

CAMBODIA

TRADE SUMMARY

The U.S. goods trade deficit with Cambodia was \$2.3 billion in 2008, a decrease of \$67 million from 2007. U.S. goods exports in 2008 were \$154 million, up 11.0 percent from the previous year. Corresponding U.S. imports from Cambodia were \$2.4 billion, down 2.1 percent. Cambodia is currently the 131st largest export market for U.S. goods.

In 2008, the United States and Cambodia continued their active engagement and dialogue under the 2006 Trade and Investment Framework Agreement (TIFA). 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. The TIFA also provides a forum to address bilateral trade issues and allows the two countries to coordinate on regional and multilateral issues.

IMPORT POLICIES

Tariffs

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

Nontariff Barriers

Import restrictions and non-automatic licensing: Importers are required to have approval from relevant government agencies to import certain products including pharmaceutical products, live animals and meat, precious stones, as well as agricultural inputs such as pesticides, herbicides, seeds, fertilizer, and animal vaccines. Imports of weapons, explosives, and ammunition also require a license.

U.S. companies identify nontransparent licensing processes and the lack of laws or regulations mandating office fees and licensing approval periods as a major impediment to trade. This lack of transparency creates opportunities for corruption, while the broad discretion exercised by the ministries responsible for administering the license application process has also led to lengthy delays.

Customs: Cambodia has not yet completed its implementation of the WTO Customs Valuation Agreement. Cambodia had been given a transition period of until January 2009 but will need additional time to complete the implementation of its commitments.

Both local and foreign businesses have raised concerns that the Customs and Excise Department 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 the implementation of Cambodia's customs practices under the TIFA.

Taxation: Cambodia levies a 10 percent value added tax on goods and services, which is supposed to be applied to all goods and services. To date, however, the Cambodian government only has imposed the VAT on large companies. The government is in the process of expanding the base to which the VAT is applied.

FOREIGN TRADE BARRIERS

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Cambodia is developing standards and other technical measures based on international standards, guidelines, and recommendations. It passed the Law on Standards in 2007 creating the Institute of Standards in Cambodia (ISC) within the Ministry of Industry, Mines, and Energy. The ISC is Cambodia's enquiry point for the WTO Technical Barriers to Trade (TBT) Committee.

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 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 under the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). Cambodia has not yet notified the WTO of its official SPS enquiry point.

Cambodia was provided a transition period until January 2007 to implement its WTO TBT Agreement commitments and until January 2008 to implement its SPS Agreement commitments. The United States and Cambodia discussed progress being made to implement these commitments during TIFA consultations in 2008 and will continue to work with Cambodia to ensure full implementation of these agreements, including working towards a fully functioning SPS enquiry point and national notification authority.

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 (\$50,000) for civil work and 100 million riel (\$25,000) for goods. Despite these clear regulations, the conduct of procurement is often non-transparent. The Cambodian government often provides short time frames to respond to public announcements of tenders, which frequently are not widely publicized. Cambodia is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR)

Cambodia has made 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 were to be phased in. In 2002, Cambodia adopted the Law Concerning Marks, Trade Names and Acts of Unfair Competition in order to implement its TRIPS Agreement obligations. It also 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, which also has prevented the unauthorized registration of U.S.-owned trademarks.

Still, Cambodia has not yet passed legislation to implement commitments undertaken in the BTA in the areas of encrypted satellite signals, or semiconductor layout designs. Work also remains ongoing on draft legislation to implement obligations with respect to trade secrets. Cambodia enacted a copyright law in January 2003, which split the responsibility for copyrights and related rights between the Ministry of Culture, which handles phonograms and optical media recordings, and the Ministry of Information, which deals with printed materials. Copyright enforcement remains weak, but Cambodian officials have said they will begin enforcing copyrights more vigorously as the government develops capacity. Pirated CDs, videos, software, and other copyrighted materials are widely available in Cambodian markets. Although Cambodia currently is not a major center for the production or export of pirated goods, local businesses

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report Cambodia is becoming an increasingly popular source of pirated material due to weak enforcement of its IPR laws. The U.S. Government will continue to work with Cambodia under the TIFA to support full implementation of its BTA and WTO commitments.

SERVICES BARRIERS

Legal Services

Under the WTO Agreement on Trade in Services, 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 Cambodian 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. Recent efforts by domestic law firms to propose a 49 percent equity limitation on foreign firms and restrictions on their forms of commercial arrangement, although unsuccessful, have exposed ambiguity in Cambodia's regulatory regime and introduced a measure of legal uncertainty for firms in the sector.

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 2008 competitiveness survey ranked Cambodia 109 out of 134 countries surveyed, a slightly better ranking than the previous year. In 2009, the World Bank-International Finance Corporation ranked Cambodia 135 out of 181 on business climate, up from 145 out of 178 the previous year. Cambodia's improvement in these rankings has been attributed to continued progress made on the implementation of WTO-related reforms and the enactment of the Secured Transaction Law and the Bankruptcy Law.

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.

OTHER BARRIERS

Corruption: Corruption is a significant concern for foreign businesses and investors. In 2008, Transparency International ranked Cambodia 166 out of 180 countries it surveyed, down from 162 out of 180 in 2007. Both foreign and local businesses have identified corruption in Cambodia as a major obstacle to business and a deterrent to attracting foreign direct investment. Cambodia undertook efforts to draft and enact anticorruption legislation in 2004. To date, however, the law remains in draft form and further progress awaits passage of the revised penal code, which may be passed by early 2009. The U.S. Government will continue to discuss concerns related to governance and corruption with Cambodia under the TIFA.

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, many business-

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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 has announced plans to establish a commercial arbitration center and commercial court in 2009. Disputes can be resolved through international arbitration or the International Center for Settlement of Investment Disputes (ICSID), but most commercial disputes are currently resolved by negotiations facilitated by the Ministry of Commerce, the Cambodian Chamber of Commerce, and other concerned institutions.

Smuggling: Widespread smuggling of commodities 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.