

CAMBODIA

TRADE SUMMARY

The U.S. goods trade deficit with Cambodia was \$2.3 billion in 2007, an increase of \$211 million from \$2.1 billion in 2006. U.S. goods exports in 2007 were \$139 million, up 86.4 percent from the previous year. Corresponding U.S. imports from Cambodia were \$2.5 billion, up 12.6 percent. Cambodia is currently the 130th largest export market for U.S. goods.

The stock of U.S. foreign direct investment in Cambodia was \$1 million in 2006 (latest data available), the same as in 2005.

In 2007, the United States and Cambodia held consultations under their Trade and Investment Framework Agreement (TIFA) signed in 2006. This dialogue is intended to promote greater trade and investment between the two countries, and help monitor and support Cambodia's efforts to implement its WTO commitments, as well as to provide a forum to address bilateral trade issues and coordinate on regional and multilateral issues.

IMPORT POLICIES

Tariffs

Cambodia and the United States signed a Bilateral Trade Agreement (BTA) in October 1996. The Agreement provides for reciprocal normal trade relations tariff treatment. Cambodia acceded to the WTO in October 2004.

Nontariff Barriers

Import prohibitions: Cambodia currently prohibits the commercial importation of the following products: narcotics, psychotropic substances and their precursors, toxic wastes, poisonous chemicals and substances, and pesticides.

Quantitative restrictions and nonautomatic licensing: Certain goods are subject to import restrictions and importers of these products are required to have approval from relevant government agencies. For example, imports of pharmaceutical products are subject to obtaining a permit from the Ministry of Health. Importers also need to secure import licenses from the Ministry of Agriculture, Forestry and Fishery for imports of agricultural inputs such as fertilizer, live animals, and meat. Imports of weapons, explosives, and ammunition require a license from the Ministry of Defense, while the National Bank of Cambodia licenses imports of precious stones.

Foreign Exchange System: Although the Riel is the official currency of Cambodia, the economy is heavily dollarized. Most commercial transactions are conducted in dollars. Under the Exchange Law of 1997, foreign direct investors are allowed to purchase foreign currencies freely through the banking system. The law specifically states that there shall be no restrictions on foreign exchange operations, but the transactions must be conducted by authorized intermediaries, *i.e.*, lawfully established banks in Cambodia.

Customs: As part of its WTO accession commitments, Cambodia is obligated to fully implement the WTO Customs Valuation Agreement by January 2009. Cambodia is in the process of reforming its customs regime through a 5 year (2003–2008) reform and modernization program to streamline and

improve the effectiveness of customs operations and to facilitate trade. With assistance from the International Monetary Fund (IMF), a new Law on Customs, based on the Kyoto Convention on the Simplification and Harmonization of Customs Procedures, was adopted in July 2007. The law requires implementing regulations which the Cambodian government has not yet issued.

Both local and foreign businesses have raised concerns that the Customs and Excise Department generally engages in practices that are nontransparent and that often appear arbitrary. Importers frequently cite problems with undue processing delays, unnecessarily burdensome paperwork, and formalities driven by excessively discretionary practices. The United States and Cambodia continue to discuss implementation of WTO consistent customs practices under the TIFA.

Taxation: Cambodia levies a 10 percent Value Added Tax (VAT) on goods and services. In theory, the VAT is to be applied to all goods and services, but to date, the Cambodian government has only imposed the VAT on major companies. It is in the process of expanding the base to which the VAT is applied. The corporate tax rate is within the range of 20 percent to 30 percent, depending on the nature of business. The Cambodian government also applies a withholding tax of 14 percent on dividends, royalties, rents, and interest.

STANDARDS, TESTING, LABELLING, AND CERTIFICATION

Cambodia is working on the establishment of standards and other technical measures based on international standards, guidelines, and recommendations. Under Cambodia's Law on Standards, passed in 2007, the Institute of Standards in Cambodia (ISC) has been created within the Ministry of Industry, Mines, and Energy as a central authority to develop and certify national standards for products, commodities, materials, services, and practices and operations.

The responsibility for establishing industrial standards and certifications currently resides with the Department of Industrial Standards of Cambodia in the Ministry of Industry, Mines, and Energy, and will become part of the ISC in the future. The Department has been designated as the enquiry point for WTO Technical Barriers to Trade (TBT) matters and as the agency responsible for notifications and publications required by the WTO TBT Agreement. The Ministry of Health is charged with prescribing standards, quality control, and distribution and labeling requirements for medicines, but this responsibility will also be brought under the ISC in the future.

Quality control of foodstuffs and plant and animal products is currently under the Department of Inspection and Fraud Repression (CamControl) of the Ministry of Commerce. Currently, CamControl creates standards for foodstuff and is the national contact point for the Codex Alimentarius Commission (Codex). It has primary responsibility for the enforcement of sanitary and phytosanitary (SPS) quality and safety requirements. Cambodia has not yet notified the WTO of its official SPS enquiry point.

The "Ministerial Regulation on Measures against Food Products Devoid of Appropriate Label" requires detailed labeling of food products that are distributed in Cambodia. For many products, the regulation requires labels, instructions, and warnings in the Khmer language.

Cambodia was provided a transition period until January 2007 to fully implement the WTO TBT Agreement and was given until January 2008 to fully implement the SPS Agreement. Cambodia implemented a risk management strategy for inspection of imported and exported goods in late 2006. The United States and Cambodia discussed progress being made to implement these commitments during TIFA consultations in 2007 and the United States will continue to work with Cambodia to ensure full implementation of these Agreements.

Cambodia joined the International Organization for Standardization in 1995 and is also a member of Codex, the World Organization for Animal Health, the International Plant Protection Convention, and the ASEAN Consultative Committee on Standards and Quality. Cambodia has ratified the ASEAN Framework Agreement on Mutual Recognition Arrangements.

GOVERNMENT PROCUREMENT

Cambodia is not a signatory to the WTO Agreement on Government Procurement. Cambodia's government procurement regime is governed by a 1995 sub-decree. The sub-decree requires that all international purchases over 200 million Riel (\$50,000) for civil work and 100 million Riel (\$25,000) for goods be made through public tender.

While Cambodia has clear regulations pertaining to government procurement, the conduct of procurement is often nontransparent. The Cambodian government often provides short time frames to respond to public announcements of tenders, which frequently are not widely publicized.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Cambodia has adopted IPR legislation, including the Law on Copyrights and Related Rights and Patent and Industrial Designs. Cambodia became a Party to the World Intellectual Property Organization (WIPO) in 1995 and became a Party to the Paris Convention for the Protection of Industrial Property in 1998.

Cambodia is making progress in implementing the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, but comprehensive enforcement remains problematic. The 1996 U.S.-Cambodia Bilateral Trade Agreement (BTA) contained a broad range of IPR obligations that the Cambodian government is phasing in. Cambodia has not yet passed legislation to implement commitments undertaken in the BTA in the areas of encrypted satellite signals, semiconductor layout designs, and trade secrets. The U.S. Government intends to continue work with Cambodia through the TIFA dialogue to ensure full implementation of its WTO and BTA commitments on IPR.

Trademarks

In 2002, Cambodia adopted the Law Concerning Marks, Trade Names, and Acts of Unfair Competition to implement its TRIPS obligations. The Law provides for specific penalties for trademark violations, including jail sentences and fines for counterfeiting registered trademarks. It also contains detailed procedures for registering trademarks, invalidating and removing trademarks, and licensing of trademarks.

The Ministry of Commerce maintains an effective trademark registration system, registering more than 30,000 trademarks (over 5,500 for U.S. companies) under the terms of a 1991 sub-decree, and has proven cooperative in preventing the unauthorized registration of U.S.-owned trademarks in Cambodia. The Ministry has also taken effective action against trademark infringement in several cases since 1998, and has ordered local firms to stop the unauthorized use of well-known trademarks.

Patents and Industrial Designs

Cambodia has a very small industrial base and infringement of patents and industrial designs is not yet commercially significant. The Law on the Protection of Patents and Industrial Designs provides for the filing, registration, and protection of patents, utility model certificates, and industrial designs. The

Ministry of Industry, Mines, and Energy has also issued a sub-decree on granting patents and registering industrial designs.

Copyrights

Cambodia enacted a copyright law in January 2003. Responsibility for copyrights and related rights is shared between the Ministry of Culture, which handles phonograms, compact discs (CDs), and other recordings and the Ministry of Information, which deals with printed materials. Although Cambodia is not a major center for the production or export of pirated CDs, videos, and other copyrighted materials, these products are widely available in Cambodian markets. Pirated computer programs, digital video discs (DVDs), and music CDs are widely used throughout the country. The U.S. Government will continue to work with Cambodia under the TIFA to address this issue.

SERVICES BARRIERS

Legal Services

Under the GATS, Cambodia agreed to allow foreign lawyers to supply legal services with regard to foreign law and international law. It also agreed to allow them to supply certain legal services with regard to Cambodia's law in "commercial association" with Cambodian law firms. The commitment defines "commercial association" as any type of commercial arrangement, without any requirement as to corporate form. Efforts to limit foreign lawyers to 49 percent ownership of any law firm have failed, but highlight the need to make explicit in regulations that there are no equity limitations on the practice of foreign and international law by foreign enterprises, and that there are no equity limitations on the formation of "commercial associations" under which foreigners may practice certain legal services with regard to Cambodia's law.

Telecommunications Services

Private participation (including foreign) in mobile services, electronic mail, electronic data interchange, and code and protocol conversion are allowed and national treatment is accorded to foreign suppliers of these services. Multiple mobile operators are currently operating in Cambodia. In addition, Cambodia is committed to permitting licensed suppliers of mobile communications services to choose which technology to use for such services.

Cross border supply for fixed line voice telephone services, circuit switched data transmission, and private leased circuit services are provided exclusively by government owned Telecom Cambodia. A draft Law on Telecommunications that would eliminate Telecom Cambodia's exclusivity in fixed-line services is awaiting approval at the National Assembly. The legislation would permit foreign equity participation in basic operations and seeks to facilitate the creation of an independent regulatory body.

INVESTMENT BARRIERS

Cambodia has one of the most liberal investment laws in the region, but potential investors say they are often deterred by excessive bureaucracy and corruption. The World Economic Forum's 2007 competitiveness survey ranked Cambodia 110 out of 131 countries surveyed, lower than 103 out of 125 the previous year, but up from 112 out of 117 in 2005. The World Bank-International Finance Corporation in 2008 also ranked Cambodia near the bottom of the list, 145 out of 178, on business climate.

Cambodia's constitution restricts foreign ownership of land. Foreign investors may use land through concessions and renewable leases.

ELECTRONIC COMMERCE

Electronic commerce is a new concept in Cambodia. Online commercial transactions are extremely limited, and Internet access is still in its infancy. The government has not imposed any specific restrictions on products or services traded via electronic commerce but no legislation exists to govern this sector. The Cambodian government is currently drafting electronic commerce legislation and the United States is supporting these efforts under the TIFA dialogue.

OTHER BARRIERS

Corruption and Governance

Corruption: Corruption is a significant concern for foreign businesses and investors. In 2007, Transparency International ranked Cambodia 162 out of 180 countries it surveyed. Both foreign and local businesses have identified corruption in Cambodia as a major obstacle to business and a deterrent to FDI. Cambodia undertook efforts to draft and enact anti-corruption legislation in 2004. To date, however, the law remains in draft form and has been delayed by the pending revision of the penal code, which may be passed by early 2008.

Judicial and Legal Framework: Cambodia's legal framework is incomplete and unevenly enforced. Many business-related draft laws are still pending. The judicial system is often arbitrary and subject to corruption. Many Cambodian and foreign business representatives perceive the court system to be unreliable and susceptible to external political and commercial influence, which constitutes one of the most serious legal risks that investors face. To address this, the Cambodian government has announced plans to establish a commercial court in 2009 and may establish other specialized courts like a labor court and a juvenile court. Most commercial disputes are currently resolved by negotiations facilitated by the Ministry of Commerce, Cambodian Chamber of Commerce, and other concerned institutions.

Smuggling: Widespread smuggling of commodities such as vehicles, fuel, soft drinks, livestock, and cigarettes has undermined fair competition, legitimate investment, and government revenue. The Cambodian government has issued numerous orders to suppress smuggling and created various anti-smuggling units within governmental agencies, particularly the Department of Customs and Excise. Enforcement efforts remain weak and inconsistent.