

CAMBODIA

TRADE SUMMARY

The U.S. goods trade deficit with Cambodia was \$2.5 billion in 2012, down \$61 million from 2011. U.S. goods exports in 2012 were \$226 million, up 21.9 percent from the previous year. Corresponding U.S. imports from Cambodia were \$2.7 billion, down 0.8 percent. Cambodia is currently the 129th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Cambodia was \$10 million in 2011 (latest data available), up from \$4 million in 2010.

IMPORT POLICIES

Tariffs

Cambodia is one of the few least-developed World Trade Organization (WTO) members that took binding commitments on all products in its tariff schedule when it joined the WTO in 2004. The overall simple average bound tariff rate is 19.1 percent, while the average applied rate is now 10.9 percent, which is 0.96 percentage points higher than the rate in 2011. This higher rate can be attributed to Cambodia's conversion from the ASEAN Harmonized Tariff Nomenclature (AHTN) 2007 to the AHTN 2012. Cambodia's highest applied tariff rate of 35 percent is imposed across a number of product categories, including a wide variety of prepared food products, bottled and canned beverages, cigars and cigarette substitutes, minerals including table salt, paints and varnishes, cosmetic and skin care products, glass and glassware, electrical appliances, cars, furniture, video games, and gambling equipment.

Customs

When Cambodia joined the WTO, it was given until January 1, 2009 to implement the WTO Customs Valuation Agreement (CVA). Cambodia drew up a revised plan for the modernization and streamlining of customs procedures from 2009 to 2013 in order to meet WTO requirements. The official implementation of the CVA began on January 1, 2011. The United States continues to work with the government to address remaining concerns about Cambodia's implementation of these commitments.

Both local and foreign businesses have raised concerns that the Customs and Excise Department engages in practices that are nontransparent and that appear arbitrary. Importers frequently cite problems with undue processing delays, burdensome paperwork, and unnecessary formalities due to administrative discretion. 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, petroleum taxes on gasoline (\$0.02 per liter) and diesel oil (\$0.04 per liter), an export tax, and two indirect taxes – a value-added tax (VAT) and an excise tax – levied on the value of imports. The VAT is applied at a uniform 10 percent rate. To date, the VAT has been selectively imposed only on large companies, but the Cambodian government is working to expand the base to which the tax is applied. The VAT is not collected on exports and services consumed outside of Cambodia (technically, a 0 percent VAT applies). Subject to certain criteria, the

zero rate also applies to businesses that support exporters and subcontractors that supply goods and services to exporters, such as garment and footwear manufacturers.

GOVERNMENT PROCUREMENT

Cambodia promulgated a law on public procurement in January 2012, which codified existing procurement regulations that provided for competitive bidding, domestic canvassing, direct shopping, and direct contracting.

Competitive bidding is mandatory for the purchase of goods or services worth more than 100 million riels (approximately \$25,000). Bidding is restricted to local companies if the value is less than 1 billion riels (\$250,000) for goods, less than 1.2 billion riels (approximately \$300,000) for construction projects, or less than 800 million riels (approximately \$200,000) for services. International competitive bidding is required for expenditures over those amounts.

Despite the general requirement for competitive bidding for procurements valued at approximately more than \$25,000, the conduct of government procurement often is not transparent. The Cambodian government frequently provides short response times to public announcements of tenders, which often are not widely publicized. For construction projects, only bidders registered with the Ministry of Economy and Finance are permitted to participate in tenders. Additionally, prequalification procedures exist at the provincial level.

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

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Stakeholders continue to raise concerns about intellectual property rights (IPR) protection and enforcement in Cambodia, including widespread copyright piracy and trademark counterfeiting. Pirated CDs, DVDs, software, garments, and other copyrighted materials, as well as an array of counterfeit goods, including pharmaceuticals, reportedly are widely available in Cambodia's markets. Legislation remains pending to implement commitments with respect to the protection of trade secrets, protection of encrypted satellite signals or semiconductor layout designs. The draft law on geographical indications is being reviewed by the Council of Ministers and is expected to be passed in 2013.

INVESTMENT BARRIERS

Cambodia's constitution restricts foreign ownership of land. In 2010, a law allowing foreign ownership of property above the ground floor was enacted. The law further 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. Foreign investors may use land through concessions and renewable leases. In May 2012, the Cambodian government imposed a moratorium on Economic Land Concessions (ELCs). Since that time, however, it has granted at least 12 new ELCs. It justified the new ELCs on grounds that they were either subject to private negotiations or had been agreed to "in principle" prior to the directive and therefore were not subject to the moratorium.

ELECTRONIC COMMERCE

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 has been drafted, but not yet adopted, 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 anticorruption legislation and established a national Anti-Corruption Unit to undertake investigations, law enforcement measures, and conduct public outreach. Since the law was enacted 2011, some government officials have been prosecuted and convicted of corruption.

Judicial and Legal Framework

Cambodia's legal framework is incomplete and unevenly enforced. While the legislature has passed numerous trade and investment laws, including a law on commercial arbitration, many business-related draft laws are still pending. U.S. industry has reported that the judicial system is often arbitrary and subject to corruption.

To address these concerns, in 2009 the Cambodian government established a commercial arbitration body called the National Arbitration Center (NAC), an alternative dispute resolution mechanism intended to more quickly resolve commercial disputes than can be done through the court system. Disagreements between the Ministry of Commerce and the arbitrators, however, have delayed the start of NAC operations. Independent arbitrators have been recruited, and the election of a board of directors is due by the end of 2012, which would enable the NAC to be operational in early 2013.

Smuggling

The smuggling of products, such as vehicles, fuel, soft drinks, livestock, crops, and cigarettes remains widespread. The Cambodian government has issued numerous orders to suppress smuggling and has created various anti-smuggling units within governmental agencies, including the Department of Customs and Excise. The Cambodian government has also established a mechanism within the Department of Customs to accept and act upon complaints from traders and governments about customs practices. Enforcement efforts, however, remain weak and inconsistent.