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Trade Policy Review Body

TRADE POLICY REVIEW

Report by the Secretariat

CAMBODIA

This report, prepared for the first Trade Policy Review of Cambodia, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Cambodia on its trade policies and practices.

Any technical questions arising from this report may be addressed to Mario Kakabadse (tel.: 022 739 5172).

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SUMMARY

1. With macroeconomic stability firmly entrenched by the time of Cambodia's accession to the WTO in 2004, the country embarked on implementing far-reaching reforms to achieve rapid and sustained socio-economic development. International trade has been crucial to achieving this goal as it has been the driving force behind much of Cambodia's recent economic growth and poverty reduction, linking its economy more firmly to regional and global markets.

(1) ECONOMIC ENVIRONMENT

2. Cambodia's accession to the WTO in 2004 came in the middle of a decade of strong economic growth. Its economic and social achievements between 1998 and 2007 were particularly impressive: real GDP growth averaged close to 10%, the highest of any low-income country in Asia, resulting in an almost doubling of income per capita; the poverty incidence is estimated to have fallen steadily; consumer price inflation declined markedly compared to the 1990s, and prudent fiscal policies underpinned macroeconomic stability. The discovery of oil and gas could be a significant boon for the country and, if properly managed, should provide the necessary resources to continue addressing a range of socio-economic issues.

3. The global recession caused the Cambodian economy to contract by an estimated 2% in 2009 and exposed Cambodia's long-standing structural vulnerabilities, notably that export-led growth remained narrowly based on garments and tourism, In 2010, however, driven by exports, the Cambodian economy achieved a stronger than expected recovery, with estimated GDP growth of 4.8%. Cambodia remains heavily dependent on exports of garments to the United States and the European Union, its main export markets. Imports are concentrated in manufactures, food, and fuel predominantly from Asia.

4. Despite a costly business environment, Cambodia's liberal investment regime has helped to attract increasingly large inflows of foreign direct investment from China and other Asian countries notably into the garment industry but also into infrastructure, tourism, and property. The authorities are aware that diversified private-sector-led growth is important for raising Cambodia's growth potential. To this end, there have been initiatives during the review period to strengthen the investment climate, reduce the cost of doing business and improve Cambodia's international competitiveness, expand market access through trade agreements, and enhance agricultural development and rural infrastructure to help diversify the sources of growth.

(2) TRADE POLICY FRAMEWORK

5. Cambodia became a member of the WTO on 13 October 2004 as the first LDC to join through the full accession process. It grants at least MFN treatment to all its trading partners. Cambodia is a beneficiary of the GSP schemes operated by developed countries. It has been a member of ASEAN since 1999.

6. The Government's trade development agenda, known as its Sector-Wide Approach (SWAp) to trade, aims to sustain growth by diversifying the country's still narrow economic base of garments and tourism. The Trade SWAp seeks to bring together activities in the trade area around a common monitoring framework. It is structured to deal with issues in three broad areas or strategic pillars: (i) reforms and cross-cutting issues for trade development (legal reforms, trade facilitation, TBT and SPS regulation and practice); (ii) product and service sector export development; and (iii) capacity building for trade development. The Trade SWAp, launched by the Government in 2008 in consultation with development partners, also serves as Cambodia's Aid-for-Trade (AfT) strategy and has served to strengthen Cambodia's ownership and management of AfT.

7. As a result of the WTO accession process, Cambodia adopted a work programme that laid out a set of legal and regulatory reforms to bring its business, investment, and trade regimes into line with international norms and provide transparency and predictability. It consists primarily of laws to achieve these goals and the subordinate legislation and administrative steps necessary to ensure their proper implementation and enforcement. Cambodia has made considerable progress by passing legislation on the general business environment, trade in goods, services, and the protection of intellectual property rights. The Government is in the process of drafting further laws and regulations to create a favourable environment for trade and investment. A commercial contract law and other important business-related laws are in draft, for example on commercial courts, e-commerce, telecommunications, and personal property leasing. Cambodia is also currently preparing a draft competition law and a law on trade remedies.

(3) TRADE POLICY DEVELOPMENTS

8. The customs tariff is Cambodia's main trade policy instrument. It is also a major source of government revenue, amounting to 16.9% of total tax revenue in 2010. Overall, trade-related taxes, comprising customs duties, VAT, and excise taxes on imports as well as export taxes and additional duties, accounted for over 56% of total tax revenue in 2010, down from almost 70% in 2004. The heavy dependence on trade-related taxes is gradually declining, reducing Cambodia's fiscal vulnerability in line with the Government's medium-term revenue strategy to progressively reduce reliance on customs revenue by strengthening the domestic tax revenue base, which remains low by regional standards, at around 8% of GDP. Regarding tariff exemptions, revenue forgone during the review period has been significantly higher than the amount of customs duties collected.

9. In reforming its tariff structure, Cambodia had reduced the number of tariff bands from 12 to 4 before joining the WTO, and the highest tariff rates of 40%, 50%, 90% and 120% were abolished. The tariff comprises four tiers: zero, 7%, 15% and 35%. The tariff rate of 35% protects several semi-processed goods and consumer goods, such as processed meat and dairy products, processed vegetables and fruits, beverages and tobacco, footwear, and motor vehicles. Over 53.4% of tariff lines are duty free or subject to the minimum 7% tariff rate, compared with 44% in 2001. A standard deviation of 9.2% in 2011 indicates that there is still some dispersion of tariff rates. The average MFN applied rate on agricultural products (WTO definition), at 14.5%, remains higher than for industrial goods (11.3%). Cambodia has an escalating tariff structure with rates rising with each stage of processing. Cambodia has reduced its overall tariff lines from around 10,700 at the time of accession to almost 8,300 in 2011, based on the HS 2007 nomenclature.

10. Cambodia has bound 100% of tariff lines. The overall average bound duty rate is 20.1% while the average applied rate of duty is 11.7%. During the review period due to various reasons, there were a number of tariff lines whose applied rates were higher than their corresponding bound rates. In February 2011, the Government approved the modification of customs duty rates on these items to comply with the committed bound rates. Other duties and charges were bound at zero.

11. Cambodia has been reforming its customs regime to streamline and improve the effectiveness of customs operations and to facilitate trade. The 2007 Customs Law prepared the way for the adoption of several regulations, *inter alia*, to fulfil commitments to ASEAN to move to the Common Effective Preferential Tariff (CEPT) scheme, to adhere to the 1999 Revised Kyoto Convention, and to implement the WTO Agreement on Customs Valuation. As of January 2011, according to the authorities, all imports comply with WTO valuation methods. Cambodia notified the WTO in 2010 that it no longer has any laws or regulations on PSI.

12. The Government has streamlined import and export procedures. As a result, the number of days required to process document for imports and exports, as well as export costs per container, have declined**.** The authorities maintain that with the introduction of the ASYCUDA system, over 90% of import declarations are cleared within 24 hours (from the filing of the goods declaration to the release of goods).

13. The 2007 prohibited and restricted goods list identifies tariff lines that are subject to import prohibition or licensing, mainly for the protection of human health, consumer interests, national security, and to protect the environment. In principle, licensing is automatic and does not restrict quantity or value of imports. Cambodia intends to comply with WTO provisions in the application of preferential and non-preferential rules of origin and is currently preparating relevant regulations, which are at an early stage of development. In 2009, with donor assistance, Cambodia began the task of drafting trade remedies legislation. The current draft, in the form of a single draft law encompassing anti-dumping and countervailing measures and safeguards, is under review by an inter-ministerial drafting group.

14. Cambodia levies export taxes on certain unprocessed raw materials and products to encourage local processing, encourage exports of finished products, and protect human health. Cambodia's export duties are applied on an MFN basis and its ASEAN partners are not exempt. Export taxes accounted for approximately 2% of the revenue collected by Customs in 2000 and less than 0.5% in 2010. Export prohibitions are maintained mainly for reasons of health, ecological balance, security, archaeological value or the maintenance of adequate domestic supply. Export permits or authorizations are required for a number of items, including processed wood products and sand. Cambodia has no export subsidies.

15. At the time of Cambodia’s accession to the WTO, 11 state-owned companies were engaged in importation and exportation of products such as rice, rubber, fertilizer, fishery products, pharmaceutical products, and agricultural equipment. Following a programme of divestment, the Green Trade Company is the only remaining state-owned enterprise involved in food import and export.

16. Cambodia is trying to increasing exports via geographically defined special economic zones (SEZs), with the goal of attracting foreign direct investment. The Government is preparing a Law on Special Economic Zones and notes that the draft law contains no export-performance measures or local-content requirements. So far, Cambodia has approved 22 SEZs, of which 14 have been established and 5 are operational, mainly in the garments, shoes, bicycles, food processing and electrical equipment industries.

17. In acceding to the WTO, Cambodia drew up an action plan to upgrade its standards, technical regulations, metrology, and conformity assessment capacity, as well as establish a TBT enquiry point. The 2007 Law on Standards of Cambodia is the legal basis for all measures related to standards and technical regulations; the authorities acknowledge that there may be a need to re-examine and revise parts the law. The 2007 law established the Institute of Standards of Cambodia (ISC), which serves as the secretariat of the National Standards Council and is responsible for developing and issuing standards. Currently, there are 71 Cambodian standards, mainly on foods, electrical appliances, and tools. Cambodia’s policy and practical approach is to adopt international standards as Cambodian standards or technical regulations where appropriate for its economic situation.

18. Cambodia's drive for full SPS compliance has been a priority during the review period. A continuing challenge for effective SPS management is the need for relevant ministries and agencies, in implementing their legal mandates, to minimize duplication, reduce unnecessary inspections, and improve reporting

mechanisms for food safety. The problem of agency duplication of functions and inspections through the proliferation of subordinate legislation may have had detrimental effects on Cambodia's SPS policy, reporting, and enforcement systems. However, the authorities contend that since the establishment of a 2010 regulation (on the Implementation of an Institutional Arrangement of Food Safety based on a farm-to-table approach), the definition of responsibilities has been clarified between the agencies involved.

19. Several ministries, agencies, and institutions are concerned with intellectual property policy and enforcement**.** In a significant step toward consolidating IPR policy-making, enforcement, and technical assistance, the Council of Ministers created the National Committee for Intellectual Property Management in 2008. It is responsible for developing national policy on intellectual property, strengthening interagency cooperation, preparing and disseminating new laws and regulations, and acting as a clearinghouse for technical assistance relating to intellectual property. Cambodia has passed or is preparing a number of laws and regulations on matters such as patents, trade marks, copyright, geographical indications, and plant variety protection. Cambodia benefits from an extended time-limit (until July 2013) for the full implementation of the TRIPS Agreement.

20. Although no legal framework relating to competition policy is in place, in 2010 the Ministry of Commerce finalized the terms of reference of a competition working group to oversee the drafting of a competition law.

(4) SECTORAL POLICY DEVELOPMENTS

21. Agriculture remains Cambodia's most important economic sector in terms of its contribution to both income and employment for most of the country's rural population, which accounts for about 85% of the total. Agricultural GDP growth averaged 5.8% per annum, in real terms, during 2004-10, but despite this relatively strong performance, its contribution to GDP has gradually declined, from 40% in the mid-1990s to around 33% in 2010, although it remains the primary source of employment for at least 70% of the population. Raising productivity in the labour-intensive agriculture sector remains a concern in Cambodia.

22. Exports of agricultural products are of little significance, according to official figures, accounting for under 6% of exports. This is due partly to supply inconsistency, difficulties in meeting SPS requirements, and poor trade-related institutional support. Most exports of Cambodian agricultural products are unofficial and are exported in a non-processed state to neighbouring countries, reflecting the very low value added of the sector. Agricultural export subsidies are bound at zero. Cambodia does not maintain or apply any export subsidies for agricultural products. Regarding domestic support, Cambodia does not use either amber box or blue box measures. Expenditures for green box measures (for 2007 and 2008) mainly took the form of payments for relief from natural disasters.

23. Under the motto "Rice – White Gold", the Government adopted a new rice policy in 2010 based on an ambitious five-year plan aimed at expanding the production and export of rice. As a result of the 'Everything but Arms' initiative, exports of milled rice to the EU have been exempt from import duties and quotas since 2009. This preferential measure, together with the removal of licence requirements for milled rice exporters, and a doubling of the Rural Development Bank capital, has helped increase exports. Given the country's recent success in achieving surplus rice production, including for export, the Government is intent on expanding its production and export capacity and becoming a major export nation.

24. The manufacturing sector, which contributed between 14% and 19% of GDP during the review period, remains heavily dependent on labour-intensive garment

production. From the mid 1990s, the manufacture of clothing, mostly for export, grew rapidly and, by 2010, 319,000 workers were engaged in the sector. The garment industry accounts for two thirds of the manufacturing sector (12% of GDP) and 80% of Cambodia's export revenue. Historically, improving labour standards and working conditions have generally helped garments exporters to maintain export contracts and stave off the competitive threat from other low-cost manufacturers in the region. However, the outlook for Cambodian garment exports is clouded by structural changes in the market and to lagging competitiveness. Unit prices for Cambodian garments continue to decrease as a result of aggressive competition, particularly from China, Viet Nam, and Bangladesh. Furthermore, growth margins in the garment industry have narrowed with the expiry, at the end of 2008, of safeguard measures imposed on China by the United States and the EU.

25. Services comprise nearly 40% of the Cambodian economy and their importance should increase as Cambodia develops, although in recent years the share of services in total output has remained stagnant. Because of the importance of tourism, one of the main drivers of Cambodian growth in the past decade, Cambodia is a net exporter of services. Tourism has emerged as a major source of foreign exchange earnings since stability returned to Cambodia; the main attraction is the Khmer archeological treasures in the Siem Reap region. Foreign visitors now number over 2.5 million per year, more than ten times the number of international arrivals in 1995. Tourism is regarded as one of the most important immediate and long-term sources of foreign exchange; it, brings in over US$1.7 billion per year and generates, directly and indirectly, employment opportunities for an estimated 300,000 people.

26. Cambodia is also keen to develop crucial infrastructure services – including financial services, telecommunications and transport – although continuing inefficiencies and shortages constrain the availability of high quality services at reasonable cost. Cambodia adopted a relatively liberal regime for trade in services as part of its accession to the WTO. It undertook market-access commitments across the broad range of services sectors, including 74 subsectors in its schedule, many with full subsector commitments, and others with partial commitments and transition periods, such as in the telecommunications sector.

(5) OUTLOOK

27. Cambodia's economic performance since 2004, together with the authorities' commitment to reform, should lead it toward sustained growth and poverty alleviation. However, with GDP per capita at an estimated US$790 in 2010, Cambodia remains a poor country. The Government targets economic growth of 6% a year and per capita income of nearly US$1,000 by 2013. Maintaining solid, broad-based economic growth and a pro-poor policy is crucial to realizing the goal of reducing the poverty rate, as targeted, to 19.5% by 2015 (from 30% in 2007), in accordance with Cambodia's Millennium Development Goals.

28. Although annual GDP growth is not expected to return to the highs of around 10% recorded before 2008, it is expected to remain strong in 2011, at around 6%, as are Cambodia's main exports, due partly to the relaxed rule of origin of the European Union on preferential tariffs for LDC exports to EU markets, which became effective on 1 January 2011. Agriculture is expected to become an increasingly important source of economic growth, in line with official plans to boost exports of milled rice, as the government seeks to develop other sources of economic growth. In the longer run, the intensity of efforts to strengthen and simplify the legal and institutional framework for coherent policy making and to promote export and market diversification will largely determine the pace and sustainability of Cambodia's economic growth.

I. ECONOMIC ENVIRONMENT

(1) INTRODUCTION

1. Cambodia's accession to the WTO in 2004 came in the middle of a decade of strong economic growth. The economic and social achievements between 1998 and 2007 were the most impressive in Cambodia's history: real GDP growth averaged close to 10% over this period, the highest of any low-income country in Asia, resulting in an almost doubling of income per capita; the poverty incidence is estimated to have fallen steadily; consumer price inflation declined markedly compared with the 1990-98 period; and prudent fiscal policies underpinned macroeconomic stability. The recent discovery of oil and gas could be a significant boon for the country and, if properly managed, should provide the necessary resources to continue addressing a range of socio-economic issues.

2. However, after the decade of high growth and relative stability, the 2008-09 global recession exposed Cambodia's longstanding structural vulnerabilities, notably that growth and exports have remained narrowly based. The authorities are aware that diversified private-sector-led growth is important for raising Cambodia's growth potential. To this end, there have been initiatives during the review period to strengthen the investment climate, reduce the cost of doing business and improve Cambodia's international competitiveness, expand market access through trade agreements, and enhance agricultural development and rural infrastructure to help broaden the sources of growth.

(2) ECONOMIC AND POLICY DEVELOPMENTS AFFECTING TRADE

(i) Main economic developments

3. Cambodia enjoyed a decade of high growth and relative stability prior to the recent global crisis, enabling improvements in living standards and poverty reduction. Cambodia's exceptional growth performance between 1998 and 2007, at an annual average of 9.4%, relied on four drivers of GDP growth: rapid garment exports, strong tourism receipts, a construction boom, and robust crop growth in agriculture. Growth in output and trade was underpinned by an open trade regime and a favourable regime for foreign direct investment. After liberalizing its economy and its trade regime in the 1990s, Cambodia joined ASEAN in 1999 and was the first LDC to complete WTO accession negotiations.

4. However, the global crisis resulted in a growth collapse, exposing longstanding structural vulnerabilities. A downturn in three of the four drivers of growth, agriculture being the exception[1], caused growth to slip to under 7% in 2008 and to contract by an estimated 2% in 2009 (Table I.1). The narrow concentration of the sources of growth has made Cambodia vulnerable to external shocks and to the United States' economic cycle. Garment exports and tourism revenues were hit hard from the effects of the global financial crisis and in particular the severe economic recession in the United States. Several large projects, especially in the real estate and tourism sectors, were deferred. Actual foreign direct investment in Cambodia is estimated to have fallen from US$815 million in 2008 to US$530 million in 2009.

[1] The primary sector, the economy's fourth driver producing about 30% of GDP, maintained trend growth and served as a social safety net for many laid-off workers.

Table I.1
Selected economic indicators, 2004-10

	2004	2005	2006	2007	2008	2009[a]	2010[a]
Income and growth							
GDP per capita at current market price (US$)	401.3	466.2	534.9	626.0	739.4	732.9	791.2
GDP growth (%, constant 2000 prices)	10.3	13.3	10.8	10.2	6.7	-2.0	4.8
Agriculture[b]	-0.9	15.7	5.5	5.0	5.7	5.4	4.0
Manufacturing	17.7	9.7	17.4	8.9	3.1	-5.3	1.8
Services	13.2	13.1	10.1	10.1	9.0	2.3	3.3
Savings and investment (current market prices, % of GDP)							
Gross domestic investment	18.6	21.4	22.7	26.5	22.6	22.7	..
Gross national savings	16.3	17.2	21.7	22.6	10.3	17.9	..
Prices and interest rates							
Inflation (CPI, %age change, annual average)	3.9	6.3	6.1	7.6	25.1	-0.4	4.0
Inflation (CPI, %age change, end-year)	5.3	8.4	4.2	14.0	12.5	5.3	3.1
Deposit rate (%)	1.79	1.92	1.84	1.90	1.91	1.66	1.26
Lending rate (foreign currency) (%)	17.62	17.33	16.40	16.18	16.01	15.81	15.63
Government finance (% of GDP)							
Revenue	10.4	10.6	11.4	12.1	13.3	11.8	12.6
Current revenue	10.3	10.0	10.1	12.0	13.1	11.7	12.5
Tax revenue	7.7	7.7	8.0	10.2	11.2	10.1	10.6
Expenditure	14.2	13.2	14.1	14.7	15.9	17.5	17.8
Current expenditure	8.4	7.9	8.2	8.5	9.4	10.7	10.8
Current fiscal balance	1.9	2.1	1.9	3.5	3.7	1.0	1.6
Overall balance	-3.8	-2.6	-2.7	-2.6	-2.7	-5.7	-5.3
External sector (% of GDP, unless otherwise indicated)							
Current account	-8.2	-9.8	-7.9	-8.0	-13.3	-11.6	-10.9
Net merchandise trade	-12.8	-16.1	-14.8	-15.6	-17.4	-15.7	14.9
Merchandise exports	48.5	46.2	50.8	47.3	45.5	40.3	41.1
Merchandise imports	61.3	62.3	65.6	62.9	62.9	56.0	56.0
Services balance	5.4	7.6	6.8	7.3	5.9	5.8	5.6
Services exports	15.1	17.8	17.8	17.9	15.9	15.6	14.5
Services imports	9.6	10.2	11.1	10.6	10.0	9.8	8.9
Financial account	4.1	4.9	2.9	7.9	13.4	5.8	5.6
Foreign direct investment	2.3	6.0	6.5	10.0	7.7	4.9	4.9
Balance of payments	1.1	1.2	2.7	4.9	5.0	-0.0	1.3
Terms of trade (2005 = 100)	100.9	100.0	99.7	98.8	99.6	..	..
Merchandise exports (annual %age change)	24.0	12.4	27.0	10.7	15.2	-10.9	11.7
Merchandise imports (annual %age change)	22.5	19.8	21.8	13.8	19.8	-10.4	9.5
Service exports (annual %age change)	46.9	38.9	15.9	19.4	6.3	-1.2	1.7
Service imports (annual %age change)	18.6	24.9	25.1	13.9	12.3	-1.7	0.1
Foreign exchange reserves (US$ million)	708.9	834.0	1,096.7	1,615.6	2,163.5	2,259.9	2,550.0
in months of imports	2.1	2.0	2.2	2.8	3.2	3.7	3.6
Total external debt stocks (US$ million; end-period)	2,991.7	3,350.2	3,698.0	4,313.1	4,395.5	4,357.6	5,033.2
Debt service ratio[c]	1.0	0.9	0.7	0.7	0.7	0.8	0.8
Memorandum items							
Current GDP (riels billion)	21,438.3	25,754.3	29,849.5	35,042.2	41,968.4	43,080.0	47,680.0
Current GDP (US$ million)	5,337.8	6,293.0	7,274.5	8,639.2	10,351.8	10,407.6	11,393.3
Rs/US$ (annual average)	4,016.3	4,092.5	4,103.3	4,056.2	4,054.2	4,139.3	4,184.9
Population (millions)	13.3	13.5	13.6	13.8	14.0	14.2	14.4

.. Not available.

a Estimates.
b Including forestry and fishing.
c As a percentage of exports of goods and services.

Source: Data provided by authorities; IMF (2010), *International Financial Statistics*, September; IMF (2009), *Country Report No. 11/45*, February.

5. The crisis and its impact on Cambodia's real sector exposed both structural and competitiveness weaknesses in the economy. For example, garment exports from Cambodia contracted by more than other countries in the region (such as Bangladesh) – indicative of a possible decline in the competitiveness of this sector. Growth and exports have remained narrowly based, offering limited benefits to the rural poor, which constitute Cambodia's vast majority. In 2010, however, driven by exports, the Cambodian economy achieved a stronger than expected recovery with estimated GDP growth of 4.8%, according to the IMF. The strength of the recovery was driven by two of Cambodia's traditional growth drivers, indicating that a broadening export-led recovery was under way. First, garment exports registered a 24% increase in 2010, after shrinking by 20% during the 2008-09 crisis and, second, tourism rebounded strongly with a 16% increase in tourist arrivals (to 2.5 million tourists) and a 14% increase in tourism receipts (to US$1.8 billion).

6. Cambodia's economy is continuing to recover from the 2008-09 downturn but annual growth is not expected to return to the highs of around 10% recorded in the years preceding the crisis. However, real GDP growth is expected to remain strong in 2011, at around 6%, as are Cambodia's garment and footwear exports, due partly to the EU's relaxed rule of origin on preferential tariffs for LDC exports to EU markets, effective 1 January 2011. Agriculture is becoming an increasingly important source of economic growth in line with official plans to boost exports of milled rice as the government seeks to develop other sources of economic growth.

7. With GDP per capita at around US$790 in 2010, Cambodia remains a very poor country. The poverty rate was estimated to have decreased moderately from 47% in 1993 to 35% in 2004 and to an estimated 30% in 2007, with rural poor comprising 90% of the total.[2] Further reductions in the poverty level have been problematic since then due to the unexpectedly sharp rise in consumer prices, notably for foodstuffs, in 2008 and the effects of the global economic crisis. The Government has adopted the Updated National Strategic Development Plan (NSDP) to extend its development targets until 2013. The updated plan targets economic growth of 6% a year and per capita income of nearly US$1,000 by 2013. Maintaining high, broad-based economic growth and a pro-poor policy is crucial to realizing the goal of reducing the poverty rate to 19.5% by 2015 as targeted in Cambodia's Millennium Development Goals.

(ii) Main macroeconomic policies

8. Cambodia's macroeconomic framework is based on a continuation of the prudent monetary and exchange rate and fiscal policies that have enabled it to achieve its impressive economic track record.

(a) Monetary and exchange rate policies

9. Over the past 20 years, consumer price inflation has fallen sharply from an average of 56% over 1990-98 to an average of 3.5% over 1998-2007. Inflation then started rising again[3], with the spike in food and energy prices, although this was happening nearly everywhere. Moving into 2009, inflation decelerated to 5.3% from high levels, as world food and oil prices fell, and weakening domestic demand further subdued price pressures. Despite price hikes in other countries in the region and a rapid economic recovery, Cambodia's consumer price inflation dwindled to 3.1% in 2010.

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[2] Poverty is defined as the percentage of the population with per capita consumption below the national poverty line, which was 2,470 riels per capita per day in 2007 or about US$0.61 at the prevailing exchange rate (Ministry of Planning, 2010, p. 8).

[3] Inflation accelerated from 6.4% in September 2007 to a peak of 25.7% in May 2008, driven largely by the surge in oil and food prices.

10. In recent years, the riel has been stable *vis-à-vis* the dollar, in nominal terms, leading to some depreciation *vis-à-vis* other currencies. Fluctuations of the riel in real terms have a diffused impact given the *de facto* high dollarization of the economy, and the U.S. dollar remains the currency of choice in Cambodia for trade and investment. According to the IMF, Cambodia has become Asia's most dollarized economy (over 90% of total bank deposits are held in U.S. dollars)[4], which reflects Cambodia's unbalanced and narrow growth, driven by the dollarized urban export and tourism centres as well as FDI and aid inflows. The effectiveness of monetary policy remains limited owing to this extensive dollarization which, according to some observers, is likely to have enhanced Cambodia's trade (in particular the surge in garment exports to the United States since 1995).[5]

(b) Fiscal policy

11. In a substantially dollarized economy, fiscal policy is the main macroeconomic policy instrument. A major problem for Cambodia over the past decade has been the poor rate of revenue generation although efforts are under way to broaden the tax base through an increase of the road tax on vehicles and the introduction of a tax on property. An outstanding feature of Cambodia's tax base is the high share of trade-related taxes (customs duties and excise duties and VAT on imports) in total tax revenue. Although these taxes have been declining, from 69.5% of total tax revenue in 2004 to 56.3% in 2010, they still account for over half of the total revenue, with fuel and vehicle imports alone accounting for a combined 60% of total customs revenue (see Table III.2).

12. According to the IMF, Cambodia's revenue mobilization remains among the weakest in the region with a tax revenue to GDP ratio of between 10% and 11%, which has seriously limited Cambodia's ability to address priority development needs. Cambodia will therefore continue to depend on foreign grants and loans to finance its deficit, which reached the equivalent of 5.3% of GDP in 2010.

13. The Government is committed to further improving customs administration and tax collection in order to secure fiscal sustainability and mobilize resources for Cambodia's heavy development needs. In this regard, reducing the scope for evasion is significant. For example, the Customs Valuation Agreement applies to petroleum imports as of 1 January 2011 and the IMF estimates that replacing the reference price for taxes on petroleum imports to the current transaction level could result in a gain of about 1% of GDP, assuming that the resulting increase in domestic retail prices over those in neighbouring countries does not erode the tax base.[6] This would require that greater incentives for smuggling are effectively curbed by improvements in customs control. Smuggling continues to erode the tax base, given Cambodia's stretched and porous border, but the authorities assert that anti-smuggling efforts have been stepped up in recent months.

14. In the longer term, the fiscal picture could change markedly if substantial revenues begin to flow from the production of oil and natural gas, which constitutes a major opportunity and challenge for Cambodia's medium- to long-term development.

(iii) Trade competitiveness

15. During the review period (2004-10), the Government continued to adopt laws and regulations both to enhance private sector activity and to fulfil its WTO commitments. While on paper the legal

[4] Measured as the ratio of foreign currency deposits to broad money, dollarization has risen steadily, from about 60% in the late 1990s to about 80% in 2010 (compared with 50% in Laos and 20% in Viet Nam) (IMF, 2010, p. 14).

[5] IMF (2002), p. 29. See also ADB (2008).

[6] IMF (2010), p. 12.

framework for greater private sector development is taking shape, more needs to be done to implement laws and regulations and to create an environment to attract higher levels of employment-generating investment. As evidenced by a number of surveys, Investment Climate assessments and Doing Business indicators, the business environment remains challenging in many aspects. Available infrastructure in key backbone services – electricity, advanced telecommunications, and transportation infrastructure – is also poor and, where these depend on public investment, it will take Cambodia as an LDC time to redress underinvestment.

16. Access to finance is also limited, despite the recent rapid economic growth. The incidence of labour disputes has recently increased significantly. Dispute resolution mechanisms remain weak. Regulations are either absent (or not enforced), or costly (with significant informal payments). Poor governance is also noted in natural resource management, with continued issues of weak management of common pool resources and encroachment on private land.

17. Despite increasing investor interest, Cambodia continues to rank poorly on global surveys of competitiveness and corruption. The World Bank suggests that regulatory uncertainty and excessive red tape, remaining distortions in the trade regime, electricity costs, inadequate skills of the labour force, and corruption are major obstacles to private sector growth and development of export competitiveness.[7] The World Bank identifies poor product quality, an inadequate SPS policy framework, limited access to technology and business development services, underdeveloped links between the rural and modern sectors of the economy, and relatively costly logistics as constraints to export diversification. A common thread in many value-chain studies is Cambodia's weak competition policy framework, broadly defined to include remaining distortions at, and behind, the border.

18. According to the World Economic Forum[8], Cambodia's competitiveness ranking is low, at 110 of 133 countries surveyed. Foreign investors in general have also been deterred by red tape and high utility costs, all of which detract from the advantages of low labour costs. In 2009, Cambodia also remained low in Transparency International’s corruption index, ranking 158 out of 180 countries assessed. Business people, both local and foreign, have identified corruption, particularly within the judiciary, as the single biggest deterrent to investment in Cambodia.[9] The long-awaited anti-corruption legislation, approved by the National Assembly in March 2010, was implemented later in the year. Cambodia is not a signatory to the OECD Anti-Bribery Convention, but has endorsed the ADB/OECD Anti-Corruption Action Plan for Asia and the Pacific. In 2007, the Government signed a regional anti-corruption pact with eight other ASEAN countries, and in September of the same year, signed the UN Convention Against Corruption.

19. The Government has reviewed the global environment for Cambodian exports and concluded that tariff advantages are unlikely to drive future export growth. It derived from this the need to diversify exports and export markets and identified 19 products and services with potential for export diversification, 12 of which are in the agriculture, forestry and fisheries sector. The most important is rice, for which the Government has prepared an ambitious plan to make Cambodia the world's third largest exporter of rice (regarded as the country's "white gold"), behind Thailand and Viet Nam, by 2015. The other products are: rubber, cassava, fishery, fruits and vegetables, wood products, soybeans, silk, livestock, cashew nuts, corn, and beer. In the industrial sector, wood products, light manufacturing assembly, footwear, and garments are listed, and in the services sector, tourism, labour services sector, transport, and business and web-based services.

[7] World Bank and International Finance corporation (2009).
[8] WEF (2010).
[9] See also World Bank (2010a).

20. The Government has identified a number of shared challenges for Cambodian sectors with export potential. Factors that continue to constrain export diversification include: high production and infrastructure costs, low competitiveness and low productivity; limited value added in many sectors, due to high import dependency for raw materials and intermediate inputs; poor quality and limited differentiation of products, limited access to technology, and small design and R&D capacity; in many sectors, enterprises have difficulties meeting exacting quality standards of various foreign markets as well as meeting time delivery requirements of foreign buyers; a legal and institutional framework for business export development that remains underdeveloped, although improving; and, in terms of licences, despite progress in some areas – such as the one-stop services at the Cambodia Investment Board (CIB) or at Special Economic Zones (SEZs) – the regulatory burden remains significant for small and medium firms, which often opt to do business in the informal sector.

(iv) Current account

21. Cambodia's balance of payments remains stable but vulnerable to external shocks due to its relatively low level of gross international reserves compared with imports. Cambodia has been running a sizeable current account deficit due to rapid growth in investment, averaging around 9% of GDP between 2004 and 2009, although in 2009 the weak economy prompted a major fall in imports, which narrowed the current account deficit, after it peaked at 13.3% in 2008, and stymied inflation. The widening of the current account deficit in 2010 (to -10.9% of GDP) was driven mainly by the trade deficit, as both imports and exports recovered strongly and global oil prices increased. As export and tourism growth continues to firm up, the Cambodian authorities expect the current account deficit to be reduced in 2011.

22. Large inflows of private investment, remittances, and foreign assistance have so far enabled the authorities to maintain increasing international reserves. Gross official reserves stayed broadly stable in 2010, at around US$2.5 billion or 3.6 months of imports; the relatively low import coverage makes Cambodia's external balance vulnerable to shocks and below what are considered to be prudential levels (around ten months) in many countries. The global financial crisis also affected capital inflows, in particular foreign direct investments to the construction sector. With fewer international banks provides financing for direct investment in 2009, FDI contracted by an estimated US$285 million.

23. Cambodia's trade sector (goods and services) is heavily correlated with the business cycle of the developed economies such as the United States and European Union. The Government estimated exports of goods contracted by 11% in 2009, with export of garments falling by 23%. Tourist arrivals (or export of services), contracted marginally by 0.8% in 2009 due to a decline in global travel. As the global outlook improves in 2010, the trade sector is expected to improve with export of goods to increase by 11.7% (garment experts by 7%). However, a full recovery in garment exports may not occur until 2012.

(3) DEVELOPMENTS IN TRADE AND FDI

24. Cambodia's exports have been growing relatively rapidly, driving growth over the last decade. Starting from 16% of GDP in 1993, exports of goods and services accounted for nearly 56% of GDP in 2010 based on balance of payments (BOP) statistics. Growth in exports has been one of the main drivers of Cambodia’s strong economic performance. Garments and tourism account for most of the exports and there has been little diversification towards other goods and services. Even within garments, there has been little diversification beyond low-end garments and the U.S. market, which, for a historical reason related to increased access to quotas under the Multi-Fibre Arrangement, is the main export market. In parallel, imports of goods and services, according to BOP figures, increased

from 32% to 65% of GDP during the same time period, partly due to the increase of the trade deficit in the energy and manufacturing sectors owing to the expansion in economic activity and to high oil prices.

(i) Merchandise trade

25. The garment industry dominates foreign trade, overshadowing contributions from other subsectors such as rubber and rice. From 1997, the traditional exports, e.g. logs, sawn timber, and rubber, were increasingly superseded by sales of garments, which accounted for 44% of domestic exports (excluding re-exports[10]) in that year and for about 90% in 2005 and 80% in 2010. Cambodia has a rather narrow export profile in terms of what it exports but managed to reduce its dependence on the U.S. market during the review period.

(a) Exports

26. According to Cambodia's customs-based trade statistics[11], Cambodia's export revenue has recorded fairly strong growth in recent years, increasing from US$2.4 billion in 2005 to US$3.8 billion in 2010 (Chart I.1 and Table AI.1). Garment exports accounted for between 80% and 90% of total exports during the five-year period. There had been concerns that export revenue would decline sharply in 2005, following the expiry at end 2004 of the WTO's global system of quotas on trade in textiles and garments. However, partly because the United States and the EU imposed restrictive safeguards on imports of garments from China, Cambodia's garments exports remained strong. The rubber industry increased its share of exports slightly in 2010 to 2.1%, partly reflecting increased investment in recent years, but it still struggles to compete with neighbours such as Malaysia and Thailand. Another major traditional export, forestry products, recorded declines in recent years to negligible levels.

27. Until the mid 1990s, Cambodia's main export markets were other Southeast Asian economies with Singapore and Thailand alone accounting for over 50% of exports in 1995. However, following Cambodia's bilateral trade agreements with the United States, the United States became the leading market for Cambodian exports (Chart I.2 and Tables AI.3). In 2005, the U.S. accounted for two-thirds of Cambodian exports, this share declined to half of the total in 2010, while Canada, the EU and Asia all increased their share of Cambodian exports.

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[10] Re-exports used to represent a significant feature of external trade, prompted by the differences in import tariffs between Cambodia and its neighbours, and included cigarettes, motorcycles, beer, and electrical equipment (re-exported to Viet Nam) and gold (principally re-exported to Thailand). In the late 1990s, however, re-exports declined sharply: they accounted for 62% of total exports in 1995, but only an estimated 5% of the total in 2009.

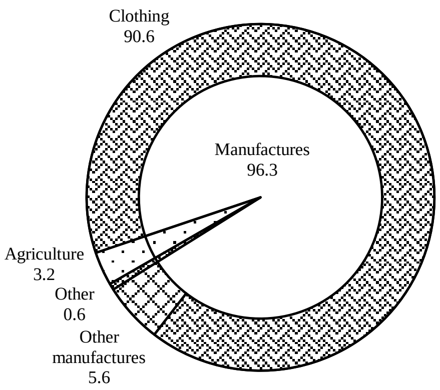
[11] The total value of exports varies considerably between national sources and the IMF. In addition, a considerable amount of unregistered cross-border trade with Viet Nam and Thailand makes it difficult to determine the exact volume of trade going on. Figures cited in this section exclude exports of so-called printed matter, consisting mainly of trade in bank notes. BOP figures are considerably higher than customs-based trade statistics as BOP data adjust customs figures to reflect trade in printed matter, estimates of under-reporting, informal trade, and border trade.

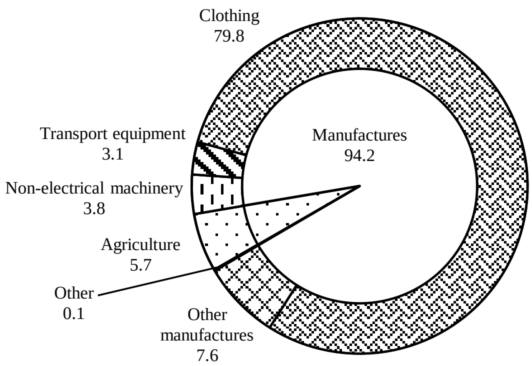
Chart I.1
Product composition of merchandise trade (SITC Rev.3), 2005 and 2010

Per cent

2005 | **2010**

(a) Exports (f.o.b.)

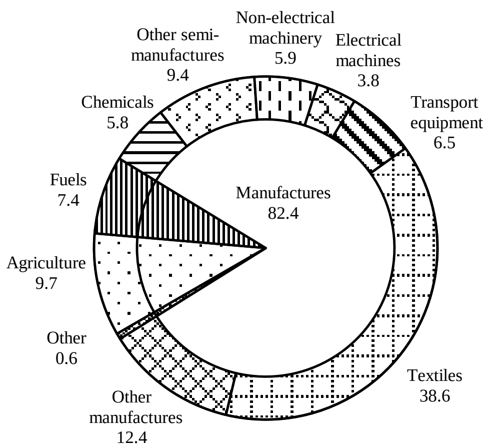


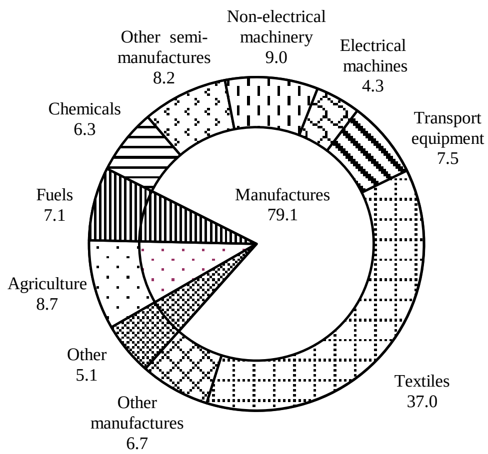


Total: US$2,434.6 million

Total: US$3,808.7 million

(b) Imports (c.i.f.)





Total: US$2,546.3 million

Total: US$4,876.0 million

Note: Exlcuding trade in bank notes.

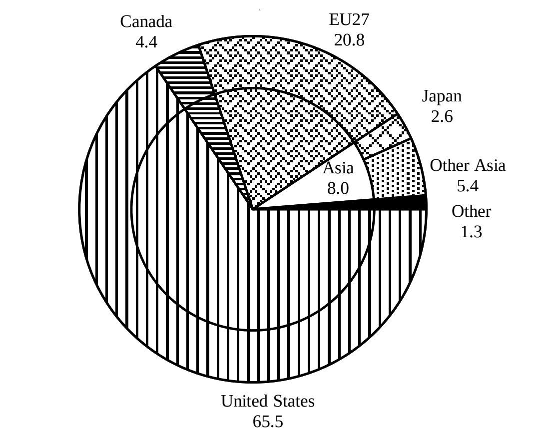
***Source*: WTO calculations, based on data provided by the authorities.**

Chart I.2
Direction of merchandise trade, 2005 and 2010

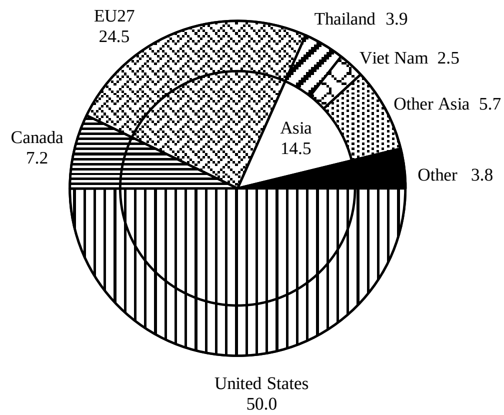
Per cent

2005 | **2010**

(a) Exports (f.o.b.)

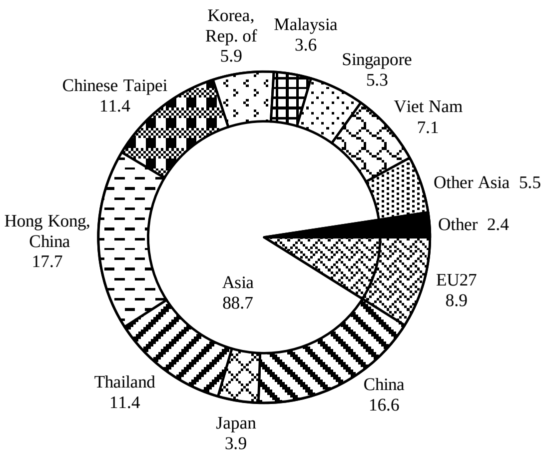


Total: US$2,434.6 million

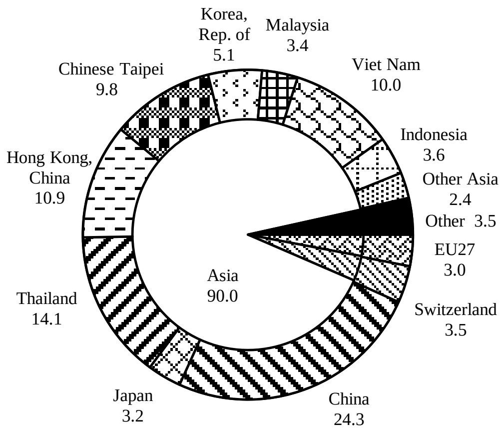


Total: US$3,808.7 million

(b) Imports (c.i.f.)



Total: US$2,546.3 million



Total: US$4,876.0 million

Note: Excluding trade in bank notes.

***Source*: WTO calculations, based on data provided by the authorities.**

(b) Imports

28. As with Cambodia's exports, many of its imports are not registered due to smuggling. The domestic garment and tourism industries both rely extensively on imports and, generally, the country remains dependent on imports for a wide range of manufactured products and consumer goods. Based on customs data, Cambodia's import bill nearly doubled between 2005 and 2010, from US$2.5 billion to US$4.9 billion (Chart I.1 and Table AI.2). During the review period, the import structure changed little, with manufactures (including textiles and textiles articles, machinery and transport equipment, chemicals, and electrical components) accounting for 80% of imports and primary products (mainly food and oil) accounting for about 17%.

29. Similarly, the main import sources have changed little since 2005 with Asia accounting for around 90% of imports, led by China (which now provides 24% of Cambodia's imports); Thailand; Hong Kong, China; Viet Nam; and Chinese Taipei (Table AI.4).

(ii) Services trade

30. Although services payments have been pushed up by trade-related services costs, the services account has remained in surplus, owing to healthy revenue growth in tourism. Tourism receipts contracted marginally (by 0.8%) in 2009 due to a decline in global travel (Table I.2). The balance in the service sector was largely in surplus (about 6% of GDP), owing to the sharp increase in receipts from tourism. The services surplus is expected to grow in the near term as tourism recovers. However, there will be an increase in demand for imported trade-related services, such as insurance and freight.

Table I.2
Trade in services, 2004-10
(US$ million and %)

	2004	2005	2006	2007	2008	2009	2010
Services balance (US$ million)	290.0	475.6	492.3	632.1	609.4	606.4	633.0
Receipts (US$ million)	804.9	1,118.1	1,296.3	1,547.5	1,645.1	1,624.9	1,652.6
				(% of total receipts)			
Transportation	13.0	11.4	12.9	13.6	14.5	11.8	8.7
Travel	76.0	75.1	74.3	73.3	74.1	72.9	75.6
Other	12.0	13.6	12.8	13.1	11.4	15.3	15.7
Payments (US$ million)	514.4	642.6	804.0	915.4	1,035.8	1,018.4	1,019.5
				(% of total payments)			
Transportation	68.0	56.1	54.7	55.9	58.7	52.9	50.2
Travel	9.3	15.1	15.2	13.4	9.3	10.2	11.1
Other	32.7	28.9	30.1	30.7	32.0	37.0	38.8

Source: Data provided by the Cambodian authorities.

(iii) Foreign direct investment (FDI)

31. Investors were attracted to the construction and tourism industries in 1993, with Cambodia's cultural heritage perceived to have strong potential. A second wave of investors between 1996 and 1998 focused on the logging sector, while the bilateral trade agreement with the United States signed in 1996 encouraged substantial FDI in the garment sector. Prior to the discovery of petroleum and gas reserves, the majority of investment was concentrated within the three main sectors, garments, construction, and tourism, which together represented more than 80% of total capital registered. Investment approved by the Council for the Development of Cambodia (CDC) declined during

1999-2004; potential investment totalled US$201 million in 2004, while actual investment was US$131 million.

32. The amount of approved (potential) investment subsequently increased significantly, rising from US$589 million to US$2.4 billion in 2006 and US$7.2 billion in in 2008. According to figures provided by the National Bank of Cambodia, actual investment increased more moderately from US$381 in 2005 to more than US$800 million in 2007 and 2008 and declined thereafter (Table I.3). The total stock of FDI has reached the equivalent of about 50% of GDP.

Table I.3
Foreign direct investment, 2004-10
(US$ million)

	2004	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
FDI (implemented)	131	381	483	867	815	530	553
Approved projects (fixed assets)	201	589	2,390	1,382	7,169	2,229	2,496
FDI stock	2,090	2,471	2,954	3,821	4,637	5,167	5,720

Note: Revised figures based on the National Bank of Cambodia's source (for FDI and FDI stock).

Source: NBC.

33. FDI in manufacturing is largely concentrated in the garment industry, with investors from China accounting for over 90% of investment approvals over the past five years. The enthusiasm of Chinese investors in expanding in the Cambodian garment industry has alleviated concerns that the abolition of the MFA would result in significant export losses. In recent years, FDI has also begun expanding into other labour-intensive export lines, such as shoes, toys, and wood products. As FDI-driven exports in these sectors increase over time, it is possible that significant inroads can be made in addressing under-employment and poverty in Cambodia.

34. China is Cambodia's largest investor, followed by the Republic of Korea, Malaysia, the United States, Chinese Taipei, Thailand, Russia, and Singapore. Most Chinese investment is in the garment industry. Recently, two Chinese companies applied to invest in oil refining; and there has been Chinese interest in investing in hydroelectricity, railways, and oil and gas exploration.

(4) OUTLOOK

35. Cambodia's economic recovery is under way. Real GDP growth is projected to reach 6% in 2011, driven by a rebound in exports (particularly garments) and tourism, and the uninterrupted growth of agricultural production. Growth prospects depend largely on the performance of the agriculture sector, which has weathered the global crisis well, but crop production might be negatively affected by the sporadic droughts in some parts of the country. Even if these developments were to materialize, they would be offset by a surge in exports of milled rice. The sector has benefited from the recent adoption of paddy production and rice export policy.

36. The merchandise trade deficit will remain substantial in the short term, owing to Cambodia's reliance on imported capital goods. Even after economic growth recovers in the United States, Cambodia's leading export market, garment manufacturers may struggle to compete with more efficient producers. High overheads, poor infrastructure and stiff competition from other garment manufacturers, such as Bangladesh, are casting a shadow over Cambodia's long-term garment prospects. Agriculture offers potential to diversify the export base: there is room to substantially boost rice exports as rice yields are among the lowest in the region due in part to limited use of improved seeds and fertilizer and the need for better water management.

37. In the medium term, there is a clear need to diversify the economy, which is overly dependent on the garment, tourist, and construction industries. Both the garment and tourist industries were undermined by the global economic slowdown, resulting in serious export and job losses, although recovery has been impressive. The construction sector was weakened by the bursting of the property bubble, which undermined the banking system by boosting non-performing loans, prompting the IMF to urge the central bank to strengthen the supervision of Cambodia's financial system. Initiatives to improve the business environment and address infrastructure bottlenecks are critical. The recently promulgated Anti-Corruption Law could help reduce the cost of doing business, thereby improving Cambodia's international competitiveness, given that Cambodia ranks low in number of governance indicators.

II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) INTRODUCTION

1. After the fall of the Khmer Rouge regime (1975-79), Cambodia followed a path of communist policies during the 1980s before undertaking a gradual transition to an open market economy in the 1990s, paving the way for it to emerge from three decades of instability. With peace and macroeconomic stability more firmly entrenched by the time of its accession to the WTO, Cambodia has embarked on far-reaching reforms to achieve rapid and sustained socio-economic development. International trade has been crucial to achieving this goal because it has been the driving force behind much of Cambodia's recent economic growth and poverty reduction, linking its economy more firmly to regional and global markets, and encouraging energetic reform on the regulatory and institutional front.

(2) TRADE POLICY FRAMEWORK AND IMPLEMENTATION

(i) General institutional and regulatory framework

2. Cambodia is a constitutional monarchy. The Constitution adopted in September 1993 stipulates that the monarch is the Head of State for life. The monarch appoints the Prime Minister and the Council of Ministers and, upon approval and ratification by the National Assembly, signs and thereby promulgates international treaties and conventions.

(a) Legislative and executive branches of government

3. Legislative powers are exercised by the National Assembly (lower house) and the Senate (upper house). The National Assembly consists of 122 members elected simultaneously for five-year terms of office. Members are elected directly by the electorate at large. The National Assembly, the only organ empowered to adopt laws, approves the national Budget and various government development strategies and programmes. It approves government proposals to borrow or to lend, and imposes, alters or annuls taxes.

4. The Council of Ministers constitutes the Royal Government of the Kingdom of Cambodia, the executive arm of the State. It is in charge of the overall execution of all national policies and programmes, and is responsible and accountable to the National Assembly. The Council of Ministers is responsible for establishing Cambodia's economic policy, including foreign trade policy. International treaties, conventions and inter-governmental agreements are negotiated by the Prime Minister and, after ratification by the National Assembly, are promulgated by the monarch. For Cambodia's accession to the WTO, a package including the Protocol and all WTO Agreements and legal documents were submitted by the Government to the National Assembly and the Senate for adoption and then presented to the monarch for promulgation, prior to publication in the *Official Journal*. In case of conflict between domestic legislation and the WTO Agreements, WTO provisions prevail over national legislation, with the exception of Cambodia's Constitution.

5. The Prime Minister, through his regulatory authority, executes all decisions adopted by the Council of Ministers. The Prime Minister presents decrees (kret) to the monarch for signature. The Prime Minister may also issue sub-decrees (anu-kret) on his own authority, after the approval of the Council of Ministers. Individual ministers issue ministerial prakas, and decisions and circulars. Provincial Governors issue decisions and circulars (Box II.1). All regulatory acts are published in the *Official Journal* once they are signed.

Box II.1: Legal hierarchy of official actions in Cambodia

The Constitution: the Supreme Law of the Kingdom of Cambodia.

Treaties and Conventions: according to Article 26 of the Constitution, the King shall sign and ratify international treaties and conventions, following the approval of the National Assembly. After such ratification, international treaties and conventions shall become one of the bases for judicial decisions.

Laws (Chhbab): laws adopted by the National Assembly.

Royal Decree (Reach Kret): to be issued under the name of the King to execute his constitutional powers.

Sub-Decree (Anu-Kret): to be signed by the Prime Minister and countersigned by the minister(s) in charge after adoption by the Cabinet. The Prime Minister may use this in exercising his own regulatory powers.

Ministerial Order (Prakas): to be issued by members of the government in exercising their own regulatory powers.

Decision (Sechdei Samrech): individual decision of the Prime Minister and decision (Prakas-Deika) of a minister or a governor, which is used in exercising his own regulatory powers.

Circular (Sarachor): in general, to be issued by the Prime Minister as head of government, and by a minister as an official of the ministry either to explain or clarify certain legal regulatory measures or to provide instructions.

Provincial Deka (Arrêté): to be used by a provincial governor within the geographical limits of his province.

Source: Council for the Development of Cambodia (CDC), *2010 Cambodia Investment Guide book*.

(b) Judiciary

6. Cambodia has a unitary judiciary with courts of first instance at the provincial/municipal level. These courts have jurisdiction over all cases regardless of the nature or magnitude of the dispute. Appeals are heard by an appeals court, which sits in the capital. Further appeal may be made to the Supreme Court, which is the highest appellate court (in all except electoral and constitutional matters).

7. Cambodia's commercial regulatory environment presents a number of challenges for business, among which corruption, regulatory policy uncertainty, and the lack of reliable dispute resolution are identified as obstacles to doing business. At the time of its accession to the WTO, Cambodia's judicial system did not provide for administrative or commercial courts. Cambodia recognized the need to establish an appeals process and an independent tribunal to meet the requirements of Article X of the GATT 1994 and related provisions, including customs valuation, trade remedies, and import licensing and quotas. Since accession, the regulatory framework for commercial dispute resolution in Cambodia has evolved to some extent, including through administrative procedures in trade-related ministries.

8. Recognizing the need for more effective commercial dispute resolution systems, Cambodia enacted the Law on Commercial Arbitration in 2006, establishing a framework for private arbitration of business disputes that follows international practices. In July 2009, the Government passed a sub-decree creating a commercial arbitration body, the National Arbitration Center (NAC) under the auspices of the Ministry of Commerce. Once the NAC is operational, parties involved in a commercial dispute that have a written arbitration agreement will be able to settle commercial disputes by means of quasi-judicial methods without involvement of the Cambodian courts, except when required by the law on commercial arbitration.

9. A new civil code and a code of civil procedure were promulgated in 2007 and 2006, respectively. The draft Law on Judicial Organization envisages the right to appeal administrative decisions before the Administrative Chamber of the Appellate Court and allows special courts to be established. According to the authorities, this includes appeals of administrative decisions in matters covered by WTO Agreements to an independent tribunal, as provided for in Article X of the GATT and other WTO Agreements. The draft Law on Judicial Organization has been under examination by the Council of Ministers and the Council of Jurists and is expected to be submitted to the National Assembly after decision made by the Council of Jurists, the Council for Legal and Judicial reform, and the Council of Ministers.

10. The Ministry of Justice, together with the Ministry of Commerce (MoC), have been preparing a draft law establishing a commercial court, or a functional equivalent, with trained judges and staff, which is essential for creating a climate of transparency and predictability. The law is under preparation at the ministry level. In the interim, commercial cases have been brought before provincial and municipal courts. Further legislation on the enforcement of judgements and commercial contracts is expected during the mandate of the current Government (2008-13). The draft Law on Commercial Contracts is under consideration in inter-ministerial meetings.

(ii) Trade policy objectives

11. International trade plays a fundamental role in Cambodia's economic growth. Despite recent setbacks caused by the world economic and financial crisis, Cambodia's garment exports to North America and Europe, along with its tourism sector, have played an important role in expanding income and employment, and in reducing poverty. However, the economic and financial crisis has also shown the danger of relying on a few export products and markets. To reduce this danger, trade policy has focused on two broad objectives: to broaden the range of products exported and to enlarge the number of export markets.

(a) Export product diversification

12. Cambodia's National Export Strategy identifies products that could be developed into successful exports.[1] The strategy identifies steps that could be taken to reinforce the competitiveness of garments and tourism, but also identifies fruits and vegetables, fresh water fish, organic rice, and silk and silk products as having export potential. The report makes a series of proposals regarding the steps that might be taken to assist these sectors in achieving export competitiveness.

13. Building on the 2002 Integrated Framework, the MoC, with the support of the UNDP and development partners, finalized a Diagnostic Trade Integration Study (DTIS) in 2007. The DTIS reviewed developments in key trade-related policies, including tariff and other restrictions, trade facilitation, legal reform, TBT and SPS measures, intellectual property rights, and investment promotion. It concluded, *inter alia*, that tariff advantages were unlikely to drive future export growth and that Cambodia needed to diversify exports and export markets. The DTIS also examined the export potential of a wider range of products and identified 15 products and 4 services. It also looked at the human development potential of the various products and services.[2]

[1] Ministry of Commerce and International Trade Centre (2006).

[2] The Sub-Steering Committee for Trade Development and Trade-related Investment decided to establish a working group to examine further the steps that could be taken, with support from development partners, to assist these sectors in becoming more competitive and entering or expanding export markets. This usually involves using value chain analysis to identify areas that need policy attention. This work is in progress.

14. The Government's trade development agenda, known as its sector-wide approach (SWAp) to trade, aims to sustain growth by diversifying the country's still narrow economic base of garments and tourism. Private-sector expansion is considered key to achieving these objectives by improving both foreign and domestic trade by developing efficient backward linkages in the economy.[3] As a vehicle to implement the DTIS, the Trade SWAp seeks to bring together activities in the trade area around a common monitoring framework. It is structured to deal with issues in three broad areas or strategic pillars: (i) reforms and cross-cutting issues for trade development (legal reforms, trade facilitation, TBT and SPS regulation and practice); (ii) product and service sector export development with a focus on the products identified in the DTIS); and (iii) capacity building for trade development.

(b) Export market diversification

15. Cambodia's policies for expanding market access have two dimensions: support for the completion of the Doha Round and expansion and full exploitation of preferential trading arrangements. Within the overall context of ASEAN policies, Cambodia attaches special importance to the preferential trading arrangements with ASEAN dialogue partners. Cambodia has ratified free-trade agreements: (i) for goods with China, Republic of Korea, Japan, Australia and New Zealand, and India; (ii) for services with China, Republic of Korea, and Australia and New Zealand; and (iii) for investment with China, Republic of Korea, and Australia and New Zealand. These agreements, together with ASEAN's AFTA, are expected to help Cambodia to expand exports to the dynamic economies of Asia, both by securing access for Cambodia's current products and by attracting investment to create production targeted to those markets.

16. Cambodia's policies to exploit preferential market access have not been limited to Asia. The Ministry of Commerce has been helping light manufacturers through information on how to shape their production process to make their goods eligible for the EU's Everything But Arms preference scheme. The Government is also supporting the efforts of agricultural producers to gain access to European markets, especially now that Cambodian rice and sugar can enter those markets duty free. According to the Cambodian authorities, ASEAN negotiations with the European Union on a free-trade agreement have been suspended.

17. To secure better access to the U.S. garment market, the Government has worked with the Garment Manufacturers' Association of Cambodia to promote legislation in the U.S. Congress that would grant duty-free status to Cambodian garments. This effort is ongoing.

18. Investment, an integral part of trade policy, plays a key role in bringing about the diversification of export products and markets. Government policy is to improve the perception of Cambodia as an attractive investment destination by maintaining competitive investment incentives, developing special economic zones, pursuing trade facilitation, and improving the legal framework for business.

(iii) Trade policy formulation and implementation

(a) Institutions

19. Policies related to foreign trade are formulated and implemented by the Ministry of Economy and Finance (MEF), in close cooperation with the Ministry of Commerce (MoC), the Council for the Development of Cambodia (CDC), the National Bank of Cambodia (NBC), the Ministry of Planning (MoP), the Ministry of Industry, Mines and Energy (MIME), and the Ministry of Agriculture, Forestry and Fishery (MAFF). Provincial and municipal authorities have no jurisdiction over policies

[3] Ministry of Commerce (2007).

affecting foreign trade, such as in the areas of subsidies, investment, application of taxes, charges on imports not applied to domestic goods, or quantitative restrictions on imports or exports.

20. The MEF is charged with maintaining macroeconomic stability and an economic environment conducive to growth. It collaborates with other ministries in formulating the strategic policy of the Government for integrating the Cambodian economy into the regional and global economies. It prepares the national Budget and oversees its execution once adopted by the National Assembly. It collects tax and non-tax revenue, including customs duties. It prepares draft laws on financial matters and implements them once they are promulgated. It administers and oversees government procurement activities and coordinates financial management of all assistance to Cambodia. It proposes to the Government changes in import tariffs, and implements tariff and other trade policies through the General Department of Customs and Excise (GDCE), which is an integral part of the Ministry. The GDCE is the operational arm of the MEF as regards the border control of international trade. It is charged with: preparating proposals as regards the tariff schedule; implementing all laws with regard to import and export of goods; collecting taxes and duties on imported and exported products; and suppressing smuggling and other evasions of the law bearing on international trade. The MEF also regulates the insurance industry and portfolio investment.

21. The Ministry of Commerce registers foreign and domestic business activities and participates through Camcontrol (MoC's Department for Control of Import and Export and Fraud Repression) in border control, fraud repression, in the formulation and implementation of technical standards, and in the development of policies concerning certain intellectual property rights. It takes the lead in developing commercial legislation and issues certificates of Cambodian origin. The MoC acted as the focal point for activities related to WTO accession and continues to do so in relation to WTO-related issues, in particular by coordinating the preparation of WTO notifications. The Department of International Cooperation (DICO) of the MoC, reporting to the Secretary of State serving as the EIF Focal Point, acts as the National Implementation Unit (NIU) for the EIF and for the multi-donor Trade Development Support Programme (TDSP). In addition, DICO serves as the Secretariat for the Trade SWAp and has been tasked with the coordination of Aid for Trade.

22. The Council for the Development of Cambodia implements investment regulations, *inter alia*, by reviewing and approving investment licence applications, granting duty and tax exemptions and other incentives to investors, and arranging visas and work permits for foreign employees.

23. Issues related to industrial and technological development, exploitation of natural resources and the production and supply of electricity and potable water are under the Ministry of Industry, Mines and Energy. The Ministry has responsibility for fostering an environment conducive to the industrial and technological development of Cambodia. It manages and implements national policies on the exploitation of minerals, except petroleum and gas. It recommends and implements policies designed to develop the production and distribution of electricity. The Institute of Standards of Cambodia is also part of the MIME.

24. The National Bank of Cambodia, in consultation with the Government, determines monetary and exchange-rate policies, and implements such policies. It licenses, regulates, and supervises banks, financial institutions other than the insurance industry, financial auditors and liquidators, as well as firms operating in the foreign exchange market and the markets for precious stones and precious metals.

25. The Ministry of Planning generates and maintains statistics on a variety of economic and social indicators, including the national accounts. It develops methodologies for measuring socio-economic progress. It prepares indicative socio-economic plans, which form the yardstick

against which socio-economic progress is measured, as well as the census and other socio-economic surveys.

(b) Agency coordination

26. The Government's 2004 Rectangular Strategy and the National Strategic Development Plan 2006-2010 are based on a vision of private-sector-led growth with a strong role for exports. The reform agenda in private sector development (PSD) is led by a steering committee, comprising the MEF and other relevant ministries/agencies (notably Commerce, MIME, Agriculture, Transport, Tourism, the NBC and the CDC). The steering committee has four sub-steering committees and works with the Government Private Sector Forum (G-PSF) in an effort to strengthen coordination and minimize institutional fragmentation.

27. The Sub-Steering Committee on the Investment Climate and Private Participation in Infrastructure is chaired by the MEF. Its achievements include: enactment of the Law on Customs; progress on the WTO legal reform agenda; initial implementation of ASYCUDA; and the establishment of several special economic zones (SEZs). Recent priorities have included full implementation of the Law on Customs; design and implementation of the National Single Window to meet Cambodia's commitment to join the ASEAN Single Window by 2012 as well as further progress on the WTO legal reform agenda.

28. The Sub-Steering Committee on Trade Development and Trade-related Investment, chaired by the MoC, has launched the Trade SWAp approach to coordinate efforts on the Government side and align development partners' support. Current priorities include: implementation of the risk-management framework for exports; introduction of a flat fee for imports and exports; institutional strengthening for handling TBT and SPS issues; facilitation of trade; and streamlining of company registration procedures.

29. The Sub-Steering Committee on SMEs, chaired by the MIME, has worked to streamline business registration and is currently concerned with implementation of the licensing review and establishment of the Institute of Standards.

30. The Sub-Steering Committee on Corporate Governance is chaired by the MEF.

31. Cambodia's G-PSF, established in 1999, is a mechanism for public/private-sector consultation and dialogue, chaired by the Prime Minister. It enables the private sector to advocate, directly raise concerns with the Government, and provide inputs on business and trade-related policies, laws and regulations. Some G-PSF working groups are connected to steering committees and have development partner participation. The private sector is represented by business associations such as the Cambodia Federation of Employers and Business Associations, the Garment Manufacturers Association in Cambodia, the Cambodia Hotel Association, and the Freight Forwarders Association.

32. A notable achievement has been the examination of the current trade regulations and practices with the participation of representatives of private firms with long experience in importing and exporting. Based on that experience, this exercise gave rise to a Twelve-Point Action Plan for Trade Facilitation, aimed at eliminating or reducing features of the present regime that unnecessarily raise the costs of moving goods across Cambodia's borders.

(iv) Main trade and related laws

33. Cambodia accession to the WTO in 2004 generated a large agenda of legal and other reforms. As a result of the intensive scrutiny undertaken by WTO Members in the context of the accession

process, a work programme was adopted by the Government, which laid out a set of legal and regulatory reforms to bring Cambodia's business, investment, and trade regimes into line with international norms and provide transparency and predictability. It consists primarily in laws that must be enacted to achieve these goals and contains subordinate legislation and administrative and other steps that need to be taken to ensure proper implementation and enforcement of these laws (Table II.1).

Table II.1
2011 update on WTO accession legal agenda

Area	Law/regulation	Status/comment
Trade	Customs Law	Promulgated July 2007; most sub-decrees approved
	MEF Regulation 387	Adopted 2008 – implements Customs Valuation Agreement
	Sub-decree 209	Adopted 2007 on list of prohibited and restricted goods
	MoH Regulation 1031	Adopted 2008 – allows any registered firm to engage in import of pharmaceuticals
	Law on Trade Remedies	At ministerial level - final draft in English, working on Khmer version
	Law on Rules of Origin	Draft under discussion at ministerial level
	SEZ law	Sub-decree adopted in 2005; law under preparation
	Law on Standards	Promulgated 2007; Sub-Decree No. 62 on Institute of Standards adopted in 2008
	MAFF Regulation 589	Promulgated 2003 – eliminates QRs on pesticide and fertilizer imports
	Anukret 15 on Plant Quarantine	Adopted 2003
	Anukret 16 on Control of animal Hygiene and Animal Products	Adopted 2003
	Inter-ministerial Prakas 868 on food safety	Adopted 2010
	Law on e-commerce	First draft in English under consideration at ministerial level
Investment	Amendment to the Investment Law and related sub-decrees	Law promulgated in 2003; several sub-decrees adopted, including No. 111 (2005) abolishing incentives contingent on export performance and No.149 (2005) on the establishment of the CDC
Competition	Law on Competition	First draft in English under consideration at ministerial level
IPRs	Sub-decree implementing the Law Concerning Marks, Trade Names and Acts of Unfair Competition	Adopted 2006
	Law on Geographical Indications	Draft near completion
	Law on Integrated Circuits and Layout Designs	Draft under development at ministerial level
	Law on Trade Secrets and Undisclosed Information	Draft under development
	Law on Seed Management and Plant Breeder Rights	Promulgated 2008; contains provisions protecting new plant varieties
	Regulation on IP Border Measures	Under consideration at ministerial level
	Law on Patents	In force since 2002. Two Prakas adopted in 2006 on procedures for: registration of industrial designs, and granting patent and utility model certificates
	Law on Copyright and Related Rights	Promulgated in 2003
	Prakas on Trade Mark Agent	Adopted in February 2011
	Sub-decrees on the establishment of a national Committee for IPRs (NCIPR) and sub-committees on enforcement and education	Adopted 2008; sub-committees sub-decrees finalized and to be sent to the Council of Ministers
	Draft compulsory licensing law/regulation for public health	Draft under preparation at ministerial level

Table II.1 (cont'd)

Area	Law/regulation	Status/comment
Business framework	Law on Commercial Court	Draft under preparation at ministerial level
	Law on Judicial Organization	Allows special courts to be established; draft under consideration at the Council of Jurists
	Law on Insolvency	Promulgated in 2008; sub-decrees under preparation
	Law on Commercial Contracts	Draft under consideration by inter-ministerial meeting
	Law on Commercial Agency	Draft under preparation at ministerial level
	Law on Commercial Arbitration	Promulgated in 2006; 2009 Sub-Decree No. 124 established NAC
	Civil Code, Civil Procedural Code, Criminal Code and Criminal Procedural Code	Civil and criminal procedural codes promulgated in 2006 and 2007, respectively; others promulgated between 2007 and 2010
	Law on Anti-Corruption	Promulgated in 2010
	Law on Commercial Enterprises	Promulgated in 2005
	Law on Concessions	Promulgated in 2007; sub-decrees under preparation
Services	Law on Telecommunications	Draft law to separate operations from regulation and establish independent regulatory body - under consideration at ministerial level
	Amendment to the Labour Law	Horizontal commitments: to allow work permits for foreigners to be issued for 2-year periods with possibility of renewal up to 5 years. Under preparation at ministerial level
	Draft amendment to the Law on Land Management and Urbanization	GATS commitment: to allow foreign licensed architects to sign off on large projects. Under preparation at ministerial level
	Amendment of the Law on Bar	GATS legal services: to bring various provisions into conformity with commitments. Under preparation at ministerial level
	Law on Tourism	Promulgated in 2009; 2009 Prakas on minimum standards for tourism resorts
	Prakas on minimum standards in hotels	Adopted 2009
	Law on Maritime Transport	Work ongoing to ensure that draft law contains provisions covering additional commitments
	Law on Insurance and Reinsurance	Draft under preparation at ministerial level
	Law on Financial Leasing	Promulgated in 2009
	Law on Civil Aviation	Promulgated in 2008

Source: WTO Secretariat, based on information provided by the Cambodian authorities.

34. The Customs Law was enacted in 2007 and a first batch of supporting regulations has since been adopted. Under the Law on Standards in Cambodia, passed in 2007, the Institute of Standards was created as a central authority to develop standards and product conformity assessments. The ASEAN Harmonized Tariff Nomenclature was introduced in July 2007. Further progress is required to implement the Customs Law and complete the legal agenda that Cambodia committed to as part of the WTO accession. The MoC is working on a draft law on trade remedies consistent with best international practice and an economy-wide perspective, which was expected to be submitted to the National Assembly in 2011.

35. Cambodia continues to work to fulfil its WTO commitments to pass necessary business legislation concerning the general business environment, trade in goods, trade in services, and the protection of intellectual property rights. It has made progress recently, passing several significant laws in 2008, including a Law on Plant Breeder Rights and Law on Civil Aviation, and in 2009, the Government promulgated a Law on Tourism, a Law on Insolvency, and a sub-decree establishing a national commercial arbitration body. The Government is still in the process of drafting further laws and regulations to create a favourable environment for trade and investment. A commercial contract law and other important business-related laws, including on a commercial court, e-commerce, telecommunications, and personal property leasing are in draft. Cambodia is also preparing a draft competition law.

36. According to the authorities, the legal reform agenda has evolved more slowly than anticipated because, until recently, technical assistance was insufficient. There are also inherent difficulties in transforming WTO concepts into the Khmer language, which may not have comparable terminology.

(3) INTERNATIONAL TRADING RELATIONS

(i) World Trade Organization

(a) Accession

37. The signing of the Paris Peace Agreement in 1991 and the 1993 elections allowed Cambodia to rejoin the international community and participate in multilateral and regional institutions.[4] In 1994 Cambodia applied for membership of the WTO and following approval in September 2003 at the Cancun Ministerial Conference, Cambodia's membership became effective in 2004. With regard to tariff bindings, Cambodia negotiated average final tariff bound rates of 28.1% for agricultural and 17.7% for non-agricultural products. Cambodia did not provide agricultural export subsidies during the relevant base period and bound these at zero in its schedule. Cambodia undertook specific commitments under the GATS in 94 services sub-sectors. It was given transition periods to implement various WTO Agreements in areas such as SPS, TBT, TRIPS, and customs valuation, for which Cambodia provided precise plans for implementing WTO-related legislation and enforcement mechanisms.

(b) Legal reform agenda

38. As part of its WTO commitments to strengthen the trade and investment climate for both foreign and domestic businesses, Cambodia committed to enact a large number of laws or regulations to address areas where existing law did not meet WTO requirements. Accession to the WTO in 2004 energized the legal reform agenda, the key items of which are summarized in section 2(iv) above.

(c) Transparency

39. Cambodia confirmed that from the date of accession all laws, regulations, decrees, judicial decisions, and administrative rulings of general application related to trade would be published in a manner that fulfils WTO requirements. No law or regulation related to international trade would become effective prior to such publication in the *Official Journal*. Cambodia intended to establish or designate an official journal or website, published or updated on a regular basis, and readily available to WTO Members, individuals and enterprises, dedicated to the publication of all regulations and other measures pertaining to or affecting trade in goods, services, and TRIPS obligations. Currently, all laws and regulations are published in Khmer in the *Official Journal*, which is updated monthly and is available to all individuals and institutions. There is no corresponding website.

[4] Apart from the WTO, these include: the International Bank for Reconstruction and Development; the International Monetary Fund; the Asian Development Bank; the International Development Association; the Multilateral Insurance Guarantee Agency; the United Nations Development Programme; the United Nation Conference on Trade and Development; the Food and Agriculture Organization; the International Fund for Agricultural Development; the International Civil Aviation Organization; the World Intellectual Property Organization; the International Standards Organization; the World Health Organization; the International Maritime Organization; the International Telecommunications Union; the United Nations Educational, Scientific and Cultural Organization; the World Tourism Organization; the Economic and Social Commission for Asia and the Pacific; and the Paris Convention for the Protection of Industrial Property Rights.

40. The Department of Notification and Legal Compliance (WTO Department) at the MoC has strengthened its system for coordinating WTO notifications; Camcontrol is the enquiry point for SPS, and the MIME is the TBT enquiry point. The enquiry point for intellectual property is being developed in the IPR department within MoC. The enquiry point for services is located in MoC's Department of Notification and Legal Compliance; there have been no enquiries so far.

41. The Department of Notification and Legal Compliance recently started submitting notifications to the WTO. As of January 2011 these covered: agriculture export subsidies and domestic support (G/AG/N/KHM/1 and 2, March 2010); Preshipment Inspection (G/PSI/N/1/Add.12, April 2010); Customs Valuation (G/VAL/N/1/KHM/1, March 2010); Import Licensing (G/LIC/N/3/KHM/1, November 2010); Anti-Dumping, Countervailing Measures and Safeguards (G/ADP/N/1/KHM/1, G/SCM/N/1/KHM/1, G/SG/N/1/KHM/1, March 2010); and Technical Barriers to Trade, one notification under Article 15.2 (G/TBT/2/Add.103, July 2010) and three notifications under Article 10.6 (G/TBT/N/KHM/1, 2 and 3, July 2010).

(d) Doha Round negotiations

42. At the 7th WTO Ministerial Conference held in December 2009, Cambodia joined the LDC group's call to developed countries to provide predictable duty-free and quota-free (DFQF) market access to products originating from LDCs and covering products of export interest to individual LDCs.[5] In the Dar es Salaam LDC Ministerial Declaration of October 2009[6], LDCs called for an "early harvest" in the DDA negotiations, *inter alia,* in the areas of duty-free quota-free market access for LDCs; provision of a services waiver; and implementation of SDT provisions. Cambodia has been paying substantial MFN duties for its garment exports and the majority of its export items are dutiable. Cambodia argues that the granting of DFQF access would benefit not only the LDCs, but also low-income consumers in developed countries in accessing cheaper products imported from LDCs.

43. Cambodia has called for the outcome of the NAMA modalities to ensure that the core principle of Special and Differential Treatment are made operational by granting all LDCs more preferential treatment than non-LDCs. The conclusion of the DDA is viewed as one of the solutions to the crisis, which could stimulate the growth of the world economy through a better flow of goods and services, and preventing increased protectionism; thus more employment could be created and poverty gradually reduced.

44. The issue of LDCs' accession to the WTO is of importance to Cambodia. Since the WTO was established in 1995, three LDCs have acceded. Currently, 12 LDCs constitute over 40% of countries in the process of accession, and are facing great challenges due to their resource constraints and the complicated accession process. Cambodia has called on WTO Members to provide their full support in the implementation of the Phnom Penh Round Table Statement, which emphasized, *inter alia,* a greater role for the Director-General in the accession process, strict respect of the 2002 LDC Accession Guidelines, and increased technical and financial support for acceding and acceded LDCs.[7] Cambodia has also emphasized that increased provision of financial support by the development partners to LDCs, through various mechanisms including Aid for Trade and EIF, is needed during the global financial crisis in order to help the recovery of the LDC economies.

[5] Statement by Cambodia in WTO document WT/MIN(09)/ST/32/Rev.2, 7 December 2009.
[6] Circulated in WTO document WT/MIN(09)/2.
[7] WTO document WT/MIN(09)/1 and Add.1.

(ii) ASEAN

45. Cambodia joined ASEAN in 1999. Its membership in ASEAN affects its trade and trade regime in three broad ways, through: (a) the liberalization of regional trade; (b) the harmonization of trade and trade-related procedures; and (c) the development of trade relations with ASEAN dialogue partners.

(a) Trade liberalization

46. Like all ASEAN Members, Cambodia has been following its agreed schedule for reducing tariffs on goods originating in its ASEAN trading partners. In 2008, duties on a large number of tariff lines on its inclusion list had been reduced to the 5%-0% level, and by 2010, all tariff lines on the list were at 5%-0%. According to the authorities, tariffs on all products on the inclusion list will be eliminated by 2015 (except for 7% of tariff lines for which tariff elimination is scheduled by 2018).

47. The reduction of tariffs on ASEAN trade has been accompanied by rapid expansion of Cambodia's trade with its ASEAN partners. During the three-year period 2006-08, Cambodia's exports to ASEAN countries rose at an average annual rate of 37%, compared with an average rise of 14% in its exports to the rest of the world. Imports from ASEAN also rose rapidly, the increase averaging 35% during the period, compared with 25% for imports from the rest of the world. For Cambodia, however, the growth of intra-ASEAN trade is occurring from a small base: despite its rapid expansion, in 2008 exports to ASEAN accounted for only 7% of the value of Cambodia's total exports.

48. Cambodia follows the established schedule for liberalization of ASEAN trade in services. As of the seventh package of commitments under the ASEAN framework Agreement on Services, Cambodia's ASEAN commitments on market access and national treatment have gone beyond its WTO commitments in a limited number of sectors, for example leasing of construction machinery, translation and interpretation services, paging services, and dental services. According to the authorities, information is not available on the value of Cambodia's trade in services with ASEAN member countries.

(b) Harmonization

49. ASEAN has established a number of programmes designed to harmonize the trade and trade-related procedures of its members. ASEAN's harmonization policies cover a wide range of topics. There is a Common Manual for post-clearance customs audit and customs valuation. ASEAN is working toward a single window for cargo clearance. Work is under way to harmonize intellectual property (IP) procedures and cooperate on enforcement of IP rights. The harmonization of standards has begun, and the mutual recognition of conformity certifications is in progress. In services, mutual recognition arrangements have been agreed in engineering, nursing, architectural, surveying, and accounting services, and for medical and dental practitioners.

(c) ASEAN Dialogue Partners

50. ASEAN has negotiated free-trade agreements with Australia/New Zealand, China, India, Japan, and the Republic of Korea. These agreements are broad in scope, covering trade in goods and services, as well as investment. The agreement with Australia/New Zealand also contains provisions on intellectual property, SPS and TBT, and competition. They all contain dispute settlement mechanisms, and create cooperation fora. ASEAN is also negotiating a free-trade agreement with the

European Union.[8] As a member of ASEAN, Cambodia is and will be subject to tariff reductions set in free-trade agreements (FTAs) between ASEAN and its dialogue partners (Table II.2).

Table II.2
Cambodia's tariff commitments under FTAs between ASEAN and its dialogue partners

ASEAN FTAs with:	
China	2002: Framework Agreement on Comprehensive Economic Cooperation signed
	2010: Tariff rates of China and ASEAN 6 reduced to 0%
	2015: Tariff rates of newer ASEAN members including Cambodia will be reduced to 0%
India	2003: Framework on Comprehensive Economic Cooperation Agreement signed
	2011: Tariff rates of India and ASEAN 5 (except the Philippines) reduced to 0%
	2018: Tariff rates of Cambodia will be reduced to 0%
Republic of Korea	2005: Framework Agreement on Economic Cooperation signed (with the exception of Thailand)
	2010: Tariff rates of the Republic of Korea and the ASEAN 6 reduced to 0%
	2018: Tariff rates of Cambodia will be reduced to 0%
Japan	2008: Agreement on Comprehensive Economic Partnership signed
	2018: Tariff rates of Japan and the ASEAN 6 will be reduced to 0%
	2026: Tariff rates of Cambodia (and Laos, Myanmar) will be reduced to 0%
Australia and New Zealand	2009: Agreement Establishing Free Trade Area signed
	2010: Tariff rates of Australia and New Zealand reduced to 0%
	2024: Tariff rates of Cambodia (and Myanmar) will be reduced to 0%

Source: Cambodian authorities.

(iii) Other trading relations

51. Cambodia is a beneficiary of the Generalized System of Preferences (GSP) schemes operated by developed countries. Under these schemes, import tariffs on many products from the beneficiaries are exempted or reduced if requirements such as rules of origin are fulfilled. Since Cambodia is categorized as a least developed country, it is entitled to additional preferences, under which more of its products qualify for duty-free treatment or tariff reductions (Table II.3).

Table II.3
Number of products qualifying for preferences under selected GSP schemes

	Japan	United States	European Union
For all developing countries	3,540	3,400	6,300
Additional only for LDCs, including Cambodia	2,200	1,400	All other articles but arms and ammunition (EBA) and a few other exceptions

Source: Cambodian authorities.

52. Cambodia was granted duty-free and quota-free access to the EU market under the Everything-But-Arms Initiative (EBA), which is part of the EU's GSP programme for LDCs. EBA was put into effect and applied to Cambodia in February 2001. Cambodia is also entitled to privileges under the U.S. GSP programme. In addition, in July 2006, Cambodia signed a Trade and Investment Framework Agreement (TIFA) with the United States, which aims to promote greater trade and investment in both countries and provide a forum to address bilateral trade and investment issues.

[8] For detailed information on these agreements, including Cambodia's commitments on trade in goods and services, see ASEAN online information. Viewed at: www.aseansec.org/22935.htm.

(4) FOREIGN DIRECT INVESTMENT REGIME

(i) Legal framework

53. From the early 1990s, the growth in FDI to Cambodia was motivated by the country's shift towards a market economy and growing macroeconomic stability. In 1994, in recognition of the benefits of inward FDI, the Cambodian Government introduced laws and regulations on investment with generous incentives offered to investors, including a tax holiday of up to eight years followed by a concessionary corporate tax rate of about 9% (as against a standard rate of 20%). Total freedom was granted to repatriate profits or proceeds of investment without paying withholding tax. Reinvested profits were exempt from corporate tax. Investors were also provided with guarantees against nationalization and price control. A considerable amount of inward FDI between 1995 and 2003 went into the manufacturing sector, in particular into apparel factories. Garment companies exporting from Cambodia took advantage of the supply of cheap labour and preferential access to U.S. lucrative and European markets. However, except for the garment and tourism industries, Cambodia has yet to attract a critical mass of Cambodian or foreign investors in its export-potential sectors.

54. The Government subsequently scaled back its investment incentives, partly in order to increase government revenue, through a revised Law on Investment, which entered into force in 2005. This was an attempt to achieve greater transparency in incentives provided and minimize distortions and delays arising from policy-maker discretion.

55. The main features of the revised law relative to previous requirements are: (i) the eight-year blanket tax holiday for foreign investors was replaced with a tax holiday based on a formula (see Table II.4) for all qualifying new investors (foreign and local); (ii) when the tax holiday expires, all investment projects are subject to the standard corporate tax rate (currently 20%) and all previously approved and operational projects currently subject to the 9% concessionary corporate tax are to be brought under the standard corporate tax rate within the next five years; (iii) in place of the provision of tax-free reinvestment of profits, an accelerated depreciation allowance was introduced under the general tax law for all qualified investors, irrespective of source of finance, and profit that is repatriated is now subject to a 1% withholding tax; (iv) as part of the new reforms, a fast track procedure has been introduced with the aim of approving investment applications within 28 days under the "one-stop service" at CIB.[9]

56. The Council for the Development of Cambodia, and the Cambodian Investment Board are Cambodia's mandated institutions in the area of investment promotion and facilitation. The CDC is the investment approval body and administers a package of investment incentives. As a one-stop shop to facilitate foreign direct investment, the CDC is responsible for obtaining all the licences from relevant government agencies on behalf of investor applicants. The relevant government agencies must issue the required documents no later than 28 workdays from the date of the Conditional Registration Certificate. At the end of the 28 days, the CDC will issue a Final Registration Certificate.

[9] Seven working groups, which involve both private- and public-sector participation, have been set up in key sectors to work in collaboration with the Cambodian Investment Board to facilitate speedy investment approval, monitoring, and promotion. An investor forum, headed by the Prime Minister, is held twice a year as part of the new investment regime.

Table II.4
Foreign investment policy regime

Area	Comment
Government agency dealing with FDI	Cambodian Investment Board (CIB) Council for the Development of Cambodia (CDC)
Limits on foreign equity participation	100% foreign ownership is allowed in all sectors/industries
Tax incentives	A tax holiday determined according to the formula: "trigger period + 3 years + n priority years". (Trigger period: the first year of profit or 3 years after the first revenue is made, whichever is sooner. Priority period: to be determined by CDC)
	A standard 20% corporate tax rate for all new projects (domestic and foreign-invested firms) from May 2005
	The 9% corporate tax rate applicable to invested enterprises approved prior to the promulgation of the new law (5 August 1994) to be phased out, 20% within the ensuing 5 years
	Accelerated depreciation
	Duty-free importation of capital equipment and spare parts for initial installation of promoted investment
	100% exemption from export tax
	Tax refund on reinvested earnings
Tax on repatriation of profits and expatriates income	100% repatriation of capital and dividends is allowed
	Profit repatriation subject to 1% withholding tax
Ownership of land	Not permitted for foreigners
Employment of foreign personnel	Limited to 10% of workforce
Performance requirements	Not applicable
Protection of foreign investment	Includes guarantee against nationalization and international convention for settlement of industrial disputes

Source: Cambodian authorities.

57. All sectors are open to foreign investors, except for activities prohibited to all investors, contained in the negative list of Sub-Decree No. 111 (2005) on the Implementation of the Amendment to the Law on Investment. This also details investment activities that are excluded from incentives, although investment is permitted. They include: retail, wholesale, and duty-free stores; entertainment (including restaurants, bars, nightclubs, massage parlours, and casinos); tourism service providers; currency and financial services; press and media-related activities; professional services; and production and processing of tobacco and wood products.

58. Article 44 of the Constitution provides that only Cambodian citizens and legal entities have the right to own land. However, a new law allowing foreign ownership of properties located above the ground floor was passed in 2010. Aside from this, there is no discrimination against foreign investors either at the time of initial investment or after investment. However, some foreign businesses have reported that they are at a disadvantage compared with Cambodian or other foreign rivals, who engage in acts of corruption or tax evasion, or take advantage of Cambodia's poor enforcement of legal regulations.[10]

59. According to the IMF, in most respects Cambodia's investment framework compares favorably with that of its regional neighbours.[11] Considerable work has been done to turn legal drafts into approved laws and fill in the regulatory details through sub-decrees and administrative

[10] According to the World Bank, for example, corruption remains the most severe constraint on business and investment identified by existing firms. See World Bank and the International Finance Corporation (2009), p. 38.

[11] IMF (2006), pp. 10-19.

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) INTRODUCTION

1. This chapter takes stock of Cambodia's progress on the institutional and implementation fronts with respect to (i) measures directly affecting imports of goods (including customs procedures, tariffs and other charges, customs valuation, PSI, rules of origin, non-tariff barriers, government procurement and state-trading enterprises; (ii) measures affecting goods exports (export procedures, taxes, restrictions, subsidies and promotion as well as special economic zones and (iii) other relevant measures relating to business regulation, and in particular technical barriers to trade, SPS measures and the protection of intellectual property rights.

(i) Trade policy prior to WTO accession

2. Over the past three decades, Cambodia has made considerable progress in establishing a modern trade regime. Under the trading system adopted in the early 1980s, the level and composition of trade was effectively controlled through quantitative restrictions and state-owned trading companies. Tariffs and trade taxes were primarily a means to collect revenue. In the late 1980s, however, a process of market-oriented reforms began. The state monopoly on foreign trade was abolished in 1987 and a 1989 foreign investment law allowed private companies to engage in foreign trade. Privatization was carried out during a first phase from 1991 to mid-1993, and a second phase starting in April 1995. In 1993, trade policies were further liberalized, resulting in fewer binding quantitative restrictions and non-prohibitive tax rates on imports and exports. In 2001, the tariff structure was substantially rationalized and liberalized when the maximum MFN rate was reduced to 35%. Since 2000, Cambodia has continued to implement preferential tariff reductions for its ASEAN trading partners under the common external preferential tariff. In 2004, Cambodia acceded to the WTO and committed to implementing a host of legal and other reforms.

(ii) Main accession commitments

3. Cambodia's protocol of accession to the WTO contained 29 separate statements describing the way in which it intended to fulfil its commitment to abide by WTO rules. According to Cambodia's deputy chief accession negotiator[1], each of the statements dealt with a specific policy area covered by WTO rules. In 17 areas, Cambodia's existing laws and regulations were found to be either in full compliance with WTO rules, or could be made compliant by government decision before the date of accession. In these areas Cambodia's commitment was to apply the rules as from the date of accession.[2]

4. This left a dozen areas in which Cambodia was not in compliance with WTO rules, or in which it committed to policies or actions that were not being pursued. In three areas, Cambodia committed to having a WTO-compliant customs law and a law on judicial organization in place and to set up a commercial court system. In four other areas, Cambodia was granted transition periods delaying implementation of the agreements on TRIPs, Technical Barriers to Trade, Sanitary and

[1] Sok Siphana (2005).

[2] The areas covered were: pricing policies; customs charges other than normal customs duties; tariff exemptions; fees to cover costs of customs procedures; domestic taxes; quotas, licensing and other non-tariff barriers; pre-shipment inspection; export restrictions; industrial subsidies; trade-related investment measures; state trading; free zones and special economic zones; transit trade; agricultural export subsidies; trade in textiles; publication of information on trade; and free-trade agreements.

Phytosanitary Measures, and Customs Valuation. Cambodia did not join the plurilateral agreements on government procurement or trade in civil aircraft.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Customs procedures

(a) Legal framework

5. The work programme resulting from Cambodia's accession to the WTO lays out a series of legal and regulatory reforms to bring Cambodia's business, investment and trade regimes into line with international norms and provide transparency and predictability. During the review period, a considerable amount has been achieved in updating the legal framework on Customs, with the promulgation of the 2007 Law on Customs, the sub-decree on prohibited and restricted goods, and several ministerial prakas on a wide range of customs-related issues (Box III.1).

(b) Reform of customs procedures

6. The Government has made significant progress in implementing customs reforms, critical to improving trade procedures at the border. Two priority measures were: (i) the implementation of an automated system for customs data (ASYCUDA) at three major customs check points. As part of the customs system expansion project, Customs undertook a needs assessment for the national rollout of ASYCUDA expected to commence in 2011; and (ii) implementation of the transaction value (TV) method in line with WTO commitments. Customs made progress, including establishing the Transaction Value Management Unit, responsible for overseeing TV implementation, and the Customs-Private Sector Partnership Mechanism (CPPM), to coordinate and improve mutual understanding between the customs administration and the private sector. However, up to 2011, concerns were expressed at the WTO about Cambodia's failure to fully implement transaction values and its continued use of minimum customs values on certain imports.

7. Cambodia introduced a 5-year (2003-08) reform and modernization programme to streamline and improve the effectiveness of customs operations and to facilitate trade. Since the adoption of the Law on Customs in 2007, policy has been directed toward implementing the provisions of the law, while, at the same time, reviewing customs procedures and working toward their simplification. The enactment of the Customs Law has prepared the way for the adoption of some 36 regulations, *inter alia*, to fulfil commitments to ASEAN to move to the Common Effective Preferential Tariff (CEPT) scheme by 2010, adhere to the 1999 Revised Kyoto Convention, and create a clear status for professional customs brokers.

8. A revised plan has been drawn up for the modernization and streamlining of customs procedures for the period 2009-13.[3] The plan's objectives include increasing taxpayer awareness; developing an anti-smuggling policy; introducing an automated customs clearance system; developing and implementing the Cambodia Single Window; introducing risk-management and post-clearance audit; implementing the WCO SAFE Framework of Standards[4]; acceding to the revised Kyoto Convention (Cambodia has signed a letter of intent and plans to become a contracting party by 2012); and strengthening Cambodia's enforcement capacity to combat illegal trade in arms and narcotics.

[3] The document is entitled "Strategy and Work Plan on Reform and Modernization of the General Department of Customs and Excise Department Strategic Objectives: 2009-2013".

[4] World Customs Organization (2007).

Box III.1: Customs laws and regulations

With regard to Customs, in order to meet WTO requirements, the following laws and regulations have been enacted:

1. **Law on Customs,** promulgated on 20 July 2007, consists of 13 Chapters and 80 Articles.
2. **Supporting Regulations** consist of 1 Sub-Decree (Anukret), 25 Ministerial Prakas, and 2 guidelines as following:
   (a) **Sub-Decree:**
   Anukret on Prohibited and Restricted Goods List
   (b) **Ministerial Prakas:**
   Prakas on Provision and Procedure of Customs Declaration
   Prakas on Establishment and Functioning of Customs Brokers
   Prakas on Customs Valuation of Imported Goods
   Prakas on Customs Bonded Warehouse
   Prakas on Customs Temporary Storage
   Prakas on Refund of Customs Duties and Taxes
   Prakas on Security
   Prakas on Reporting, Movement, Storage and Transport of Exported Goods
   Prakas on Importation of Goods under Temporary Admission
   Prakas on Management of Documents, Books, Records, and other Information
   Prakas on Determination of Exempt Goods
   Prakas on Exempt Goods Control Procedures
   Prakas on Management of Unclaimed Goods
   Prakas on Temporary Export of Goods
   Prakas on Customs Formalities outside Customs Offices
   Prakas on Extension of Customs Zone
   Prakas on Post Clearance Audit by Customs and Excise Department
   Prakas on Customs Transit
   Prakas on Special Customs Procedure in Special Economic Zone
   Prakas on Procedures for the Management of Special Designed Goods
   Prakas on Transportation Distribution and Possession of Imported Goods in the Customs Territory
   Prakas on use of Information Obtained by Customs Officers
   Prakas on Settlement of Customs Offences
   Prakas on Customs Tariff and Tariff Classification of Goods
   Prakas on Reward Distribution
   Prakas on Procedures on Payment of Duty and Taxes and other levies on Imported and Exported Goods
   Prakas on Reporting of Imported Goods
   (c) **Guidelines:**
   Instruction No. 583, 30 June 2008, on the implementation of Initial Post Clearance Audit
   Manual in the Customs and Excise Department
   Instruction No. 790, 28 August 2008, and Procedures for Customs Transit
3. **The remaining regulations to be enacted are**:
   Prakas on Setting of Interest Rates on Debts
   Prakas on Procedures for Temporary Seizure of Goods, Conveyances, Documents and Other Items
   Inter-Ministerial Prakas on Seizure (offence) Report
   Prakas on Appeal Procedures
   Prakas on Exemption for Travellers, Crews, and Border Crossers
   Anukret on Authorization for customs officers to carry out duties outside the customs territory and granting of permission for foreign customs officers to carry out duties in the customs territory.

Source: Cambodian authorities.

9. The Government has taken several steps to streamline import–export procedures. As a result, the number of days required to process document for imports and exports, as well as costs to export per container, have declined**.** The authorities maintain that with the introduction of the ASYCUDA system, over 90% of import declarations are cleared within 24 hours (from the filing of the goods declaration to the release of goods).[5]

(c) Trade facilitation

10. In 2004, Cambodia created a Special Inter-Ministerial Task Force on Trade Facilitation and Investment Climate[6], with a mandate to design an integrated programme of reform that addresses the most urgent impediments to trade. In its 12-point action plan, the task force proposed far-reaching reforms, including: the strategic review of Camcontrol; the creation of a single window to manage trade facilitation; the introduction of a WTO-compatible Flat Fee for Service; the implementation of a single administrative document after review and removal of unnecessary overlaps; the introduction of an overall risk management strategy; and the streamlining and automation of Customs and all trade facilitation processes.

11. A strategy was formalized in 2006 on a risk-management framework to manage and control the clearance of imported and exported goods.[7] Successful implementation reduced the inspection rate for both outbound and inbound containers, from 100% to below 20% by end 2010. The Risk Management and Audit Office in the General Department of Customs and Excise was created and staffed, and the sub-decree on a list of prohibited and restricted goods was issued in December 2007. Risk selectivity criteria have been developed and a profiling of traders has been created.

12. Another output was the agreement among trade agencies to develop a single administrative document (SAD) to streamline documentation requirements at the border. The number of steps in the procedure and processing of applications for a certificate of origin and an export licence at MoC has been reduced from 11 to 8 steps since 2004.

13. The third related output has been the computerization of customs with the ASYCUDA World System. The pilot implementation began at Sihanoukville Port in May 2008 and, after initial adjustments, is delivering faster processing, stronger governance, and increased revenue collection. Currently the average time required to clear a shipment is 24 hours for both exports and imports. In 2010, the ASYCUDA system was extended, in its third phase, to two other main customs offices, at the Phnom Penh International Airport and Dry Port.

14. The Government is developing a National Single Window[8], based on the ASYCUDA platform, to provide a single entry point for trade-related transactions. It is targeting 2012 for the window to be in place, in conjunction with the ASEAN Single Window, which requires Cambodia to complete implementation by then. The electronic single window should allow traders to submit required import/export documentation through one electronic gateway, and only once, instead of multiple times to different government agencies. It would allow traders to pay duties, taxes, or fees

[5] World Bank (2010c).

[6] Decision No. 12/2004.

[7] Sub-Decree 21 on the Facilitation of Trade through Risk Management was implemented by Ministerial Order 607 (MEF) on the Establishment and Functioning of the Risk Management and Audit Office. It identifies the respective roles and duties of all trade-facilitation-related agencies and eliminates overlap of responsibilities or duplication of activities.

[8] The Committee on National Single Window was set up by MEF's Prakas 391, 22 May 2008, to govern the development of the National Single Window.

via an electronic link to the banks. Therefore, it would help increase transparency and predictability and reduce opportunity for inappropriate exercise of official discretion to collect informal fees. Most importantly, the single window would help address the issue of weak collaboration among Customs, Camcontrol, and other trade-related agencies.

15. According to the authorities, significant progress has been made overall on the 12-point action plan on trade facilitation, including the lowering of registration costs, the introduction of the SAD, customs automation (ASYCUDA World System), the establishment of the Inter-Agency Coordinating Group for Trade Facilitation through Risk Management, and the introduction of risk management. These achievements have contributed to trade facilitation through simplifying documentary requirements, increasing transparency, reducing the number of containers subject to physical inspection as well as the time required for customs clearance, improving compliance and increasing revenue. However, the authorities note that remaining challenges – including multiple and unpredictable fees, insufficient coordination across agencies, and weak monitoring systems – may affect the effective implementation of risk management and may hinder the process of implementing other action plans.

(d) Fees and formalities

16. At the time of its accession, Cambodia applied a fee of 15,000 riels (nearly US$4) per import/export declaration. The fee is levied on imports from all sources, including Cambodia's preferential trading partners. The charge corresponds to the cost of printing the customs declaration form and the time spent by customs officers in processing the declaration. This fee remains unchanged; the introduction of what is called a WTO-compatible flat fee for service has not started yet. The flat fee-for-service compensation mechanism should allow a single payment for all customs clearance processing. The authorities maintain that Customs is designing a customs processing fee that may be used as a streamlined fee. Camcontrol charges inspection fees of 0.1% of the c.i.f. value of imports, and 0.1% of the f.o.b. value on exports.

17. In 2009, the Customs-Private Sector Partnership Mechanism was established as a forum to discuss customs-related issues raised by the private sector. It is broadly recognized that the current levy on imports to finance customs administration should be limited to the approximate costs of processing individual import transactions and should not be levied on an *ad valorem* basis as the processing cost normally does not rise with the value of imports.

18. The forum also recognizes that the 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 Customs. The Government has also established, *inter alia*, a mechanism within the Customs service to accept and act upon complaints about customs practices from traders and governments.

(ii) Tariffs and other taxes and charges affecting imports

(a) Overview

19. Cambodia levies trade-related taxes in the form of customs duties, an additional tax on gasoline (US$0.02 per litre) and on diesel oil (US$0.04 per litre), export tax, and two indirect taxes which are levied on the value of imports: value added tax and excise tax. The VAT is a uniform 10%

rate and excise taxes are levied on a number of product groups (Table III.1).[9] While Cambodia was reducing its import duties, excise taxes were increased to ensure that the tax reform would be revenue neutral. According to the authorities, both taxes are levied on imports at the same rates and conditions as on domestic traded goods, without exception.

20. Revenue collected by Customs on international trade is the main source of government revenue. Customs duties, VAT on imports, and excise taxes on imports accounted for between 70% and 56% of total tax revenue between 2004 and 2010 (Table III.2). Customs duties accounted for 16.9% of total tax revenue in 2010, down from 23.1% in 2005 as Cambodia implemented ASEAN-related and autonomous tariff liberalization initiatives. Excise duty and VAT on imports account for 14.6% and 19.8% of tax revenue respectively. The heavy dependence on trade-related taxes is nevertheless gradually declining, hence reducing Cambodia's fiscal vulnerability.

21. At around 8% of GDP, the tax ratio is low by regional standards. The Government's medium-term revenue strategy is to progressively reduce reliance on customs revenue by strengthening the domestic tax revenue base. At the same time, Cambodia is to modernize Customs, including a reform of the valuation function, and to strengthen the fight against smuggling.

Table III.1
Summary of trade-related taxes, 2010

Tax	Description	Exemptions	Rates
Customs duties	All tariff rates are MFN bound and uniform for all countries, except lower rates for ASEAN Dialogue Partners under the CEPT. *Ad valorem* rates, levied on c.i.f. basis	(i) imports of production materials, construction materials and production inputs for qualified investment projects (QIPs) approved by CDC (ii) imports of unprocessed agricultural products, seedlings, insecticides, pesticides and agricultural machinery (iii) imports for embassies, international organizations providing humanitarian aid, and certain development projects	0% for essential goods, seeds, and basic raw materials 7% for intermediate goods 15% for machinery and equipment 35% for luxury goods including automobiles
Additional tax	Levied on gasoline and diesel oil	None	US$0.02 and 0.04 per litre
Export taxes			
Timber	*Ad valorem* tax levied on the value of processed woods limited to those cut on government-agreed concessions; Export ban on all round logs in place since 1997	None	5% or 10%
Rubber	*Ad valorem* tax	None	2%, 5% or 10%
Other	*Ad valorem* tax levied on livestock and fishery products and on sand, gravel, and granite	None	10%

Table III.1 (cont'd)

[9] Cambodia levies a 10% VAT on goods and services. To date, the Government has imposed the VAT only on large companies (but it is in the process of expanding the tax base). Small taxpayers are not required to pay VAT. Instead, they are assessed a tax of 2% on their annual turnover. The rationale for this dual system is that the administration and compliance costs of a full-fledged VAT regime would outweigh the expected revenue to be collected from small taxpayers.

Tax	Description	Exemptions	Rates
Value Added Tax (VAT)	Covers goods and services through all stages of importation, production, and distribution	Imports of agricultural seeds and breeding animals; certain kinds of agricultural equipment; on ad hoc basis supporting industries or contractors that supply products or services to export-oriented garment manufacturers	Uniform 10%
Excise tax	Levied on selected products locally produced and imported For domestically produced goods, calculated on "ex-factory selling price" defined as 65% of the selling price before VAT and any discount; for imported goods, tax calculated inclusive of customs duty and c.i.f. value	Imports of limited quantities of cigarettes, wine, petroleum products, and motor oil	Telecom services 3%; airline tickets 10%; motor vehicles 15% or 45%; spare parts for motor vehicles 25% or 10%; motorcycles and spare parts 5% or 10%; cigarettes 10%; cigars 25%; beer 25%; wine and spirits 10%; soft drinks 10%; gasoline 33%; diesel 4.3%; kerosene 10%

Source: Cambodian authorities.

Table III.2
Share of international trade taxes in total tax revenue and forgone customs duties, 2004-10
(Billion riels and % share)

	2004	2005	2006	2007	2008	2009	2010
Total tax revenue[a] (billion riels)	1,656.2	1,989.8	2,391.6	3,584.7	4,688.7	4,332.2	5,070.0
				of which (%)			
Customs duties (after exemption)	21.9	23.1	22.7	19.5	19.2	17.3	16.9
Excise duties on imports	15.0	16.3	14.9	14.7	16.5	13.7	14.6
Gasoline/diesel taxes	5.3	4.0	4.3	3.3	2.5	3.7	3.7
VAT on imports	24.4	24.3	24.0	20.0	20.3	21.4	19.8
Export taxes	1.2	0.9	1.0	0.6	0.5	0.3	0.4
Others (fees & penalties)	1.8	2.0	2.2	2.0	1.8	1.1	0.8
Total international trade taxes	**69.5**	**70.6**	**69.0**	**60.1**	**60.7**	**57.5**	**56.3**
Forgone customs duties (billion riels)							
Customs duties before exemption	911.6	1,171.9	1,321.3	1,628.0	2,206.5	1,739.7	2,006.3
Customs duties after exemption	362.8	459.2	541.9	698.6	899.0	751.5	858.7
Exemption / forgone	548.8	712.7	779.4	929.4	1,307.5	988.2	1,147.6
Exemption % of CD before exemption	**60.2**	**60.8**	**59.0**	**57.1**	**59.3**	**56.8**	**57.2**

a TTR comprises direct taxes, indirect taxes and international trade taxes.

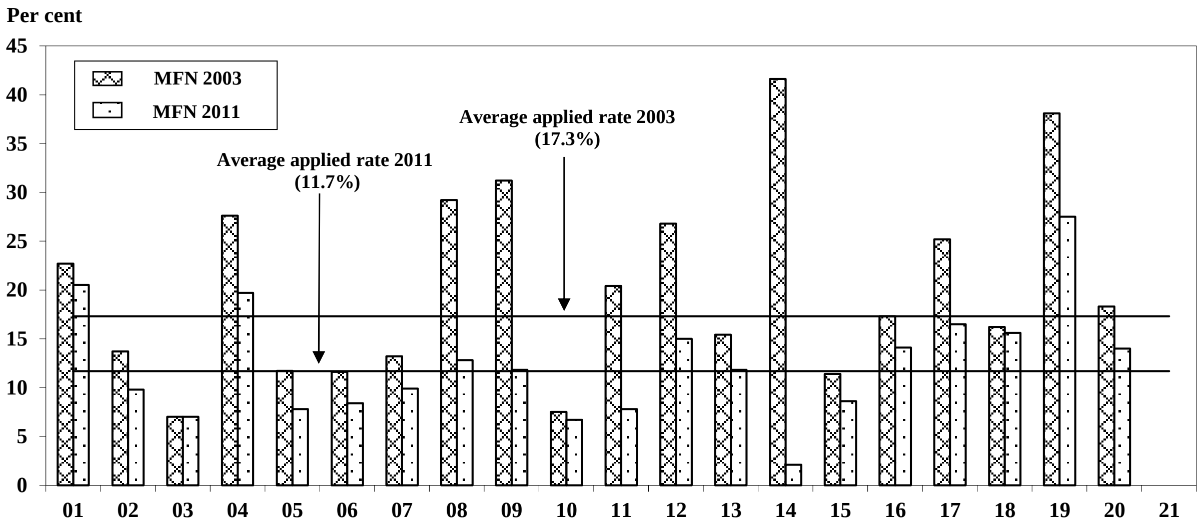
Source: Cambodian authorities.

(b) Tariff structure

22. Cambodia agreed to implement its tariff reform largely before accession to the WTO. It did not participate in the optional tariff initiatives. For other duties and charges, Cambodia committed to bindings at zero and complying with the relevant WTO provisions, in particular Article II.1(b) of the GATT 1994.

23. In reforming its tariff structure, Cambodia had reduced the number of tariff bands from 12 to 4 before joining the WTO and the highest tariff rates of 40%, 50%, 90% and 120% were abolished. The simple average applied tariff rate fell from 17.3% in 2003 to 11.7% in 2011 (Chart III.1).

Chart III.1
Average applied MFN tariff rates, by HS section, 2003 and 2011



01 Live animals & products
02 Vegetable products
03 Fats & oils
04 Prepared food, etc.
05 Mineral products
06 Chemicals & products
07 Plastic & rubber
08 Hides & skins
09 Wood & articles
10 Pulp, paper, etc.
11 Textiles & articles
12 Footwear, headgear
13 Articles of stones
14 Precious stones, etc.
15 Base metals & products
16 Machinery
17 Transport equipment
18 Precision instrument
19 Arms & ammunition
20 Miscellaneous manufacturing
21 Works of art, etc.

Source: WTO Secretariat calculations, based on data provided by the Cambodian authorities.

24. A standard deviation of 9.2% in 2011 indicates that there is still some dispersion of tariff rates (Table III.3). The highest tariff rate of 35% protects several semi-processed goods, including processed meat and dairy, processed vegetables and fruits, beverages and tobacco, footwear, and motor vehicles. All major excisable goods are included in this band for revenue-raising purposes. Over 53.4% of tariff lines are duty free or subject to the minimum 7% tariff rate, up from 44% in 2001 (Chart III.2). Cambodia has reduced its overall tariff lines from around 10,700 at the time of accession to some 8,300 in 2011 based on the HS 2007 nomenclature.

25. Cambodia has bound 100% of tariff lines. The overall average bound duty rate is 20.1%, while the average applied rate is 11.7%. For several reasons, including the delay in conversion of the Bound Rate Items List, some tariff lines had applied rates that were higher than their corresponding bound rates; in February 2011, the Government approved the modification of customs duty rates on these items to comply with the committed bound rates. The simple average bound rate on agricultural is 28.8% and on industrial products the average bound rate is 18.7%.

(c) Tariff escalation

26. A notable feature of Cambodia's tariff structure is that the broad tariff bands correspond roughly to whether goods are final goods or raw materials. Cambodia tariff structure shows escalation from raw materials to intermediate goods and to finished products (Chart III.3). Escalation is particularly evident in some major sectors, i.e. food, beverages and tobacco, textiles and leather, chemicals, and non-metallic mineral products.

Table III.3
Cambodian tariff structure, 2003, 2005, and 2011
(%)

		MFN applied 2003	2005	2011	Final bound[a]
1.	Bound tariff lines (% of all tariff lines)	..	100.0	100.0	100.0
2.	Simple average rate	17.3	15.1	11.7	20.1
	Agricultural products (HS01-24)	20.6	17.7	15.4	28.4
	Industrial products (HS25-97)	16.7	14.8	11.1	18.6
	WTO agricultural products	20.6	17.9	14.5	28.8
	WTO non-agricultural products	16.8	14.8	11.3	18.7
	Textiles	15.7	10.8	5.7	10.4
	Clothing	30.3	27.2	14.1	17.5
	ISIC 1 - Agriculture, hunting and fishing	11.9	10.8	10.0	23.2
	ISIC 2 - Mining	11.8	10.2	6.5	17.7
	ISIC 3 - Manufacturing	17.7	15.4	11.9	20.0
	First stage of processing	12.2	10.8	9.3	21.2
	Semi-processed products	10.9	8.3	6.2	13.6
	Fully processed products	21.1	18.5	14.5	22.6
3.	Domestic tariff "peaks" (% of all tariff lines)[b]	0.2	0.0	0.0	0.0
4.	International tariff "peaks" (% of all tariff lines)[c]	28.1	20.8	9.9	46.7
5.	Overall standard deviation of tariff rates	13.6	11.0	9.2	11.6
6.	Coefficient of variation of tariff rates	0.8	0.7	0.8	0.6
7.	Duty-free tariff lines (% of all tariff lines)	4.3	5.9	13.7	1.1
8.	Non-*ad valorem* tariffs (% of all tariff lines)	0.0	0.0	0.0	0.0
9	Nuisance applied rates (% of all tariff lines)[d]	0.1	0.0	0.0	0.0

.. Not available.

a Based on 2011 tariff schedule. Cambodia implemented its tariff reduction commitments for all but 21 tariff lines by 2007. Tariff reduction commitments are to be met for 20 tariff lines by 2013.

b Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.

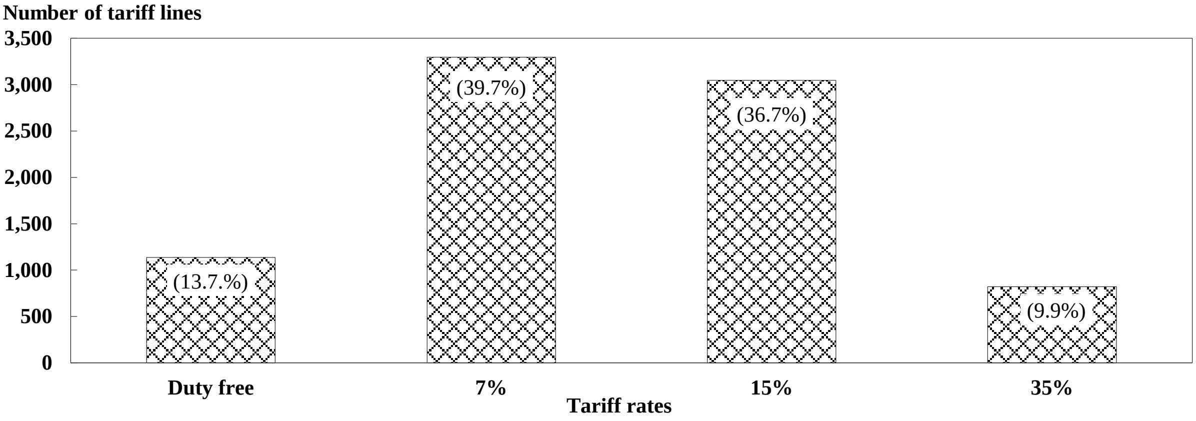
c International tariff peaks are defined as those exceeding 15%.

d Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: The 2003 tariff is based on HS96 nomenclature, consisting of 6,809 tariff lines; the 2005 tariff is based on HS02 nomenclature, consisting of 10,689 tariff lines; and the 2011 tariff is based on HS07 nomenclature, consisting of 8,298 tariff lines.

Source: WTO Secretariat calculations, based on data provided by the Cambodian authorities.

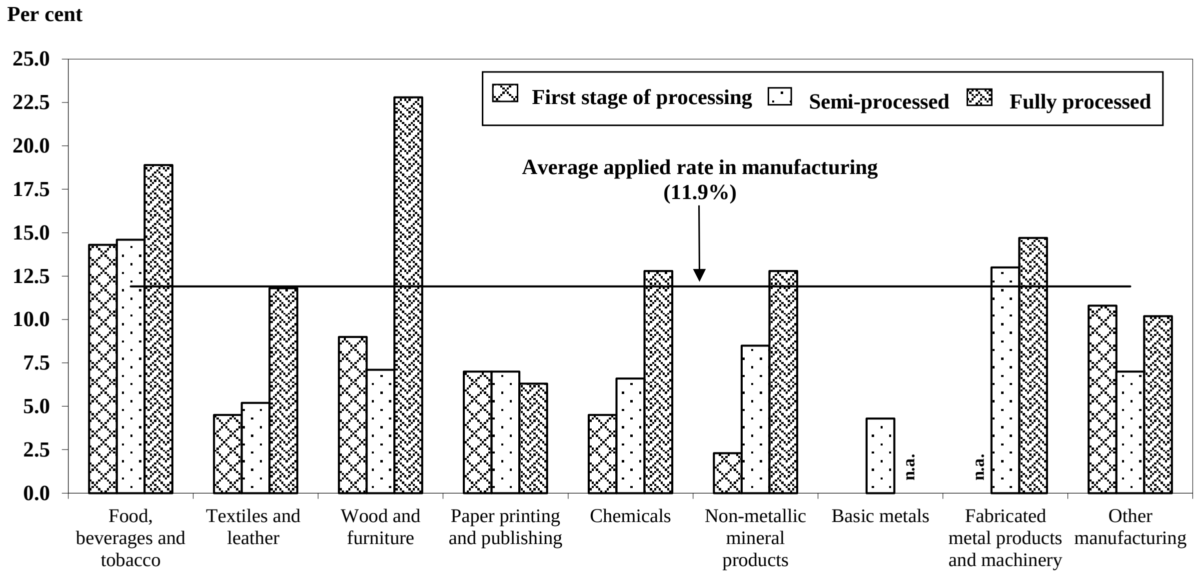
Chart III.2
Distribution of MFN tariff rates, 2011



Note: Percentages in brackets denote the share of total lines.

***Source*: WTO Secretariat calculations, based on data provided by the Cambodian authorities.**

Chart III.3
Tariff escalation by 2-digit ISIC industry, 2011



n.a. **Not applicable.**

Source: **WTO Secretariat calculations, based on data provided by the Cambodian authorities.**

(d) Tariff exemptions

27. Import duty concessions and exemptions are available to certain types of importers, including for temporary imports for re-export; goods in transit; personal items of Cambodians having resided abroad; imports by diplomatic missions, for humanitarian or religious purposes, and for goods imported in connection with investment projects approved by the Council for the Development of Cambodia in accordance with the Amended Law on Investment. Export qualified investment projects (QIPS) are allowed to import production equipment, construction materials, raw materials, and intermediate goods and accessories free from customs duty, unless they operate under the customs bonded warehouse mechanism. For the QIPs of garment and footwear industries, the Government also provides VAT exemptions on these imports.

28. According to the authorities, about half of imports entered Cambodia duty and tax exempt in the year 2000, and forgone revenue was higher than the customs duty collected.[10] This does not appear to have changed during the review period with forgone revenue equalling nearly 60% of the customs duties collected (see Table III.2).

(e) Tariff-rate quotas

29. At the time of its accession to the WTO, Cambodia did not apply tariff quotas but noted that it might consider these on certain agricultural imports in the future. The authorities confirm that, currently, there are no tariff-rate quotas in place.

[10] Ministry of Commerce (2001), p. 30.

(f) Preferential tariffs

30. Together with the other members of ASEAN, Cambodia accepted the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area, whereby the tariffs applicable to ASEAN products would be reduced to 0-5% over a ten-year period starting 1 January 2000. Average preferential tariffs are less than half of the MFN rate for agricultural products and around one third of the MFN rate for non-agricultural products (Table III.4). Cambodia agreed to eliminate tariffs on essentially all ASEAN products by 2015, except for 7% of the tariff lines where the tariffs will be eliminated by the end of 2017. For products covered by the Sensitive List, the maximum tariffs will be set at 5% as of 2018. There is also a General Exception List for which there are no ASEAN-related tariff preferences. Cambodia is subject to tariff reductions agreed in five free-trade agreements (FTAs) signed by ASEAN: with China, Cambodia's tariff rates will be reduced to zero by 2015; with India and the Republic of Korea by 2018; with Japan by 2026; and with Australia and New Zealand by 2024.

Table III.4
Summary analysis of Cambodian's MFN and CEPT tariffs, 2010

	No. of lines	MFN Average (%)	MFN Range (%)	CEPT Average (%)	CEPT Range (%)
Total	**8,298**	**11.7**	**0-35**	**4.5**	**0-35**
HS 01-24	1,271	15.4	0-35	5.6	0-35
HS 05-97	7,027	11.1	0-35	4.3	0-35
By WTO definition					
Agricultural products	1,145	14.5	0-35	5.6	0-35
Animals and products thereof	125	26.7	0-35	7.7	0-35
Dairy products	35	23.2	7-35	5.0	5
Fruit, vegetables, and plants	295	13.5	0-35	6.0	0-35
Coffee and tea	40	26.2	7-35	5.0	5
Cereals and preparations	152	12.2	0-35	4.4	0-5
Oils seeds, fats, oil and their products	181	7.3	0-35	4.6	0-5
Sugars and confectionary	28	7.0	7	5.0	5
Beverages, spirits and tobacco	104	19.0	7-35	10.1	5-35
Cotton	5	0.0	0	0.0	0
Other agricultural products, n.e.s.	180	11.4	0-35	3.7	0-5
Non-agricultural products	7,153	11.3	0-35	4.3	0-35
Fish and fishery products	206	19.3	0-35	5.1	0-15
Minerals and metals	1,263	8.2	0-35	3.7	0-5
Chemicals and photographic supplies	1,213	7.7	0-35	4.2	0-35
Wood, pulp, paper and furniture	381	9.4	0-35	4.9	0-5
Textiles	696	5.7	0-35	3.9	0-5
Clothing	253	14.1	7-15	5.0	5
Leather, rubber, footwear and travel goods	269	14.5	0-35	4.9	0-5
Non-electric machinery	1,188	13.0	0-35	4.0	0-15
Electric machinery	557	16.5	0-35	4.4	0-5
Transport equipment	413	16.6	0-35	4.3	0-5
Non-agricultural products, n.e.s.	680	15.2	0-35	5.2	0-35
Petroleum	34	12.1	0-35	9.6	0-35
By stage of processing					
First stage of processing	884	9.3	0-35	4.4	0-35
Semi-processed products	2,165	6.2	0-35	4.0	0-7
Fully processed products	5,249	14.5	0-35	4.7	0-35

Source: WTO calculations, based on data provided by the Cambodian authorities.

(iii) Customs valuation

31. At the time of its accession, Cambodia was of the view that a move to the transaction value system could pose major risks to government revenue and therefore proposed that minimum customs values be phased out gradually over five years, with full compliance with the Customs Valuation Agreement to be achieved by the end of 2008. The challenges facing the customs administration at the time included a low rate of voluntary compliance by importers, lack of sound accounting systems and record keeping, and the limited capacity of Customs to administer transaction valuation provisions. Cambodia's request for a five-year transitional period granted to allow it to obtain and utilise technical assistance to facilitate implementation of the obligations of the Agreement. From 1 January 2009, Customs was prepared to implement the first three methods of customs valuation: transaction value, identical goods, and similar goods; and on 1 January 2011, Cambodia took the final steps necessary to fully implement the Agreement.

32. According to the authorities, the delay in full implementation was because, *inter alia:* the number of competent officers is limited; the post clearance audit mechanism was still in its initial stage; the compliance level of traders is low (according to the Traders' Credibility Management System); invoices are often undervalued, leading to some difficulty in applying the transaction value; the customs valuation database was developed slowly, due to lack of technical assistance.

33. Praka 32 of Cambodia's customs valuation legislation was a transitional provision providing Customs with some flexibility to provide for the use of valuation methods other than those contained in the WTO Customs Valuation Agreement for certain goods that Cambodia deems as sensitive or high risks. Praka 32 of the MEF Regulation No. 387 (2008), which implements the WTO Customs Valuation Agreement allowed the GDCE to use the price-list methods, temporarily, for the valuation of certain sensitive items and high risk goods, including used vehicles and other used items as well as petroleum products. These methods were transitional and Cambodia has since confirmed that as of 1 January 2011 it terminated the transitional use of the above methods.[11] A complaint procedure and appeals process for these valuations is in place.

34. During the review period, Customs implemented the WTO Valuation Agreement in paralel with the decentralization of customs valuation decision-making, and obtained significant early results. For example, 50% of dutiable goods were processed using the transaction value. Customs is considering whether certain non-dutiable imported goods will be processed at the transaction value, such as goods imported by investment companies, exempted importation, temporary imports, and goods imported by the Government. According to the authorities, all imports currently comply with WTO valuation methods. As of June 2011, Cambodia was preparing to submit its checklist of issues to the WTO.

(iv) Preshipment inspection (PSI)

35. From accession, Cambodia undertook to ensure that the operations of the PSI companies it retained would meet WTO requirements[12], and that its PSI regime would be temporary and cease when Customs could carry out the functions performed by the PSI companies. Cambodia discontinued its service contract with BIVAC International of the Bureau Veritas Group for PSI

[11] WTO document G/VAL/M/51, p. 3, Statement by Cambodia at the meeting of the Committee on Customs Valuation, 12 May 2011.

[12] The Agreement on PSI requires that governments ensure that the PSI entity meet a wide range of provisions concerning transparency, treatment of business confidential information, avoidance of conflict of interest, prompt inspection, and appeals procedures.

services in mid 2009. The MEF issued a Prakas in February 2009 (on the establishment and functioning of Transaction Value Management Unit under Customs[13], setting up a unit that develops national customs valuation policies, implements valuation regulations, provides rulings at the request of the private sector, and conducts research on the transaction value of imports. Cambodia notified the WTO in 2010 that it no longer has any laws or regulations in the area of PSI.

(v) Rules of origin

36. During accession, Cambodia confirmed that it intended to comply fully with the provisions of the WTO Agreement on Rules of Origin in the application of preferential and non-preferential rules of origin and would be able to do so after enactment of a new Customs Law and its implementing regulations. As of January 2011, Cambodia was still in the process of preparing a regulation on rules of origin: the Ministry of Commerce and the Ministry of Economy and Finance were working jointly on the draft regulation, which was at an early stage of development.

37. According to the authorities, applicable duties and taxes on imports are collected according to the origin of the goods. The origin of natural products is the country where they were extracted from the soil or harvested. Goods manufactured in a single country, with no contribution from materials from another country, originate in the country where they are manufactured. Customs procedures for determining the origin of goods produced in one country that use products harvested, extracted from the soil, or manufactured in another country are determined by prakas of the Minister of Economy and Finance. The origin of goods seeking preferential entry from FTA partner countries is determined by the certificate of origin issued by the exporting country, in accordance with the agreed rules of origin. The MFN rate is applied to all other goods.

(vi) Import prohibitions, quotas, and licensing

38. As part of its accession commitments, Cambodia eliminated quantitative restrictions on imports of fertilizers, pesticides, and other agricultural inputs, and established a WTO-consistent method of registration and review of imported agricultural chemicals. From 1 January 2007, Cambodia agreed that it would rely on the provisions of the TBT Agreement to regulate domestic and international trade in these items. From accession, Cambodia agreed not to introduce, re-introduce or apply other non-tariff measures such as licensing, quotas, prohibitions, bans and other restrictions having equivalent effect that could not be justified under the provisions of the WTO Agreements. The authorities note that since accession Cambodia has introduced some additional licensing requirements as allowed under GATT Article XX(b) for fisheries and live animals.

39. Goods are prohibited or restricted for any of the following purposes: protection of national security; protection of public order and standards of decency and morality; protection of human, animal or plant life or health; protection of national treasures of artistic, historic or archaeological value; and the conservation of natural resources. Sub-decree 209 of 2007 (prohibited and restricted goods list) identifies 1,537 tariff lines that are subject to import prohibition or licensing. Much of the licensing is automatic and does not restrict import quantity or value. Exceptions include some narcotics and fish, where quantities are restricted. Sub-decree 209 provides for import prohibition only for metal waste, toxic waste, municipal waste, clinical waste, sewerage sludge, and waste of animal hairs.

[13] The transaction valuation unit is responsible for supervising the interpretation of the WTO Valuation Agreement in Cambodia, keeping the valuation legislation updated, providing valuation training to customs officials, updating the customs valuation list for products on a monthly basis; and considering importers' appeals against valuation decisions taken by customs officers or dealing with more difficult cases of valuation.

40. Cambodia currently prohibits the commercial importation of certain narcotics; psychotropic substances and their precursors, toxic waste and poisonous chemicals; and substances and certain pesticides in accordance with toxicity classification by WHO. Government regulations also prohibit the importation of used computers and spare parts, household waste, and hazardous waste.

41. A limited licensing system had been established for the protection of human health, consumer interests, national security, and to protect the environment.[14] The import licensing regime for chemicals is administered by the Institute of Standards of Cambodia, an organ of the Ministry of Industry, Mines and Energy. The system is designed to help maintain the orderly marketing of chemicals in Cambodia: it may result in limitations on some imports. The intent is to reduce the presence of dangerous chemical substances for which proper controls are difficult and storage facilities are limited. For these products, the system operates by assessing current legitimate import needs of Cambodian firms using chemicals or chemical products, and ensuring that those needs are met.

42. The import licensing regime for pharmaceuticals, medical materials, and narcotics and related substances is administered by the Ministry of Health and, with respect to their use for agricultural purposes, by the MAFF. Its purpose is to protect human health and animal and plant health. The authorities note that the import licensing of pharmaceuticals and medical materials does not restrict the quantity or value of imports.

(vii) Anti-dumping, countervailing duties, safeguard regimes

43. During accession, Cambodia confirmed that it would not apply any anti-dumping, countervailing or safeguard measure until it had notified and implemented appropriate laws and regulations in conformity with the provisions of the relevant WTO Agreements. In 2009, with donor assistance, Cambodia began the task of drafting trade remedies legislation. The current, single draft law, encompasses anti-dumping and safeguard measures, and allows for the later preparation of a sub-decree dealing with countervailing measures. The draft is being reviewed by an inter-ministerial drafting group and this process is expected to be completed by the end of 2011.

44. According to the authorities, the draft law on trade remedies follows closely the WTO safeguards and anti-dumping agreements. It spells out procedures for identifying dumping and for establishing normal values, export prices, and dumping margins. It also deals in detail with procedures for the conduct of anti-dumping investigations, including the determination of material injury and a causal link, and for establishing and reviewing anti-dumping duties. As regards safeguards, the draft defines serious injury and the threat thereof and causation. It spells out procedures for initiating and conducting safeguard investigations and applying safeguard measures. The draft text also deals with confidentiality, access by the public to information, and other requirements of the two WTO agreements.

(viii) Government procurement

(a) Legal and institutional framework

45. Until 2006, Cambodia's government procurement regime was governed by a 1995 sub-decree, and guidelines that did not cover all relevant aspects of public procurement. Cambodia replaced the 1995 legislation by Sub-decree No. 105 (2006) and enforced updated implementation rules for public

[14] Notification pursuant to Article 7.3 of the Agreement on Import Licensing Procedures in WTO document G/LIC/N/3/KHM/1, 23 November 2010.

procurement as provided under Prakas 381 (2010). Moreover, the Government has prepared a preliminary draft procurement law, which is currently the subject of a public consultation process with a view to submitting a complete draft law to the Council of Ministers in 2011. Until recently, some guidance for externally funded projects was provided through manuals on standard operating procedures. The procurement regulations apply to procurement at all state levels and to public enterprises. They assign bodies responsible for procurement and define certain procurement methods.

46. In the MEF, the main bodies controlling public procurement are the Department of Public Procurement and the Department of Investment and Cooperation (which oversees procurements with funds from international financing agencies and bilateral donors). The procurement process is conducted by prequalification, evaluation, and awards committees established within the procuring entities. Politically or environmentally sensitive purchases require approval by the Council of Ministers on the basis of recommendations formulated by the Ministry of Economics and Finance.

47. Cambodia is not a party to, and has not considered membership of, the Plurilateral Agreement on Government Procurement.

(b) Procurement methods and procedures

48. The procurement regulations (Prakas 381 of 2010) provide for competitive bidding, domestic canvassing, direct shopping, and direct contracting. The selection of the applicable method depends on the value of the goods or services: competitive bidding is mandatory for the purchase of goods, services or works worth more than US$25,000. Urgent need or procurement after natural disasters, however, justify the use of non-competitive procurement methods such as direct contracting, regardless of the value of the contract.

49. Procurement through competitive bidding must be advertised publicly through newspapers and the recently expanded MEF website, which provides public access to bidding documents. However, difficulties in this context may still arise from the poor information infrastructure. In addition, for construction, only bidders registered with the Department for Public Procurement are permitted to participate in the tendering, and certain prequalification procedures exist at the provincial level. Pre-bid conferences that have merits in clarifying the requirements, in particular for more complex purchases, are provided for under prakas 381, but few conferences have been held.

50. The previous regulatory regime resulted in diverse procedures that rendered transparent and effective management of the procurement process difficult for both bidders and procuring agencies. Lack of training of procurement personnel and of equipment for the efficient and reliable handling of procurement processes added to this difficulty. Until recently, Cambodia did not have comprehensive codes of conduct, and the regulations that contained provisions on conflict of interest were not fully enforced. Previously, the winning bidder had to explicitly declare that no bribes had been paid to procurement personnel or any competing bidder. In its annexes, prakas 381 provides a Code of Professional Ethics for all members of the procurement committee, procurement officials, bidders, and others involved in public procurement. The new framework also provides for a review committee, annual procurement plan, review of procurement decisions, and penalty and punishment provisions. Moreover, the newly established Anti-Corruption Unit of the Government may consider complaints about the bidding processes and decisions.[15] The authorities note that, according to a recent assessment of Cambodia's public procurement system carried out by the World Bank, Cambodia substantially met half of the baseline elements of a good public procurement system.

[15] See also the ADB/OECD (Undated).

(ix) State trading enterprises (STEs)

51. At the time of Cambodia's WTO "state-owned companies were engaged in the import and export of rice, rubber, fertilizer, fishery products, pharmaceutical products, and agricultural equipment. The enterprises operated in accordance with commercial considerations and private business practices, and received no special privileges. In the authorities' view, none of the STEs came within the scope of Article XVII of the GATT 1994 (or the Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994). Following a programme of divestment, the Green Trade Company remains the only state-owned enterprise involved in the goods import and export.

52. The recent STE landscape may be summarized as follows: (i) The Green Trade Company, established in 1998, managed Cambodia's national reserve of rice through purchases and sales made at market prices. The GTC was subject to technical supervision by the MoC and financial supervision by the MEF. It established a food reserve system to mitigate food shortages. Following the global food price increases in 2008, the government released quantities of rice through the GTC to ease supplies, and increased financing by US$10 million for food reserves. In 2009, GTC was involved in establishing a joint company, the Cambodia-Vietnam Foods Company, which specializes in the production, procurement, transportation, processing and storage and import and export of food. (ii) The Agricultural Inputs Company (AIC), established in 1999 and liquidated and dissolved in 2008, was managed by officials from the MAFF, MEF and MoC. It engaged in importation, purchase and sale of agricultural products (fertilizer, pesticides, seeds and agricultural equipment), warehousing and managing the distribution of donated fertilizers and agricultural inputs, administered statistical data, and participated in training programmes and research. (iii) Seven rubber plantations were being transformed into public enterprises under the MAFF in 1999. In 2008, each rubber plantation was restructured whereby the Government maintained ownership of the land but entered into a 99-year leased land agreement with a private operator, subject to an annual user fee per hectare.

(x) Other measures

53. Cambodia undertook not to maintain any measures inconsistent with the Agreement on Trade-Related Investment Measures (TRIMs) and to apply the Agreement from the date of accession without recourse to any transitional period.

54. Cambodia has specific regulations related to trade in transit that were developed to implement transit agreements with neighbouring countries. The regulations are: Articles 9, 13, and 25 of the Law on Customs; MEF prakas 508 (2008) on Customs Transit; and Customs Instruction No. 790 (2008) on Customs Transit Procedures.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Procedures

55. Export (and import) procedures are laid out in Sub-Decree 131 (2006). According to the authorities, all goods to be exported must be reported at a customs office or other location as determined by the DGCE. The Minister of Economy and Finance may, by prakas, determine the time, manner, documentation requirements, circumstances, and exceptions with respect to the reporting, movement, storage, and transportation of goods to be exported.

56. All exports must be examined by Customs and Camcontrol. Goods are released when documents are approved, the export tax (if any) is paid, and the examination completed. An Export Office at Customs Headquarters takes charge of garment exports, which examines and seals the cargo with a container bolt seal (at factory premises) that conforms to international standards. Once they reach Sihanoukville Port, documents and the container seal are checked by Customs before loading on vessels. Customs charges a fee of Riels 15,000 for each export declaration and the Camcontrol fee is 0.1% of the f.o.b. value of exports and 0.1% of the c.i.f. value of imports.

(ii) Export taxes

57. A number of exported goods are subject to taxes: natural rubber; uncut (unprocessed) precious stones; processed wood; and fish and crustaceans, molluscs and other aquatic products (Table III.1). Cambodia levies export taxes on certain unprocessed raw materials and products to encourage local processing, encourage exports of finished products, and protect human health. Cambodia's export duties are applied on an MFN basis and hence its ASEAN partners are not exempt from these taxes. Export taxes accounted for approximately 2% of the customs revenue collected by Customs in 2000 and less than 0.5% currently.

(iii) Export restrictions

(a) Prohibitions

58. Several items are prohibited from export or strictly restricted, including antiques, certain narcotic and toxic materials, logs, precious metals and stones, and weapons.[16] Prohibited exports from natural forests comprise: round logs; crude or rough sawn timber; squared logs with a thickness or width of more than 25 cm; oil extracted from yellow vine; yellow vine powder; firewood and charcoal. The export of wood and wood products derived from man-made forests is not subject to restrictions, although a licence is needed. Prohibitions apply to any fish species mentioned on the CITES list of endangered species as provided for in Sub-Decree No. 123 (2009).

(b) Licensing

59. Exporters must provide additional documentation for items that the Government has determined to be sensitive or that are monitored for trade purposes (Table III.5). Certain wood products from natural forests and other agricultural products require an export licence; the objective is to control the volume of such exports. To obtain an export licence the applicant submits an application to MAFF, along with the usual supporting documentation, and documentary evidence that the products are from legal sources. The Forestry Administration examines the application and makes a recommendation to MAFF, which in turn makes a recommendation to the cabinet of the Council of Ministers, which grants an export quota to the applicant. The quota is valid for one year, and may be renewed. After receiving a quota, the applicant may apply for an export licence from the Ministry of Commerce. A licence is required for each export transaction within the quota. The export licence is made out to the Forestry Administration, which is the sole entity authorized to export wood and wood products, and which exports the goods on behalf of the applicant. The applicant must also secure a transportation permit from the Forestry Administration to transport goods to export points. According to the authorities, these procedures conform to GATT Article XX(g), which allows trade measures to

[16] Annex 1, Sub-Decree No. 209 ANK.BK, 31 December 2007 (List of Prohibited and Restricted goods in Importation and Exportation).

be taken to preserve exhaustible natural resources, when such measures complement domestic conservation policies.

Table III.5
Export licences, permits, and certificates

Type of goods	Documentation	Government authority
Unprocessed rubber	- Export licence (valid 60 days)	- Ministry of Commerce, Bilateral Trade Department
Processed wood and non-timber forest products	- Export licence (valid 60 days) - Permit letter	- Ministry of Commerce - Ministry of Agriculture, Forestry and Fisheries - Council of Ministers
Sand	Export permit	- Inter-ministerial committee
Raw fruit, vegetables, plants and agricultural materials (includes pesticides, fertilizers, seed, and seedling materials, feed additives)	- SPS certification	- Ministry of Agriculture, Forestry and Fisheries
Garments	- Certificate of origin (valid 6 months)	- Ministry of Commerce
Drugs and medicines	- Certificate, Ministry of Health (valid 5 years)	- Ministry of Health
Live animals	- Animal health or CITES certificate (valid 5 years)	- Ministry of Agriculture, Forestry and Fisheries
Art and cultural products	- Authorization - Permit letter (valid 1 year)	- Ministry of Culture and Fine Arts
Fish, crustaceans, molluscs, and other aquatic products	- Transportation permit letter - Certificate of aquatic animal health	- Ministry of Commerce - Fisheries Administration (MAFF)
Jewellery, silverware and uncut or unprocessed precious stones	- Permit letter (valid 1 year)	- National Bank of Cambodia

Source: International Finance Corporation (IFC) (2008), *Handbook on Export Procedures*. Viewed at: http://www.ifc.org/ifcext/mekongpsdf.nsf/AttachmentsByTitle/Handbook-Export-Prodcedure-Eng/$FILE/Handbook-Export-Prodcedure-Eng.pdf.

60. Exports of medicines and narcotics produced in Cambodia require an export licence issued by the Department of Drugs and Food, Ministry of Health, and MAFF for veterinary medicinal products. Export licensing is maintained and statutorily required under the Law on Amending the Law on Drug Management (2007), Praka 300, 363, and 754 (2007) and Prakas 1031 as amended by Prakas 82 on Drug Import-Export Procedures (2008). Cambodia has joined the WHO Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce, and is in the process of taking the steps necessary to issue certificates under the scheme.

(iv) Export subsidies

61. Upon Cambodia's accession, the Government undertook to bind its agricultural export subsidies at zero in its Schedule of Concessions and Commitments on Goods, and not to maintain or apply any export subsidies for agricultural products.

62. The authorities confirm that Cambodia has no export subsidies.

(v) Export promotion

63. The main entity to promote Cambodian exports is the Trade Promotion Department (TPD) of the MoC, which undertakes a range of activities to support actual and potential Cambodian exporters. It initiates, organizes, and participates in domestic and overseas trade fairs, and provides assistance to local companies wishing to organize and/or participate in such fairs. It also works with Cambodia's overseas trade missions to identify possible overseas markets and develop strategies for penetrating

those markets. Its website contains a list of products whose producers are seeking foreign markets, and it established and manages the Electronic Market Communication System, which provides information on prices, trades, buyers, and sellers. TPD is also a counterpart to various development partners and international organizations in implementing trade promotion programmes.

64. With assistance from the World Bank, the Government has set up the Export Market Access Fund (EMAF) to help registered Cambodian firms in their efforts to penetrate foreign markets. The EMAF, which was not yet operational in June 2011, is to provide both financial and technical assistance. It will provide co-financing (up to 50%) in the form of cash grants for eligible activities, with a ceiling of US$30,000. Eligible activities include investigating export markets; product adaptation to meet export-market requirements; and product promotion. EMAF will also provide Cambodian businesses with links to international and national experts to support export development, planning, and execution. Dedicated specialists will be made available to help applicants secure EMAF funding and to support export marketing activities.

65. In addition to direct assistance, the Government has taken steps to give Cambodian products a competitive advantage over similar products of other countries. For example, the Better Factories Programme establishes a system for the regular monitoring of work conditions in individual factories, through unannounced visits, and worker and management interviews. The results of the monitoring are made available to the factories, including recommendations for improving work conditions. These reports are subsequently posted on a website, where they may be examined by buyers. The MoC enforces this programme by requiring the participation of all factories seeking an export certificate of Cambodian origin. Only factories that are registered with the Ministry may export, and the condition for registration is membership in the Garment Manufacturers Association of Cambodia and in the Better Factories Programme.

(vi) Special economic zones

66. In December 2005, the Council of Ministers passed a sub-decree (No. 148) on the establishment and management of special economic zones to speed up the creation of these zones. The sub-decree details procedures, conditions, and incentives for investors in the zone. The Cambodia Special Economic Zones Board has approved 22 SEZs (January 2011), of which 14 have been established but only 5 are operational (Table III.6); these are located near the borders of Thailand and Viet Nam, and in Phnom Penh, Kampot, and Sihanoukville.

67. To facilitate development, Cambodia is interested in increasing exports via geographically defined special economic zones (SEZs), with the goal of attracting foreign direct investment. The Government is preparing a Law on Special Economic Zones, which will define SEZs and establish the rules under which they operate.[17] The law may be submitted for approval by the Council of Ministers by the end of 2011. The authorities confirm that the draft Law contains no export-performance measures or local-content requirements.

68. The fiscal regime of Cambodia's SEZs is governed by the same incentives as those stipulated in the revised Law on Investment. In this regard Cambodia follows the international best practice of

[17] At the time of accession, Cambodia agreed that SEZs established in accordance with the Law on Investment would be subject to the coverage of WTO Agreements and its commitments in its Protocol of Accession to the WTO Agreement, and that Cambodia would ensure enforcement of its WTO obligations in those zones. In addition, goods produced in any such zones or areas under tax and tariff provisions that exempt imports and imported inputs from tariffs and certain taxes would be subject to normal customs formalities when entering the rest of Cambodia, including the application of tariffs and taxes.

avoiding different tax incentives for firms located in SEZs. Cambodia offers a choice of either a special depreciation allowance or a tax holiday. Regarding indirect incentives, Cambodia provides total exemption from import duties and VAT for qualifying investment projects whose output is essentially for export, but also for firms supplying the garment and footwear industries (Table III.7). Overall, according to the IMF, in terms of duration of tax holidays and terms of eligibility for direct and indirect tax exemptions, investment incentives in Cambodia appear to be as attractive as those provided in neighbouring countries.[18]

Table III.6
Cambodia's special economic zones (SEZ-s)

	Name of SEZ	Status	Main industries
1	Manhattan SEZ	In operation	Textiles, shoes, bicycles
2	Tai Seng Bavet SEZ	In operation	Garments, textiles
3	Phnom Penh SEZ	In operation	Garments, plastics, carton boxes, food processing, electrical equipment
4	Sihanoukville SEZ	In operation	Garments, plastics, household appliances
5	Goldfame Pak Shun SEZ	In operation	Garments, plastics
6	Sihanoukville Port SEZ	Under construction	..
7	Neang Kok Koh Kong SEZ	Under construction	..
8	Stung Hao SEZ	Under construction	..
9	Poi Pet O'Neang SEZ	Under construction	..
10	Duong Chhiv Phnom Den SEZ	Under construction	..
11	Kampot SEZ	Under construction	..
12	Sihanoukville 1 SEZ	Under construction	..
13	Thary Kampong Cham SEZ	Under construction	..
14	Kirisakor Koh Kong SEZ	Under construction	..
15	Suoy Chheng SEZ	No operations	..
16	S.N.C SEZ	No operations	..
17	N.L.C SEZ	No operations	..
18	Oknha Mong SEZ	No operations	..
19	D & M Bavet SEZ	No operations	..
20	Kampong Soam SEZ	No operations	..
21	P (SEZ) I.C	No operations	..
22	Stung Hao SEZ & International Port	No operations	..

.. Not available.

Source: Cambodia authorities.

69. Well-developed, effective SEZs can be a key to attracting investment in a number of the export potential product sectors identified in DTIS 2007, including light manufacturing assembly and agri-processing. Accordingly, deepening the successful implementation of a number of special economic zones should rank high on Cambodia's list of priorities. The design of Cambodia's SEZ regime incorporates lessons learnt from successful zones elsewhere, including the central role of private developers (rather than the government) and the focus on attracting a variety of business activities, not just export processing. All 22 approved SEZ projects are developed by private developers. To attract more investors, the private developers need to provide enough quality infrastructure and other facilities such as power, clean water, and 24-hour security.

[18] IMF(2006), p. 10. However, withholding tax provisions make the profit tax holiday rather complex in reality.

Table III.7
Incentives under the Law on Investment, 1994 and 2003

	Law on Investment	
	1994	**2003**
Profit tax		
1. Standard CIT (for legal persons)	20%	- 20%
2. Other income taxes (personal income tax)		- Progressive rate from 0-20% depending on amount of taxable profits
Tax incentives		
1. Sectors, geographical areas, and labour qualified for incentives	Pioneer or high-tech, job creation, export, tourism, agri- and processing, infrastructure, energy, rural development, environment, and special economic zone (SEZ)	Pioneer or high-tech, job creation, export, tourism, agri- and processing, infrastructure, energy, rural development, environment, and SEZ
2. Tax holidays	Holiday not limited by commencement of operations Holiday not limited by sales taking place Up to 8 years from the last day of the tax year immediately preceding the tax year in which profits are first derived 5-year loss carry forward	Holiday not limited by commencement of operations Either 6 or 9 years starting in first year of sales Or 3-6 years from the last day of the tax year immediately preceding the tax year in which profits are first derived 5-year loss carry forward
3. Reduced CIT after tax holiday period or incentives provided instead of a tax holiday	After tax holiday: - 9%; and - 0% if profits reinvested Instead of tax holiday: - Immediate expansion of plant and equipment investment financed from reinvested profits as an alternative to the tax holiday	After tax holiday: - 9% (QIP) for 5 years (starting from the tax year occurring after 2003 Law promulgation) and 20% thereafter Instead of tax holiday: - 40% special depreciation for QIP not using tax holiday period
4. Import duties and VAT exemptions	100% on inputs for qualified sectors	- 100% on inputs for qualified sectors - VAT exemption on both inputs and sales of supporting industries (their contractors receive only VAT exemption on sales) to export-oriented garment and footwear sectors.

Source: Cambodian authorities.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Regulatory framework

(a) Business registration and start-ups

70. The Prakas on Trading Activities of Commercial Companies (2000) allows Cambodian and foreign companies that are registered with the MoC to engage freely in trading activities. The Law on Commercial Regulations and the Commercial Register of 1995 (as amended in 1999) requires all commercial enterprises operating in Cambodia to register with the MoC. Commercial enterprises may register in the form of a sole proprietorship, general partnership, limited partnership, private limited company, single member private limited company, public limited company, public institution, state enterprise, or joint venture. Natural persons *per se* may not engage in import activities as the Law on Commercial Regulations and the Commercial Register allow registration of legal entities only. However, an individual may register, for example, as a single shareholder limited liability company. All properly registered firms, foreign and domestic, may engage in import and export activities of all

types of goods except military equipment and narcotic drugs. Trade in forestry products may only be conducted by licensed concessionaires (domestic or foreign).

71. The 2005 Law on Commercial Enterprise, the first comprehensive company law in Cambodia, was enacted to streamline the process of registering and starting a business. According to the World Bank, this reduced the official fees for registration (from US$600 to US$105 as of August 2007). All fees are posted at the Ministry of Commerce, which has developed a handbook on commercial registration.[19] Nevertheless, the World Bank ranks Cambodia at only 170th out of 183 countries, as starting a business requires 9 procedures, takes 85 days, and is estimated to cost 128% of income per capita.[20]

72. Overall, there are no limits on the rights of foreign and domestic entities to establish and own business enterprises or to compete with public enterprises. However, the Constitution provides that only Cambodian citizens or legal entities have the right to own land. A new law allowing foreign ownership of properties such as apartments and condominiums was passed in 2010.

(b) Industrial policy

73. The Ministry of Industry, Mines and Energy is responsible for the development and implementation of Cambodia's industrial policy. According to the authorities, the main objective of Cambodia's industrial policy has been to stimulate economic development by enhancing access to international markets and strengthening the industrial base. Efforts have focused on building up light industries and developing agri-manufacturing and food-processing enterprises to sustain the agriculture sector. Measures have been taken to improve infrastructure for transportation and communication, encourage private and foreign direct investment through the adoption of an appropriate legal framework and the privatization of state-owned enterprises, and to promote the development of special economic zones. As noted above, to facilitate the country's development, the Government has shown sustained interest in increasing exports via geographically defined special economic zones with the goal of attracting FDI. The authorities maintain that the zones are still at an early stage of development and that their contribution to Cambodia's exports is modest but growing. Cambodia does not grant any subsidies as defined in the WTO Subsidies Agreement within the framework of its industrial policy.

74. According to the World Bank, Cambodia's current set of tax holidays is unlikely to be cost-effective; at an estimated 6% of GDP, they exceed half of total revenue collections.[21] It is unclear how necessary these incentives are given Cambodia's low tax burden, and the current scheme may provide the wrong incentives, favouring short-lived assets rather than incremental investments that could be significant for productivity and diversification. On the other hand, the exemption of import duties and VAT on inputs used for manufactured exports appears to be an appropriately targeted policy.

(c) Privatization

75. The privatization process started in late 1989 and by the end of 2000, 167 state companies had been privatized; 139 were leased to the private sector, 12 transformed into joint ventures, 8 sold outright, and 8 liquidated. According to the World Bank, there were no privatizations between 2000

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[19] World Bank and International Finance Corporation (2009), p. 35.
[20] World Bank (2010b).
[21] World Bank (2009), p. 87.

and 2007. Since 2007, 13 SOEs have been involved in the divestment programme: the Royal Railways of Cambodia was put into a lease agreement[22]; seven rubber plantations were placed in 99-year lease agreements; the Agricultural Inputs Company and Fishery Company were liquidated and dissolved; two companies – Camintel and the Cambodia Pharmaceutical Enterprise – were completely privatized, and the insurance company Caminco was partly privatized.

76. Cambodia now has only a few state-owned enterprises (SOEs) and three joint-venture enterprises; the Government has a majority state holding in one of the joint ventures. The SOEs include Phnom Penh Water Supply, the EDC, the Rural Development Bank, and the three joint-venture companies are the insurance company Caminco (25% government share); the reinsurance company Kampuchea-Re (80%) government share; and the Foreign Trade Bank of Cambodia (10% government share). The Government is represented by one board member on the board of directors of each of the joint ventures. The SOEs are under the supervision of certain line ministries or government institutions and are overseen by boards of directors drawn from among senior government officials. The Law on Audit (2000) established the National Audit Authority and empowers the Auditor General to conduct audits of state-owned enterprises, focussing primarily on compliance with rules governing SOE financial management. Limited information is available publicly on the financial position and performance of state-owned enterprises.

77. Private enterprises are allowed to compete under the same terms and conditions, with public enterprises, which in general are not entitled to special trading rights or privileges. However, certain laws and regulations reserve special rights for the state to monopolize various services, including the Electricity Law, which provides special privileges for power transmission by the electricity utility to the distribution companies and bulk power consumers.

78. A large part of the private sector, mostly consisting of small and medium-sized enterprises concentrated in food, beverage, and tobacco manufacturing, operates informally and is effectively stuck in low-productivity operations. Recognizing the need to develop a supportive regulatory environment, the Government has set up an inter-ministerial body, the Private Sector Development Steering Committee, comprising three sub-committees on investment climate, trade development, and SMEs.

(d) Competition

79. Cambodia's Protocol of Accession contains no specific commitments on competition law but a number of related commitments have competition-related dimensions, such as: transparency of the privatization programme; price controls; state-trading entities; and intellectual property rights. Regarding IPRs, acts of unfair competition are prohibited under the Trademark Law. Any act of competition contrary to "honest practices" in business is prohibited. The law lists three types of behaviour as specifically, but non-exclusively, forbidden: (i) all acts that create confusion with the establishment, the goods, or services of a competitor; (ii) false allegations that discredit a competitor's goods or services; and (iii) indications or allegations that are liable to mislead the public as to the nature, manufacturing process, characteristics, suitability, or quantity of goods.

80. While Cambodia is an open economy with limited SOE presence, some observers have noted creeping regulatory restrictions on competition in domestic markets; these concern, *inter alia*, recent

[22] The Government completed a concession agreement with Toll Royal railway, a joint venture between the Australian Toll Group and the Cambodian Royal group.

decisions restricting price competition in the mobile phone sector.[23] The Government is in the process of drafting laws and regulations that establish the framework for its market economy and has been engaged in efforts to adopt a competition law for some time.

81. The Ministry of Commerce finalized the terms of reference of a competition working group in May 2010 to oversee the completion of the draft law for submission to the Council of Ministers. According to the authorities, the main purpose of the draft law is to establish competition rules, institutions, and procedures that promote and protect the benefits of a competitive market economy for producers and consumers. Within its ASEAN commitments, Cambodia is aiming to enforce a competition law by 2015. In recognition of the time needed to build national understanding of competition concepts and to train qualified and experienced personnel in Cambodia, consideration will be given to providing for transitional enforcement provisions in the law.

(ii) Technical barriers to trade

(a) Overview

82. The ability to comply with standards in overseas markets is a major factor determining access to those markets and more broadly the capacity to export. This is true both for mandatory regulations, set by governments to meet their objectives on health, safety, and the environment, and for market-driven voluntary standards, set within the private sector, to reflect the demands and tastes of consumers or the requirements of supply chains.

83. In acceding to the WTO, Cambodia committed itself to bring its trade regime into compliance with the WTO Agreements, including in the area of TBTs and for this purpose drew up an action plan for implementing the TBT Agreement.[24] The plan highlighted the need to upgrade in particular the standards, technical regulations, metrology and conformity assessment capacity, as well as the establishment of a TBT enquiry point.

(b) Regulatory framework

84. The 2007 Law on Standards of Cambodia is the legal basis for all measures related to standards and technical regulations.[25] Prior to the 2007 Law on Standards, standards activity was regulated by the 2002 Sub-Decree No. 12 on the management of standardization and technical regulations, and conducted through the Department of Industrial Standards in the Ministry of Industry, Mining and Energy (MIME). The 2007 Law, like the WTO-TBT Agreement, covers all industrial and agricultural products, but excludes from its coverage provisions on SPS measures.[26]

[23] ADB (2010).

[24] Document WT/ACC/KHM/14/Rev.1 of 3 March 2003.

[25] WTO document G/TBT/2/Add.103, 12 July 2010. For the text of the law, see ISC online information. Viewed at: http://www.isc.gov.kh.

[26] Other relevant legislation includes: the Law on the Control of Drugs (2005); Sub-Decree No. 209 (2007) on the permission of use of a list of prohibited goods and regulated goods; Sub-Decree No. 180 (2009) on management of classification and labelling of chemicals; Technical Regulation No. 276 (2008) on the soy sauce being sold and circulated in Cambodia; Technical Regulation No. 110 (2004) on management and control of use, importation, exportation and distribution of chemical substances in industrial fields; and the Law on Metrology (2009).

85. The definition of standards[27] in the law may not comply with that required under the WTO Agreement and makes almost no reference to technical regulations or to the Code of Good Practice. The Cambodian authorities acknowledge that there is a need to re-examine parts of the law and, if necessary, revise them.

(c) Institute of Standards of Cambodia

86. The 2007 law established the Institute of Standards of Cambodia (ISC) within MIME to supersede the Department of Industrial Standards of Cambodia. Sub-Decree No. 62 (2008) on the organization and functioning of the Institute of Standards of Cambodia describes the main activities of the ISC, which are to: (i) research into and set national standards; (ii) certify products or companies on standards compliance for both products and systems; (iii) disseminate standards and create awareness; (iv) work with international bodies to achieve international recognition of national standards and gain accreditation for national conformity assessments; and (v) license, regulate or revoke product and systems certifications. ISC consists of four departments: Information; Standards Development, Training and Consultancy; Certification; and Regulatory and Accreditation. In line with WTO requirements, the ISC acts as the national enquiry point (NEP) for Cambodia, and as the notification authority. According to the authorities, the ISC website has been upgraded and improved to handle NEP functions, and ISC has begun the process of notifying existing or new technical regulations to the WTO.[28]

Standards development

87. The ISC serves as the secretariat of the National Standards Council and is responsible for developping and issuing standards, including food standards based on Codex standards. Currently there are 71 Cambodian standards, mainly on foods, electrical appliances, and tools.[29] ISC is beginning to develop standards for laboratory analysis techniques for the identification of heavy metals and trace elements, and microbiological laboratory techniques. In practice, Cambodia uses the ISO/IEC guide 21-1 and 2:2005 as a national guide to adopt international standards as national standards or technical regulations.

88. Cambodia maintains its policy and practical approach of adopting international standards as Cambodian standards or technical regulations where appropriate and applicable for its economic situation. Cambodia will notify its adoption of Annex-3 of the WTO/TBT Agreement, Code of Good Practice.

89. Under the ISC's standards development process, the draft begins in a technical working group then goes to a technical Committee. The draft is published for a 60-day public comment period before submission to the National Standards Council for approval as a final draft standard. The final draft is submitted to the Minister at MIME for signature and official endorsement as a Cambodian Standard. At present, few Cambodian processing companies understand the relevance of using standards, or their use as a marketing and sales tools.

[27] The DTIS recommended that existing prakas and so-called "compulsory standards" need to be reviewed for compliance with WTO-TBT rules on technical regulations.

[28] In 2010, three notifications were sent to the WTO: Industrial Standards of Cambodia CS 0051:2005 Chilli sauce; Ministerial Regulation No. 963 on the Registration of Industrial Products; and Ministerial regulation No. 1045 on the Labelling of Food Products.

[29] See ISC online information. Viewed at: website at: www.isc.gov.kh. In comparison to Thai Industrial Standards Institute, which has now elaborated over 2,700 standards.

Conformity assessment and accreditation of certification bodies

90. The ISC has the role of elaborating, coordinating, revising, culling, amending, reissuing, interpreting, and maintaining standards. According to international standards and guidelines, such as ISO, IEC, IAF, and ILAC, activities involving conformity assessment, accreditation or recognition as well as consultancy services, should not coexist within the same organization. An accreditation body assesses the competence of a conformity assessment body to certify products and processes and should be independent in order to be mutually recognized globally. The Institute of Standards of Cambodia is responsible for assessing the conformity of imported products, upon the request of the competent authorities. For local industrial products, conformity is guaranteed by using production methods that comply with the standard. Where it has no relevant national capacity, Cambodia uses the test results of recognized foreign laboratories.

91. There are no certification or inspection bodies operating in the private sector. Government agencies such as Camcontrol carry out inspection and testing, although they are not internationally accredited. There are no government-accredited bodies and there is no Cambodian accreditation body signatory to an international cooperation agreement, such as ILAC (International Laboratory Accreditation Cooperation) or APLAC (Asia Pacific Laboratory Accreditation Cooperation).

Testing and inspection

92. Camcontrol is responsible for safety and quality standards and the certification and verification of imports and exports. Export inspection covers garments, agricultural products, rice, wood and processed food. Import inspection concentrates on food, agricultural chemicals, petroleum, textiles and garments. Domestic market surveillance targets food safety and commercial fraud. Camcontrol operates laboratories for food testing, for cereal testing and for petroleum products.

93. Given these shortcomings, exporting firms may depend on negotiations with importing countries and buyers. Conformity assessment to buyers' requirements for most Cambodian exports (garments, rubber, footwear, rice, soybeans, cashew nuts, cassava, handicrafts, etc.) is through "second party" certification, originated by the buyer. Through this procedure, the buyer provides the specifications or standards to the supplier, who manufactures or produces according to the buyers' own quality control procedures. A representative of the buyer may visit the exporter's facilities to verify the adequacy of quality control procedures and to undertake inspections at key stages, including final inspection of the production lots to be exported.

(d) Membership in international and regional fora

94. Cambodia is a subscriber member of the International Organization for Standardization (ISO) (since 1995), an affiliate member of the International Electrotechnical Commission (IEC), and a member of the ASEAN Consultative Committee for Standards and Quality (ACCSQ). It is a signatory to the ASEAN sectoral mutual recognition arrangement for electrical and electronic equipment (ASEAN EEE MRA).

(iii) Sanitary and phytosanitary measures

(a) Overview

95. Cambodia scheduled its full implementation of the WTO SPS Agreement within the 5-year transitional period following accession[30]; full SPS compliance has been a priority during the review period. Cambodia is also committed to complying with a range of international agricultural compliance/quality standards in line with the International Standards Organization (ISO), International Plant Protection Convention (IPPC), World Organization for Animal Health, Southeast Asia Fisheries Development and Education Centre, Association of National Rubber Producing Countries and the International Rubber Development Board and the Codex Alimentarius Commission (CAC), of which it is a member.

96. According to a recent analysis by the FAO and the Standards and Trade Development Facility (STDF)[31], Cambodia's SPS management system suffers from a number of serious weaknesses. These include problems in the definition of responsibilities between the various agencies, overall fragmentation of responsibilities between, and even within, ministries as well as limited capacity to discharge those responsibilities; lack of systematic inspection or monitoring in all key areas of production and processing, with an impact on product quality and safety (most inspection activities seem to have had an objective of raising revenue rather than controlling quality and/or safety; an absence of systematic laboratory testing to support inspection, due to limited human and financial resources; and a certification system that is not backed by testing, and therefore not necessarily accepted in export markets.

97. A major challenge for effective SPS management systems is for relevant SPS agencies to agree to minimize duplication, reduce unnecessary inspections, and improve reporting mechanisms for food safety. Agencies' duplication of functions and inspections, through the proliferation of subordinate legislation, may have undermined effective SPS policy, reporting, and coordinated enforcement systems in Cambodia. This has also imposed a substantial cost on private sector food produced. However, the authorities contend that since the establishment of inter-ministerial Prakas 868 (2010) on the Implementation of an Institutional Arrangement of Food Safety, based on a farm-to-table approach, the definition of responsibilities has been clarified between Customs, Camcontrol, MAFF, MIME, and the Ministries of Tourism and Health. According to the authorities, substantial progress has been made in reforming SPS management systems and capacity development.

(b) Regulatory and institutional framework

98. The Law on the Management of Quality and Safety of Products and Services is the basis for inspection and for regulating quality, safety, and standards; it is the principal instrument for the activities of Camcontrol and relevant agencies. The 2007 Law on Standards of Cambodia established the Institute of Standards of Cambodia, the Law on Fisheries provides for the Fisheries Administration to move towards a central competent authority, and numerous sub-decrees have concentrated on the implementing of standards and SPS measures and infrastructure development, such as slaughterhouse management and hygiene.

[30] For Cambodia's Action Plan for the implementation of the SPS agreement, see WTO document WT/ACC/KHM/15/Rev.1, 3 March 2003.

[31] Food and Agriculture Organization (2010a), p. 14. See also WTO document WT/COMTD/LDC/W/47, dated 4 March 2010.

99. However, from the start there has been an overlap in administrative arrangements concerning SPS measures.[32] Monitoring and regulating the production of agricultural raw materials (crops, livestock and fish), and SPS measures are the responsibility of the MAFF. An overlap in inspection of products, where MAFF and Camcontrol have responsibilities, may allow risks to animal, plant, and human health to be imported. Camcontrol has a legal mandate to inspect food products at the border and is the SPS enquiry point. MAFF has effectively withdrawn from the border, apart from avian flu surveillance. Although MAFF is the principal regulating agency of agricultural products, production and inputs, Camcontrol examines shipments in relation to whether they conform to specifications and satisfy environmental standards.

Ministry of Agriculture, Forestry and Fisheries (MAFF)

100. The MAFF is responsible for animal, plant, and fish health. The Department of Animal Health and Production (DAHP) is responsible for the inspection of animals and animal products and for issuing the Animal Health Certificate, as required under the OIE animal health code and standards. MAFF/DAHP issue import permits for animals and animal products based on risk assessment.[33]

101. The General Directorate of Agriculture (GDA) is responsible for import/export inspections of plants, plant products, and other regulated articles, and for issuing permits and phytosanitary certificates in compliance with the International Plant Protection Convention, of which the GDA is a national Plant Protection Organization. Sub-Decree No. 15 (2003) on Phytosanitary Inspection relates to preventing entry of plant pest and diseases through Department of Plant Health inspection and quarantine facilities, and the issuance of phytosanitary certificates, transit arrangements plant health inspectors powers and enforcement penalties.

102. The Fisheries Administration is responsible for inspection and for issuing fish health certificates and import/export permits for fish and fishery products. Analytical capabilities are limited, and complex analysis such as for fish biotoxins is undertaken by internationally accredited laboratories in Viet Nam. Under the Law on Fisheries (2006), the Fisheries Administration is the central competent authority and is responsible for managing and organizing fishery natural resources, activities, and development; scientific research in production, processing, conservation, business practices, and the promotion of aquaculture; enforcement through inspection, monitoring, and surveillance; and ensuring quality and safety.

Camcontrol (Cambodia Import Export Inspection and Fraud Repression Department in the Ministry of Commerce)

103. The Law on the Management of Quality and Safety of Products and Services provides the legal mandate for Camcontrol to conduct official inspection of goods in international trade and on the domestic (retail) market. Under Sub-Decree No. 59 (2008), the Department has the following duties and responsibilities: (i) inspection of imports and exports, jointly with Customs; (ii) consumer protection through product safety and suppression of fraud; (iii) export certification to meet importing country requirements; (iv) checking of compliance with international standards; (v) review

[32] See ADB (2008b), p. iii.

[33] Key regulations include: Sub-Decree No. 16 on Sanitation Inspection of Animal and Animal Products (2003), on management of the movement of animals, and sanitary inspection of animals, and animal products; and Sub-Decree No. 108 on Slaughterhouse Management, Sanitary Inspection of Animals, Meat and Animal Products (2007), which includes (i) the definition of slaughterhouses according to animal or poultry to be slaughtered, and size of the unit (ii) location and licensing arrangements, and (iii) sanitary inspection procedures.

of health and safety of products from production through to commercialization, and submission to competent authorities; (vi) the control of products and services on the markets; (vii) management of MoC laboratory product testing facilities; (viii) provision of a commercial inspection service; (ix) collection of inspection fees relating to import/export quality testing; and (x) secretariat of National Codex Committee and SPS National Enquiry Point.[34]

104. Camcontrol undertakes inspections of food and some agricultural inputs. On the domestic market it undertakes surveillance of food and other regulated products. It levies fees for its inspection service; for example, the fee for cargoes inspected is 0.1% of the c.i.f. value on imports (and 0.1% of the f.o.b. value on exports), with a minimum of US$6.0, which covers costs and contributes to government revenues, at approximately 1% of consolidated revenue.[35]

105. There are 5 to 20 inspectors in each province and Phnom Penh. Camcontrol also undertakes non-regulatory inspections for exporters, primarily in relation to export shipments of rice and other agricultural products. Camcontrol's priority SPS and food safety is surveillance of the domestic market, targeting smuggled and legitimate food products on the basis of risk assessment findings. Legitimate imported food products are principally inspected for the type and condition of packaging and the expiry date and safety risk. Camcontrol has a central laboratory that has limited testing capacity in microbiology and chemistry for water and foods.

Ministry of Health (MoH)

106. The MoH has responsibility for public health and food safety issues as detailed in Sub-Decree No. 67. The Department of Drugs and Food is responsible for food and drug control and is the focal point on the ASEAN Food Safety Expert Group. The Department consists of five Bureaus: Registration and Cosmetics; Essential Drugs; Pharmaceutical Trade; Drug Regulation; and Food Safety Bureau (FSB), which is the focal point within the ASEAN Food Safety Network. The FSB is working on establishing sanitary procedures in catering.

Ministry of Industry, Mines and Energy (MIME)

107. The MIME regulates and inspects manufacturing industries, which include agri-based production activities under Sub-Decree No. 4. The MIME inspects and samples foods and agri-based products for conformity and safety, in order to issue product licences. Analysis of the products is undertaken by the MIME's analytical ILCC laboratory. MIME inspectors from various departments (Institute of Standards Cambodia, Department of Industrial Techniques, and the Department of Water Sanitation, as well as sanitation authorities in the municipalities) visit manufacturing and agri-processing plants. The MIME inspects every three month, as a rule, and advises on hygiene and safety issues.

(c) Laboratory testing

108. In addition to clarification of responsibilities, a major area where capacity-building work appears to be necessary, is in national laboratory testing. Phytosanitary and animal health certificates,

[34] MoC Declaration No. 141 (Prakas of 2003) on *Formation of SPS Enquiry Office (Point) under Camcontrol,* nominated Camcontrol as SPS enquiry point and to work closely with the National Codex unit and to create SPS awareness within country.

[35] It is not clear how the fees for inspection of imported food products are calculated to ensure that they are equitable *vis-à-vis* fees for inspection of domestic products and that they are no higher than the actual costs of the service as required in the SPS Agreement, Annex C, paragraph 1(f).

and monitoring of hazards in agri-based product production, processing, and retailing, require laboratory analysis to identify SPS risks. The Institut Pasteur has ISO accreditation for certain tests, which means that any exporting company that needs laboratory analysis must send samples to Institute Pasteur or dispatch to international laboratories.

109. The MIME's Industrial Laboratory Center of Cambodia (ILCC) undertakes on average 2,000 food and water bacteriology and chemical analyses per year. ILCC is of great importance as many processors and manufacturers rely on the quarterly laboratory tests for their quality assurance assessment. The ILCC laboratory has been accredited by the National Association of Testing Authorities (NATA) in Australia against the ISO 17025 international standard. It has the recognized capacity to carry out laboratory analysis required to identify SPS risks associated with microbiological contamination of food and water. The MIME has started implementing an action plan to commercialize the ILCC by 2013; the plan covers technical capacity building of staff at the laboratory as well as ISO accreditation of major tests. According to the authorities, these actions will enhance the commercial viability of the laboratory, and its ability to provide an internationally recognized testing service to the private sector.

(d) SPS sensitivity and exports

110. The 2007 Diagnostic Trade Integration Study (DTIS) identified 19 nineteen priority product sectors that have export potential; 9 were agri-based products (cashew nuts, cassava, corn, fish and fishery products, fruits and vegetables, livestock, rice, rubber, and soybeans). The DTIS seeks to assist the Government and development partners in identifying priority areas for action and intervention and aid-for-trade support. A barrier to further export growth in SPS-sensitive products such as fish and fishery products, meat and livestock, and certain crops (particularly rice and cashew) into high-value country markets relates to sanitary conditions, analytical surveillance, and the lack of certification and product traceability.[36] Issues in key export areas include plant, animal and fish health.

Plant health

111. Cambodian rice exports are unable to access certain markets, which require rice to be grown in pest-free areas and a number of risk-assessment documents showing that all rice and paddy are free of pests and diseases. Cambodia currently does not seem to meet requirements regarding, *inter alia,* the capacity of phytosanitary laboratories.[37]

Animal health

112. The prevalence of various animal diseases, including Foot and Mouth Disease, Classical Swine Fever, Newcastle Disease, Highly Pathogenic Avian Influenza and more recently Blue Ear (porcine reproductive and respiratory syndrome) are of concern. Cambodia reported 27 outbreaks of HPAI in the period 2004 to March 2011 and 9 human fatalities. Given the transit of live animals (Thailand to Viet Nam), the trans-boundary animal disease control project to set up disease-free zones across the region is ambitious and may be difficult to achieve.

[36] ADB (2008b), pp. 24-26. Viewed at: http://www.adb.org/Documents/Reports/Consultant/38421-CAM/38421-CAM-TACR.pdf.

[37] For example, 2010 Cambodia – China protocol on milled rice exports to China contains requirements that will need capacity strengthening in Cambodia's phytosanitary organization.

Fish health

113. A barrier for export growth into high-value countries relates to sanitary conditions in the Cambodian fisheries sector.[38] For example, Cambodia is not on the list of countries approved for the export of fish to the EU.[39] A number of conditions must be met to obtain approval, including: compliance with EU legislation, with sanitary and environmental conditions in the production of fish and fish products, with HACCP-based production systems, and the establishment of a competent certification authority.

(iv) Trade-related intellectual property rights (TRIPS)

(a) Overview

114. Given Cambodia's limited experience with intellectual property rights protection, Cambodia was granted WTO a phase-in period up to 2007 to fully implement IPR protection in line with the WTO TRIPs Agreement. In 2005, the WTO granted an extension until 2013 for least developed countries, including Cambodia, to enforce copyright laws and begin accepting patents.[40] LDCs were also invited to provide the WTO TRIPS Council information on their individuals needs, preferably by 1 January 2008, in order to obtain the necessary assistance in implementing the Agreement.[41]

115. National and MFN treatment is granted to all foreign nationals under existing Cambodian intellectual property legislation, and all draft legislation integrates the same principles. Under the TRIPS Agreement, Cambodia must introduce an IPR enforcement regime that includes remedies for the civil and criminal enforcement of IPRs, as well as administrative measures for the border enforcement of IPRs. During the review period, Cambodia passed or introduced a number of laws and regulations including:

- Law on Patents and Industrial Designs, in force since January 2003, followed by regulations (prakas) on procedures for the registration of industrial design, and for the grant of patent and utility model certificate, in force since November 2006;

- Law on Trade Marks, Trade Names and Acts of Unfair Competition, in force since February 2002, followed by Sub-Decree No. 46 on the Implementation of the Law, since July 2006; border measure provisions are included in the sub-decree;

- Law on Copyrights and Related Rights, in force since March 2003; a draft sub-decree on the establishment of collective management organizations is currently under discussion;

- Encrypted Satellite Signal Protection Law, to be promulgated in 2011;

- the draft law on geographical indications is under review at the MoC and due for submission to Council of Ministers in 2011;

- draft legislation on layout design of integrated circuits is under discussion at ministerial level;

[38] World Bank (2008), p. 17.
[39] Cambodia's fish exports to the EU ceased in 1997 as per Commission Decision (CD97/296/EC).
[40] WTO document IP/C/40, 29 November 2005.
[41] ICTSD (2007).

- draft law on protection of undisclosed information and trade secrets has been completed and implementing regulations are being drawn up;

- legislation on plant variety protection was adopted in 2008, as the Law on Seeds Management and Plant Breeder's Rights Protection; and

- the draft law on compulsory licensing for public health is being drawn up by the Ministry of Health and is scheduled to be submitted to the national Secretariat for Intellectual Property in 2011.

116. Cambodia has been a member of the World Intellectual Property Organisation (WIPO) since 1995 and the Paris Convention for the Protection of Industrial Property since 1998. Cambodia aims to join the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, in 2015, if the necessary technical assistance is available. Possible application for membership of other treaties and conventions (e.g. WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), Berne Convention for the Protection of Literary and Artistic Works related to Copyrights and Related Rights, Patent Cooperation Treaty, International Convention for the Protection of New Varieties of Plants (UPOV), Geneva Phonogram Convention and the Brussels Satellite Convention, etc.), will depend on the availability and timing of technical assistance.

117. Cambodia had been participating in the ASEAN Framework Agreement on Intellectual Property Cooperation since 1999 and participates in the EC-ASEAN Intellectual Property Rights Cooperation Programme.[42] Cambodia had also concluded bilateral agreements on intellectual property protection and cooperation with the United States and Thailand.

(b) Institutional framework

Policy

118. Various ministries, agencies, and institutions participate in intellectual property policy. The Intellectual Property Department (IPD) of the Ministry of Commerce is responsible for the formulation and implementation of policy on trade marks, trade names, and acts of unfair competition, and will be responsible for geographical indications (GIs). The IPD also coordinates the drafting and implementation of IP laws and regulations and is the focal point for international cooperation.

119. The Ministry of Industry, Mines and Energy is responsible for patent law, utility models and industrial designs, and will also be responsible for integrated circuits and plant varieties. The Ministry of Culture and Fine Arts is responsible for protection of copyright and related rights. The Ministry of Telecommunications is responsible for the protection of encrypted signals, and the Ministry of Information is responsible for the management of broadcasting rights. Under the Law on Seeds Management and Plant Breeder's Rights Protection, the MIME is responsible for issuing certificates for the protection of plant breeders' rights, and MAFF is authorized to conduct field tests. A decision has yet to be made about which ministry will be responsible for the protection of traditional knowledge and traditional cultural rights.

120. In a significant step toward consolidating IPR policy-making, enforcement, and technical assistance, the Council of Ministers created the National Committee for Intellectual Property

[42] See ECAP II, EC-ASEAN Intellectual Property Rights Co-operation Programme online information. Viewed at: http://www.ecap-project.org/archive/how_to_enforce_your_ipr/cambodia.html.

Management in 2008, with its secretariat within the Ministry of Commerce.[43] This committee is responsible for developing national policy on intellectual property, strengthening inter-agency cooperation, preparing and disseminating new laws and regulations, and acting as a clearinghouse for technical assistance relating to the intellectual property sector. This new interagency IPR committee, chaired by the Minister of Commerce, includes a broad range of IPR actors including representatives from the Council of Ministers, and the Ministries of Industry Mines and Energy; Culture and Fine Arts; Interior; Economy and Finance; Posts and Telecommunications; Health; Agriculture, Forestry and Fisheries; Environment; Justice; Education; and Tourism.

Enforcement

121. A multiplicity of agencies is involved in the enforcement of IPRs. The three levels of Cambodian courts (municipal/provincial courts, Appeal Court, and Supreme Court) have authority to prevent and preserve evidence. Applicable provisional measures include: detention of material evidence; search for concealed materials; an order to stop an infringement; confiscation of infringing goods; and temporary seizure of infringed goods. With the recent approval of the Council of Ministers to establish a commercial court to deal with commercial and IP cases, Cambodia expects to have a new court system specializing in settling such disputes. According to the authorities, the draft Law on the Commercial Court is ready to be submitted to the Council of Ministers as soon as the law on Judicial Organization is adopted.

122. The competent border authority is entrusted with enforcement of intellectual property protection at the border to prevent the import/export/transit of counterfeit goods and pirated copyright goods. Customs protection of IP rights is normally initiated by an application by the right-holder or by ex-officio action. The Ministry of Culture, responsible for the protection of copyright works, may engage in ex-officio actions through random checks of retailers; it will seize counterfeit copyrighted works only when the right-holder has recorded his/her copyright with the Ministry. The Economic Police is concerned mainly with the infringement of intellectual property in domestic markets. Camcontrol is responsible for enforcement of intellectual property rights both at the border and in the domestic markets. It is entitled to inspect and detain infringing goods under the Consumer Protection Act and relevant IP provisions.

123. The Enforcement Section of the Intellectual Property Department coordinates the enforcement effort and may act as mediator to settle disputes on trademark matters between the right owner and infringer. The inter-ministerial Committee to combat piracy of VCDs and DVDs is a special agency established by government sub-decree to suppress the violation of copyright and circulation of pirated VCDs and DVDs in the domestic market.

124. The DTIS 2007 noted that infringement complaints may be made to the Economic Police, Customs, Camcontrol, or the Ministry of Commerce. This may lead to confusion as there are no transparent rules that clarify the particular task of each agency. The new sub-committee on Enforcement (of the national IPR Committee) is being created specifically to address this issue. Another bottleneck requiring priority attention is the absence of IPR professionals; the ECAP-II programme has made recommendations to address this. In addition, there is a need to strengthen human resources knowledgeable in IPRs issues and develop IP education at university level in Cambodia.

[43] Established by Sub-Decree No. 142 of the Council of Ministers, 18 September 2008.

(c) Legislative framework

Patents, utility models, and industrial designs

125. Cambodia has a small industrial base, and infringement of patents and industrial designs is not yet commercially significant. A comprehensive law on the protection of patents and industrial designs entered into force in January 2003. The law provides for the filing, registration, and protection of patents, utility model certificates, and industrial designs. The MIME issued a declaration in June 2006 on granting patents and registering industrial designs.

126. Patents and utility models protect the technical aspects of inventions. To receive a patent or utility model, the invention must be a new inventive step and industrially applicable. The Law categorically excludes certain types of inventions, such as scientific theories and mathematical formulae. In exchange for a patent or utility model, the inventor must disclose the invention to the public. This way the body of public knowledge increases, and is available to all once the term of protection expires. Patents are valid last for 20 years from the date of filing, and utility models for 7 years; owners must pay an annual maintenance fee, which increases over time, to keep the registration alive. Patent applications are filed with the Department of Industrial Property of the MIME.

127. While Cambodia is not a party to the Patent Cooperation Treaty, the law provides a procedure for registering foreign applications in Cambodia: most applications are foreign in origin. Patent owners need to be aware that their rights are subject to revocation and abridgement by the Government. The Ministry has the right to exploit a patented invention itself, or allow a third party to do so to promote the public interest (e.g. national defence, nutrition, health, and development). Further, holders who delay exploiting their inventions risk having the government grant others licences without their permission. Looking to the future, the Government is considering a new law on compulsory licences for certain drug patents. The owner of a patent has the right to exclude others from making, importing, selling, stocking, offering for sale, and using infringing products. Both licensees and the patent owner have the right to bring a civil suit, seeking monetary damages and injunctive relief. However, the law does not provide a procedure for suspension of customs clearance for infringing goods.

128. Provisions on compulsory licensing may be applied following three years of non-use of a patent, or if a patented product has not been offered for sale in sufficient quantity to supply the Cambodian market without valid reason. The licence would be predominantly for the supply of the domestic market.

129. As with patents and utility models, industrial designs are registered with the Department of Industrial Property, and the registration procedures are very similar. Industrial design registration lasts for five years from the filing date, renewable for two further consecutive five-year terms, for a total of fifteen years.

Trade marks, trade names, and acts of unfair competition

130. Trade mark law is the most developed area of IP in Cambodia. Though enforcement could be improved, registration procedures are well established and routinely practiced. Trade marks and related IPRs are protected under the Law on Marks, Trade Names and Acts of Unfair Competition, which lists the steps for registering a trade mark and the scope of protection. Promulgated in 2002, the law outlines specific penalties for trade mark violations, including jail sentences and fines for

counterfeiting registered marks. It also contains detailed procedures for registering trade marks, invalidation and removal, licensing of marks, and infringement and remedies. The Sub-Decree and Implementing Regulations to the Trademarks Law were adopted in 2006. The Ministry of Commerce has maintained a trademark registration system since 1991, registering more than 35,500 trade marks. In 2009, the Ministry of Commerce resolved 12 cases of trade mark infringements.

131. Applications for registration of a mark are submitted to the Department of Intellectual property rights at the MoC. Actual use of a mark is not a condition for filing an application. Priority is given to the person who first filed a valid application or claimed the earliest priority to the mark. An applicant who has already registered a mark in another member country of the Paris Convention will have priority in registering the mark in Cambodia. A trade mark is protected for ten years and may be renewed indefinitely for successive periods of ten years. Failure to use a registered mark for more than five years without a valid reason may lead to nullification of protection.

132. A trade mark owner has the right to prevent others from infringing their mark, and performing acts that make infringement likely. The three main enforcement options are to: (i) sue in civil court for money damages and/or specific relief; (ii) request the customs authorities to suspend clearance of imported infringing goods; or (iii) seek criminal prosecution and/or fines.

Copyrights and related rights

133. Copyrights are governed by the Law on Copyrights and Related Rights, enacted in January 2003. Responsibility for copyrights is split between the Ministry of Culture and Fine Arts, which handles phonograms, CDs, DVDs, and other recordings, and the Ministry of Information, which deals with printed materials. Pirated CDs, videos, textbooks, and other copyrighted materials are widely available in Cambodian markets and used throughout the country. Until adoption of the law, there were no provisions for copyright enforcement.

134. Authors and related rights holders are allowed by law to establish a collective management organization (CMO) to protect and manage their economic rights. The creation of the CMO requires authorization from either the Ministry of Culture and Fine Arts or the Ministry of Information, depending on the nature of the work. The Ministry of Culture and Fine Arts is developing a sub-decree on collective management. In mid 2007, the Ministry created a Copyright Department, which is gradually building capacity.

135. The law provides protection for original works of authorship.[44] Authors have both economic and moral rights to their works. Economic rights relate to commercial exploitation of the work, and allow the author to prevent others from making copies or derivative works. Economic rights usually expire 50 years after the death of the author. Moral rights, on the other hand, are perpetual and non-transferable. They allow an author to prevent the destruction or modification of their work, to insist on public attribution as the author, and to decide on the manner and timing of the work's publication.

[44] The law provides copyright protection for literary works; artistic and scientific documents; official legislative, judicial, and administrative texts; spoken works (conferences, speeches, sermons, etc.); dramatic and dramatic-musical works; choreographic works and pantomimes; musical compositions with or without words; audiovisual works with or without sound and photographs extracted from these works; drawing, painting, architectural, sculptural, engraving and lithography works; graphic and typographic works; photographic works and works produced with techniques similar to photography; work of applied arts; illustrations, cards, plans, sketches and plastic works pertaining to geography, topography, architecture and sciences; computer programmes; and derived works, such as translation, adaptation, transformation of one or several pre-existing works.

Geographical indications (GI)

136. Since early 2009, GIs may be registered with the Ministry of Commerce under an interim regulation that will remain in force until the GI law is promulgated. As part of the registration procedure, producers must submit specifications detailing the geographical area, production conditions, and qualification process for the products. Only domestic GIs may be registered. The draft GI law provides protection for an indefinite period.[45]

Draft legislation

137. The Ministry of Industry, Mines, and Energy is drafting a law on the protection of integrated circuit.[46] Cambodia has not yet made significant progress toward enacting required legislation on encrypted satellite signals, although it obtained a model law on encrypted satellite signals and semiconductor layout designs from WIPO in March 1999. Cambodia does not yet provide protection for plant varieties, as the regulations for implementation of the Law on Plant Breeders' Rights Protection are being drafted. Cambodia has no law specific to trade secrets, though a draft is under consideration. Nevertheless, provisions in various laws impose duties of confidentiality and penalties for divulgence of commercial secrets.[47]

(d) Enforcement

138. According to the authorities, Cambodia's laws on intellectual property comply fully with the provisions of Article 41 of the TRIPS Agreement concerning the availability of enforcement procedures under domestic legislation, the existence of fair and equitable procedures, and the opportunity for parties to proceedings to obtain a review of final administrative decisions and initial judicial decisions by a judicial authority. Provisions on civil judicial procedures and remedies are included in the Civil Code, Civil Procedure Code, and specific intellectual property laws. The

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[45] Once the law is in place, it is anticipated that a number of products with special qualities linked to their geographic origin will be registered. Two products, Kampot pepper and Kampong Speu palm sugar, were registered in 2010, through issuance of a regulation. These products have already achieved a certain reputation in markets abroad, and it is believed that providing them with the protection of geographical indications will further facilitate their marketing.

[46] Cambodia's patent utility law did not contain any provisions for the protection of layout designs (as required by Article 35 of the TRIPS Agreement). The subject matter will be protected through a new law on layout designs of integrated circuits, due to enter into force in 2015.

[47] Notably, Article 128 of the Law on Patent, Utility Models and Industrial Designs provides protection for undisclosed data. Non-disclosure agreements are often used to maintain the confidentiality of information that needs to be shared, with an employee or contractor for example. Such agreements are contracts like any other, and would be enforceable under the Contract Law (1988). The Law on Commercial Enterprises (2005) prohibits the unauthorized publication of a firm's financial statements. It also requires the Ministry of Commerce to maintain the confidentiality of most company documents in its records. The Law on Audit (2000) also imposes a duty of confidentiality on government auditors. The Law on Banking and Financial Institutions (1999) prohibits certain people from disclosing any confidential information in accounting or administrative documents. The Law provides for criminal penalties of up to five years imprisonment and US$60,000 in fines. As in virtually every country, the Law on the Bar (1995) requires lawyers to maintain client confidences. The newly promulgated Penal Code (2010) contains several relevant provisions; only part of this new code is currently in force, the rest enter into effect in 2011. Under the new code, any person who, by reason of their position, profession, function or mission, holds confidential information, and divulges such information, is subject to criminal prosecution. The Law also criminalizes interception of mail, telephone tapping, and computer network hacking.

necessary border measures were incorporated in the Law on Marks, Trade Names and Acts of Unfair Competition and the Law on Copyrights and Related Rights.

139. Cambodia's legislation provides for seizure, forfeiture, and destruction of infringing goods, evidence, copies, and equipment used in creating the infringing goods, and prohibits the re-exportation of counterfeit trade mark goods or use of different customs procedures. Under the new regulations, customs authorities are allowed to inform right holders about the possible importation or exportation of infringing goods.

140. With the exception of trade mark enforcement, the Government has taken few significant actions to enforce its IPR obligations. However, in 2008 the government suggested that it would increase prosecutions for copyright violations on domestically produced products before expanding prosecutions for works produced outside Cambodia. Cambodian copyright law allows IPR owners to file a complaint with the authorities to take action. Law enforcement action taken at the request of owners is directed against the piracy of domestically produced music or video products, but not against piracy of foreign optical media. Seizures are conducted upon request and follow established procedures.

141. Infringement of IPRs is pervasive, ranging from software, compact discs, and music, to photocopied books and the sale of counterfeit products, including cigarettes, alcohol, and pharmaceuticals.[48] In 2008, the Business Software Alliance estimated software piracy in Cambodia at 95%, costing the industry US$47 million in 2007. Although Cambodia is not a major centre for the production and export of pirated CDs, videos or other copyrighted materials, local businesses report that Cambodia is becoming an increasingly popular source of pirated material due to limited enforcement capability.

[48] U.S. Department of State (2010).

instructions as well as develop the institutional capacity to implement those.[12] Although there is no sector closed only to foreign investment, the activities listed in Sub-Decree No. 111 (2005) are prohibited for investment by both Cambodian and foreign entities. These are: production/processing of psychotropic substances and narcotic substances; production of poisonous chemicals, agriculture pesticide/insecticide and other goods by using chemical substances prohibited by international regulations or the World Health Organization, that affect the public health and environment; processing and production of electrical power by using any waste imported from a foreign country; forestry exploitation business prohibited by Forestry Law; investment activities prohibited by law. The 2007 DTIS noted that a major weakness of the investment framework was the lack of a predictable and transparent set of rules that are enforced in a prompt, fair, and efficient manner by the appropriate government institutions. In addition, investors in their dealings with each other could not rely on a functioning commercial justice system.

(ii) Bilateral investment agreements

60. Cambodia has signed bilateral investment promotion and protection agreements with 24 countries or territories.[13] The agreements generally provide reciprocal national treatment to investors, excluding benefits deriving from membership in future customs unions or free-trade areas and agreements relating to taxation. The agreements preclude expropriations except those that are undertaken for a lawful or public purpose, are non-discriminatory, and are accompanied by prompt, adequate, and effective compensation at the fair market value of the property prior to expropriation. The agreements also guarantee repatriation of investments and provide for settlement of investment disputes via arbitration.

61. Cambodia has no double taxation treaties (DTTs) nor tax-sparing agreements.

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[12] The main sub-decrees are: Sub-Decree on the Establishment of the Sub-Committee on Investment of the Provinces-Municipalities of the Kingdom of Cambodia (Sub-Decree No. 17 ANK/BK dated 9 February 2005); Sub-Decree on the Implementation of the Amendment to the Law on Investment of the Kingdom of Cambodia (Sub-Decree No. 111 ANK/BK dated 27 September 2005); and Sub-Decree on the Organization and Functioning of the Council for the Development of Cambodia (Sub-Decree No. 149 ANK/BK dated 3 October 2008).

[13] Agreements in force as of 31 December 2010 are with: Australia, China, Croatia, Cuba, the Czech Republic, France, Germany, Indonesia, Kuwait, Japan, Laos, Malaysia, the Netherlands, North Korea, OPIC (USA), the Organization of the Petroleum Exporting Countries (OPEC), Pakistan, the Philippines, Singapore, Republic of Korea, Switzerland, Thailand, and Viet Nam. Agreements with Algeria, Bulgaria, Egypt, Hungary, Libya, Malta, Myanmar, Qatar, Russia, the United Kingdom, United States, and Ukraine are planned or near completion.

IV. TRADE POLICIES BY SECTOR

(1) INTRODUCTION

1. Cambodia is a relatively small country with a population of around 14 million people. It has emerged from three decades of turmoil, including civil war and political instability. The country has few economic resources except for its agriculture, fishery and forestry resources. It has limited mineral resources, excluding recent indications of offshore reserves of oil and gas, no major hydropower potential, and only a small industrial base. Even its agricultural resources are limited, consisting primarily of 3.7 million hectares of cultivated land, of which 75% is devoted to rice and 25% to other food and industrial crops, primarily rubber. The fisheries resources comprise the Mekong River and Tonle Sap Great Lake, which is one of the most productive freshwater fisheries in the world. The bulk of the population still consists of rice farmers who supplement their income from fishing, or fishermen who supplement their income from rice farming.

(i) Overview of the economy

2. Agriculture, including forestry and fishing, contributed an estimated 33.5% of GDP at current prices in 2010. In 2007, according to the IMF, the sector engaged an estimated 55.9% of the economically active population, but remained extremely vulnerable to adverse weather conditions. This problem is compounded by inadequate rural infrastructure and a lack of farm inputs such as fertilizers. In 2010, paddy rice production was around 8.2 million tonnes; this crop is a significant source of export revenue. Other important crops include rubber, cassava, maize, sugar cane, bananas, and mango. The fishing sector is adversely affected by land encroachment and the reduction of the flooded forest area. According to IMF data, agricultural GDP increased, in real terms, at an estimated average annual rate of 5.8% during 2004-10 (Table IV.1).

3. Industry, including mining, manufacturing, construction, and utilities contributed an estimated 21% of GDP in 2010, down from 25.6% in 2004. The manufacturing sector contributed between 14% and 19% of GDP during the period, and is dominated by the production of garments, household goods, textiles, tyres, and pharmaceutical products. The manufacture of clothing, mostly for export, grew rapidly from the mid 1990s, and by late 2008 well over 300,000 workers were engaged in garment manufacture. The garment sector accounts for 70% of manufacturing (12% of GDP) and 75% of Cambodia's export revenue. Historically, improving labour standards and working conditions have generally helped garments exporters to maintain export contracts and stave off the competitive threat from other low-cost manufacturers in the region.

4. Construction contributed over 6% of GDP during the review period and has been one of the fastest growing industries in recent years. Large-scale public-sector projects, the need to develop urban infrastructure and national highways, and the rapidly rising demand for residential housing have contributed to a boom in the sector. Cambodia is endowed with a variety of minerals, but exploitation is still on a small scale. The mining sector has contributed only 0.4% to GDP in recent years. However, a number of companies, including foreign companies, have been exploring for oil and gas offshore in the Gulf of Thailand over the past decade, and in 2005 the first significant discovery was announced.

Table IV.1
Growth and share of GDP by economic activities, 2004-10
(%)

	2004	2005	2006	2007	2008	2009	2010[a]
Growth rate at constant 2000 prices							
Agriculture, fisheries and forestry	-0.9	15.7	5.5	5.0	5.7	5.4	4.0
Crops	-2.3	27.6	5.3	8.2	6.6	5.8	4.4
Fisheries	-1.7	5.6	3.8	0.8	6.5	6.0	2.9
Mining and quarrying	24.2	26.3	15.9	7.7	15.8	20.0	5.6
Manufacturing	17.7	9.7	17.4	8.9	3.1	-5.3	1.8
Textile, clothing and footwear	24.9	9.2	20.4	10.0	2.2	-9.0	1.5
Electricity, gas and water	11.2	12.5	31.7	11.5	8.5	8.5	4.6
Construction	13.2	22.1	20.0	6.7	5.8	5.0	2.6
Services	13.2	13.1	10.1	10.1	9.0	2.3	3.3
Wholesale and retail trade	5.8	8.5	7.1	9.5	9.4	4.2	3.3
Restaurants and hotels	23.4	22.3	13.7	10.2	9.8	1.8	4.2
Transport and communication	9.6	14.5	2.1	7.2	7.1	3.9	3.4
Finance	20.5	19.6	24.0	22.2	19.2	8.0	3.3
Public administration	-6.7	5.9	-1.2	0.1	4.5	1.0	3.2
Real estate and business	20.3	7.8	10.9	10.7	5.0	-2.5	3.4
Other services	18.0	18.3	17.2	12.1	12.0	2.9	2.7
Share of GDP at current prices							
Agriculture, fisheries and forestry	29.4	30.7	30.1	29.7	32.8	33.5	33.5
Crops	13.6	15.7	15.1	15.5	17.9	18.4	18.5
Fisheries	8.2	7.3	7.2	6.9	7.4	7.7	7.6
Mining and quarrying	0.3	0.4	0.4	0.4	0.4	0.5	0.5
Manufacturing	18.8	17.8	18.6	17.3	15.3	14.4	13.9
Textile, clothing and footwear	13.3	12.3	13.0	12.1	9.1	8.7	9.0
Electricity, gas and water	0.5	0.5	0.6	0.6	0.5	0.5	0.5
Construction	6.0	6.3	6.7	6.7	6.1	6.3	6.1
Services	39.3	39.1	38.7	38.5	38.8	38.8	38.3
Wholesale and retail trade	9.4	9.2	8.9	8.9	8.9	9.0	8.8
Restaurants and hotels	4.2	4.3	4.4	4.3	4.5	4.5	4.3
Transport and communication	7.1	7.4	7.1	6.9	7.4	7.5	7.5
Finance	1.1	1.1	1.3	1.4	1.3	1.4	1.4
Public administration	2.0	1.8	1.7	1.9	1.8	1.8	1.8
Real estate and business	7.2	6.6	6.5	6.3	6.4	6.1	6.1
Other services	8.5	8.6	8.8	8.8	8.5	8.5	8.4
Other[b]	5.7	5.2	5.0	6.9	6.0	6.2	7.1

.. Not available.

a Estimates.
b Includes taxes on products less subsidies minus Finance Service Charge.

Source: Data provided by the authorities; and IMF (2009), *Country Report No. 09/48*, February.

5. The services sector accounted for an estimated 38-39% of GDP during the review period. Tourism has become increasingly significant since 2000, with receipts reaching US$1.5 billion in 2008, when tourist arrivals exceeded 2 million. The Angkor Wat temple complex in Siem Reap continues to be the main draw, and the beaches around Sihanoukville are being developed.

6. The formal sector encompasses garments, tourism, and public administration, while the vast majority of enterprises (including small and medium-sized enterprises that are household-based)

remain informal because of the burdensome requirements needed to register a business and secure the necessary licenses. Smuggling of goods provides the livelihood for many in the informal economy.

7. The garment and service sectors have attracted significant foreign direct investment in the past, but sizeable FDI has recently moved to the construction sector. This is expected as an economy grows and develops; and resources move to higher-productivity activities in industry and modern services. This process, and the associated rural-urban migration that occurs with the transformation, contributes to a reduction in poverty. Although household incomes in rural areas grew moderately between 2000 and 2007, World Bank studies showed that poverty reduction in Cambodia was slow in comparison with neighbouring countries, and inequality significantly increased.

8. It has become increasingly difficult for new entrants to be absorbed into the labour market. The number of new job-seekers exceeded 250,000 per year by 2010, and prospective new entrants to the labour market are projected to total 400,000 in the near future, as more young people reach working age. Regular data on employment trends are not available. However, according to the National Institute of Statistics 2004 Inter-Censal Population Survey, 7% of the labour force was unemployed, with a slightly higher rate in rural areas than in urban areas. Employment is predominately based on agriculture, with around 73% of workers engaged in agriculture, forestry, and fisheries. Manufacturing accounted for 5.3% of employed workers, according to the 2004 survey, while wholesale and retail trade accounted for 8.9% and public administration and defence for 2.6%. The clothing industry is now the second largest employer in this predominantly agricultural country. Over 85% of workers in the industry are women and over 90% of them come from rural areas. It is estimated that these workers remit about 50% of monthly wages to family in rural provincial areas. In this way, the rapid expansion of FDI-driven clothing exports has become a vehicle for the empowerment of women, improving livelihoods, and poverty alleviation.

(ii) Export potential by sector

9. Building on the 2002 Integrated Framework (IF), the Government completed a Diagnostic Trade Integration Study (DTIS) in 2007, which reviewed developments in key trade-related policies as well as the global environment for Cambodia and concludes that tariff advantages are unlikely to drive future export growth.[1] The DTIS derived from this the need to diversify exports and export markets and identified 19 products and services with potential for export diversification, 12 of which are in the agriculture, forestry, and fisheries sector. The most important is rice, for which the Government has prepared an ambitious plan to make Cambodia the world's third largest exporter of rice (regarded as the country's 'white gold'), behind Thailand and Viet Nam, by 2015. The other products are: rubber, cassava, fishery, fruits and vegetables, wood products, soybeans, silk, livestock, cashew nuts, corn and beer. In the industrial sector, wood products, light manufacturing assembly, footwear, and garments are listed, as well as tourism, labour, transport, business, and web-based services.

10. The report points to a number of shared challenges for Cambodian sectors with export potential. Factors that continue to constrain export diversification include: high production and infrastructure costs, low competitiveness and productivity; limited value added in many sectors, due to high import dependency for raw materials and intermediate inputs; poor quality and limited differentiation of products, limited access to technology, and small design and R&D capacity; in many sectors, enterprises have difficulties meeting exacting quality standards of various foreign markets as well as meeting time delivery requirements of foreign buyers; an underdeveloped, albeit improving, legal and institutional framework for business export development.

[1] Ministry of Planning and UNDP (2007).

(2) AGRICULTURE

(i) Sector situation

11. Agriculture remains Cambodia's most important economic sector in terms of its contributions to income and employment for most of the country's rural population, which accounts for about 85% of the total population. Agricultural GDP growth averaged 5.8% per annum in real terms during 2004-10, about twice the rate of growth of the population. Despite this relatively strong performance, agriculture's contribution to GDP has gradually declined, from 40% in the mid 1990s to around 33% in 2010, although it remains the primary source of employment for at least 70% of the population. Most Cambodian farmers are smallholders with less than two hectares per household. Key sub-sectors are crops (dominated by rice), fisheries, forestry, and livestock, which are major sources of livelihood for the poor. About 9% of the population depends on fisheries for primary employment and, besides being a primary source of protein in the domestic diet, fish is exported in significant volumes. The importance of forestry in agricultural GDP has declined in recent years, partly as a result of the Government's forestry reform policy and partly due to resource depletion (exacerbated by illegal commercial logging and poor land-use management), a ban on log exports, and revocation of concessions. Smallholders use livestock as a source of food, income, and drawght power, as well as a form of insurance in times of sickness or other catastrophes.

12. Despite the improved market access for Cambodian products and favourable weather during 2005-09, exports of agricultural products are of little significance according to official figures, accounting for only 8% of total exports, partly due to supply inconsistency, difficulties in meeting SPS requirements, and poor trade-related institutional support. Cambodia has one of the most inefficient export services in the region. However, most exports of Cambodian agricultural products are unofficial and are exported in a non-processed state to neighbouring countries, reflecting the very low value added of the sector.

(ii) Regulatory framework

13. The National Strategic Development Plan (NSDP) 2006-2010 is the Government's overarching framework for reducing poverty through economic growth. It has been extended to 2013 and is based on Cambodia's Rectangular Strategy platform[2], in which a key pillar is enhancing the agriculture sector, through improving productivity and diversification in a market environment conducive to private-sector participation. The Government has been engaged in reforming the agriculture sector since the mid 1990s and has so far achieved food self-sufficiency, price liberalization, and an improved land law. The reform is on-going with the objective of promoting sustainable growth of market-based agriculture, improving productivity, intensifying crop production to increase yields and rural incomes, diversifying crops, improving fisheries and forestry management, carrying out land reforms and divesting state-owned enterprises in the sector.

14. The Ministry of Agriculture, Fisheries and Forestry is the lead agency responsible for development of the agricultural sector. The MAFF, and its various departments, is responsible for monitoring and regulating primary agricultural production quality (crops, fisheries, livestock) and first stage processing[3], and it is the principal regulatory agency of agricultural material and chemicals. The General Directorate of Agriculture is responsible for plant production, the Department of Animal

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[2] Under the 2004 Rectangular Strategy for Growth, Employment, Equity and Efficiency, agricultural productivity, diversification, and competitiveness are the first growth priority along with the rehabilitation and construction of physical infrastructure.

[3] Includes washing, cleaning, husking, peeling, cutting and slicing, threshing and winnowing, and animal and fish slaughter.

Health and Production for animal husbandry, the Fisheries Administration for fisheries and aquaculture, and the Forestry Administration for forestry.

15. The Ministry of Commerce (Camcontrol) is responsible for market surveillance within Cambodia and for food safety, has the legal mandate to inspect food products at the border, and is responsible for export certification. For secondary stage agri-based product processing, the MIME is involved in monitoring production and regulatory oversight.

16. Other institutions that have direct or indirect roles and responsibilities for planning, implementing, and managing agricultural programmes and activities include: the Ministry of Rural Development; the Ministry of Water resources and Meteorology; the Cambodia National Mekong Committee; the Council for Agriculture and Rural Development, which is a high-level policy-making body responsible for formulating the Government's road map for agricultural and rural development; and the Tonle Sap Basin Authority, which promotes sustainable development in the lake basin.

(iii) Agricultural trade policies

17. The simple average MFN tariff on agricultural products is 14.5%, down from 20.6% in 2003. SPS certificates and permits are required for the importation of certain agricultural products. From 1 June 2005, Cambodia has gradually eliminated quantitative restrictions on the importation of fertilizers and other agricultural inputs, except pesticides. Cambodia established a WTO-consistent method of registration and review of imported agricultural chemical requirements, related to safe storage and domestic distribution, applicable to domestic distributors or to importers using bonded storage prior to domestic distribution. Since January 2007, Cambodia has relied on the provisions of TBT Agreement to regulate domestic and international trade in these items.

18. Cambodia does not impose prohibitions or restrictions on exported agricultural products, except for certain narcotic drugs. A 10% tax is levied on exports of pure-bred cattle and swine. Export restrictions on rice were lifted in July 2001, but Cambodia has reserved its right to restrict exports of rice temporarily to prevent or relieve critical shortages of foodstuffs as foreseen under Article XI:2(a) of the GATT 1994. Cambodia has not extended export credit, export credit guarantee or insurance programmes for agricultural products, other than milled rice. Upon Cambodia's accession to the WTO, agricultural export subsidies were bound at zero in its Schedule of Concessions and Commitments on Goods: Cambodia does not maintain or apply any export subsidies for agricultural products.

19. Cambodia does not use either Amber Box or Blue Box measures. Expenditures for Green Box measures for 2007 and 2008 were notified to the WTO in March 2010.[4] According to the data provided, over half of total support in 2007 and 2008 took the form of payments for relief from natural disasters (Table IV.2). For calendar years 2004, 2005, 2006, and 2009 no domestic support was granted for agricultural products.

20. The Cambodian Agricultural Research and Development Institute (CARDI) plays a significant role in agricultural research, supporting research management capacity for farmers, farmers' associations, and agri-businesses. The MAFF provides extension services to farmers and provides seed to farmers affected by natural disasters. In addition to Green Box measures, Cambodian farmers are exempt from the agricultural land tax and income taxes, classified as decoupled income support. VAT exemptions on agricultural inputs are generally available to farmers and the VAT revenue forgone in 2010 is estimated at about US$16 million.

[4] WTO document G/AG/N/KHM/2, 24 March 2010.

Table IV.2
Domestic support measure[a], 2007 and 2008

Measure	Description of measure	Monetary value of measure (million Riels) 2007	2008
Research	Research activities on agricultural productivity, land diversification, plant and animal health, in accordance with Annex 2, para. 2(a) of the Agreement on Agriculture	183	288
Pest and disease control	Expenditures on plant protection and animal quarantine, in accordance with Annex 2, para. 2(b) of the Agreement on Agriculture	1,052	1,406
Training services	Training for farmers and local communities on crop productivity, small-scale agri-processing and contract farming, in accordance with Annex 2, para. 2(c) of the Agreement on Agriculture	943	1,150
Extension and advisory services	Extension and advisory services, including transfer of information and results of research to farmer cooperatives and farmers, in accordance with Annex 2, para. 2(d) of the Agreement on Agriculture	1,370	1,342
Inspection services	Expenditures on inspection services relating to animal health, in accordance with Annex 2, para. 2(e) of the Agreement on Agriculture	157	92
Marketing and promotion services	Marketing and promotion services, including market information and market development, in accordance with Annex 2, para. 2(f) of the Agreement on Agriculture	Nil	Nil
Infrastructural services	Infrastructural services including rehabilitation and maintenance of small-scale irrigation schemes, in accordance with Annex 2, para. 2(g) of the Agreement on Agriculture	Nil	Nil
Payments for relief from natural disasters	Expenditure for relief from natural disaster on the provision of agricultural inputs, equipment and pest and disease control to agricultural production, in accordance with Annex 2, para. 8 of the Agreement on Agriculture	4,920	5,722
Total		**8,625**	**10,000**

a Measures exempt from the reduction commitment ─ Green Box.

Note: Exchange rate: 2007, US$1 = 4,058 Riels; 2008, US$1 = 4,003 Riels.

Source: National Bank of Cambodia; and WTO document G/AG/N/KHM/2.

(iv) Policy developments in selected sub-sectors

21. In 2010, rice and other crops took the largest share in agricultural output (54%), followed by fishing (27%), livestock and poultry (13%), and forestry and logging (6%). The main agricultural products are paddy (rice in the husk), maize, cassava, soybeans, tobacco, and rubber.

(a) Rice

22. Cambodia has resumed exporting rice following a 25-year hiatus caused by war, political isolation, and a decimated agriculture sector. Only as recently as 2004 has the cultivated national rice area returned to the levels common in the 1960s. Over the past decade, paddy rice production has increased steadily, at a 9% annual growth rate and rice has been in surplus and mainly unofficially exported. Much of this is border trade and is not recorded.

23. As a result of the 'Everything-but-Arms' initiative, exports of milled rice to the EU became exempt from import duties and quotas from 2009. This preferential measure, together with the removal of licence requirements for milled rice exporters and a doubling of the Rural Development Bank capital to US$36 million, has helped increase the level of exports.

24. Given Cambodia's recent success in achieving surplus rice production, including for export, the Government is intent on expanding its production and export capacity and becoming a major export nation. Under the motto "Rice – White Gold", the Government adopted a new rice policy in

2010 based on an ambitious five-year plan aimed at expanding the production and export of rice.[5] Rice accounts for about half of Cambodia's total crop production and around 7-8% of GDP. According to the Government, production could reach 8.7 million tonnes of paddy rice in 2010-11, of which an estimated 3.1 million tonnes is required for local consumption. Factoring in seed and post-harvest losses of around 13%, more than 3.9 million tonnes of paddy would be available for export. However, according to official statistics, only about 30,000 tonnes (less than 1%) are exported, implying that Cambodia's potential to enter world markets remains largely unrealized, because of a lack of processing and warehousing capacity, as well as formal export arrangements.

25. The rice export policy is wide-ranging and aims to: (i) facilitate trade, by reducing informal fees, eliminating illegal checkpoints, quicker customs clearance for imports of inputs, increasing rice milling capacity, and improving export processing, including the certification and grading of products to meet the standards of importing countries; (ii) raise productivity, by increasing paddy rice yields, using higher yield seeds, expanding irrigation systems, and modernizing farming techniques; (iii) deal with land issues (only 10% of farmers have land titles), by improving land titling to enable farmers to use land as collateral for loans to finance necessary investments and working capital; and (iv) improve infrastructure and reduce energy costs, which account for around 25% of total production due to heavy reliance on imported petroleum for electricity generation.

26. Cambodia no longer implements any quantitative restrictions on rice imports and exports. Current import duties on milled rice are 7% plus a 10% VAT. VAT exemptions on agricultural inputs are generally available to farmers, although estimates of revenue forgone by the Government are not available due to lack of statistical data. On the marketing side, Cambodia does not offer any price support or intervention programmes for paddy or milled rice. According to the authorities, the Green Trade Company has responsibility for purchasing rice on behalf of the State, including the purchase and storage of rice reserves required under the ASEAN Food Security Reserve Agreement.

(b) Rubber

27. The rubber sector in Cambodia is strongly export-oriented: almost all rubber is exported due to a lack of manufacturing facilities to produce rubber products, such as tyres and tubes. Until recently, the sector was dominated by state-owned enterprises, which accounted for 48% of total plantation area in 2007, followed by smallholders (44%) and private companies. By late 2008, six of the seven state-run plantations had been privatized and the last state-run rubber estate was divested in early 2009. According to the MAFF, total production of dry rubber was 19,715 tonnes in 2008, 37,380 tonnes in 2009 and 42,250 tonnes in 2010. In 2010, 29,000 tonnes of rubber were exported with an estimated value of US$89.1 million. After the seven state-owned enterprises were divested, the General Directorate of Rubber (GDR) was established under Sub-Decree No. 188. Among its functions, the GDR implements the Government's policies and development programme to ensure rubber development in Cambodia, and prepares the industry's policy goals and strategies.

28. The rubber industry has traditionally been one of the Cambodia's key strategic crops, contributing significantly to employment and national export earnings. In recent years, the share of natural rubber export value in total export earnings is estimated to be of the order of 1%. Cambodia's natural rubber is exported to only a few market destinations, mainly Viet Nam, Malaysia, China, Singapore, and Korea. The Vietnamese market is the leading destination as most Cambodian rubber estates are located close to the border with Viet Nam. Natural rubber is exported through the Sihanoukville seaport or the Vietnamese border.

[5] The plan is contained in the June 2010 Cabinet-approved Policy Document on Promotion of Paddy Rice Production and Export of Milled Rice. Viewed at: http://www.foodsecurity.gov.kh/docs/ENG/Rice-policy-Eng.pdf.

29. The rubber industry was identified by the DTIS 2007 as one of the top five sectors with high export potential and medium-high contribution to human development. A number of factors encouraged the Government to place the rubber sector among its top development priorities, including strong prospects for long-term growth in world demand for natural rubber; an anticipated increase in Cambodian production; improvement in productivity through privatization and the emergence of smallholders; and promising prospects for downstream activities. However, challenges and constraints continue to hinder the sector's development, and could weaken the competitiveness of the Cambodian rubber industry. Problem areas appear to include relatively low rubber yield per hectare, high input and utilities costs, a lack of standard certification for exports to regional and international markets, cash flow constraints among processors and producers, excessive paperwork required for exports, unofficial trading fees, low customs clearance efficiency and high transportation costs and an onerous export tax. The authorities contend, however, that these challenges and constraints have been reduced with the implementation of the Government's trade facilitation policy.

30. One key component that has long exacerbated Cambodia's rubber export prices is the export tax. Every licensed rubber exporter must pay VAT (10%) on domestic sales of natural rubber and an additional export tax ranging from 2% to 10% when natural rubber is exported. When an export transaction is completed, exporters may apply for a VAT refund. As stipulated in Sub-Decree No. 172 (2010), since the beginning of 2011, the Government has imposed a specific export tax of US$300 per tonne if the f.o.b. price exceeds US$4,000 per tonne, US$200 per tonne of the price is between US$3,000 and US$4,000, and US$100 per tonne if the f.o.b. price is under US$3,000 per tonne.

(c) Forestry

31. The Forest Administration is the main government agency in the forestry sector; other actors including forest-dependent rural communities, development partners, investors, and national and international NGOs. The Government initiated the forestry reform process in 1998 and a new Forest Law was promulgated in 2002. The law provides the legal framework for forest-sector policy and applies to all forests, whether natural or planted. The current National Forest Programme, aims to promote the conservation and sustainable management and use of forest resources, and provide strategic orientation for the sector in harmony with other sectors of the economy during 2010-29, aligned with the Government's national strategic development plans.

32. In 1965, 13.2 million ha was under forest cover, accounting for 73% of the national land area. By 2006, however, forest cover had been reduced to about 10.7 million ha, or 59% of total land area. According to the Forestry Administration, the loss of forest cover is consistent with land use and forest definition patterns associated with demographic growth and economic development in most countries.[6] The Government has set the goal of 60% forest cover by 2015. Forests form a crucial part of the survival strategy of the rural poor who depend on forests for food from fruits, nuts and mushrooms; fuel wood; resins and gums; medicines from wild plants; wildlife hunting for food; and artisan use of wood for construction.

33. Illegal logging activities have occurred in some areas despite bans on felling and efforts to centralize revenue collection. During the 1990s, as environmental concerns increased about hardwoods being irreplaceable, and with no reforestation programme in place, various attempts were made to enforce restrictions on logging activities, and a ban on logging took effect in early 2002.

34. The wood products industry has contributed only minimally to GDP and national revenue. One reason is that Cambodian policy has focused on extracting raw wood for foreign exchange earnings, encouraging the export of wood through its system of forest concessions. The forest

[6] Food and Agriculture Organization (2010b), p. 8.

concessionary system emphasized the exploitation of natural resources through large-scale logging, which depleted the natural forest and brought about widespread deforestation. In an effort to stop deforestation and encourage the processing of wood, the Government banned the export of unprocessed logs in 1996. In order to enforce the ban, it established the Forestry Crime Monitoring Unit within the Forestry Administration (the former Department of Forestry and Wildlife). Also, in order to encourage timber processing, all processed wood products were exempted from taxes. The ban on the export of unprocessed logs is generally considered to have been unsuccessful, and deforestation remains a major concern in Cambodia.

35. The decline in forestry stocks has posed serious concerns. Government efforts to halt illegal logging and strengthen forest concession practices have been insufficient. Small-scale, community-based forests with strict adherence to technical standards might be enough to cover demand for domestic wood consumption, but any continuance of large-scale commercial logging would require transparent and credible management, and would need to show compliance with environmental standards, and regard for social impact assessments. As of 2010, there are 16 concessions covering 3.4 million hectares but, according to the authorities, none of them is operational as they do not comply with the required strategic management and logging plan.

36. According to the forestry authorities, exports of round logs have been officially banned since 1997. Besides timber exports, non-timber forest products (notably rattan and bamboo) as well as wildlife are harvested for domestic use and export. The 2006 Sub-Decree (No. 131) on Timber and Non-Timber Forest Products allowed for Export and Import, which superseded the 1997 ban, stipulates that logs or rough sawn timber are prohibited from export in order to enhance incentives for the local timber industry to produce high-quality, value-added products of a competitive standard. Most forestry products, however, appear to have been exported without significant value-added.

(d) Fisheries

37. Together with forestry and livestock, fisheries are major sources of livelihood for the poor, with around 9% of the population depending on fisheries for primary employment. Besides being the primary source of protein in the national diet, fish is also exported in significant volumes. The fisheries sub-sector has been undergoing important reforms towards a more poverty-focused approach whereby local fishery communities play a bigger role in managing local fishing grounds. The subsector is governed by the Law on Fisheries (promulgated by royal decree in 2006), which aims, *inter alia*, to ensure fisheries and fishery resource management, and enhance aquaculture development and the management of production and processing.

38. The fishery sector contributed about 7.6% of total GDP in 2010, down from 16.7% in 1993. The sector's sustainability has become a matter of debate due to ecological changes, such as falling water levels, heavy and rapid flooding, and loss of the forested regions once completely inundated by seasonal flooding in the Tonlé Sap, which have disrupted fish migration, breeding, and feeding patterns. The inundated forest area around the Tonlé Sap was the main breeding ground for the lake's fish but the repercussions of inundated forest land encroachment present a serious challenge to inland fishing, with the Tonlé Sap at risk of ultimately being silted over, as the mean depth of the lake continues to decline. As the available fish supply has become scarcer, prices have risen sharply. Fisheries management practices are challenged by limited inputs for law enforcement and for implementation of the fisheries development plan at the central and community government levels. Insufficient regulations and enforcement of those in place, have led to high levels of inefficiency. Although, ideally, individual fishermen and farmers could be educated on resource management, on a practical level they would likely find that their own poverty leaves them no alternative but to fish illegally during the banned season or to clear inundated forests for cultivation in order to survive.

39. Cambodia is one of the world's largest producers of freshwater fish, which is harvested on a much larger scale than marine fishery and aquaculture (Table IV.3). Fishing was transferred to the private sector in late 1993. Leases (or 'concessions') for lots on the Tonlé Sap and inland rivers are granted, following a public bidding process, to the highest bidder (Sub-Decree No. 18). Inland fishing is both small and large-scale. Under a licensing scheme for fishing lot holders, the Government regulates large-scale fishing; small-scale fishing is widespread and accounts for about a third of the total catch.

Table IV.3
Fisheries production, 2005-09
('000 tonnes)

	2005	2006	2007	2008	2009
Production					
Inland	324	422	395	365	390
Marine	60	60	63	66	75
Aquaculture	26	34	35	40	50

Source: Cambodian authorities.

40. Annual exports were around 35,000 tonnes in 2010. The major export markets for freshwater fish are Thailand and Viet Nam, meaning that Cambodia relies on demand from only two countries. Diversification of the export destinations for freshwater fish would provide a significant opportunity to increase exports. According to the DTIS 2007, exports to Thailand and Viet Nam are generally informal but still subject to several formal and informal fees. Furthermore, Cambodia's ability to meet relatively high SPS standards almost everywhere is limited.

(3) MINING AND ENERGY

41. Mining and quarrying contributed an estimated 0.5% of GDP in 2010; mining sector GDP increased, in real terms, at an annual average of 18.0% during 2000-08. Cambodia's mineral resources include phosphates, gemstones, iron ore, bauxite, silica sand, manganese ore, and gold.

(i) Mining

42. In 2008, Cambodia produced mainly industrial minerals, including limestone for cement, construction sand and gravel, and crushed stone for domestic consumption by the construction industry. Production of construction sand increased to 6.5 million tonnes in 2008 from about 809,000 tonnes in 2007. The sand is exported to Singapore for land reclamation and construction projects. Singapore has sought new supply sources following a ban on sand exports by the Indonesian Government in 2007, as a result of serious environmental degradation. Other important minerals that have been discovered include bauxite, copper, zinc, gold, iron ore, gemstones coal, lignite, and silica sand. Phosphate deposits are processed for use as fertilizer. Industrial production has increased over recent years as have the number of exploration licences granted to both foreign and local companies. The mining sector in Cambodia is generally considered to be at an early stage of development.

43. The Ministry of Industry, Mines and Energy, which implements Cambodia's policy and the Law on the Management and Exploitation of Mineral Resources, leads the effort in promoting and developing the mining sector. The General Department of Mineral Resources in MIME is responsible for the management of the mining sector. The MIME grants exploration and mining licences to investors. The mining licences are granted upon approval of a final feasibility study by the Council for the Development of Cambodia.

(ii) Oil and gas

44. For a number of years, the Government has been seeking to promote the development of the country's petroleum resources, with the objective of enhancing economic growth and providing opportunities for employment and participation in petroleum operations for Cambodian nationals and companies. The development and production of petroleum resources could be expected to generate significant revenue for Cambodia and allow the country to continue to develop its infrastructure. In recent years, significant exploration activity has been undertaken in Cambodia's petroleum sector, although oil and gas production has not yet stated.

45. The Cambodian National Petroleum Authority (CNPA), which is under the authority of the Prime Minister's office, was set up in 1998 as the key governmental agency to oversee upstream and downstream petroleum activities in Cambodia. The Petroleum Regulations of 1991 (as amended in 1998 and 1999) is the principal law for the upstream oil and gas industry.

46. The Petroleum Regulations prescribe the process for awarding contract areas in the form of petroleum agreements, entered into by the CNPA and a petroleum company and its partners. Under the Petroleum Regulations, exploration periods are granted for four years, and may be extended twice for two years each time. Royalties payable to the Government are at least 12.5% of the value of petroleum sold or disposed of.

47. The Government and the CNPA are working to develop and enhance the regulatory framework for petroleum exploration and exploitation, having regard to the current stage of development of Cambodia's petroleum industry and other regulatory developments that have occurred since the initial introduction of the Petroleum Regulations in 1991. The centrepiece of the new regulatory framework is expected to be a Petroleum Law, supported by appropriate implementing regulations. All existing petroleum agreements will be protected for economic stability of the Petroleum Regulations of 1991 (as amended in 1998 and 1999) investment. The Government is keen to promote domestic refining of any commercial quantities of oil that may be discovered in Cambodia, and of imported crude oil, and has stated its desire for the development of an oil refinery. The authorities consider it premature to address the question of Cambodia joining the Extractive Industries Transparency Initiative (EITI).

(4) UTILITIES

48. Commercial fuels used in Cambodia are imported, and domestic energy is principally derived from wood for household cooking. In 2003, electrification rates in Cambodia were among the lowest in the region: only 17% of Cambodian households had access to electricity, compared with 84% in Thailand, 81% in Viet Nam, and 41% in Laos. By 2009, Cambodia's electrification rate had increased to 26%, with about 75% of the urban population in Cambodia having access to electricity but only 13% of the rural population. To address this imbalance, the RGC has set the goal that all villages should have electricity by the year 2020. Since about 80% of Cambodians live in rural areas, providing access to electricity to rural households remains a major development challenge.

49. The Ministry of Industry, Mines and Energy (MIME) is responsible for energy policy and planning, including overall guidelines and policies, relating to investment, restructuring, private sector participation, and privatization, agreements on electricity import and export, and subsidies. The Electricity Authority of Cambodia (EAC), established in 2001 by the Electricity Law, as an independent entity, is responsible for the sector's regulation, tariff setting, licensing, and standards supervision.

50. Electricity generation and distribution is mainly undertaken by Electricité du Cambodge (EDC), a Government utility. Most generation is supplied by independent power producers (IPPs) licensed by EAC, through power purchase agreements. They mainly use fuel oil, which results in high electricity generation costs. This should change with hydro-electricity generation scheduled to come online progressively from 2011, and should reduce electricity prices particularly for rural consumers in the future. Some rural customers in remote regions of Cambodia are supplied by private sector rural electricity enterprises (REEs), a few of which receive supplies from connection to the EDC grid, but most use diesel, which result in high tariffs.

51. EDC is implementing a major rural electrification programme, with donor support, to accelerate the rate of rural electrification. This will also result in reduction in rural tariffs and make them more affordable to rural households and businesses. This plan includes the extending EDC's grid to connect the rural electricity enterprises so that their customers can benefit from more affordable and reliable electricity supplies. EDC's imports some of its electricity supply from Thailand and Viet Nam and a supply line is been built from Laos. Increased imported supplies are planned, through high voltage connections, which will progressively reduce electricity prices.

52. The Ministry of Water Resources and Meteorology is responsible for developing and managing water resources, and the Ministry of Rural Development is responsible specifically for rural water supply and sanitation. The MIME is also involved in supplying water for provincial capitals and small and medium-size towns, and of regulating the private sector involved in piped water systems. Phnom Penh is the only place that can supply water to the majority of its residents, reaching about 90% of the inhabitants of the city. The Phnom Penh Water Supply Authority provides clean water within the municipality. Solid waste management systems exist only in certain urban areas in Cambodia.

(5) MANUFACTURING SECTOR

(i) Overview

53. The manufacturing sector in Cambodia consists mostly of small and medium-size businesses. There were approximately 37,000 registered and unregistered enterprises in 2010. According to the authorities, about 18,000 are licensed establishments (mainly engaged in food processing) and 19,000 do not require a licence as they are small with capital investment of less than US$3,000. There are around 600 large enterprises (with capital investment of more than US$500,000); the garment sector accounts for 75% registered industrial establishments.

54. Cambodia's industrial policy has aimed to focus resources and provide incentives to attract investment in sectors where Cambodia has comparative advantage and export potential. Industrial policy consists of several elements: developing labour-intensive industries, such as garments and footwear; developing the agri-processing sector and industries involved in processing other natural resources such as fish, paper, cement and fertilizer production; promoting SMEs, micro-enterprises and handicrafts by providing micro-finance, streamlining procedures, and providing marketing services; promoting and facilitating exports in particular through the establishment of export processing zones by developing infrastructure, improving service quality, streamlining trade procedures and encouraging investments. These policies, coupled with an escalating tariff structure, have sought to protect domestic industries from import competition and to intensify export promotion efforts.

(ii) Garment industry

(a) Main features

55. The garment industry is by far the most important exporting industry in Cambodia, generating over 69% of export earnings in 2008 (around 70% destined for the U.S. market), accounting for about 15% of GDP, with total employment in the formal sector of about 320,000, the bulk of the manufacturing workforce (Table IV.4). Volume growth averaged 11% per year over 2005-08. Subsequently, the severe impact of the global slowdown on Cambodia's garment industry was a major cause of the contraction in economic activity. Over the first nine months of 2009, export volumes were down about 16% compared with the same period in 2008. Around 40 factories (net) closed and as of June 2009, some 40,000 jobs had been lost, and retained workers earned about 20% less than in 2008 as a result of reduced overtime. To help keep jobs and exports steady, the Government suspended a 1% Advance Profit Tax and announced temporary assistance of 0.3% of net wages for factories' payments to the National Social Security Fund. Both measures are in force until the end of 2012.

Table IV.4
The garment sector, 2004-10

	2004	2005	2006	2007	2008	2009	2010
Exports (US$ million)	1,958	2,167	2,626	2,840	2,942	**2,388**	**2,994**
U.S. share of exports (%)	64	71	72	70	67	62	60
EU share of exports (%)	29	22	22	22	22	24	23
Factories in operation	219	247	290	292	284	243	262
Employees ('000)	270	284	334	353	325	282	319

Source: MOC/TPD.

56. The outlook for Cambodian garment exports is clouded by structural changes in the market as well as lagging competitiveness. The long anticipated consolidation of the garment industry as a result of the expiry of quotas and safeguards under China's WTO accession agreement appears to be in progress, while FTAs between other low-income country (LIC) producers and the United States are increasingly putting Cambodia at a disadvantage. Unit prices for Cambodian garments continue to decrease (by more than 7.0% in 2008 and 2009), as a result of aggressive competition, particularly from China, Viet Nam, and Bangladesh. Furthermore, growth margins in the garment industry were expected to become even narrower as a result of the expiry, at the end of 2008, of safeguard measures imposed on China by the United States and the EU, as Cambodia was not regarded as internationally competitive. The United States has granted quota-free, duty-free access through various trade agreements to 30 (of 49) non-Asian LICs, whereas Cambodia is subject to an average 16% tariff on garment imports. Cambodia is urging the United States to grant it preferential access.

57. The ability of the Cambodian garment sector to respond to changes in the trade environment and policy initiatives will be influenced by a number of key features, including: manufacturing being limited primarily to cut-and-assemble; lack of domestically produced textiles for use in garment factories; low productivity compared with competitors; importance of the United States as a final destination and concentration on a few buyers; garment export firms almost exclusively foreign-owned; and the ILO Better Factories Cambodia branding. Partially due to stagnant wages, frequent strikes and low worker productivity constrain the industry.

58. Competitiveness in Cambodia is hampered by lower productivity, the unreliable supply and high cost of electricity (about 15% of total cost), high transport costs, and protracted transport time to market. According to the Garment Manufacturers Association of Cambodia (GMAC), total

manufacturing cost is about 20% higher than in neighbouring Viet Nam, despite lower hourly wages, with key factors being lower productivity, higher electricity costs (22 cents per KWh versus 7 cents in Viet Nam), and less developed infrastructure such as ports and roads (getting a container to port reportedly costs about five times that of Viet Nam). Added to this is the high cost of export due to charges related to trucking goods to port and formal and informal charges demanded by customs.

59. More than 90% of garment factories are foreign-owned; Chinese Taipei owns around 35% of the capital of the garment industry, China and Hong Kong, China each own about 20%, and the Republic of Korea owns 12%. A significant share of the profits are repatriated. Direct contributions to the Budget have been limited as the sector enjoys import tax exemptions as well as tax holidays.

(b) Cambodia's trade in garments

60. The garment industry developed rapidly after Cambodia was granted MFN status by the United States in 1996. At the same time, Cambodia benefited from the development of the Multi-Fibre Arrangement (MFA), which imposed a quota system on most large garment-exporting countries, and attracted foreign investors from Hong Kong, China, Chinese Taipei, Malaysia, and Korea, taking advantage of Cambodia's original quota-free status. Exports grew rapidly, and by 1998 the United States started negotiations to bring Cambodia into the quota system. In 1999, Cambodia and the United States concluded a bilateral trade agreement on textiles and apparel, which linked market access (export quotas) to labour standards in Cambodia.

61. Cambodia is the only country with such a trade-labour arrangement, securing it a quota for exports to the United States. Monitored by the International Labour Organization, the programme was regarded as a major advantage in the sourcing strategies of foreign buyers and assisted Cambodia in creating a niche market for its garments. According to Better Factories, around three quarters of the garment workforce are employed in large factories of 1,000 workers or more, and over 90% of workers in these factories are women. Apart from benefiting workers, the Cambodian system appealed to brands embracing ethical approaches to manufacturing and corporate social responsibility. Parallel to this has been the growth in the EU market, which accounts for around 22% of Cambodian exports with the remainder going to Canada, South Korea and Japan.

62. The expiry of global quotas under the ATC on 1 January 2005 resulted in significantly increased competition among individual ASEAN countries as well as among global competitors who supply the U.S. and EU markets. Large U.S. and EU retailers consolidated their supply bases because the availability of quotas was no longer a significant factor in deciding where to have their goods produced. Due to the intense retail competition, it appears that quick turnaround and delivery times have become an important factor in choosing suppliers. For Cambodia, competition among the ASEAN countries increased as Viet Nam, an efficient and low-cost apparel producer gained full access to the U.S. market in 2006 and became a member of the WTO in 2007.

63. During the quota era, exporting firms were effectively taxed through the prices they had to pay for licences to export to the United States; the Export Tax Equivalent has been estimated at 8% on average and up to 29% of f.o.b. values on some successful items. Cambodia's quota amount was allocated among producers by auction. Currently, there are no export licences or export taxes on garments.

(c) Value chain

64. Cambodia captures only a relatively limited share of the value chain and the value added, as it is only involved in the "cut, make and trim" (CMT) phase, meaning that the supplier controls the designs and fabrics used but outsources the labour-intensive jobs. Almost all inputs for the sector are

imported (around two thirds of garment raw materials imported in 2008 came from China) and Cambodia does not have a textiles industry. In order to provide the necessary support to attract domestic fabric production, Cambodia provides attractive investment incentives.

(6) POLICIES AFFECTING TRADE IN SERVICES

(i) Introduction

65. Services comprise nearly 40% of the Cambodian economy; their importance should increase as Cambodia develops, although the share of services in total output has remained stagnant in recent years. Because of the importance of tourism, one of the four principal drivers of Cambodian growth in the past decade, Cambodia is a net exporter of services. Tourism's revenue contributes around 10% of GDP. Cambodia is also keen to develop crucial infrastructure services, including financial services, telecommunications, and transport, although many challenges constrain the availability of high quality services at reasonable cost. In this respect, Cambodia adopted a relatively liberal regime for trade in services as part of its accession to the WTO.

66. Cambodia undertook market access commitments across the full range of services sectors. Cambodia included 74 subsectors in its GATS Schedule, some with full subsector commitments, and others with partial commitments and transition periods (for example, up to 1 January 2009 for the telecommunications sector). In its horizontal commitments, foreigners may lease but not own land in Cambodia, and foreign investors must take on the obligation of training Cambodian staff. Mode 4 is restricted to business-related visitors, persons responsible for setting up a commercial presence, and for intra-corporate transferees.[7]

67. Cambodia's commitments reflect its development policies, aimed in particular at attracting foreign investment. In line with its strategy for services, Cambodia focused on areas that would contribute to improving services required by businesses to enhance the environment for investment. For example, Cambodia committed itself to allowing foreign firms to operate legal services (with some exceptions), accounting, auditing, bookkeeping, banking, management consulting, telecommunications, and transport. In these areas, Cambodia took on commitments in sectors where it had long had an open policy regarding foreign participation and where that policy has served the country well. However, where Cambodia saw an advantage in reserving part of a market for domestic small and medium enterprises, it did so. For example, it committed to opening its hotel market only for hotels of three stars or higher, and allowing foreign supply of retailing services only for a small number of specific items or for very large supermarkets or department stores.

68. At the regional level, ASEAN leaders have committed to achieving free and open trade, including trade in services, by 2015. The ASEAN Framework Agreement in Trade in Services (AFAS) was initiated in 1995. So far, seven packages of regional services trade liberalization have been endorsed.

69. Generally, services markets are quite open.

Accounting, consulting and tax services

70. Cambodia provides market access and national treatment to foreign firms providing accounting, auditing, and taxation services. Major international accounting and consulting firms operate in Cambodia.

[7] WTO document GATS/SC/140, 25 October 2005.

Legal services

71. 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% 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.

Architectural and engineering services

72. Cross-border supply for architectural services is not restricted, and national treatment is granted. Foreign citizens may provide engineering and integrated engineering services.

Audiovisual services

73. Cambodia does not prohibit foreign firms from distributing foreign films and videotapes. However, despite recent improvements, difficulties in the enforcement of the IPR regime persist, and legitimate foreign and domestic products are scarce and expensive whereas pirated products are abundant and cheap.

Distribution services

74. No limitation on market access or national treatment is imposed on foreign firms wishing to engage in distribution services, i.e., wholesale trade and retailing services. Like other business activity, foreign firms are required to register with the Ministry of Commerce to obtain a business license.

Educational services

75. Cambodia faces a shortage of qualified teachers and is in need of international-quality educators and education. Foreign participation in higher and adult educational services is not restricted. There are several foreign-owned schools in Phnom Penh.

Health-related services

76. Cambodia permits cross-border supply of hospital services. For commercial presence, foreign ownership and management of private hospitals and clinics is permitted as long as at least one director for technical matters is Cambodian. Firms from ASEAN countries are allowed to provide dental services through joint ventures with Cambodian legal entities.

E-commerce

77. Electronic commerce is a new concept in Cambodia. Online commercial transactions are extremely limited, and Internet access is still in its infancy, in particular outside the major cities. The Government has not imposed any specific restrictions on products or services traded via electronic commerce and no existing legislation governs this sector. The Government is drafting electronic commerce legislation.

(ii) Tourism

(a) Main features

78. Tourism has emerged as a major source of foreign exchange earnings since stability returned to Cambodia. The main attraction is the Khmer archeological treasures in the Siem Reap region, beginning at Angkor Wat. Foreign visitors now number over 2.5 million per year, more than ten-fold the number of international arrivals reported in 1995 (Table IV.5). Tourism is regarded as one of the most important immediate and long-term sources of foreign exchange, bringing in over US$1.7 billion per year and generating direct and indirect employment opportunities for an estimated 300,000 people.

Table IV.5
Tourism sector, selected years

	1995	2000	2002	2003	2004	2005	2006	2007	2008	2009	2010
Visitor arrivals ('000)	220	466	787	701	1,055	1,422	1,700	2,015	2,125	2,162	2,508
Annual % change	24.3	26.8	30.0	-10.9	50.5	34.7	19.6	18.5	5.5	1.7	16
Tourism receipts (million US$)	100	228	379	347	578	832	1,049	1,400	1,595	1,561	1,786
Average length of stay (days)	8.0	5.5	5.8	5.5	6.3	6.3	6.5	6.5	6.6	6.5	6.45
Number of rooms	..	9,673	11,426	13,201	14,271	15,465	17,914	20,470	20,678	23,010	24,393
Hotel occupancy (%)	37	45	50	50	52	52	55	55	63	63	65.7

.. Not available.

Source: Ministry of Tourism

79. The outbreak of Severe Acute Respiratory Syndrome (SARS) in the region in 2003 contributed to a decline in foreign tourist arrivals in that year. The number of tourist arrivals increased sharply in 2004, reached 2 million in 2007, and exceeded 2.1 million in 2008, when receipts increased to more than US$1.5 billion. While the tourism sector had become one of the main sources of economic growth and had attracted a high proportion of foreign capital investment, the global financial crisis of 2008/09 resulted in a decrease in tourism income in 2009. Since 2007, tourism in Cambodia has decelerated, suspending its double-digit average growth of the previous decade, but a significant recovery was recorded during the first half of 2010. The number of hotel rooms of sufficiently high international class in Seam Reap trebled from 3,000 in 2002 to over 9,400 in 2010.

80. During the review period, around two thirds of visitors, mainly from the Asia-Pacific region, arrived by air, most at Siem Reap airport (Table IV.6). The decline in the number of visitors to Cambodia in 1997 prompted the Government to initiate what the authorities call an 'open skies' policy, in accordance with which direct flights from overseas would be permitted to land in Siem Reap. The authorities note that this has contributed to the rapid growth of tourist arrivals over the past decade. They also recognize that the value added in tourism is low and are seeking to ensure that most of the benefits of tourism remain in the country.

81. The Government expects tourist numbers to continue increasing as it opens up new attractions throughout Cambodia. The airport in the southern beach town of Sihanoukville was recently expanded and upgraded to accommodate large aircraft and the Government has approved many resort development projects by international and local developers for local islands, the southern coastline, and mountain properties. Cambodia is also looking to open up the country's ample forested areas to ecotourism. Tourism development, based on sustainability and the natural environment, is focused mainly in Siem Reap and its surroundings; Phnom Penh; the coastal zones; and the ecotourism area in the northeast.

Table IV.6
International visitor arrivals by mode of transport and country of residence, 2003, 2007, and 2010
(% of total)

	2003	2007	2010
Total visitor arrivals	701,014	2,015,128	2,508,289
Arrivals by airplane	65.0	64.3	52
Phnom Penh airport	38.5	26.6	23.6
Siem Reap airport	26.6	37.8	28.4
Other types of arrivals[a]	35.0	35.7	48.06
Arrivals to Phnom Penh airport by country of residence[b]			
Asia and Pacific	62.2	64.3	67.7
Europe	22.6	20.6	19.5
North, South, and Central America	14.7	14.7	7.9
Africa and Middle East	0.5	0.4	0.49

a Arrivals by land and boat.
b Arrivals at Pochentong (Phnom Penh) airport only.

Source: Ministry of Tourism.

82. Large-scale international tourism in Cambodia is a relatively recent development, dating from the country's return to stability. Although Cambodia has important attractions its own right – primarily because of Angkor's status as a world heritage site, the in-bound tourism business is closely linked to the Southeast Asian region. While many travel directly to Siem Reap, notably Koreans and Japanese, many other visitors travel as part of a larger tour of Southeast Asia, and while Cambodia's air transport infrastructure is developing (with several daily flights from Viet Nam and Bangkok), the major regional air hubs lie elsewhere, notably in Thailand. The growth of tourism has also attracted increasing foreign investment in hotels and ancillary services like travel agencies and tour operators, many of which have foreign ownership.

(b) GATS commitments

83. The sector is fully liberalized except for a restriction for mode 3. Cambodia intends to provide the opportunity for any Cambodian who has a small amount of capital to find their own partners to build 1- or 2-star accommodation or guest houses. The limitation in the Schedule is to preserve business opportunities for Cambodians, but it appears that current practice is more liberal than the scheduled commitment. Foreign companies may establish a commercial presence to operate hotels, restaurants, and tour operator services, provided that they register with the MoC.

84. Cambodia has no restriction on travel agencies, but tour guides must be Cambodian. At present, 100% ownership of travel agencies and tour operator services is allowed. Tourist guide services are sensitive as they provide employment for lesser-skilled individuals, including women and young people. This limitation is in line with the development goals and objectives of Cambodia and with provisions of GATS Article XIX.2 and the Decision on Accession of LDCs.

85. Cambodia made a commitment in restaurant services where permits are granted taking into account the characteristics of the area, such as the number of and impact on existing restaurants, historical and artistic characteristics of the location, geographical spread, impact on traffic conditions, and creation of new employment.

(c) Regulatory framework

86. While tourism has been one of the four pillars of Cambodia's strong economic growth in recent year, regulatory uncertainty appears to have been a key constraint to even stronger growth.

Unclear delineation of responsibilities among government agencies led to the tourism sector being governed by multiple, and sometimes conflicting, prakas and sub-decrees of different ministries and agencies.[8] The 2009 Tourism Law addresses these issues and has the dual objective of promoting growth in the sector and meeting the private sector's demands for a simpler and more predictable legal framework to reduce business risk and encourage greater investment. Significantly, the law recognizes the importance of private-sector consultation in developing the regulatory environment, relating, *inter alia*, to the prakas and sub-decrees governing the sector, the establishment of the Cambodia Tourism Marketing Promotion Board, and the determination of criteria for tourism licences and of standards and requirements for quality assurance.

87. The law also better defines the role of the Tourism Ministry in facilitating the development of the sector and in dispute resolution. It defines areas in which the Ministry has primary responsibility (including ensuring the quality of the tourism sector, standards, licensing, management and monitoring of tourism information), and where the Ministry has shared responsibilities with other relevant agencies (environmental protection, tourism investment and incentives, privatization of SOEs, eco-tourism, food hygiene and sanitation, tourist safety and security, and prevention of sexual exploitation). The tourism development plan is contained in the Tourism Development Strategy 2011-2020 and the National Ecotourism Policy and Strategy.

(iii) Transport services

88. An evaluation of trade-related policies and developments in the transport sector must consider the state of the transport infrastructure around the time of the Paris Peace Accords, which reflected the damage inflicted by two decades of hostilities, wanton destruction and subsequent neglect. Over half the road network was in disrepair, many of the country's bridges destroyed, the railway network could not maintain regular services and the two ports lacked essential equipment. Following the difficult and lengthy recovery process, the Government initiated a large reform agenda. It has enacted a Road Traffic Law and seeks to rehabilitate and reconstruct as many roads as possible, involve the private sector in road construction and maintenance; and in the civil aviation sector, improve Cambodia's international airports and raise the standards of selected airports with high tourism potential. However, market failure is still common in the domestic transport system and, as a result, the international competitiveness of Cambodia's main export industries (garments and tourism) is undermined by high transaction costs; the potential for diversifying the economy into other sectors such as agri-industry and assembly is correspondingly limited.

(a) Overview

89. Cambodia's transport system comprises road and rail, ports and harbours, inland waterways, and civil aviation. Road transport is the dominant mode, with a share in total transport output estimated at 65% for passengers and 70% for freight. The ongoing rehabilitation of Cambodia's rail network will allow rail transportation to play a more important role in the near future. The mainly private road trucking industry is competitive and growing, and internal competition means that road freight tariffs are market-driven. International shipping is also competitive, with shippers having ready access to Viet Nam's new deep water ports, and five different feeder lines competing for containers on the Singapore-Sihanoukville route. There is also competition between regional shipping lines for petroleum products and general cargo delivered to Sihanoukville. Domestic civil aviation is important for the growing tourism industry but its contribution to overall transport output is very limited.

[8] International Finance Corporation (2008).

90. Responsibility for managing the transport sector is divided among various government agencies. The Ministry of Public Works and Transport (MPWT) is responsible for planning, developing and, to some extent, managing the sector. It has oversight functions for national roads, road transport, railways, ports, inland water transport, coastal and international shipping, and airport construction. The Department of Transport, within the Ministry, is responsible for vehicle registration, inspection, and road safety, and the Ministry of Rural Development is in charge of the development and maintenance of rural roads. The railway network is currently operated by a private company and owned by the Royal Railway of Cambodia.

91. Cambodia has two major ports, Phnom Penh (the major river port) and Sihanoukville, situated in the Gulf of Thailand, which is Cambodia's only major deep-sea port. Sihanoukville's total throughput in 2010 was about 2.2 million tonnes. Previously operated as government departments, the ports of Phnom Penh and Sihanoukville became autonomous port authorities in 1998. Their governing boards report to the Council of Ministers, MEF, and MPWT. The Minister has veto rights over port tariffs and other policy matters but there is no other form of economic regulation.

92. The State Secretariat for Civil Aviation (SSCA) is responsible for the control, regulation, and development of the civil aviation sector and the operation of domestic airports. The main legislative instruments governing the SSCA are the 1996 Royal Decree on the formation of the SSCA, Sub-Decree No.12 on its functioning, the 2008 Civil Aviation Law, and the civil aviation regulations.

93. Cambodia has ten airports, including international airports in Phnom Penh, Siem Reap (each handling about 1.4 million passengers per year), and Sihanoukville. Domestic freight traffic is insignificant. The civil aviation industry has undergone major changes to improve its compliance with international safety and security standards and to encourage private-sector participation in operating the terminals. In this regard, concessions have been awarded to operate Cambodia's main international airports. Upon the financial bankruptcy of Royale Air Cambodge, the Government introduced its "open-sky policy", allowing foreign carriers to operate in Cambodia. In 2010, Cambodia Angkor Air was created as the new national carrier as a joint venture with Vietnam Airlines.

(b) Transport as an export sector

94. Cambodia has a relatively small international freight market with no major bulk commodity flows. The export of transportation services plays only a limited role in the country's export portfolio. Cambodia is a net importer of maritime transport services, in particular sea freight services, as it owns few vessels.

95. In its initial GATS offer, Cambodia limited the ownership participation of foreign service suppliers in road transport services to 49%. For transport and related services, the requirement of commercial presence of 49% equity is based on the rationale of fostering infant industry or giving a chance to small local operators. Some WTO Members asked Cambodia to remove the foreign equity limitation for commercial presence for passenger transportation, freight transportation, and rental of commercial vehicles with an operator. Cambodia agreed to remove the 49% foreign equity limitation for commercial presence on road transport services and to make a commitment in maritime services for non-discrimination on access to port facilities (under additional commitments).

96. Cambodia opened market access for aircraft repair and maintenance, the selling and marketing of air transport services, and computer reservation systems. This has been extended to all ASEAN members under the AFAS. Generally, Cambodia has an interest in supporting air transport liberalization in the ASEAN region to help the growth of tourist traffic, increase the choice of flights serving the country, and keep costs down.

(iv) Financial services

97. A significant contributor to economic development and trade is the availability of credit. However, in the wake of the civil strife and demonetization under the Khmer Rouge (1975-79), bank credit to the private sector in Cambodia has improved but remains low, at about 26% of GDP. The World Bank described Cambodia as top reformer in terms of easing access to credit through the recently approved Secured Transactions Law, which made it easier for businesses to qualify for loans.[9] Over 95% of banking system deposits are denominated in U.S. dollars, and rural areas are primarily served by micro-finance institutions (MFIs), accounting for less than 10% of financial system assets.

98. Nevertheless, the financial sector underwent impressive expansion during the review period, from a very small base. Total banking assets, for example, rose from 26% of GDP in 2006 to over 54% in 2010, a significant improvement but still well below the average of 90% in other emerging Asian markets. In 2010, the formal financial system comprised the National Bank of Cambodia (NBC), 35 banks, 20 licensed MFIs, and 6 insurance companies. Regarding the sector's overall policy and planning framework, the Government's Vision and Financial Sector Development Plan (2001-2010) delineates a framework of reforms. It was updated to take into account the acceleration of Cambodia's economic development, and became the Financial Sector Development Strategy 2006-2015 (FSDS), which aims to achieve a sustainable approach to financial sector development.

99. In accordance with the FSDS, the Government hopes to establish a stock exchange by 2012 as joint venture with the Korea exchange, which requires, *inter alia*, a new securities law and the strengthening of public auditing capacity. It seems that financial markets are developing more slowly than either banking or insurance.

(a) Banking

100. After expansion in 2007 and 2008, 35 banks are in operation (Table IV.7); just six banks accounted for 75% of all assets in 2010, making the banking system highly concentrated. From a capital perspective, Cambodian banks look healthy. Official capital adequacy ratios were 31% at end 2010, and non-performing loans (NPLs) have remained manageable in 2010 at 2.3% of the total, down from 19.4% at end 2006. However, according to the IMF, the core financial soundness indicators compiled by the NBC are based on unreliable data reported by the banks, and the credit and solvency risks, as represented by their NPL and capital adequacy ratios, may be substantially underestimated.[10]

101. Regulation of banks is improving but remains weak. The NBC is responsible for monetary policy and prudential oversight of the banking system and MFIs. The IMF notes that the responsibilities of the NBC's Banking Supervision Department outstrip its capacity and resources. The NBC has limited regulatory capacity, which appears to have been strained by recent expansion in the sector. The bank has announced that it will increase the frequency of its bank audits but actual enforcement of regulations remains limited, in particular with regard to capital adequacy and loan provisioning.

102. Legislation and regulations related to banking have been developed and/or updated during the review period. The 1999 Law on Banking and Financial Institutions, which created the framework for licensing institutions and for their supervision, has undergone a comprehensive review to update and improve prudential and supervisory practices in compliance with international standards and best

[9] World Bank (2008).
[10] IMF (2010), p. 17.

practices. The framework for the creation of a payments and settlement system was established in the 2005 Law on Negotiable Instruments and Payments Transactions, while a Law on Anti-Money Laundering and Combating Financing of Terrorism was passed in 2007. The Law on Financial Leasing, designed to facilitate and determine the rights and duties of all parties involved in financial lease operations, was promulgated in 2009. However, according to the authorities, it has not been widely used under prevailing market conditions.

Table IV.7
Financial soundness indicators, 2006-10

	2006	2007	2008	2009	2010
Number of banks	20	24	30	33	35
Commercial banks	15	17	24	27	29
of which: state-owned banks	1	1	1	1	1
Specialized banks[a]	5	7	6	6	6
Bank concentration – number of banks accounting for:					
25% of banks' total assets	2	2	2	2	1
75% of banks' total assets	7	6	6	7	6
Capital adequacy (%)					
Regulatory capital to risk-weighted assets	26.5	23.6	27.8	31.1	31.4
Capital to assets	20.0	17.0	22.0	22.1	22.9
Non-performing loans net of provisions to capital	19.4	8.2	7.5	8.7	2.3
Asset quality (%)					
Non-performing loans to regulatory total loans	9.5	3.4	3.7	4.4	3.1
Sectoral distribution of loans (% of total loans)					
Real estate	8.6	7.9	7.5	6.3	4.6
Construction	7.7	10.2	7.9	8.6	7
Consumer	10.2	19.7	21.8	19.8	16.8
Earnings and profitability (%)					
Return on assets	2.8	2.8	2.9	1.3	1.44
Return on equity	14.2	16.6	13.1	5.6	6.63
Memorandum items:					
Banks' assets (% of GDP)	26.0	38.4	37.3	47.0	54.6

a Specialized banks are lending institutions that do not take deposits and are subject to lower capital requirements than commercial banks.

Note: Figures are for December.

Source: National Bank of Cambodia; and IMF (2008) – Cambodia, Statistical Appendix, December (staff estimates).

103. Cambodia allows foreign banks to operate as either 99% foreign-owned subsidiaries or as branches. The 1999 Law on Banking and Financial Institutions and subsequent regulations guarantee foreign banks' rights and obligations equal to local banks, and the law imposes no restrictions on foreign ownership of banks. Upon acceding to the WTO, Cambodia undertook commitments to liberalize market access for most commercial banking activities, subject to the requirement that deposits received by foreign banks be reinvested in Cambodia and that commercial presence be through authorized banks. Under the ASEAN process for liberalization of financial services, Cambodia has not made any further commitments beyond its GATS schedule.[11]

[11] Cambodia initially put forward a limited services offer under commercial banking services, comprising (i) acceptance of deposits and other repayable funds from the public, and (ii) lending for financing of commercial transaction and productive investment. According to the authorities, Cambodia took the position that it could not commit to market access in sub-sectors for which it was unable to provide appropriate prudential regulation.

(b) Insurance

104. Cambodia's insurance market is small but has grown rapidly since the implementation of insurance legislation in 2001, and much of the business that had been written off-shore is now being placed in the local market. The insurance industry comprises six direct writing companies (mainly joint-venture companies with varying amounts of foreign capital) and one reinsurance company. The state-owned company, Cambodia National Insurance Company (Caminco), has been privatized. The main lines of business underwritten are fire, automobile, and engineering insurance. The share of insurance premiums in GDP is small, at only 0.22% in 2010 (compared with 1.6% in Viet Nam and 3.5% in Thailand).

105. The Ministry of Economy and Finance has responsibility for insurance as well as for financial markets. A regulatory framework is under development, based on the Law on Insurance, which was introduced in 2000. The law has been amended and detailed regulations are being drafted on the supervision of life insurance companies. In addition, Cambodia has introduced compulsory third-party liability insurance for commercial motor vehicles, public transport, and for workers' compensation on construction sites.

106. There are no legal barriers to entry of foreign insurance providers, which are allowed to establish a commercial presence through a branch. Natural or juridical persons of Cambodia may enter into contracts only with insurance companies licensed to carry out insurance business in Cambodia. Under the GATS, Cambodia undertook to open its market for insurance (life, non-life, reinsurance, and ancillary services) with one important limitation: until 31 December 2008, companies had to reinsure 20% of their risks with Cambodia Re, as stipulated in the sub-decree on insurance that requires all licensed insurers in Cambodia to cede at least 20% of their insurance premium to Cambodia Re. Cambodia Re is 80% owned by the Government with the balance owned by a consortium of foreign insurers in the region.

107. According to the authorities, since its inception in 2003, Cambodia Re has made significant contributions to the national economy by retaining premiums that can be used for productive investments in the country. In addition, it is building capacity among the insurance companies to make the industry more resilient and self reliant. The Government is of the view that Cambodia Re needs more time to strengthen its competitiveness both financially and technically before it can fully face overseas competition.

(v) Telecommunications

(a) Overview

108. Development of effective, modern telecommunications was constrained by confict, and the sector's infrastructure is limited in scope, in particular fixed-line networks to deliver the bulk of industrial-grade data demands. Further, there is an acute development imbalance between the public and private sectors. Between 2001 and 2009, mobile subscribers increased from 150,000 to 6.3 million, while fixed-line subscribers rose from 23,000 to barely 101,000. By 2012, it is estimated that there will be 12 million mobile subscribers and only 50,000 fixed-line subscribers. In the important Internet sector, Cambodia had only 8,000 broadband subscribers in 2008, perhaps due to the high price of access. An improvement in affordability should increase the uptake of fixed-line connections, for Internet as well as voice, and drive an increase in the volume of total traffic.

109. The most widespread infrastructure is currently the mobile companies' networks with more than 80% coverage and the progressive rollout of 3G services available in the cities. Before 2010, Mobitel, jointly owned by the Royal Group (Cambodia) and the Millicom Group (Luxembourg), had

an estimated 60% of the market. Other important providers of mobile services are Camshin (Thailand), TMIC (a joint venture between Telecom Malaysia and Samart of Thailand), and Viettel (with 5 million subscribers since 2009). While the mobile market is strong, the demand for bulk data services will require cable connections and a comprehensive broadband network. There are currently eight mobile phone companies operating in Cambodia.

(b) Regulatory framework

110. The Ministry of Posts and Telecommunications (MPTC) is the telecoms policymaker and regulator. It was also operator of the fixed-line network but in January 2006 separated its telecom operation arm and established Telecom Cambodia (TC) to provide fixed-line services. As the law on telecommunications is yet to be approved by the National Assembly, and the telecom regulatory body has not yet been established, the MPTC still acts as policymaker and regulator. The policy objectives of the draft law, as adopted by the Council of Ministers in 2006, are to ensure cost-efficient, timely, and innovative telecommunication services for existing and potential users through the promotion of fair competition and efficient investment. According to the authorities, the draft law is based on the principles of: competitive safeguards; interconnection; public availability of the procedures for interconnection negotiations; transparency of interconnection arrangements; interconnection dispute settlement; universal service; public availability of licensing criteria; independent regulator; and allocation and use of scarce resources.[12]

111. For the most part, access to Cambodia's telecoms market is not restricted. Private participation in mobile services, e-mail, electronic data interchange, and code and protocol conversion are allowed and national treatment is accorded. In addition, Cambodia is committed to permitting licensed suppliers of mobile communications services to choose which technology to use. The restriction that cross-border supply for voice telephone services, circuits-switched data transmission, and private leased circuit services was allowed only over circuits leased from Telecom Cambodia was eliminated in January 2009, and foreign participation of up to 51% equity is allowed. Under the GATS, Cambodia agreed to open fully some sub-sectors immediately upon accession; for other subsectors the commitment was to give full market access no later than 1 January 2009 with foreign ownership allowed up to 51% of the capital of joint-ventures.

[12] The draft law has been drawn up to comply with the Telecommunications Reference Paper, which contains the principles of inter-connection; spectrum management (issue of licence, or auction, acquittal of accounting rate on MFN and national treatment basis); safeguards; and the regulatory side separated from the supply side. It also requires Members to provide for competitive safeguards designed to prevent anti-competitive practices.

V. AID FOR TRADE

(1) OVERVIEW

1. Cambodia was the first LDC to complete negotiations for accession to the WTO, one of the original three pilot countries under the Integrated Framework, the first to complete successfully the preparation of its original DTIS, the first to update its original DTIS with a follow-up study (2007), and one of the first to submit successfully an EIF Tier 1 proposal (October 2009).

2. To accelerate the pace of internal reform, increase domestic and foreign investment, expand trade, as well as better coordinate the assistance provided, Cambodia has put in place a sector-wide approach (SWAp) to trade. The Trade SWAp seeks to implement the objectives of the Diagnostic Trade Integration Study 2007 (DTIS 2007) and has three pillars: (i) legal reform and cross-cutting issues; (ii) product and services export sector development; and (iii) capacity development for trade policy and aid-for-trade management. The Trade SWAp serves as Cambodia's aid-for-trade strategy. Implementation is on-going but hampered, at times, by the limited institutional and human resource capacities of the implementing Government agencies.

3. With technical support from development partners, Cambodia has made significant progress in the areas of customs reform and trade facilitation, legal reform (including WTO legal compliance), and export supply capacity. More remains to be done, especially to put in place a TBT and SPS infrastructure that can support exporters, to complete some unfinished legal reforms, to consolidate the diversification of the country's export supply, and to strengthen the Government's capacity to lead the formulation and management of trade policy.

4. According to the OECD Creditor Reporting System Database, annual commitments in trade-related-aid flows to Cambodia were US$195[1] million on average during 2002-05; US$202 million in 2006; US$186 million in 2007; US$278 million in 2008; and US$221 million in 2009. Recorded disbursements were US$116 million in 2006; US$144 million in 2007; US$146 million in 2008; and US$137 million in 2009. Largest receiving sectors have been transport and storage; energy; and agriculture. Tourism's share has been falling, while fishing and industry have been growing (although figures for industry declined in 2009 after an upward trend).

(2) ENHANCED INTEGRATED FRAMEWORK (EIF)

5. Cambodia has been a beneficiary of the Integrated Framework/Enhanced Integrated Framework since 2001. The country's first Diagnostic Trade Integration Study (DTIS) was validated in November 2001. A second-generation DTIS was prepared in 2007 by a team of consultants under the guidance of the MoC and with multi-donor support under the leadership of the MoC-UNDP Trade-Related Assistance for Development and Equity (TRADE) project, partly financed by IF Trust Fund (IFTF) Window II.[2]

6. Cambodia has benefited from two projects funded by the old IF Window II facility: (i) Capacity-building for pro-poor trade reform (ended in 2003); and (ii) 'TRADE', co-funded by UNDP and completed in 2010. Cambodia's EIF Trust Fund (EIFTF) Tier 1 project is being implemented by the Department of International Cooperation (DICO). It seeks to strengthen the in-country EIF arrangements in order to increase Cambodia's ownership of trade-related technical assistance (TRTA) and to maximize the benefits that the country, in particular the private sector, can

[1] All figures in this paragraph are in 2009 constant prices.

[2] Other donors supporting or contributing were UNCTAD, ITC, the World Bank, the European Commission, GTZ, IFC, and the IMF.

derive from the EIF. The overall objective of the project is to enhance Cambodia's national capacity to formulate, implement, manage, and monitor a pro-poor trade policy that is consistent with and supportive of the Royal Government of Cambodia's Rectangular Strategy and the country's National Development Plan and Millennium Development Goals.

(3) AID FOR TRADE: TRADE SECTOR-WIDE APPROACH

7. To enhance Cambodia's ownership of the design, programming, and implementation of AfT and to increase aid effectiveness, the Government developed the Trade SWAp, to implement the objectives of the 2007 Cambodia Trade Integration Strategy (CTIS). Its three components are: legal reform and cross-cutting issues; product and services export sector development; and capacity development for trade policy formulation and aid-for-trade coordination and management (Chart V.1).

8. The CTIS 2007 identified a number of priority areas for reform and development that became the basis for the three Pillars of the Trade SWAp.

- *Pillar 1* deals with Implementing cross cutting legal and institutional reforms for trade development. Priority areas include (a) completing of the implementation of the legal reforms and commitments associated with WTO accession, (b) lowering the costs of trade facilitation, (c) improving the investment environment, (d) enhanced use of intellectual property protection; and (e) developping the legal and institutional environments for SPS and standards;

- *Pillar 2* focuses on developing a competitive export supply. Its emphasis is on diversifying Cambodia's export basket through new products and services and new markets, with priority areas including (a) developing export value chain and trade information; (b) strengthening trade support institutions at the product association level and in the provinces; and (c) strengthening export supply capacity in the 19 priority potential sectors identified in CTIS 2007;

- *Pillar 3* focuses on building capacity to lead trade sector development and manage +aid-for-trade. It includes (a) capacity building in a newly created MoC Department of International Cooperation to serve as the Secretariat for the Trade SWAp, the TDSP, and the EIF Tier 1, and tasked to lead the day-to-day coordination of AfT programmes; (b) capacity building in line ministries engaged in the success of the trade SWAp; (c) developing trade policy research capacity; and (d) strengthening trade negotiation capacity.

9. The priority objectives, benchmarks, and targets of the three pillars are now consolidated in three road maps that are providing guidance to the Trade SWAp multi-donor trust fund (TDSP), the EIF Tier 1, and other on-going aid-for-trade programmes.

10. The Government-Private Sector Forum (G-PSF) is the highest forum for Government and the Business Sector to review trade issues.

11. The Trade SWAp is lead by the Sub-Steering Committee on Trade and Development and Trade-Related Investment (S-SC), which reports to the Steering Committee on Private Sector Development, is structurally separate from the G-PSF. The Minister of Commerce chairs the S-SC, which is in charge of overall policy directions, oversight, and review of consolidated monitoring reports. It is also mandated to approve the pillars' road maps as well as the action plans.

Chart V.1
Strategic Framework of Trade SWAp

Trade SWAp goals:

Goal 1: Job creation and poverty reduction impacted positively by trade expansion

Goal 2: Exports expand as a result of diversification

Goal 3: RGC increases capacity to formulate, implement trade policies and strategies

Goal 4: RGC's responsiveness to private sector needs increases as a result of better dialogue

Goal 5: RGC improves its planning, implementation and monitoring capacity by implementing Trade SWAp

Pillar outcomes:

Pillar I: Reforms and cross-cutting issues for trade development

Strengthen competiveness of current exports, promote export diversification

Outcome 1: Products safety and quality improves with a positive impact on export and public health

Outcome 2: Trade flows increase as a result of more simple and more transparent import, export and transit procedures and processes

Outcome 3: Exports of products protected under Cambodian IPR regime increase

Outcome 4: The trade related legal system is upgraded and completed in compliance with international standards and obligations

Outcome 5: Trade related investment increases

Outcome 6: Respect of core labour standards improves competitiveness and productivity of export

Outcome 7: SMEs, particularly in agriculture, get easier and formal credit to scale up their activities and improve export performance

Pillar II: Product and service sector export development

Strengthen supply capacity of the 19 product and service sectors identified in the 2007 Trade Integration Strategy

Outcome 1: RGC is equipped with tools and information to guide development and formulation of export-oriented policies, monitor progress, and identify for TRTA and AfT

Outcome 2: The delivery of Trade Support Services at the local level is improved through strengthened business associations, local chambers of commerce, PDoCs, government extension services, public-private dialogue, G-PSF, etc.

Outcome 3: Exports are successfully diversified and expanded in many of the 19 sectors identified in RGC's 2007 Trade Integration Strategy, including by targeting new markets or moving up value chains

Pillar III: Capacity development

Strengthen the capacity of the RGC and Cambodian trade stakeholders to implement, update and manage RGC's trade development agenda and to negotiate the country's interests in trade and trade-related investment forums

Outcome 1: Capacity of RGC to integrate, coordinate, implement trade sector related reforms

Outcome 2: Effective approach for development and implementation of trade policies is in place

Outcome 3: Core institutional system and skills in place to ensure effective performance of trade-related institutions

Outcome 4: Wide awareness of trade SWAp opportunities and results among stakeholders

Outcome 5: Trade negotiations capacity of designated RGC institutions strengthened

***Source*: Ministry of Commerce (2011), Trade Sector Development and Aid for Trade in Cambodia, p. 13.**

12. The Trade SWAp is supported by a significant number of multilateral and bilateral funding vehicles. Chief among them are recent ADB loan facilities (upward of US$20 million) backed up by technical assistance grants focusing primarily on selected WTO-related legal reforms and SPS and TBT capacity development, the ongoing USAID assistance, which also focuses on certain WTO-related legal reforms, AusAid (with assistance to the agricultural), and the World Bank's ongoing Trade Facilitation and Competitiveness Project.

13. The TDSP and the EIF Tier 1, also designed to support Trade SWAp, are set up to give the lead role for implementation to Government. TDSP is a multi-donor trust fund financed by DANIDA, the European Commission, and UNIDO, and administered by the World Bank. EIF Tier 1 is financed by the EIF Trust Fund. The interventions of TDSP and EIF are limited to reform areas explicitly defined in the road-maps – principally those for pillar 1 and pillar 3. Both are fully integrated into the Trade SWAp management structure. DICO is in charge of implementing both TDSP and EIF Tier 1.

14. In more specific terms, DICO, in its capacity as Trade SWAp Secretariat, has overall responsibility for monitoring and evaluating all AfT interventions, including multilateral and bilateral programmes as well as the TDSP and EIF Tier 1. MoC and DICO have yet to put in place some formal monitoring and evaluation mechanisms. Once this is done, it is expected that annual monitoring exercises will be conducted, led by DICO with the participation of other Trade SWAp agencies from Cambodia and development partners. The results of these periodic progress reviews are to be fed into adjustment of on-going activities and programming of new interventions.

(4) WTO TRADE-RELATED TECHNICAL ASSISTANCE

15. Since its accession to the WTO in 2004, Cambodia has participated in 127 technical-assistance activities listed in the database by the WTO Institute for Training and Technical Cooperation (ITTC). Seven national activities were organized during the review period, on: WTO notification requirements and SPS and TBT enquiry points (2006); upgrading of the WTO Reference Centre and training on the WTO databases (2007); the DTIS 2007 (launch, 2007), STDF (preparatory mission for the STDF AfT event hosted by Cambodia, 2008); trade facilitation (needs assessment, 2008); LDC accessions (briefing of senior officials in preparation for the LDC Round Table hosted by Cambodia, 2009); and the TPR (first mission 2010). In addition, Cambodia has hosted a number of regional and international activities, and participated in several. Cambodia has also participated in regional and Geneva-based trade policy courses and in e-learning activities.

16. WTO activities in 2011, excluding national activities, include a regional trade policy course; a workshop on non-agriculture market access negotiations; a symposium on trade facilitation; an intensive course on trade negotiations skills; a workshop for ASEAN civil society and the media; a workshop for parliamentarians in Asian economies on international trade (introduction to the multilateral trading system, WTO Agreements, Doha Development Agenda, trade and development, trade and environment); and a seminar on WTO Reference Centres for RC managers and coordinators based in LDCs.

17. For 2012-13, Cambodia is requesting WTO's technical assistance and training to focus on Trade in Services; Dispute Settlement, and Trade Remedies. In delivery of technical assistance and training, Cambodia seeks a balanced approach between learning the contents of the WTO agreements and assistance in overcoming the challenges of implementing them. Cambodia also proposes WTO-facilitated discussion forums on linkages between the multilateral trading system and regional trade arrangements, on trade on natural resources; on issues related to the export of labour services, and on non-tariff barriers.

(5) AID FOR TRADE RESULTS

18. Cambodia has sought to draw lessons, in the form of case stories[3], from work carried out in five priority areas identified in the three pillars. They are: (i) implementation of the work programme of legal reforms and commitments resulting from WTO accession (Pillar 1); (ii) reform and modernization of trade facilitation (Pillar 1); (iii) expansion and diversification of rice exports (Pillar 2); (iv) expansion and diversification of silk exports (Pillar 2); and (v) capacity development in export value chain and trade information (overlap Pillar 2 and Pillar 3).

(i) Implementation of the Work Programme of Legal Reforms and Commitments Resulting from WTO Accession[4]

19. Over the years, Cambodia has received technical assistance from various sources to assist line ministries in drafting a number of laws, sub-decrees, and regulations. Of the 74 laws, government sub-decrees, and major ministerial regulations identified in the Cambodian Case Story, some 50 reforms have been completed. Of the 74 reforms, 46 have received or are receiving technical assistance support from a wide range of development partners. One factor behind the very significant progress in this area is that the agenda has been driven at the level of the Prime Minister and the Council of Ministers, with some coordination of technical assistance by the MoC.

20. In addition, inter-ministerial coordination has been strengthened at lower levels. For instance, the National Committee on Intellectual Property Rights (NCIPR), with a secretariat in the Department of Intellectual Property Rights (D/IPR) of the Ministry of Commerce, has been set up to coordinate the work of six line ministries with authority over various aspects of intellectual property. The NCIPR is seeking to coordinate support from WIPO, the EU's ECAP III regional programme, AFD, TDSP, and possibly others, to avoid duplication and ensure full coverage of all needs.

21. In the area of intellectual property protection, over 36,000 marks were registered by the end of 2010 with a sharp rise in annual registration beginning in 2007. Meanwhile about 50 copyrighted works by Cambodian authors have been registered with the Ministry of Culture and Fine Arts. About 100 patent applications and 130 applications for industrial design have been received by MIME's Department of Industrial Property. Two geographical indications (GIs) have been established – one for Kampot Pepper and the other for Kampong Speu Palm Sugar, with the MAFF assisting the MoC in establishing the geographical boundaries of those GIs.

22. According to the authorities, progress in implementing the work programme of legal reforms resulting from WTO accession has been particularly noticeable and expeditious in areas where there has been strong leadership by the government agency in charge, and where the Government has been able to mobilize and coordinate AfT resources. Progress in customs law and intellectual property protection are good examples. The overall leadership of the Prime Minister and Council of Minister has also helped keep pressure on progress in this area.

[3] Summarized in Ministry of Commerce online information (2011), "Trade Sector Development and Aid for Trade in Cambodia". Viewed at: http://www.moc.gov.kh/tradeswap/. For the full texts of the case stories, see OECD online information. Viewed at: http://www.oecd.org/countrylist/ 0,3349,en_21571361_ 46750445_46846376_1_1_1_1,00.html.

[4] Based on "Cambodia's Aid-for-Trade Case Story No. 1: Work Programme of Legal Reforms and Commitments Resulting from WTO Accession" , MoC, 5 May 2011. Viewed at: www.oecd.org/dataoecd/ 28/49/48413417.pdf.

(ii) Trade facilitation

23. The most significant progress has taken place in Customs with a strong leadership from the General Department for Customs and Excise (GDCE). The GDCE has coordinated inputs from a diverse group of development partners including the IMF, WCO, the World Bank TFCP (Trade Facilitation and Competitiveness Project), JAICA, AusAid, NZAid, and the EU. It has received a significant grant from the TDSP to continue working on the Customs legal and regulatory framework, increase awareness and understanding of customs procedures in the private sector, and continue building the capacity of customs officers.

24. Significant improvements have occurred due to implementation of the customs law, capacity development in the GDCE, the introduction of ASYCUDA automation, and the introduction of a risk management system. The introduction of the Single Administrative Declaration (SAD) also contributed to the significant reduction in the number of containers undergoing full inspection. The GDCE indicates that as of early 2011, wherever ASYCUDA has been introduced, 90% of import declarations are cleared and goods released within 24 hours of the filing of the declaration. According to the World Bank, the time it takes to export has been reduced, from an average of 37 days in 2007 to 22 days in 2010, and the time to import from an average of 45 days to 26 days.[5] In term of overall country ranking for trading across borders, Cambodia improved from 126 to 118 between 2009 and 2010.[6] Still, according to the same report, Cambodia continues to require more documents for import and exports than any of its ASEAN neighbours (approximately ten documents).

25. Development partners continue to support the expansion of the physical infrastructure for trade. Japan is assisting with upgrading some of the facilities in the Sihanoukville Autonomous Port; China is financing an expansion of Phnom Penh Autonomous Port (river port); ADB and other development partners have been major lenders for the renovation of key road arteries within the larger Mekong area; ADB and Australia are major lenders behind the rehabilitation of the railroad; and France and the IFC have invested in the airport infrastructure.

26. Progress in trade facilitation reform has been noticeable in areas where GDCE has been able to take the lead. Progress in trade facilitation has been more difficult or slower where clear leadership has taken more time to emerge, because of greater difficulties in mobilizing AfT resources, or other factors. Trade-related SPS is one area where progress has lagged. More progress will be needed on that front for Cambodia to be able to introduce a Single Window, as prescribed under ASEAN, and a WTO-compatible flat fee. The weakest link in enforcement of legal reforms might be the still-weak formal judicial and established court system. However, a major Government prakas was adopted recently by the Council of Ministers to clarify the roles of various ministries and agencies in this complex area. In addition, ADB and TDSP are deploying new resources to put in place an SPS risk management system that can be incorporated into customs clearing procedures.

(iii) Exports of rice

27. There has been significant progress in building, expanding, and diversifying Cambodia's export supply capacity. Rice production has grown rapidly in Cambodia in recent years and is a good example of aid-for-trade in action. Until recently, all domestic surpluses were exported in the form of unprocessed paddy to Viet Nam and Thailand, which, in turn, processed it, exported it in the form of milled rice, and captured most of the added value. Over the past three years, a small group of the largest Cambodian rice millers have taken the lead and begun exporting milled rice. From almost no exports three or four years ago, exports in 2010-11 reached 50,000 and 60,000 tonnes.

[5] World Bank (2010b).
[6] World Bank (2010b).

28. To support the current push on exports of milled rice, the Government adopted a Rice Export Policy, in July 2010, that focuses the efforts of concerned line ministries on removing remaining bottlenecks. The Policy sets out an ambitious target of one million tonnes of milled rice exports for 2015-16.[7]

29. Cambodia has received a large amount of aid from Australia and other development partners, at the farm level in particular, with a focus on seeds, harvest and post-harvest handling, irrigation, yield, and productivity. This aid was critical in restarting an agricultural economy heavily dependent on rice and crippled by years of war and unrest.

30. More recently, the IF/UNDP TRADE-project, IFC Agro-Processing Project (EU-Funded), GIZ, as well as AFD have focused on preparing rice millers to meeting the demands of importing markets and learning about those markets. Study tours and trading missions have been organized to West Africa, the European Union (three times) and to Viet Nam (to a buyer-seller meeting). IFC and the World Bank are looking into funding different financing mechanisms called for under the Rice Policy; AFD might join some of these efforts. AFD together with TRADE financed a 2009 symposium on trade-related financing that help pave the way for some of the recommendations included in the Policy. ADB and TDSP are and will be working on technical standards and SPS issues, including as they affect rice exports.

31. While AfT has been reasonably well targeted, coordination by the Government has been rather modest until recently. The Agriculture SWAp, the Trade SWAp and more particularly the Rice Export Policy are providing tools for Government to effect much stronger AfT coordination. The Rice Export Policy may provide useful lessons for developing similar sector-specific policies in other potential export sectors. In the view of some development partners, such sector-policies are too often lacking, and provide weak guidance on how best to focus some of the AfT.

32. According to the Rice Export Policy, the quality and productivity of seeds has improved enormously in recent years. However, by most accounts, this area still needs improvement. Water management and irrigation also remain in need of improvement and investment.

(iv) Trade SWAp and aid-for-trade coordination and management

33. The case stories presented by Cambodia at the AfT Third Global Review suggest that the extent and quality of AfT coordination remains uneven. Trade development is a particularly difficult area for aid management, precisely because multiple line ministries and agencies are often involved, with possible overlapping jurisdiction and authorities. Successful coordination has tended to be characterized by leadership by the Prime Minister or Council of Ministers, accompanied by strong coordination among development partners (e.g. trade facilitation or legal reform).

34. As a coordination structure for aid for trade, the national implementation arrangements (NIAs) developed to support Trade SWAp are still in the early stage of development. This is partly because of the need for trust building among the various ministries and agencies with a stake in Trade SWAp. Still, in part through the implementation of TDSP, the authority of the S-SC and the pillars in identifying and sharing aid-for-trade resources is beginning to gain traction. The formulation and implementation of clear monitoring and review mechanisms, which are lacking, could help establish the Trade SWAp NIAs as a key forum for the mobilization and allocation of aid-for-trade resources.

35. In addition to the difficulties of resolving turf issues required to improve inter-ministerial coordination, Government's limited capacity to formulate trade policies, including sector-specific

[7] Government of Cambodia (2010).

policies, may also limit progress of the Trade SWAp NIAs. Development partners note that in many product and service sectors, there is a lack of clear development strategies and policies that could provide benchmark against which aid for trade could be deployed.

36. Under the IF-UNDP funded TRADE project, some resources were expanded to start a national network of trade-policy researchers that would be better linked to both government and regional policy research networks, including the ArtNet network managed by UN-ESCAP. Likewise, resources were deployed under TRADE to start a Value Chain and Trade Information Unit in the MoC, in line with a recommendation made some years ago during a development partners workshop organized by USAID.[8] Both efforts are aiming at helping to fill the observed gap. TDSP will be financing a continuation of support to the MoC's Value Chain and Trade Information Unit. Clearly, these are longer-term needs and likely too large to be supported by a single development partner.

(6) TRADE DEVELOPMENT IMPACT

37. Trade is a major driver of Cambodia's poverty-reduction, economic growth, and Millennium Development Goals strategies. Building on its early mix of garment exports and tourism, recent efforts by the Government have been to diversify and expand the country's export supply and do so with a pro-poor focus. At present, Cambodia is focusing on developing exports in rice, cassava, cashew nuts, rubber, fish, and other agricultural and agri-processing sectors, together with manufacturing assembly (bicycles, motorcycles, and automobiles) in special economic zones, as well as mining and extractive industries.

38. Until recently, the benefits of garment exports and tourism tended to be concentrated in a few urban areas (mainly Phnom Penh, Siem Reap, Sihanoukville,) complemented by some internal transfers from workers in those three areas to their families in rural areas. Growth in the newer export sectors is expected to have a more direct and more widespread positive income-producing impact on poorer populations in rural areas.

[8] See Cambodia's "Aid for Trade Case Story No. 4", 5 May 2011. Viewed at: www.oecd.org/databased/29/31/48413539.pdf.

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APPENDIX TABLES

Table AI.1
Merchandise exports by group of products (SITC Rev.3), 2005-10
(US$ and %)

	2005	2006	2007	2008	2009	2010
Total exports (US$ million)	2,434.6	2,910.3	2,962.5	3,456.0	2,986.7	3,808.7
			(% of total)			
Total primary products	3.2	2.8	2.9	5.5	4.5	5.7
Agriculture	3.1	2.8	2.8	2.0	3.2	5.6
Food	1.2	0.8	0.9	0.8	1.3	2.1
0423 Rice, milled, semi-milled	0.1	0.1	0.0	0.1	0.4	0.9
Agricultural raw material	2.0	2.0	1.9	1.1	1.9	3.4
2312 Natural rubber excluding latex	1.4	1.5	1.4	0.9	1.6	2.1
2473 Wood rough, painted, preserved	0.0	0.0	0.0	0.0	0.1	0.8
Mining	0.0	0.0	0.1	3.5	1.3	0.2
Ores and other minerals	0.0	0.0	0.1	3.5	1.2	0.2
Non-ferrous metals	0.0	0.0	0.0	0.1	0.1	0.0
Fuels	0.0	0.0	0.0	0.0	0.0	0.0
Manufactures	96.3	96.7	96.5	94.1	92.5	94.2
Iron and steel	0.0	0.0	0.0	0.0	0.0	0.1
Chemicals	0.1	0.2	0.2	0.1	0.8	0.4
Other semi-manufactures	0.2	0.3	0.6	0.4	0.4	0.4
Machinery and transport equipment	0.5	2.1	2.0	3.0	3.8	7.1
Power generating machines	0.0	0.1	0.0	0.0	0.0	0.0
Other non-electrical machinery	0.1	0.5	0.1	0.1	0.3	3.8
7234 Constructing and mining machinery, n.e.s.	0.0	0.0	0.0	0.0	0.0	3.4
Agricultural machinery and tractors	0.0	0.0	0.0	0.0	0.0	0.0
Office machines & telecommunication equipment	0.1	0.1	0.0	0.1	0.1	0.1
Other electrical machines	0.0	0.0	0.1	0.0	0.1	0.0
Automotive products	0.2	0.1	0.3	0.4	0.4	0.9
7812 Motor vehicles for the transport of persons, n.e.s.	0.2	0.1	0.2	0.4	0.2	0.7
Other transport equipment	0.1	1.4	1.4	2.4	2.8	2.3
7852 Cycles not motorized	0.0	1.3	1.2	1.4	1.4	1.8
Textiles	1.4	1.0	0.7	0.4	0.4	0.5
Clothing	90.6	90.6	89.7	87.2	81.6	79.8
8442 Suits, ensembles, jackets, dresses, etc.	23.7	21.1	22.7	20.3	20.9	21.5
8453 Jerseys, pullovers, cardigans, etc., knitted/crocheted	26.2	30.0	25.1	20.9	21.8	16.8
8432 Suits, ensembles, jackets, trousers, etc.	13.5	13.7	14.0	13.4	13.1	12.7
8454 T-shirts, singlets and other vests, knitted or crocheted	1.0	0.9	2.4	4.6	5.5	8.1
8448 Underwear, nightwear, etc., knitted/crocheted	6.8	4.9	3.4	4.4	4.4	4.9
8447 Blouses/shirts, women´s/girls´, knitted/crocheted	5.4	6.1	8.5	8.0	4.5	3.8
8437 Shirts, men boys, knitted or crocheted	4.1	4.5	5.4	4.7	3.5	2.7
8438 Underwear, nightwear, bathrobes, etc.	2.2	1.1	1.0	2.0	2.0	2.0
8451 Babies' garments and clothing accessories	1.3	1.3	1.3	0.7	1.0	1.5
8459 Other garments knitted or crocheted	0.9	0.8	0.8	0.8	1.0	1.2
8456 Swimwear	0.4	0.6	0.9	1.2	1.3	0.9
8452 Garments of fabrics of 657.1, 657.2, 657.32 to 657.34	0.1	0.3	0.5	3.3	0.7	0.7
Other consumer goods	3.5	2.5	3.3	2.9	5.5	6.0
8514 Other footwear, leather or composition leather uppers	1.4	1.9	2.3	2.2	2.7	3.0
8515 Other footwear with uppers of textile materials	0.0	0.0	0.2	0.4	0.9	1.6
Other	0.6	0.5	0.6	0.4	3.0	0.1
Gold	0.6	0.5	0.5	0.3	2.6	0.0

Note: Calculations exclude trade in bank notes.

Source: WTO calculations, based on data provided by the authorities.

Table AI.2
Merchandise imports by group of products (SITC Rev.3), 2005-10
(US$ million and %)

	2005	2006	2007	2008	2009	2010
Total imports (US$ million)	2,546.3	2,984.2	3,449.3	4,296.5	3,882.1	4,876.0
			(% of total)			
Total primary products	17.4	18.4	17.4	18.7	21.1	17.3
Agriculture	9.7	9.9	8.2	8.5	9.9	8.7
Food	7.5	8.0	6.4	7.2	8.1	7.1
1222 Cigarettes containing tobacco	3.4	3.3	2.4	2.7	3.7	2.9
0819 Food waste, animal feeds, n.e.s.	0.8	0.7	0.8	1.0	1.1	0.8
Agricultural raw material	2.2	1.9	1.8	1.4	1.8	1.6
2690 Worn clothing and other worn textile articles, rags	1.8	1.6	1.5	1.2	1.6	1.4
Mining	7.7	8.5	9.2	10.1	11.2	8.6
Ores and other minerals	0.2	0.2	0.3	1.6	0.6	0.6
Non-ferrous metals	0.2	0.4	0.4	0.8	0.8	0.9
6842 Aluminium and aluminium alloys, worked	0.1	0.1	0.2	0.5	0.7	0.8
Fuels	7.4	7.9	8.6	7.8	9.8	7.1
334 Petroleum oils	6.9	7.3	8.0	7.2	9.0	6.5
Manufactures	82.4	81.5	82.6	80.5	77.0	79.1
Iron and steel	1.6	1.7	1.9	2.4	1.5	1.9
Chemicals	5.8	6.0	6.1	5.6	7.0	6.3
5429 Medicaments, n.e.s.	1.8	1.9	1.8	1.5	1.9	1.7
Other semi-manufactures	7.9	8.0	7.8	6.9	7.8	6.3
6612 Portland cement and similar hydraulic cements	1.9	2.2	1.8	1.3	1.1	1.0
Machinery and transport equipment	16.2	18.0	21.5	25.1	20.7	20.8
Power generating machines	0.7	1.3	0.7	0.8	0.8	0.5
Other non-electrical machinery	5.2	6.0	6.2	5.9	5.0	8.5
7234 Constructing and mining machinery, n.e.s.	0.0	0.0	0.0	0.1	0.0	2.8
7245 Weaving machines, knitting machines, etc.	1.1	0.9	1.1	0.8	0.7	1.1
Agricultural machinery and tractors	0.5	0.6	0.9	1.5	0.8	0.8
Office machines & telecommunication equipment	2.3	1.4	2.7	3.6	5.4	2.4
7641 Electrical apparatus for line telephony/telegraphy	0.2	0.2	1.5	2.7	3.9	2.0
Other electrical machines	1.5	1.5	1.2	1.7	1.5	1.9
7731 Insulated wire, cable etc.; optical fibre cables	0.2	0.3	0.3	0.4	0.2	0.8
Automotive products	3.2	3.3	5.5	7.1	4.4	5.1
7812 Motor vehicles for the transport of persons, n.e.s.	1.6	1.6	2.8	3.6	2.5	2.7
7821 Goods vehicles	1.1	1.2	2.0	2.7	1.4	1.6
Other transport equipment	3.3	4.4	5.1	6.0	3.6	2.4
7851 Motorcycles and side-cars, etc.	2.1	2.8	2.6	2.7	1.1	1.4
Textiles	38.6	39.2	37.7	34.3	33.3	37.0
6552 Other knitted/crocheted fabrics, not impregnated/coated, etc.	16.7	19.4	20.1	20.7	19.0	20.5
6534 Fabrics, woven, < 85% of synthetic fibres, not mixed with cotton	13.4	11.7	9.8	7.4	6.8	7.7
6518 Yarn (excl. sewing thread) of staple fibres, etc.	1.7	1.6	1.9	1.9	2.6	2.5
6526 Other woven cotton fabrics, < 85% cotton, > 200 g/m2	0.7	0.4	0.3	0.4	0.9	1.4
Clothing	2.1	2.4	2.5	1.5	2.0	1.9
Other consumer goods	10.3	6.2	5.1	4.7	4.8	4.8
8998 Small-wares, toilet articles, n.e.s.	1.5	1.4	1.2	0.9	1.0	1.1
8928 Printed matter, n.e.s.	0.7	0.8	0.8	0.7	0.7	0.8
Other	0.2	0.1	0.0	0.9	1.9	3.6
Gold, non-monetary (excl. gold ores and concentrates)	0.2	0.1	0.0	0.8	1.3	3.4

Note: Calculations exclude trade in bank notes.

Source: WTO calculations, based on data provided by the authorities.

Table AI.3
Merchandise exports by destination, 2005-10
(US$ and %)

	2005	2006	2007	2008	2009	2010
Total exports (US$ million)	2,434.6	2,910.3	2,962.5	3,456.0	2,986.7	3,808.7
			(% of total)			
America	70.3	69.8	68.9	66.7	59.8	58.8
United States	65.5	65.2	63.5	57.0	52.0	50.0
Other America	4.7	4.5	5.4	9.7	7.8	8.8
Canada	4.4	4.0	4.7	8.4	6.6	7.2
Mexico	0.2	0.3	0.3	0.6	0.5	0.8
Europe	21.4	22.9	23.3	22.7	24.6	25.3
EU(27)	20.8	22.4	22.6	21.9	23.9	24.5
Netherlands	0.9	0.9	2.7	4.4	4.9	6.2
United Kingdom	5.1	5.3	5.0	4.5	6.0	6.2
Germany	9.2	8.0	6.2	4.0	3.6	2.9
Spain	1.4	2.9	3.3	3.6	3.5	2.7
Belgium	0.4	0.8	1.0	1.5	1.3	1.7
France	2.1	1.9	1.4	1.0	1.4	1.5
Italy	0.3	0.4	0.7	0.8	0.8	1.3
Sweden	0.4	0.4	0.5	0.5	0.5	0.5
EFTA	0.6	0.4	0.5	0.5	0.6	0.7
Switzerland	0.4	0.3	0.3	0.3	0.4	0.4
Other Europe	0.1	0.1	0.2	0.2	0.1	0.1
Commonwealth of Independent States	0.2	0.2	0.3	0.5	0.5	0.6
Russian Federation	0.1	0.2	0.2	0.3	0.3	0.4
Africa	0.1	0.1	0.2	0.2	0.2	0.3
Middle East	0.1	0.1	0.2	0.3	0.4	0.5
Asia	8.0	6.8	7.1	9.5	14.6	14.5
China	0.6	0.5	0.3	0.4	0.5	1.7
Japan	2.6	1.2	1.1	0.9	2.7	2.3
Six East Asian Traders	2.5	2.2	2.5	2.6	6.2	6.5
Thailand	0.5	0.3	0.6	0.4	0.6	3.9
Korea, Rep. of	0.1	0.1	0.2	0.2	0.3	0.6
Singapore	1.1	1.1	1.1	1.3	3.9	0.6
Malaysia	0.4	0.2	0.3	0.3	0.5	0.5
Hong Kong, China	0.3	0.2	0.3	0.2	0.6	0.5
Other Asia	2.3	2.9	3.1	5.7	5.2	4.0
Viet Nam	1.9	2.6	2.7	4.9	3.9	2.5
Australia	0.2	0.1	0.2	0.3	0.5	0.5
Afghanistan	0.0	0.0	0.0	0.0	0.1	0.4
Memorandum:						
ASEAN	4.0	4.4	4.7	7.2	9.3	7.8

Note: Calculations exclude trade in bank notes.

Source: WTO calculations, based on data provided by the authorities.

Table AI.4
Merchandise imports by origin, 2005-10
(US$ and %)

	2005	2006	2007	2008	2009	2010
Total imports (US$ million)	2,546.3	2,984.2	3,449.3	4,296.5	3,882.1	4,876.0
			(% of total)			
America	1.7	1.1	1.3	2.9	2.6	2.9
United States	1.4	0.9	1.1	2.8	2.3	2.7
Other America	0.3	0.2	0.2	0.2	0.3	0.3
Europe	9.3	4.4	3.7	2.4	4.3	6.5
EU(27)	8.9	4.1	3.4	2.2	3.0	3.0
France	6.9	1.6	1.4	0.8	1.1	1.0
Germany	0.3	0.3	0.4	0.4	0.6	0.3
Belgium	0.2	0.2	0.2	0.1	0.2	0.3
Italy	0.1	0.2	0.2	0.1	0.2	0.3
Belgium-Luxembourg	0.2	0.2	0.2	0.2	0.1	0.2
EFTA	0.4	0.2	0.2	0.2	1.2	3.5
Switzerland	0.3	0.2	0.2	0.2	1.2	3.5
Other Europe	0.0	0.1	0.0	0.0	0.1	0.0
Commonwealth of Independent States	0.1	0.1	0.2	0.2	0.4	0.3
Russian Federation	0.1	0.1	0.1	0.2	0.4	0.2
Africa	0.1	0.1	0.0	0.1	0.2	0.1
Middle East	0.1	0.2	0.1	0.1	0.2	0.2
Asia	88.7	94.1	94.6	94.2	92.3	90.0
China	16.6	17.6	18.2	21.7	22.7	24.3
Japan	3.9	4.3	4.1	2.7	3.1	3.2
Six East Asian traders	55.4	57.9	57.4	53.4	47.4	46.5
Thailand	11.4	13.9	14.9	16.2	12.0	14.1
Hong Kong, China	17.7	18.1	17.9	13.5	12.5	10.9
Chinese Taipei	11.4	12.8	11.1	8.5	8.8	9.8
Korea, Rep. of	5.9	4.9	5.6	5.3	5.4	5.1
Malaysia	3.6	3.0	3.1	2.8	3.4	3.4
Singapore	5.3	5.3	4.9	7.1	5.4	3.2
Other Asia	12.7	14.3	14.9	16.4	19.1	16.0
Viet Nam	7.1	9.0	10.1	11.0	12.7	10.0
Indonesia	3.2	2.9	2.6	2.2	3.7	3.6
India	0.7	0.9	0.9	2.1	0.9	1.1
Pakistan	0.4	0.4	0.4	0.4	0.5	0.4
Australia	0.6	0.4	0.4	0.4	0.7	0.3
Macau, China	0.1	0.0	0.1	0.0	0.1	0.3
Philippines	0.2	0.2	0.2	0.1	0.2	0.2
Other	0.0	0.1	0.1	0.0	0.0	0.0
Memorandum:						
ASEAN	31.1	34.3	35.8	39.5	37.4	34.5

Note: Calculations exclude trade in bank notes.

Source: WTO calculations, based on data provided by the authorities.