

CAMBODIA

TRADE SUMMARY

The U.S. goods trade deficit with Cambodia was \$2.1 billion in 2010, up \$350 million from 2009. U.S. goods exports in 2010 were \$153 million, up 20.7 percent from the previous year. Corresponding U.S. imports from Cambodia were \$2.3 billion, up 19.6 percent. Cambodia is currently the 129th largest export market for U.S. goods.

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 19.1 percent. Cambodia's simple average applied rate is 14.2 percent, but the country charges rates as high as 35 percent on both agricultural and non-agricultural products. U.S. exporters report high tariffs on core restaurant items, agriculture, and food products that, if removed, could lead to more than \$10 million in increased U.S. exports to Cambodia.

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 government is not yet fully compliant with the Agreement. 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 formalities 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 (TIFA).

Taxation: Cambodia levies a 10 percent value-added tax (VAT) on goods and services consumed in Cambodia. To date, the VAT has been selectively imposed only on large companies, though the Cambodian government is in the process of expanding the base to which the tax is applied. 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

Cambodia's government procurement regime is governed by a 1995 sub-decree. The sub-decree requires public tenders for all international purchases over 200 million riel (approximately \$50,000) for civil work and 100 million riel (approximately \$25,000) for goods. Despite these regulations, the conduct of government procurement often is not transparent. The Cambodian government frequently provides short time frames to respond to public announcements of tenders, which often are not widely publicized.

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

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

While Cambodia has made progress in implementing the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), there are areas of IPR protection and enforcement that continue to represent barriers to U.S. exports and investment. Specifically, Cambodia's IPR enforcement has been

FOREIGN TRADE BARRIERS

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 that were to be phased in, 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 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. Electronic commerce legislation is being drafted to facilitate domestic and international electronic commerce by eliminating legal barriers and promoting public confidence in the authenticity, integrity and reliability of data messages and electronic communications.

OTHER BARRIERS

Corruption: Both foreign and local businesses have identified corruption in Cambodia as a major obstacle to business and a deterrent to attracting foreign direct investment. In 2010, Cambodia adopted anti-corruption legislation and established a national Anti-Corruption Unit to undertake investigations, law enforcement measures, and public outreach. However, the law does not go into effect until December 2011. 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.

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 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. To address these concerns, the Cambodian government established a commercial arbitration body in 2009 called the National Arbitration Center (NAC), which aims to be Cambodia's first alternative dispute resolution mechanism able to commercial disputes more efficiently than through the court system. Disagreements

FOREIGN TRADE BARRIERS

between the Ministry of Commerce and the arbitrators, however, have delayed its operations. Disputes also can be resolved through international arbitration, including through the World Bank's International Center for Settlement of Investment Disputes. In practice, most commercial disputes in Cambodia are still resolved by negotiations facilitated by the Ministry of Commerce, the Cambodian Chamber of Commerce, and other concerned 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.