

# **The Legal Foundation for Cambodia's Growth Economy**

*A Presentation for the Official Visit of H.E. Dr. Jean-Daniel  
Gerber, Secretary of State, State Secretariat for Economic  
Affairs And the Swiss Business Delegation*

**By:**

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**July 10, 2009  
Phnom Penh, Cambodia**

# Reasons for Cambodia's Growth Economy:

## Internal Reasons:

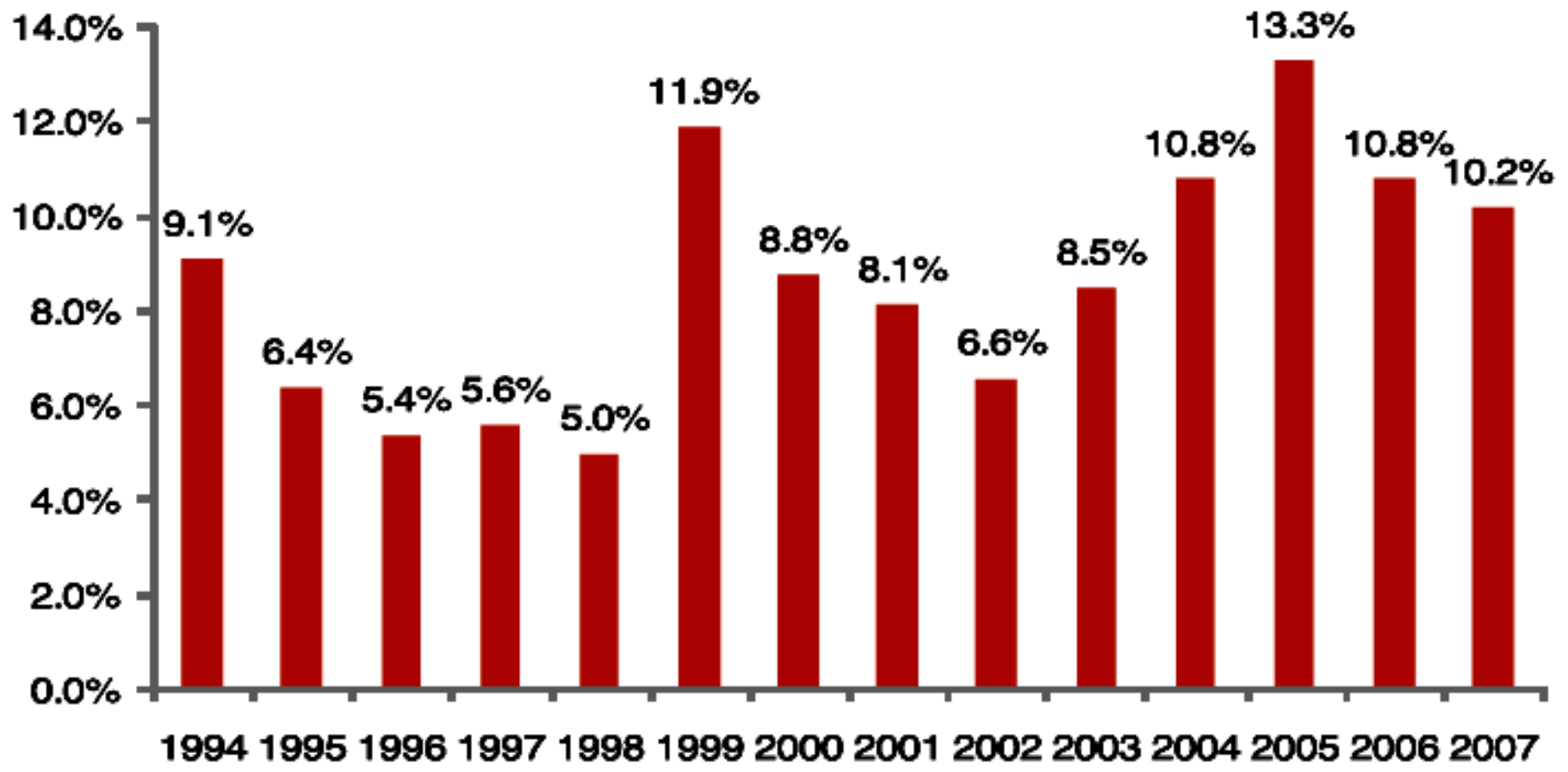
Cambodia's Established Track Record

### 1. Economic Track Record:

- Rate of Growth: World Bank & ADB
- Macroeconomic Stability: IMF
  - \* But Note: Inflation (2008)
- Strengths: Garments, Tourism, Construction, Real Estate



# Rate of Growth

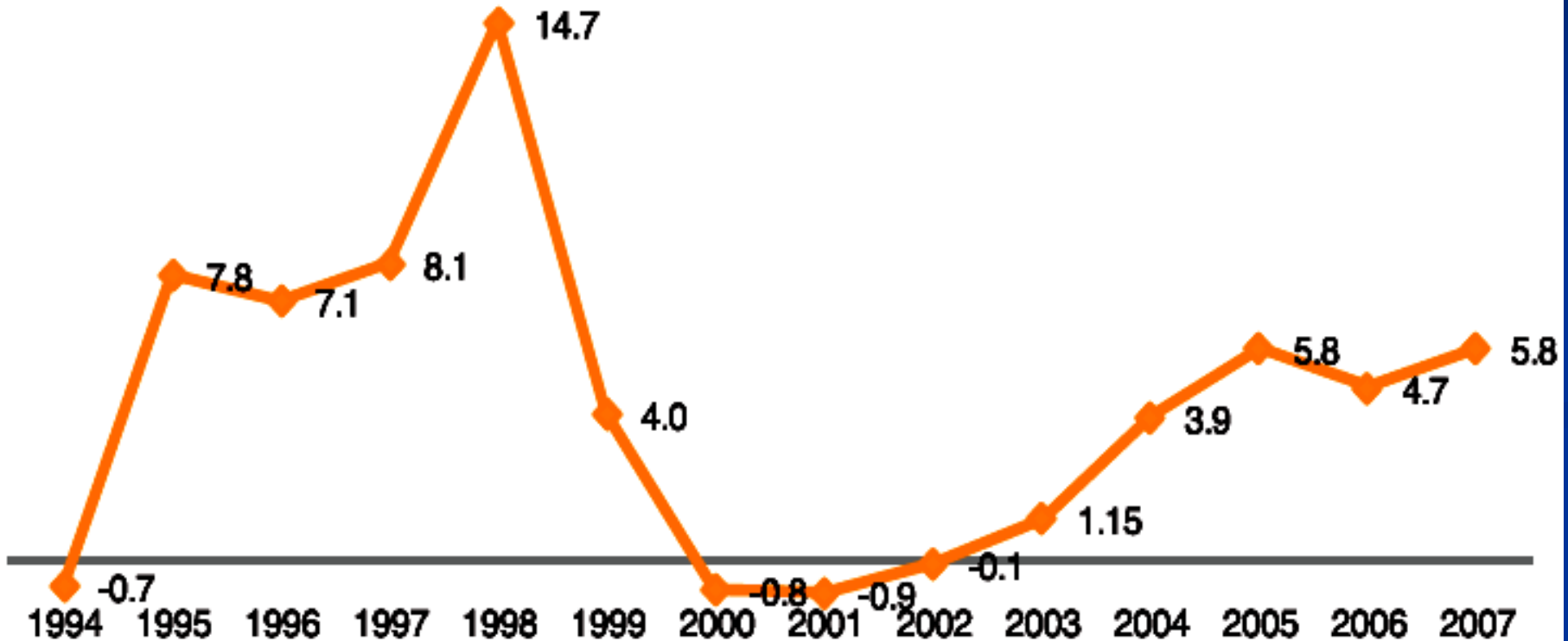


- GDP growth averaged 9.4% per year during the last decade, and 11% per year during the last five years;



# Inflation

—◆— CPI Inflation (average)

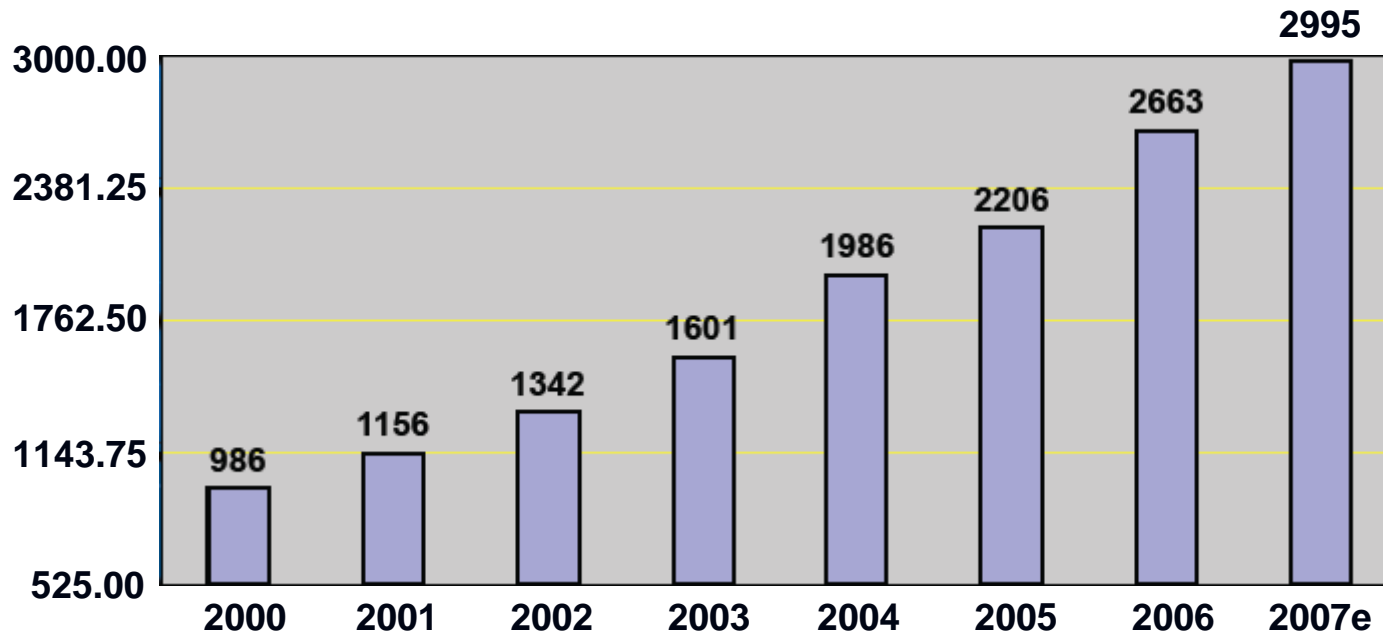


- During 2003-2007; the average rate of inflation was 4.3%;



# Cambodia's Garment Exports (million US\$)

Garment Export 200-2007 (f.o.b., in millions of dollars)



- Increase in Exports mainly attributed to the Garment Exports which represent over 70% of the total exports in 2007.



# Cambodia's Established Track Record

## 2. Political Stability:

- Four National Elections (+ other elections)
- Constitutional Change for Forming a National Government (2006).
- Stability in Governmental Leadership
- Political Stability has led to Security

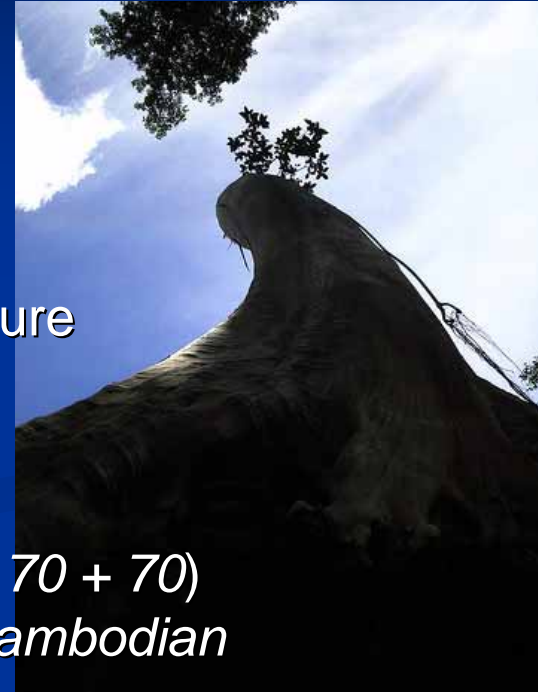


# Cambodia's Established Track Record

## 3. Legal & Regulatory Reform:

### A. Investor Friendly Environment from the Beginning (1st Mandate – 1993):

- 100% Foreign Ownership of Companies
- Quick and Easy Company Registration Procedure
  - ↳ E.G., US\$1,000 minimum capitalization
- No Restrictions on the Transfer of Funds
- No Foreign Ownership of Land, but:
  - ↳ Long Term Leases (*1994 Investment Law = 70 + 70*)
  - ↳ 99 year Concessions (*equal treatment for Cambodian nationals and foreigners*)
  - ↳ Is there a Sub-Decree on Strata Title in our future?
- 20% Maximum Profit Tax Rate on Earnings
- Easy to Obtain Work Permits for Foreigners



# Cambodia's Established Track Record

## 3. Legal & Regulatory Reform:

### B. Investment Law:

- Enacted in 1994, Amended in 2003
- Expedited Registration Procedure
- Tax Holidays
- Waiver of Import Duty on Construction Material and Equipment.
- Waiver of Import Duty on Raw Materials for 1st Year of Operation.
- No Nationalization



# Cambodia's Established Track Record

## 3. Legal & Regulatory Reform:

### C. Accession to WTO (2004):

- Intellectual Property Laws:
  - ↳ Trademarks (2001)
  - ↳ Patents (2002)
  - ↳ Copyright (2003)
- Law on Commercial Enterprises (May 17, 2005)
- Law on Negotiable Instruments (September 19, 2005)
- Law on Commercial Arbitration (March 6, 2006)
- Law on Government Bonds (November 20, 2006)
- Law on Secured Transactions (April 6, 2007)
- Law on Customs (June 22, 2007)
- Law on Concessions (October 4, 2007)
- Law on Insolvency (October 16, 2007)



# Cambodia's Established Track Record

## 3. Legal & Regulatory Reform:

### D. Other Laws Enacted by the Royal Government:

- Labor Law (1997)
- Banking Law (1999)
- Property Law (2001)
- Stock Market Law (2007)
- Civil Code (2007) (includes contracts; promulgated but not yet in effect)



### E. Legislation Pending with the New Royal Government

- Anti-Corruption Law
- Telecommunication Law

\* But Note:

- Sub-Decrees and Prakas (regulations) Required
- Implementation Required



# Cambodia's Established Track Record

## 4. Pro-Investment Attitude of the Royal Government of Cambodia:

- User Friendly Attitude of Senior Government Officials: Individual Initiatives.
- Private Sector Forum (1999)
- Working Groups (2000)
- \* IFC Survey:
  - (a). Savings for the Private Sector of US\$70 million
  - (b). Private Sector's Pro Bono Input valued at US\$350,000
  - (c). For every US\$1 invested by donors in the process, a return of US\$105.



# Negative Aspects of Investment

- **Corruption**
- **Courts & Dispute Resolution**
  - ↳ Arbitration Law
- **High Cost of Doing Business**
  - ↳ Electricity Expensive
- **Lack of Regulations**
- **Difficulty of Due Diligence**



# Dispute Resolution in Cambodia

- **Litigation: A three tiered court system characterized by:**
  - ↪ Limited Resources;
  - ↪ Significant backlog of cases;
  - ↪ Limited number of attorneys.
- **Specialized Dispute Resolution Mechanisms**
  - ↪ Land Disputes: Cadastral Commission and the National Authority for Land Disputes;
  - ↪ Collective labor disputes: Statutory Arbitration Council (see [www.arbitrationcouncil.org](http://www.arbitrationcouncil.org) )
  - ↪ General Labor Disputes: Labor Court not yet established.
  - ↪ Commercial Disputes: Law on Commercial Court now in draft form.
- **Alternative Dispute Resolution**
  - ↪ Strong tradition of conciliation of disputes;
  - ↪ Commercial Arbitration Law (provides for National Arbitration Centre);
  - ↪ Commercial contracts generally provide for arbitration outside of Cambodia (e.g. ICC, Singapore International Arbitration Centre);
  - ↪ Cambodia is a party to the New York Convention on Recognition of Foreign Arbitral Awards and has adopted domestic legislation implementing terms of the Convention (also included in the Civil Procedure Code).



# Due Diligence in Cambodia

- **Lack of Substantial Public Records**

- ↳ Ministry of Commerce

- ↳ Tax Department

- ↳ Cadastral Office

- **Licenses – not necessarily publicly available (e.g., telecommunications, mining, etc.)**

- **No Credit Agency**

- **No Court Records available in a systematic and transparent manner.**

- **Newspapers?**

- **Annual Reports**

- ↳ Banks, Insurance Companies

- ↳ MEF Prakas 643 (2007) - Annual Audits for Companies of certain size.



# Conclusion

- Do Your Research
- Take a Look!



# Thanks !



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