

Chapter 4

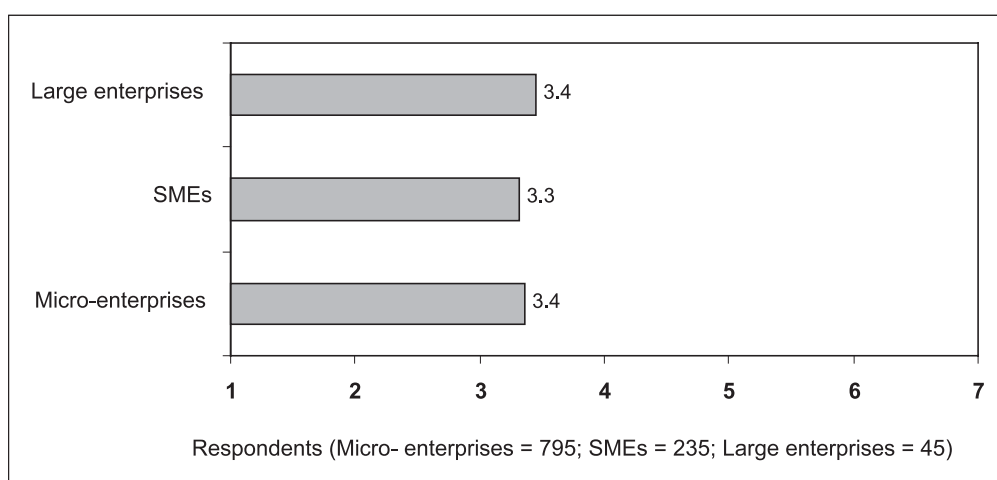
Some Recommendations to Curb Corruption

*“If we keep silent and act like the weak, they will keep coming to ask us for money,
but if we dare to complain and talk to them seriously with some legal arguments,
they don't dare to come anymore”.*

-A micro-entrepreneur in Banteay Meanchey

Notwithstanding the seriousness of unofficial payments and multifaceted problems of corruption in the private sector, little attention and action have been taken by the Government to curb corruption in the sector, according to views expressed by various enterprises. In answer to the question, has the Government taken action to resolve the problems of corruption in the private sector, all types of enterprises had a pessimistic outlook (figure 4.1).

Figure 4.1: Government's Actions in the Fight against Corruption
(1 = Not successful at all, 7 = Very successful)



Source: EIC, CAPS survey, April 2006

For the Government to successfully combat corruption in the private sector, ideas and recommendations by entrepreneurs of MSMEs and public officials need to be considered. Entrepreneurs also expressed their role, as participants in the private sector, in combating corruption. This chapter will look into their suggested recommendations, and the role of the private sector.

It is important to note that even though different recommendations set below have been put into separate categories, these recommendations should be enforced in

tandem. For instance, raising salaries of officials alone without the effective enforcement of the anti-corruption law will not effectively reduce corruption.

4.1. Establishing an Effective Anti-corruption Mechanism

There is the need for legislation to be enacted. Almost all discussants viewed that it is crucial to first adopt the anti-corruption law. If there is a law people will be scared to be corrupt.

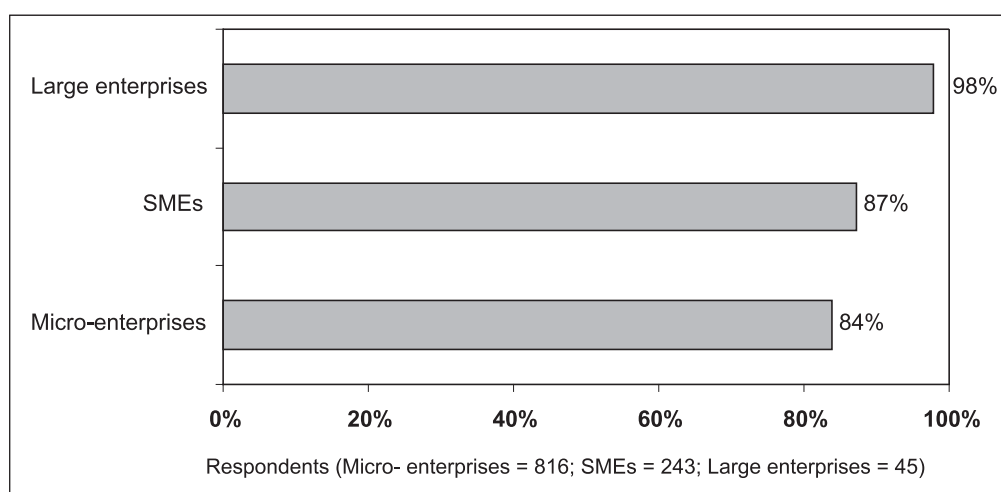
4.1.1 Adopting a ‘Good’ Anti-corruption Law

To date, Cambodia does not have an anti-corruption law. During the 8th Consultative Group meeting between donors and the Government in March 2006, the Government committed itself to approve the draft law by the end of June 2006 and to prepare an implementation plan to enforce and manage the implementation of the anti-corruption law by October 2006²¹.

At the time of writing, the draft law is currently at the Council of Ministers to discuss the compliance of the draft law with the draft penal code and penal code procedures. Obviously, the anti-corruption draft law could not be adopted by the end of June 2006, as the Government had pledged.

It is important to note that the vast majority of enterprises of all categories were aware of the anti-corruption law being drafted by the Government even though they are not really aware of the contents of the legislation (Figure 4.2). This was not surprising, however, as all survey locations were in urban areas where access to the media is relatively easy.

Figure 4.2: Entrepreneurs’ Awareness of Anti-corruption Draft Law



Source: EIC, CAPS survey, April 2006

²¹ EIC Economic Watch, Issue 4, p. 78

In spite of the possible fact that Parliament will adopt the law, there is still controversy over the compliance of the draft law with international standards. Critics have pointed to four key areas of the law which do not meet international standards²²:

- The draft lacks operational independence and autonomous budget for the anti-corruption body.
- The draft does not provide adequate independence for an investigation authority to the anti-corruption body.
- With regard to asset declarations, the law should allow the Secretary General of the anti-corruption body to access asset declarations during investigations. Asset declarations must include those of officials' spouses and children and may be used as evidence for a criminal offence.
- Compatibility of the draft law with the criminal procedure code and penal code (e.g. confidentiality provisions to protect victims and witnesses, special punishment for breaking confidentiality).

MSMEs are of same opinion with the above critic. MSMEs believe that there should be an independent and autonomous authority or agency or council to inspect and investigate corruption. While the judiciary has been found to be the most corrupt institution and to lack independence, the anti-corruption body plays a very important role in curbing corruption.

Another SME entrepreneur also mentioned: *“Policies and legislations should be clear for the anti-corruption council to exercise their power independently; otherwise, it in turn will also be corrupt; worsening the problem of corruption”*. In addition, MSMEs viewed that the legislation should require that the assets of high ranking public authorities be declared so that the competent authority/council could monitor, and investigate if corruption does occur.

Therefore, in order for corruption in the private sector as well as in the country to be curbed, adoption of a proper anti-corruption legislation is the very first step for the Government to pursue. The Government has revealed its strong will in the fight against corruption through various government policies, particularly the Government Rectangular Strategy. To make this will a reality, efforts to adopt an anti-corruption law with internationally-recognized-standards is of crucial importance. Further Government efforts should be put forth to speed up the procedures of adopting appropriate anti-corruption legislation, so that Cambodia has strong and reliable legal documents to refer to when it comes to combat corruption in the private sector as well as in the country.

²² Pact, International Standards and the Draft Law on Anti-corruption, slide presentation, 23 May 2006

4.1.2. Enforcing Anti-corruption Legislation

The adopted anti-corruption law should not only be on paper. This law must be effectively enforced by punishing corrupt officials. Public officials will not be corrupt anymore, if there is effective enforcement of the anti-corruption legislation, for fear of losing their jobs and being punished.

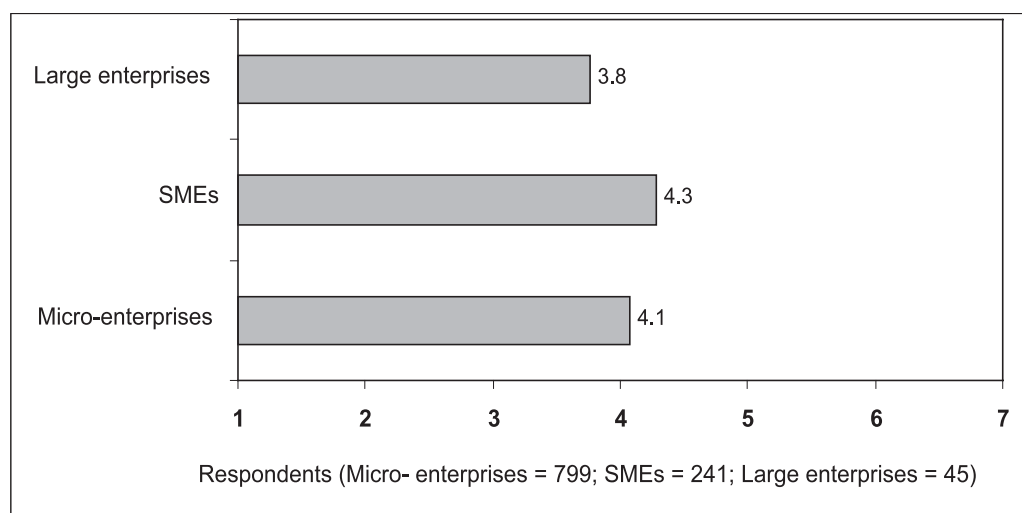
However, the enforcement of the law should be equally applied regardless of who and what the person does. However, anti-corruption campaigns should be top-down rather than bottom up. If higher ranking officials are punished because of corruption, lower ranking officials will feel afraid of doing the same. An official explains: *“The national level government leaders must respect the law first, and people follow.”*

Similarly, an entrepreneur mentioned: *“I think we should reform from top to bottom. Low-ranking officials will be afraid of abusing laws because they see their bosses are punished. If we start from the bottom, the top will try harder to take bribes because they know that they don’t have more chance.”*

Eventually, whatever the problems of corruption are, both the MSMEs and civil servants seem to have some confidence in the Government reform programs. They trust that the Government would fairly enforce the anti-corruption law, once the draft is adopted by the Parliament in the future. They believe that the Government would prioritize the enforcement of the law agendas. At least, the situation would be better when there is law, according to MSME entrepreneurs. Large enterprises, however, seem to feel less positive than MSMEs (figure 4.3).

Figure 4.3: Enforcement of the Anti-corruption Law: Successful?

(1 = Not successful at all, 7 = Very successful)



Source: EIC, CAPS survey, April 2006

A fairly moderate number of interviewed public officials were of the same opinion with MSME entrepreneurs. Public officials believed that the enforcement could not reach 100 percent success, but to some extent corruption would be gradually reduced. *“The enforcement of the anti-corruption law is not completely effective, if the salary of public officials is still low. However, it will help reduce corruption to some extent. I am happy if the anti-corruption law is adopted,”* announced a public official.

The confidence of the private sector and public officials in the Government reform programs are strong moral support for the Government and should be an encouragement for the Government to do more about corruption. The private sector, public officials, civil society, donors, other stakeholders and all Cambodians in particular are looking forward to the enforcement of the forthcoming anti-corruption legislation.

4.2. Raising the Salaries of Civil Servants

Almost all entrepreneurs of MSMEs stressed the limitation of the enforcement of the anti-corruption legislation. MSME entrepreneurs believe that there is a strong link between raising civil servants’ salaries and the effectiveness of the anti-corruption law enforcement. Without sufficient salaries, the enforcement of the anti-corruption legislation is not effective as mentioned a micro-entrepreneur: *“Strict implementation of law is impossible because the salary is not enough.”*

Similarly, another entrepreneur said: *“Civil servants always complain about the inadequacy of their salary. Now, they have enough salary, so they can’t complain anymore and if they are corrupt, we can punish them by the law. Increasing the salary of public officials in tandem with enforcing the anti-corruption law will make law enforcement better. It could not reduce all corruption, but at least help curtail the corruption.”*

Box 4.1: How Corrupt Money is Spent by a Public Officials?

When we talk about how and why public officials use money from corruption, there is a distinction between normal and high ranking public officials. Normal civil servants take unofficial fees from the private sector only to survive and for their daily expenses. Their daily expenses include personal and family expenses and other basic needs such as food, clothing, gasoline and for some social activities such as weddings, social drinking, parties, etc.

Many officials, however, believe that higher ranking officials seem to take bribes to be well-off. Because of the patronage system, corrupt money is also used by officials to bribe further their seniors in order to maintain their position or to receive a promotion.

These officials also spend their corrupt money to show their prestige and to be materialistic as well as to please their leisure activities including entertainment, and gambling. Rarely mentioned, though, some officials also partially contribute corrupt money to their political parties.

Source: CAPS FGDs

The salary issue seems to be the core problem of corruption in Cambodia. According to the FGDs held in all provinces/municipalities, the most necessary action to combat corruption in the private sector is to increase the salary of civil servants. Without an adequate salary, civil servants cannot survive and will thus need to be corrupt by soliciting bribes from the private sector. According to MSME entrepreneurs, public officials demand unofficial fees because of their low salaries.

Box 4.2: Government Policy in Relation to Salary & Incentives of Civil Servants

The Government has pledged, in its Rectangular Strategy, to raise the salary of civil servants by 10 to 15 percent to improve their living standards to an appropriate and dignified level. The commitment to gradually raise the salary of civil servants has come into action. For instance, the cost of one salary index of civil servants was raised from CR 300 (in 2002) to CR 345 (in 2005) and to CR 400 (in 2006). In August 2005, the Government also increased functional allowances of staff in middle and senior administration and priority sectors (education and health).

Normally, the total remuneration of a civil servant consists of his/her basic salary plus other allowances (relating to functions, risks and family allowance). The basic salary of an official is equal to the number of index multiplied by the cost of one index. The number of index follows this range: civil servant of category D: has index from 100 to 175; civil servant of category C has index from 150 to 262; civil servant of category B has index from 220 to 385; civil servant of category A has index from 315 to 550.

In addition, in early 2002, the Council of Administrative Reform (CAR) planned to implement the Priority Mission Groups (PMGs) to provide incentive to 1,000 civil servants who perform their work in high-ranking level of super category 'A' (political level and high-ranking administration level). Another 500 civil servants were planned to be increased, each year up to 2005, to the PMGs. On average, the Super Category A and civil servant in Priority Group get a salary of about US\$200. However, in 2005, the total number of PMG members was only 1,205 while most ministries had not sent their staff lists to CAR. So far, unlike the plan, only 560 civil servants have benefited from the PMGs. This PMG program is yet to be implemented.

In spite of Government efforts to increase the salaries of civil servants, the salary of civil servants has been judged as insufficient. In June 2006, the Cambodian Independent Teachers' Association, claiming to have membership of about 78,000 workers, was ready to strike to demand a raise in teachers' salaries from an average of US\$25 per month to US\$100. In response to that demand, the Government claimed it had a limited budget and said that it could only increase salaries very slightly on a yearly basis.

Source: *Government Rectangular Strategy; Sub-decree No. 03 dated 15 January 2005; Sub-decree No. 140 dated 09 December 2005; Cambodia Daily, June 20, 2006, Volume 34, Issue 62, p. 12; EIC Economic Watch, Issue 3, p. 61; EIC Economic Watch, Issue 4, p. 7; and the website of Council of Administrative Reform: http://www.car.gov.kh/document/report/achievement_CAR_brief_310506_kh.asp*

Likewise, a fair majority of interviewed officials believe that increasing salaries would be an efficient way to reduce corruption. It is believed that many public officials still have their morals and ethics. *"Even though we could not stop corruption, when the salary of civil servants is increased, corruption will be reduced"*, said a public official. If salaries meet the basic needs of public officials, who are involved in petty corruption for survival, petty corruption by lower ranking officials will be drastically curbed.

A chief of commune describes: *"For low ranking officers, they feel ashamed to take unofficial fees but they have no choice, but to be corrupt to support their living. Enough*

salary will encourage them not to take unofficial fees because they do not want to be looked down on by citizens". Another public official also said: "Enough salary would encourage the enhancement of regulations and discipline, thus the officer would not dare to act illegal because he would face losing his job."

This leads to the question, how much is an adequate salary for public officials? A fairly moderate number of interviewed public officials believe that a salary of US\$100 per month is enough for ordinary public officials to survive and meet the basic needs of their family. A smaller proportion of public officials, however, view that the salary should range from US\$150 to US\$200 per month for them to live on.

Issues on how to increase the salary of public officials were raised in response to the suggestion of giving public officials a decent wage. Many entrepreneurs viewed that it was rather hard for the Government to increase the salary of public officials given the weakness of the Government in collecting revenue. They believe that to resolve the problem, tax collection should be enhanced to increase the state income.

4.3. Promoting Good Governance and Ethics

Good governance plays a very important role in curbing corruption, according to MSME businessmen. Good governance can be established through a system where both businessmen and public officials work together. This could include a one-window-service for taxes, licenses and other related services. 'One-window-service' was also frequently mentioned by officials and MSMEs concerning the reduction in bureaucracy.

In the same context of good governance, many officials believe that regulations, legislations, procedures and information concerning business should be accessible to entrepreneurs at a low cost. In addition, business laws and regulations should not be complicated and be suitable to the business environment so that the private sector can easily comply with these regulations. The duplication of responsibilities of relevant ministries, for instance, should be reformed.

To promote good governance, both public officials and entrepreneurs of MSMEs stressed the importance of transparency, particularly with regard to government fees. Public officials and MSMEs strongly believe that it is important to publish and disseminate all official fees that businesses have to pay and to whom they have to be paid. Raising the awareness of businessmen of relevant regulations and encouraging them to respect these regulations is a necessity.

All these recommendations would benefit both public administration and entrepreneurs to accelerate the work process. Public administration would see an increase of government tax and non-tax revenues while businessmen could spend

less time dealing with public administration. In other words, complicated procedures, laws and regulations should be reduced. An SME entrepreneur said: *“I want the Government to create a system which requires us to pay everything at one place. I don’t want to waste my time to move from one place to another.”*

Box 4.3: One-Window-Service Office in Battambang and Siem Reap District

With technical support from the project ‘EU/Asia Urbs.’ funded by the European Union through Konrad Adenauer, one-window-service offices in two districts (Battambang and Siem Reap) of Battambang and Siem Reap province as a pilot project were established in 2004 by the Prakas No. 790 of the Ministry of Interior.

These offices were set up to help promote good governance and administrative reform by extending dimensions of administrative services to the people. Under this one-window-service, administrative services are mobilized under the Battambang and Siem Reap district competency and delivered to citizens at one single window.

The structure of the one window office of the two districts is that the office is divided into a front office where all transactions are handled with citizens. There is a ‘back office’ is where competent experts in the different areas of activity work. The significance of this one-window-service is that all relevant fees are published in a transparent way. Services of the one window offices include:

- Culture and fine arts (licenses for photographers or video rent shops)
- Tourism (licenses for guesthouses up to five rooms and restaurants up to 50 chairs)
- Transport (registration of motorcycles and vehicles)
- Mines, industry and energy sector (licenses and registration of handicraft shops and business in the mining sectors)
- Commerce (registration of business)

According to the Director of the Siem Reap Department of Industry, Mines and Energy, people in Siem Reap district are thrilled to see the official fees published and the amount they paid for public services is less than what they had to pay previously. Citizen participation in the use of public services has also increased. For the Siem Reap Department of Industry alone, public services have increased up to 55 percent compared to when there was no one-window-service.

Recently, the draft sub-decree on one-window-service prepared by the Secretariat of the Council of Administrative Reform (CAR) of the Council of Ministers was verified and discussed by CAR after two inter-ministerial meetings. This draft sub-decree is expected to be adopted by the Council of Ministers in July 2006.

Source: Interview with Mr. Sory Reasey, Deputy Head of Office, One Window Service Office (Car); Interview with Mr. Thlauk Sina, Director of the Siem Reap Department of Industry, Mines and Energy

Another supplementary measure to strengthen good governance suggested by public officials was the rotation of public officials. Rotating officials from one place to another is another crucial way to achieve good governance and thereby reduce corruption. A public official in Kampong Cham province mentioned: *“An official should not be kept in the same position for a long time as he or she could strengthen their network and create channels of corruption.”*

In addition, strict control and monitoring of the subordinates by higher ranking officials is necessary. Officials in high positions should have a clear policy, strong direction and control over their subordinates. An entrepreneur mentioned: *“There should be an effective way to control the subordinates who are involved in corruption. High ranking officials should be accountable for the corruption done by their subordinates.”*

Box 4.4: Transparency in Taxing System: Simplified Accounting System

Currently, one of the obligations for all Cambodian enterprises is to meet the Cambodian Accounting Standard (CAS) and Auditing System required by Cambodian law. While Cambodia's private sector is made up of about 80 percent of SMEs, smaller sized enterprises cannot implement the required obligations with regard to accounting and auditing. In general, the estimated tax regime (Official Assessment System) applies to MSMEs. This system does not allow the MSMEs to know how much they should pay with regard to their tax obligation.

To promote MSMEs in terms of financial reporting as well as to promote transparency in the taxing system, a simplified accounting system will be introduced to SMEs from 2007 by the National Accounting Council. Not only less costly and doable, this simplified accounting system will let MSMEs know how much their turnover is and how much tax they should pay, with the use of a simple calculation.

In order for MSMEs to know better this simplified accounting system, the Council also raises the awareness of the MSMEs of this system through public disseminations, trainings and the media, etc.

Source: Interview with H.E. Prof. Ngy Tayi, Under Secretary of State, Ministry of Economy and Finance, Chairman of the National Accounting Council

MSMEs also mentioned good governance through promoting efficiency of the public administration, such as recruitment, evaluation and promotion of public officials. MSMEs believe that it is important to strengthen the capacity of public officials to perform their duties effectively and to ensure that the educated and talented officials are given appropriate positions. Doing this is important to dispense with networking and the patronage system. It is equally important to promote public officials who are honest, based on the performance of their public duties.

As part of good governance, public administration should provide a system that allows citizens to report any occurrence of corruption. This should be confidential and reporters should be protected. When citizens report corruption effective action should be taken, providing an incentive for corruption to be reported. An SME entrepreneur stated: *"What would really help in the struggle against corruption is a system where people could report corruption to competent authorities."*

Last but not least, ethics are important to ensure that everyone is honest. MSMEs believe that ethics, which is a crucial way to prevent corruption, should be promoted and strengthened through education. Everybody, particularly the private sector and public officers should be taught to be honest, to have patriotic wisdom, a nationalistic spirit and national conscience. An entrepreneur mentioned: *"Education for good ethics plays a significant role in the fight against corruption. If pupils learn how to be corrupt since they are at school, they will do the same when they start working. Also, a low-educated person is usually more likely to suffer from exploitation."*

4.4. Participation of the Private Sector and Civil Society

MSMEs were also qualitatively questioned about their role in helping combating corruption in their sector of the country. Two main ideas were given. First, they believe that they can help reduce corruption by being honest citizens, starting at the individual level. So, if everyone is not corrupt, corruption will not occur. Every single member of the private sector should refrain from bribing public officials. To ensure this, education is necessary to teach children to hate corruption and to be a patriot with high morals and ethics.

Second, a majority of MSME respondents agreed that they could take part in the fight against corruption by being a part of a counter-corruption community and associations. They believe that their individual voices are not strong enough to make public authorities favor their problems and interests. Associations can effectively bring their concerns and voice closer to policymakers. Working via associations would give more weight on influencing public authorities to consider their problems, such as corruption, and resolve their concerns. Associations can also play a significant role as advocates, vis-à-vis public authorities, for their interests and in countering corruption.

However, these associations in order to remain sustainable, should be free from politics, neutral, well-organized, and protect the members' interests. There is a need for strong leadership, participation and the contribution of members.

In addition, a majority of MSMEs believe that there is a need for Government support and a conducive environment where they can freely exercise their rights to bargain and associate without fear. Some provincial participants highlighted that they were concerned in participating in any association, saying: *"We are reluctant to participate in the association. It is not easy to do so. Some people are afraid for their security. Many people don't want to do anything which requires them to have their finger print, for instance."*