, V., and D. Craig. 2008. *Accountability and Planning in Cambodia*. CDRI Working Paper 39. Phnom Penh.
- Independent Consultants. 2006a. *Independent Study of Donor Support for Deconcentration and Decentralization*. Phnom Penh.
- . 2006b. *Review of the Education Strategic Plan 2004–2008*. Phnom Penh.
- . 2008a. *Commune and Sangkat Budget Execution Study*. Phnom Penh.
- . 2008b. *Moving Forward with the Development of a National Fiscal Decentralization Policy Framework in Cambodia*. Phnom Penh.
- . 2008c. *Report on District Initiative Program (DIP) Review*. Phnom Penh.

- . 2008d. *Responsiveness of the Commune and Sangkat Development Plan and Investment Program to Socio-Economic Needs and the CMDGs – a Study*. Phnom Penh.
- . 2008e. *Socio-Economic Evaluation of CIS Fund Roads Projects*. Phnom Penh.
- . 2009. *Guidelines for Development of the Sub-National Financial System Legal Framework*. Phnom Penh.
- International Finance Corporation. 2007. *Provincial Business Environment Scorecard*. Business Issues Bulletin. Phnom Penh.
- Kimchoeun, P., and D. Craig. 2008. *Accountability and Public Expenditure Management in Cambodia*. CDRI Working Paper 38. Phnom Penh.
- Matheson, A. 2008. *Strengthening Cambodia's Administrative Reform Strategy*. Phnom Penh: GTZ.
- Netra, E., and D. Craig. 2009. *Human Resource Management in Decentralised Cambodia*. CDRI Working Paper 40. Phnom Penh.
- Netra, E., and C. Rusten. 2005. *Fiscal Decentralization – Existing Tax System and Options for Commune and Sangkat Own Revenues*. Phnom Penh.
- Oberndorf, R. B. 2004. *Law Harmonization in Relation to Decentralisation Processes in Cambodia*. CDRI Working Paper No. 31. Phnom Penh.
- Ojendal, J., and K. Sedara. 2008. *A Background Study of the District Office Role and Potential Facing the Deconcentration and Decentralization Reform*. Phnom Penh.
- PDP Australia. 2007. *PFM Reform Program – 2007 External Advisory Panel Report*. Phnom Penh.
- Petersen et al. 2007. *Decentralizing Basic Infrastructure Services*. In *East Asia Decentralizes*. Washington, DC: World Bank.
- Porter, D., and P. Smoke. 2006. *Supporting Democratic Development*. PowerPoint presentation. Phnom Penh.
- Rhein, S. K. 2008a. *New Life – New Town. Final Report*. Asia Urbs Project. Battambang and Siem Reap.
- . 2008b. *The Road of Change*. Asia Urbs Project. Battambang and Siem Reap.
- Rusten, C., K. Sedara, E. Netra, and P. Kimchoeun. 2004. *The Challenges of Decentralization Design in Cambodia*. Phnom Penh: CDRI.
- SBK Research and Development. 2008. *Perception Surveys on the NCDD/PSDD Programme*. Phnom Penh.
- Smoke, P. 2001. *Mission Report – Support to MEF on Fiscal Decentralization*. Phnom Penh.
- Urban Institute and the Cambodian Development Resource Institute. 2007. *The Powers and Functions of Selected Ministries of the Royal Government of Cambodia*. Phnom Penh.
- United Nations Development Programme. Fiscal Decentralization Support Project. 2007. *Technical Backstopping – Fiscal and Financial Decentralization Priorities*. Phnom Penh: UNDP.

F. Development Partner Reports and Documents – ADB

- ADB. 2003. *Report and Recommendation of the President: Proposed Loans and Technical Assistance Grant: Agriculture Sector Development Project*. Manila.
- . 2005. *Report and Recommendation of the President: Proposed ADB Grant: Tonle Sap Sustainable Livelihoods Project*. Manila.
- . 2006. *Commune Council Development Project: Final Review of Capacity Building Component*. Cowi Consultants. Phnom Penh (Loan CAM-1953).
- . 2008a. *Review of Grant 0066 Cambodia: Commune Council Development Project Phase 2*. Aide memoire. Phnom Penh.
- . 2008b. *Commune Council Development Project – Project Description*. Consultants report. Phnom Penh.
- . 2008c. *Country Operations Business Plan: Cambodia, 2008–2010*. Phnom Penh.
- . 2008d. *Commune Council Development Project*. Project completion report. Phnom Penh.
- . 2008e. *Report and Recommendation of the President: Proposed Program Cluster, Public Financial Management for Rural Development Program*. Manila.
- . 2009a. *Report and Recommendation of the President: Proposed Loan and ADF Grant: Tonle Sap Poverty Reduction and Smallholder Development Project*. Manila.
- . 2009b. *Project Preparatory Technical Assistance Concept Paper. Preparing an Effective Institutional Framework for Decentralization Reforms*, Manila.

G. Development Partner Reports and Documents – International Monetary Fund

- International Monetary Fund. 2006. *Joint IMF–IDA Staff Advisory Note on the Poverty Reduction Strategy*. Washington, DC.
- . 2007a. *Cambodia. A Note on the Taxation System. Article IV Staff Report*, Washington, DC.
- . 2007b. *Cambodia. Civil Service and Public Wages in Cambodia. Article IV*. Staff report. Washington, DC.
- . 2007c. *Reform of Public Expenditure Management in Cambodia*, Washington, DC.
- . 2007d. *Cambodia. Taxation of the Petroleum Sector*. Washington, DC.
- . 2009a. *Cambodia 2008 Article IV Consultation*. Staff report. Washington, DC.
- . 2009b. *Cambodia: Statistical Appendix*. Washington, DC.

H. Development Partner Reports and Documents – Various Development Partners

- Abrams, J. 2009. *Post PSDD Options Study*. Phnom Penh.
- Development Partners Group. 2008a. *Assignment of Functions – Workshop to Initiate Dialogue 2*. PowerPoint presentation. Phnom Penh.
- . 2008b. *Comments from Development Partners on Dialogue 2 – Functional Transfers*. Phnom Penh.
- . 2008c. *Comparison of Sub-National Sector Issues with Ministry Transfer of Functions Recommendations – Results from a 2 day workshop*. Phnom Penh.
- . 2008d. *Internal Dialogue – Theme 2 SNA Functions*. Phnom Penh.
- . 2008e. *Input to Dialogue 1 – Where are we Heading? Overall Strategy for the Next Steps in Deconcentration and Decentralization Reform*. Phnom Penh.
- . 2008f. *Methodology of Assignment of Functions and Responsibilities*. Phnom Penh.
- . 2008g. *Proposal for Engagement with the Government Formulation Team – the Dialogue Process on the National Program*. Phnom Penh.
- . 2008h. *Summary of Development Partners’ Comments on Draft Organic Law*. Phnom Penh.
- . 2008i. *Summary of Dialogue on Assignment of Functions*. Phnom Penh.
- . 2009a. *Accountability for SNAs – as Derived from the Organic Law*. PowerPoint presentation. Phnom Penh.
- . 2009b. *Comments from Development Partners on Dialogue 3 – Local Finance and Budget*. Phnom Penh.
- . 2009c. *Comments from Development Partners on Dialogue 5, Local Administration, Management and Personnel*. Phnom Penh.
- . 2009d. *Definitions, Concepts and Challenges of Accountability*. PowerPoint presentation. Phnom Penh.
- . 2009e. *Development Partner Comments on Draft 2 of the National Program*. Phnom Penh.
- . 2009f. *Dialogue 3 on Finance and Budget – Summary Notes and Closing Comments*. Phnom Penh.
- . 2009g. *Dialogue 5 – Local Administration, Management and Personnel*. Dialogue minutes. Phnom Penh.
- . 2009h. *Dialogue 5 – Local Administration, Management and Personnel – Dialogue Overview and Agenda*. Phnom Penh.
- . 2009i. *Dialogue 3 on SNA Finance and Budget with Development Partners*. Dialogue minutes. Phnom Penh.
- . 2009j. *Local Administration, Management and Personnel*. PowerPoint presentation. Phnom Penh.

- . 2009k. *Notes from the Meeting – Theme 4 Internal Dialogue – Accountability, Oversight and Responsiveness*. Phnom Penh.
- . 2009l. *Theme 4 Internal Dialogue – Accountability, Oversight and Responsiveness*. Phnom Penh.
- Development Partners Working Group. 2007. *Deconcentration and Decentralization Donor Support Matrix*. Phnom Penh.
- European Union Development Partner Group. 2009. *Issues for the Assessment/Appraisal of the National Program for Sub-National Democratic Development*. Phnom Penh.
- GTZ. 2005. *Promotion of Decentralized Development Management*. Phnom Penh.
- Independent Consultant. 2007. *Project Completion Report to Decentralization Support Project – Fiscal Decentralization Support Components*. Phnom Penh.
- Japan International Cooperation Agency. 2009. *Project of Capacity Development of Provincial Rural Development in Northeastern Provinces*. Progress Report 1. Phnom Penh.
- Japan International Cooperation Agency. 2009. *Project on Improvement of Local Administration in Cambodia*. Phnom Penh.
- Multi Donor Partnership. 2007. *Draft Project to Support Decentralisation and Deconcentration*. Phnom Penh.
- PDP Australia. 2007. *Cambodia. Evaluation of the Fiscal Decentralization Support Project (FDSP)*. Phnom Penh.
- Permanent Advisory Team. 2006. *The Seila Program and Partnership for Local Governance: What are they and What Have Been Achieved?* Phnom Penh.
- Project to Support Democratic Development through Decentralization and Deconcentration, 2009. *2009 Annual Workplan and Budget of PSDD*. Phnom Penh.

I. Development Partner Reports and Documents – World Bank

- World Bank. 2003. *Public Expenditure Review*. Washington, DC.
- . 2004a. *Cambodia Country Procurement Assessment Report*. Washington, DC.
- . 2004b. *Cambodia Fiduciary Review*. Washington, DC.
- . 2005. *Joint Public Financial Management Preparation Mission*. Washington, DC.
- . 2006a. *Cambodia PFM and Accountability Project*. Project information document. Washington, DC.
- . 2006b. *Equity, Growth and Poverty Reduction*. Washington, DC.
- . 2006c. *Public Financial Management and Accountability Project*. Project appraisal document. Washington, DC.

- . 2006d. *Rural Investment and Local Government Project*. Project paper. Washington, DC.
- . 2008a. *Demand for Good Governance Project*. Project appraisal document. Washington, DC.
- . 2008b. *Equity Growth and Poverty Reduction in Cambodia*. Project appraisal document. Washington, DC.
- . 2009a. *Cambodia at the Crossroads*. Washington, DC.
- . 2009b. *Cambodia. Linking Citizens and the State*. Washington, DC.
- . 2009c. *Integrated Fiduciary Assessment and Public Expenditure Review – Fiscal Decentralization Chapter*. Phnom Penh.
- . 2009d. *Rural Investment and Local Government Project II*. Project information document. Washington, DC.
- . 2009e. *Sustaining Rapid Growth in a Challenging Environment*. Washington, DC.

Deconcentration and Decentralization Reforms in Cambodia

Recommendations for an Institutional Framework

This study analyzes strategic and programming issues arising from the emerging deconcentration and decentralization reforms in Cambodia and informs the debate on the pace and strategic direction of these reforms. The study looks at the evolving legal and regulatory framework pointing to the gaps and inconsistencies that need to be addressed for a coherent framework over time. The study elaborates on the large cast of complex, and sometimes competing, institutions and the challenges of setting up an equitable and transparent intergovernmental financing system. Evaluating the strengths and weaknesses of the government's 10-year national program, the study suggests some critical steps for successful implementation of the reforms, including the need to develop a clear reform policy framework, obtain better coordination among government agencies and between the government and development partners, clarify uncertainties in the assignment of functions between tiers of government, design a robust system on intergovernmental financing, and develop capacities to implement the reforms. The study also suggests some important considerations for ADB programming, including how to best support the deconcentration and decentralization reforms at the central, subnational, and sector levels.

About the Asian Development Bank

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to two-thirds of the world's poor: 1.8 billion people who live on less than \$2 a day, with 903 million struggling on less than \$1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.

Asian Development Bank
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
www.adb.org
ISBN 978-92-9092-334-3
Publication Stock No. BKK113027

ISBN 978-92-9092-334-3

