

RENEWABLE ENERGY IN CAMBODIA

I. OVERVIEW

The Royal Government of Cambodia (RGC) has shown strong commitments to the transition to renewable energy. In 2020, the RGC issued Cambodia's Updated Nationally Determined Contribution 2020, which aims to integrate a 25% renewable energy share that includes solar, wind, hydro, and biomass in the country's energy mix by 2030. In December 2021, the RGC also issued a Long-Term Strategy for Carbon Neutrality, which aims to achieve net-zero emissions by 2050.

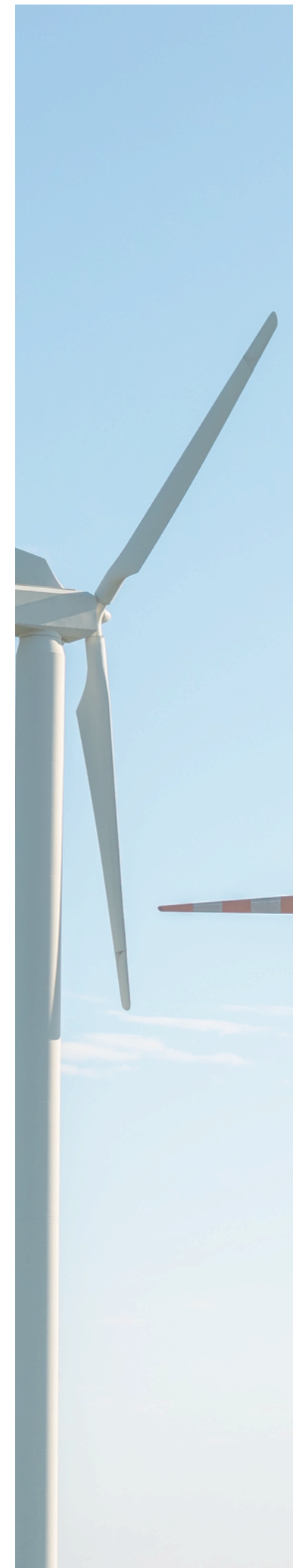
The transition to renewable energy is the agenda of the new Cambodian government in this seventh mandate. In August 2023, the RGC launched the Pentagonal Strategy Phase I, the country's long-term socio-economic development strategy. It commits to the promotion of the use of renewable energy to the utmost potential. These factors suggest the potential opportunities for investment in renewable energy in Cambodia.

This article will highlight the basic legal framework under Cambodian jurisdiction for business and investment in renewable energy.

II. WHAT IS RENEWABLE ENERGY?

There is no specific statutory definition of "renewable energy" in Cambodia. However, the interpretation of the term "renewable energy" can be understood through various energy policies and official documents of Cambodian competent authorities.

As per the Cambodia Power Development Master Plan 2022-2040, renewable energy refers to "the energy derived from all forms of renewable sources available, including hydro, bioenergy, and variable renewable energy." The term "variable renewable energy" refers to "the intermittent renewable sources of energy generation, namely solar PV and wind." The most common renewable energy sources emphasized by the government official documents are solar, wind, hydro, and biomass.



Civil nuclear energy is not considered a renewable energy in Cambodia. However, the Code on Environment and National Resources considers civil nuclear energy and renewable energy as forms of sustainable energy.

III. WHAT ARE THE INCENTIVES?

INCENTIVES UNDER INVESTMENT LAW

The RGC encourages the investment in renewable energy. In 2021, the RGC promulgated a new law on investment, offering various investment incentives to the qualified investment project (QIP) in a number of priority sectors. Under this law, the investment in green energy and the technology that contribute to the adaptation and mitigation of climate change are eligible to apply for QIP status. A QIP may receive three types of investment incentives, such as basic incentive, additional incentive, and special incentive.

Basic Incentives: Under the basic incentives, a QIP may select one of the following two incentive options:

- **Option 1** (Income Tax Exemption): The QIP is entitled to an income tax exemption period from the time of earning its first income as follows
 - 09 (nine) years for group 1;
 - 06 (six) years for group 2; and
 - 03 (three) years for group 3.

After the expiration of this exemption period, a QIP is entitled to income tax payment at a progressive rate proportional to the total tax due as follows:

- 25 (twenty-five) percent for the first 02 (two) years;
 - 50 (fifty) percent for the next 02 (two) years; and
 - 75 (seventy-five) percent for the last 02 (two) years.
- **Option 2** (Special Depreciation): A QIP is entitled to the deduction of capital expenditure through special depreciation at the rate of 200 (two hundred) percent as per the tax law and regulations. A QIP is also eligible for the deduction of up to 200% (two hundred percent) of specific expenses as detailed in Sub-decree No. 139 for the following periods:
 - 09 (nine) years for group 1;
 - 06 (six) years for group 2; and
 - 03 (three) years for group 3.

Other than the income tax exemption or special depreciation, as well as some tax and customs duty exemptions on imports, a QIP shall be entitled to other basic investment incentives as follows:

- Prepayment tax exemption in a specific period based on the group of investment activity list as follows:
 - 09 (nine) years for group 1;
 - 06 (six) years for group 2; and
 - 03 three) years for group 3.
- Minimum tax exemption provided that an independent audit report has been carried out; and
- Export tax exemption, unless otherwise provided in other laws and regulations.

Additional Incentives: A QIP is entitled to the additional incentive as follows:

- Value-added tax exemption for the purchase of locally made production inputs for the implementation of the QIP;
- Deduction of 150 percent from the tax base for the activities that focus on research, development, innovation, or the upgrade of machinery, as well as any activities that improve the well-being of the employees/workers;
- QIP is entitled to custom duty, special tax, and value-added tax exemption for the import of construction material and construction equipment for the construction of childcare centers, first aid rooms, food courts, free-food canteens, and canteens where reasonably priced foods are sold for employees/workers of its investment project in its location; and
- New vehicle assembly QIP is entitled to an incentive in the form of the deduction of custom duty, special tax, and value-added tax for the import of spare parts for vehicle assembly for domestic supply based on the rate and conditions set out in the sub-decree.

Special Incentives: The specific sector and investment activities having high potential to contribute to national economic development could be entitled to specific special incentives to be set forth under the Law on Financial Management.

The investment activities in each group, along with the investment activities in the negative list, are detailed in the Sub-decree No. 139 on the Implementation of the Law on Investment of Cambodia (“Sub-decree No. 139”).



INCENTIVES UNDER CODE ON ENVIRONMENT AND NATURAL RESOURCES (“ENVIRONMENTAL CODE”).

The RGC also intends to provide various incentives for renewable energy projects through the new Environmental Code. The main incentives include the following:

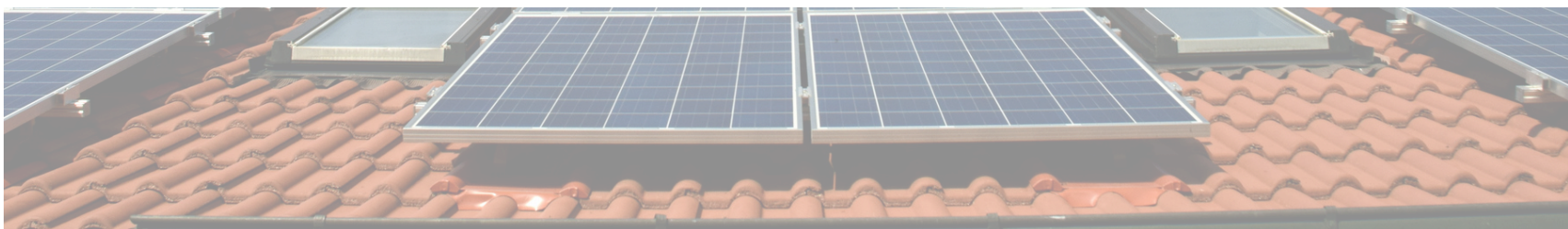
- **Tariff incentives:** All the equipment only used to install renewable energy technology is encouraged through tariff incentives as per the existing investment provisions (article 131).
- **Feed-in tariff:** the Environmental Code requires the relevant authorities to develop legal instruments on a pilot feed-in tariff system for renewable energy. The instrument shall ensure the energy tariff threshold for a certain period that reduces the end user payment and facilitates the recovery of maintenance costs and investment costs by the project owners. This instrument also needs to include the state budget for the above and the list of electricity tariffs for the renewable energy consumers (article 135).

IV. WHO CAN INVEST?

The investment in the energy sector in Cambodia opens for both the public and private sectors. The Electricity Law aims to establish principles for the promotion of private ownership of the facilities for providing service in the electric power as well as the establishment of competition wherever feasible. According to EAC’s Report on Power Sector 2023, Electricite Du Cambodge (EDC) is the only license holder in the public sector, while the other licensees are in the private sector. There is a total of 471 electricity provider licenses valid until the end of 2023.

V. WHAT IS THE LIMIT FOR FOREIGN INVESTOR?

Cambodia’s investment law guarantees that foreign investors will not be subject to any discrimination based on their nationalities. However, there is an exception for the issue of land ownership. The Constitution of Cambodia does not allow land ownership for foreigners, including foreign companies. Based on the Law on Commercial Enterprise, a company is deemed to acquire Khmer nationality when it has (i) a place of business and a registered address in Cambodia and (ii) 51% of voting shares of the company is held by natural or legal persons of Khmer nationality. Investors have the right to use land through other means such as economic land concession, perpetual lease, or fixed-duration lease as per the applicable laws and regulations.



VI. HOW TO START RENEWABLE ENERGY BUSINESS?

The regulatory framework governing renewable energy business could be drawn from various laws and regulations. There is no single-portal process to complete all the formalities and requirements for the operation of this business activity. Each formality and requirement may be subject to the following authorities:

Company Incorporation: An applicant may incorporate an entity through a one-stop-service with the Ministry of Commerce (MOC), the General Department of Taxation (GDT), and Ministry of Labor and Vocational Training (MLVT).

Application for Investment Incentives: The investment project in renewable energy may be eligible to apply for a qualified investment project (QIP) status, especially those activities in green energy and the technology that contribute to the adaptation and mitigation of climate change. The investor may submit the application to the Council for the Development of Cambodia (CDC) or the Provincial-Municipal Investment Sub-committee (PMIS), depending on the scope of investment.

Special Licenses: Any generation, transmission, and/or distribution of electricity requires a special license. However, obtaining full compliance is not a straightforward process. Below are the main authorities when it comes to the operation of the generation, transmission, and/or distribution of electricity:

- **Ministry of Mines and Energy (MMN):** the MMN has the duty to formulate and administer the government policies for the power sector. The investor shall consult with the MMN on the feasibility of the renewable energy project. The government would not approve any project that does not align with the government policy. For instance, the head of RGC and the MMN have reiterated that any development of hydropower plants on the Mekong River mainstream shall not be allowed.
- **Ministry of Environment (MOE):** The MOE has the authority to oversee and administer the environmental protection in Cambodia. One major authority of the MOE is the review and approval of environmental impact assessment reports to prevent, avoid, or mitigate the adverse social and environmental impacts of the energy projects.





- **Ministry of Land, Urban Planning and Construction (MLUPC):** The related construction in the renewable energy project could fall within the scope of the MLUPC's authorities. Any construction under the scope of the Law on Construction requires three main permits issued by the MLUPC, including the construction permit, construction site-opening permit, and construction site-closing permit.
- **The Ministry of Water Resources and Meteorology (MWRM):** as per the Law on Water Resource Management, any diversion, abstraction, and use of water resources for industrial purposes require a water permit from the MWRM. Therefore, MWRM also plays a key role in renewable energy activities, especially those related to water, such as hydropower projects.
- **Electricity Authority of Cambodia (EAC):** The EAC ensures the efficiency, quality, sustainability, and transparency of the supply and consumption of electricity in Cambodia. The EAC has the authority to issue regulations, review costs, approve tariffs, resolve disputes, and impose penalties. Another important role is to issue licenses to electric power service providers.

VII. WHAT ARE THE ELECTRICITY LICENSES ISSUED BY EAC?

Based on the Law on Electricity, EAC has the authority to issue the following licenses:

- **Generation License:** It grants the right to generate electric power services from specifically fixed and identified generating facilities.
- **Transmission License:** It grants the right to provide transmission services. There are two types of transmission licenses: the National Transmission License and the Special Purpose Transmission License.
 - **The National Transmission License:** This license shall be issued to the state power transmission company, which is controlled by the government. The license grants them the right to provide the transmission service for delivering the electric power to the distribution companies and bulk power consumers throughout the country.
 - **The Special Purpose Transmission License:** It grants the right to construct, own, and operate specifically fixed and identified transmission facilities in the country for the specified purpose.
- **Distribution License:** It grants the right to provide the electricity distribution services in a determined contiguous territory.

- **Consolidated License:** It is a license that may encompass various licenses. This license can be granted to EDC and isolated systems, allowing them the authority to generate, transmit, dispatch, distribute, and sell electricity to consumers. When granting a consolidated license, the EAC will consider long-term planning and the goals of the RGC's policy aimed at reducing the long-term marginal cost of electricity supply for consumers, creating a national grid, and progressively extending this grid across the country.
- **Dispatch License:** It grants the rights to control, manage, and operate the dispatch facilities that support the delivery and receipt of electricity from the systems of generation, transmission, and distribution.
- **Bulk Sale License:** It grants the rights to purchase electricity from any Generation Licensee or from the power networks of neighboring countries for resale to Distribution Licensees or to large consumers within one connected power system.
- **Retail License:** It grants the right to sell electric power to customers within a contiguous service area.
- **Subcontract License:** It grants the right to provide electric power services as per the subcontract agreement with the current license holder.

The below table indicates the number of licenses issued by the EAC:

No.	Type of License Issued	Valid till the end of 2023
1	Consolidated License consisting of Generation, Distribution and National Transmission Licenses	1
2	Generation License	35
3	Special Purpose Transmission License	11
4	Consolidated License consisting of Special Purpose Transmission and Distribution Licenses	7
5	Distribution License	351
6	Retail License	5
7	Consolidated License consisting of Generation and Distribution Licenses	9
8	Subcontract License	52
Total		471

Source: EAC's Report on Power Sector 2023



VIII. IS THERE ANY PRICE LIMIT?

The tariff rates and charges, as well as the terms and conditions of the licensee's electric power services, are subject to the approval from the EAC. The licensee may file the tariff application with the EAC for approval. The EAC is required to approve, revise, or disapprove the tariff application within 90 (ninety) days from the receiving date.

The tariffs could be different due to the quantity of peak, average, or overall electricity usage at different times, seasons, the time of day or year, the service types purchased, or other similar factors.

The EAC approves the tariffs to protect consumers against monopolistic prices, allow license holders to recover from their costs as per the business standard, encourage licensee's operational efficiency and internal management, encourage the economic efficiency of the power sector, and consider the cost and other appropriate differences between customer categories and service types.

IX. IS THERE ANY RULE GOVERNING THE IMPORT AND EXPORT?

The Law on Electricity authorizes the MME to prepare planning and agreements on the imports and exports of electricity. Any import-export of electricity requires the approval from the MME. Based on the EAC's Report on Power Sector 2023, the MEE has authorized the import of energy from Thailand, Vietnam, and Laos. Cambodia is also in the process of exporting its energy. In 2023, a Cambodian company signed a long-term Power Purchase and Export Agreement to export utility-scale low-carbon electricity to Singapore. The signing was witnessed by high-level energy officials of both countries.

X. IS THERE ANY REGIONAL COOPERATION ON RENEWABLE ENERGY?

Cambodia is a member of the Association of Southeast Asian Nations (ASEAN). Under ASEAN's pursuit to advance regional economic integration, energy is considered as a key component.



The ASEAN Power Grid is one of the programs under the ASEAN Plan of Action for Energy Cooperation (APAEC) 2016-2025, the energy component of the ASEAN Economic Community Blueprint 2025. It has the key strategies to “expand regional multilateral electricity trading, strengthen grid resilience and modernization, and promote clean and renewable energy integration.”

In May 2024, Cambodia, Lao PDR, and Singapore issued a joint press release on the formation of a working group to facilitate cross-border electricity trade to drive the ASEAN Power Grid vision. First, it will establish the development facilitation framework for cross-border electricity trading projects in ASEAN, starting from the three countries. Second, it will facilitate the regulatory approval and licenses for the electricity generation as well as the electricity import-export. It will also develop guiding principles and frameworks for the application and permit process for the subsea surveys as well as the installation of cross-border subsea power cables. Third, it will explore ways for the commercial arrangement facilitations and the generation and transmission infrastructure development allowing cross-border trading of electricity among Cambodia, Lao PDR, and Singapore.

APAEC 2016-2025 also covers other programs such as the Trans-ASEAN Gas Pipeline, coal and clean coal technology, energy efficiency and conservation, renewable energy, regional energy policy and planning, and civilian nuclear energy.

XI. IS THERE ANY CARBON MARKET RULE IN CAMBODIA?

As a member of the Paris Agreement, Cambodia has set an ambitious goal through its updated Nationally Determined Contributions and the Long-Term Strategy for Carbon Neutrality by 2050. These provide opportunities for Cambodia to participate in the carbon market.

The Paris Agreement emphasizes a similar notion on the carbon market. Article 6 of the Paris Agreement indicates the use of internationally transferred mitigation outcomes toward the nationally determined contributions (NDC). Cambodia has integrated this article 6 as a part of its financing strategy to achieve its NDC’s goal.

In early 2024, Cambodia’s Ministry of Environment issued the Operations Manual for the Implementation of Article 6 of the Paris Agreement on Climate Change in Cambodia. It includes the roles of the RGC’s national authority, ownership rights of the authorized greenhouse gas emission reductions (GHG ER), and administrative fees, as well as the engagement approach and framework. It also provides the detailed eligibility criteria for GHG ER’s authorization. The operations manual also outlined the authorization process established by the RGC and the issuance, transfer, or cancellation of authorized GHG ER.

XII. IS THERE ANY RULE GOVERNING COMPETITION IN RENEWABLE ENERGY?

There is no specific law or regulation governing the competition in the renewable energy sector. However, the anti-competition rule can be found in various laws and regulations in Cambodia. The Law on Electricity established the principle for the establishment of competition wherever feasible within the electric power sector.

In 2021, Cambodia promulgated the first Law on Competition. It governs any activities that could prevent, restrict, or distort competition in Cambodia. The law also establishes and determines the authority of the Cambodia Competition Commission. There are four main anti-competition behaviors under Cambodian competition law as follows: (i) unlawful horizontal agreement, (ii) unlawful vertical agreement, (iii) abuse of dominant position in the market, and (iv) unlawful business combination.

Although the competition law is in place, the electricity power sector is still largely regulated by the EAC with respect to the purpose of the Law on Electricity.

XIII. WHAT ARE THE DISPUTE SETTLEMENT MECHANISM?

There is no specific law or regulation that provides a comprehensive dispute resolution mechanism for renewable energy cases in Cambodia. For the electricity sector, the Law on Electricity authorizes the EAC to evaluate and resolve consumer complaints and contract disputes arising from the licenses in the case that the complaints or contract disputes are caused by the violation of the license's conditions. Moreover, any interested person may also file a written complaint with the EAC against a licensee for any alleged violation of the Electricity Law.

The dispute resolution procedures under the EAC may include the following:

- The procedure for filling of complaint and notice to the defendant.
- The reconciliation process, if decided by the chairman of the EAC (The dispute related to the violation of law shall not require reconciliation.)
- Investigation procedure conducted by the EAC in the case that the reconciliation was not taken up or failed.
- The procedure for the EAC's session for complaint resolution and judgment.
- The appeals procedures if the EAC's judgment is not satisfied.

The dispute outside the scope of the EAC may be subject to different competent authorities, including the competent court of Cambodia, depending on the nature of such a dispute.

Alternative dispute resolutions (ADRs) are also available in Cambodia. The main institutions dealing with ADRs in Cambodia include the National Commercial Arbitration Centre, the Arbitration Council, and the National Authority for Alternative Dispute Resolution.

Cambodia is also a party to some key international agreements involving dispute resolution, such as the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards through Royal Kram NS/RKM/0701/10 dated 23 July 2001. Therefore, a foreign arbitral award can be implemented in Cambodia. The request for the enforcement and recognition of this award must be submitted to the Appeal Court of Cambodia. The country is also a party to the Convention on the Settlement of Investment Dispute through Royal Kram NS/RKM/0601/08 dated 29 June 2001.

*This **Regulatory Guide** is a general information only and is not considered as legal advice or opinion. If you require any further information or have any questions, please contact **Mr. HOUN Vannak**, managing partner of **RHTLaw Cambodia**.*

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