

# CAMBODIA

## TRADE SUMMARY

The U.S. goods trade deficit with Cambodia was \$2.5 billion in 2011, up \$380 million from 2010. U.S. goods exports in 2011 were \$186 million, up 32.0 percent from the previous year. Corresponding U.S. imports from Cambodia were \$2.7 billion, up 17.9 percent. Cambodia is currently the 133rd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Cambodia was \$4 million in 2010 (latest data available).

## IMPORT POLICIES

### Tariffs

Cambodia is one of the few least-developed WTO Members that took on binding tariff commitments on all products in its tariff schedule. Its overall simple average bound tariff rate is 20.1 percent, while the average applied rate is 11.7 percent. Its highest tariff rate of 35 percent is imposed on several semi-processed goods, including processed meat and dairy, processed vegetables and fruits, beverages and tobacco, footwear, and motor vehicles.

### Customs

Cambodia joined the WTO in 2004 and was given a transition period until January 1, 2009 to implement the WTO Customs Valuation Agreement. The Cambodian government has not yet fully implemented this agreement, but has drawn up a revised plan for the modernization and streamlining of customs procedures for the period 2009 to 2013. Both local and foreign businesses have raised concerns that the Customs and Excise Department engages in practices that are nontransparent and often appear arbitrary. Importers frequently cite problems with undue processing delays, unnecessarily burdensome paperwork and delays driven by excessively discretionary practices. The United States and Cambodia continue to discuss these and other customs issues under the bilateral Trade and Investment Framework Agreement.

### Taxation

Cambodia levies trade-related taxes in the form of customs duties, an additional tax on gasoline (\$0.02 per liter) and on diesel oil (\$0.04 per liter), export tax, and two indirect taxes which are levied on the value of imports: value-added tax (VAT) and excise tax. The VAT is a uniform 10 percent. The VAT has been selectively imposed only on large companies, although the Cambodian government is in the process of expanding the tax base. VAT is not collected on exports and services consumed outside of Cambodia (technically, a zero percent VAT applies). Subject to certain criteria, the zero percent rate also applies to supporting industries or subcontractors supplying goods and services to exporters, such as garment manufacturers and the textile and footwear industries.

## GOVERNMENT PROCUREMENT

A draft public procurement law, approved by the Cambodian National Assembly in January 2012, is expected to be implemented this year. In 2006, Cambodia modified its legislation that regulated

## FOREIGN TRADE BARRIERS

government procurement with Sub-decree No. 105, and in 2010 issued updated implementation rules for public procurement under Prakas 381.

The law will codify current procurement regulations, as set forth by a number of internal guidelines and regulations, providing for competitive bidding, domestic canvassing, direct shopping, and direct contracting. Competitive bidding is mandatory for the purchase of goods or services worth more than \$25,000, except when there is an urgent need or procurement after natural disasters, when the use of non-competitive procurement methods, such as direct contracting, is allowed. The Council of Ministers must approve any politically or environmentally sensitive purchases on the basis of recommendations formulated by the Ministry of Economy and Finance. Despite these regulations, the conduct of government procurement often is nontransparent. The Cambodian government frequently provides short time frames to respond to public announcements of tenders, which often are not widely publicized. For construction projects, only bidders registered with the Ministry of Economy and Finance's Department for Public Procurement are permitted to participate in tenders. Prequalification procedures are also used at the provincial level.

Cambodia is not a signatory to the WTO Agreement on Government Procurement.

## **INTELLECTUAL PROPERTY RIGHTS PROTECTION**

While Cambodia has made progress in implementing the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), intellectual property rights (IPR) protection and enforcement need to be strengthened. Specifically, Cambodia's IPR enforcement has been ineffective at addressing continued widespread copyright piracy and trademark counterfeiting. Pirated CDs, videos, software, and other copyrighted materials as well as a vast array of counterfeit goods, including counterfeit pharmaceuticals, are widely available in Cambodia's markets. Additionally, while the 1996 United States-Cambodia Bilateral Trade Agreement contained a broad range of IPR commitments, Cambodia has not yet enacted legislation regarding, for example, protection of encrypted satellite signals or for semiconductor layout designs. Work also remains ongoing on draft legislation to implement commitments with respect to the protection of trade secrets. The lack of strong laws on unfair competition and franchising also hamper civil enforcement efforts to protect IPR.

## **SERVICES BARRIERS**

### **Legal Services**

Efforts by Cambodian law firms to propose a 49 percent equity limitation on foreign firms and restrictions on their forms of commercial arrangement, although unsuccessful, have introduced a measure of legal uncertainty for firms in this sector.

## **INVESTMENT BARRIERS**

Cambodia's Constitution restricts foreign ownership of land. Foreign investors may use land through concessions and renewable leases. In 2010, a new law allowing foreign ownership of properties above the ground floor was enacted. The law stipulates that no more than 70 percent of a building can be foreign-owned, and that foreigners cannot own property within 30 kilometers of the national border.

## **ELECTRONIC COMMERCE**

Electronic commerce is a nascent concept in Cambodia. Online commercial transactions are extremely limited, and Internet access is still in its infancy. The Cambodian government has not imposed any specific restrictions on products or services traded via electronic commerce and no existing legislation governs this sector. Legislation on electronic commerce has been drafted, but not yet adopted. The legislation is intended to facilitate domestic and international electronic commerce by eliminating legal barriers (*e.g.*, to electronic signatures) and promoting public confidence in the authenticity, integrity, and reliability of data messages and electronic communications.

## **OTHER BARRIERS**

### **Corruption**

Both local and foreign businesses have identified corruption in Cambodia as a major obstacle to business and a deterrent to foreign direct investment. Several recent polls and perception surveys indicate that the public institutions and agencies considered to be the most corrupt are the courts, police, and customs. In 2010, Cambodia adopted anti-corruption legislation and established a national Anti-Corruption Unit to undertake investigations, law enforcement measures, and public outreach. The law went into effect in August 2011.

### **Judicial and Legal Framework**

Cambodia's legal framework is incomplete and unevenly enforced. While numerous trade and investment laws have been passed over the past five years, including a law on commercial arbitration in 2006, many business related draft laws are still pending. The judicial system reportedly is often arbitrary and subject to corruption, and many Cambodian and foreign business representatives perceive the court system to be unreliable and susceptible to external political and commercial influence. To address these concerns, the Cambodian government established a commercial arbitration body in 2009 called the National Arbitration Center, which aims to be Cambodia's first alternative dispute resolution mechanism able to resolve commercial disputes more efficiently than the court system. However, disagreements between the Ministry of Commerce and the arbitrators have delayed its launch. Disputes also can be resolved through international arbitration, including, where applicable, through the World Bank's International Center for Settlement of Investment Disputes. In practice, most commercial disputes in Cambodia are still resolved through negotiations facilitated by the Ministry of Commerce, the Cambodian Chamber of Commerce, and other commercial institutions.

### **Smuggling**

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