

# CAMBODIA

## TRADE SUMMARY

The U.S. goods trade deficit with Cambodia was \$1.8 billion in 2009, down \$460 million from 2008. U.S. goods exports in 2009 were \$127 million, down 17.5 percent from the previous year. Corresponding U.S. imports from Cambodia were \$1.9 billion, down 20.2 percent. Cambodia is currently the 135th largest export market for U.S. goods.

## IMPORT POLICIES

*Customs:* Cambodia joined the WTO in 2004 and was given a transition period of until 2009 to implement the WTO Customs Valuation Agreement. As Cambodia has not yet completed that task, the U.S. government is consulting with Cambodia on how it will complete implementation and in what timeframe.

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. To date, the Cambodian government has imposed the VAT only on large companies, but it is in the process of expanding the base to which the tax is applied.

## 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 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) PROTECTION

Cambodia has made progress in implementing the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, but effective enforcement of IPR remains problematic. Pirated CDs, videos, software, and other copyrighted materials are reported to be widely available in Cambodian 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, encrypted satellite signals and semiconductor layout designs. Work also remains ongoing on draft legislation to implement commitments with respect to the protection of trade secrets.

## **SERVICES BARRIERS**

### **Legal Services**

Under the WTO General 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. 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 exposed ambiguity in Cambodia’s regulatory regime and introduced a measure of legal uncertainty for firms in this sector.

## **INVESTMENT BARRIERS**

Cambodia has one of the most liberal investment regimes in the region, but potential investors say they are often deterred by excessive bureaucracy and corruption.

Cambodia’s constitution restricts foreign ownership of land. Foreign investors may use land through concessions and renewable leases. A new law allowing foreign ownership of properties above the ground floor is currently being drafted and is expected to be enacted in 2010. The current draft stipulates that no more than 49 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 new 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. It is currently drafting electronic commerce legislation.

## **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. Cambodia began efforts to draft and enact anti-corruption legislation in the 1990’s, but the law remains in draft form. The National Assembly passed a new Penal Code in October, which was a necessary precursor to the adoption of the anti-corruption law. 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-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 court, and in July passed a sub-decree creating a commercial arbitration body, the National Arbitration Center. Disputes can be resolved through international arbitration (including through the World Bank’s International Center for Settlement of Investment Disputes), 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 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.