

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 negotiator¹, 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 Standards⁴; 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 Climate⁶, 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 Window⁸, 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 riel (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. <i>Ad valorem</i> 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	<i>Ad valorem</i> 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	<i>Ad valorem</i> tax	None	2%, 5% or 10%
Other	<i>Ad valorem</i> 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 riel and % share)

	2004	2005	2006	2007	2008	2009	2010
Total tax revenue ^a (billion riel)	1,656.2	1,989.8	2,391.6	3,584.7	4,688.7	4,332.2	5,070.0
<i>of which (%)</i>							
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 riel)							
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.

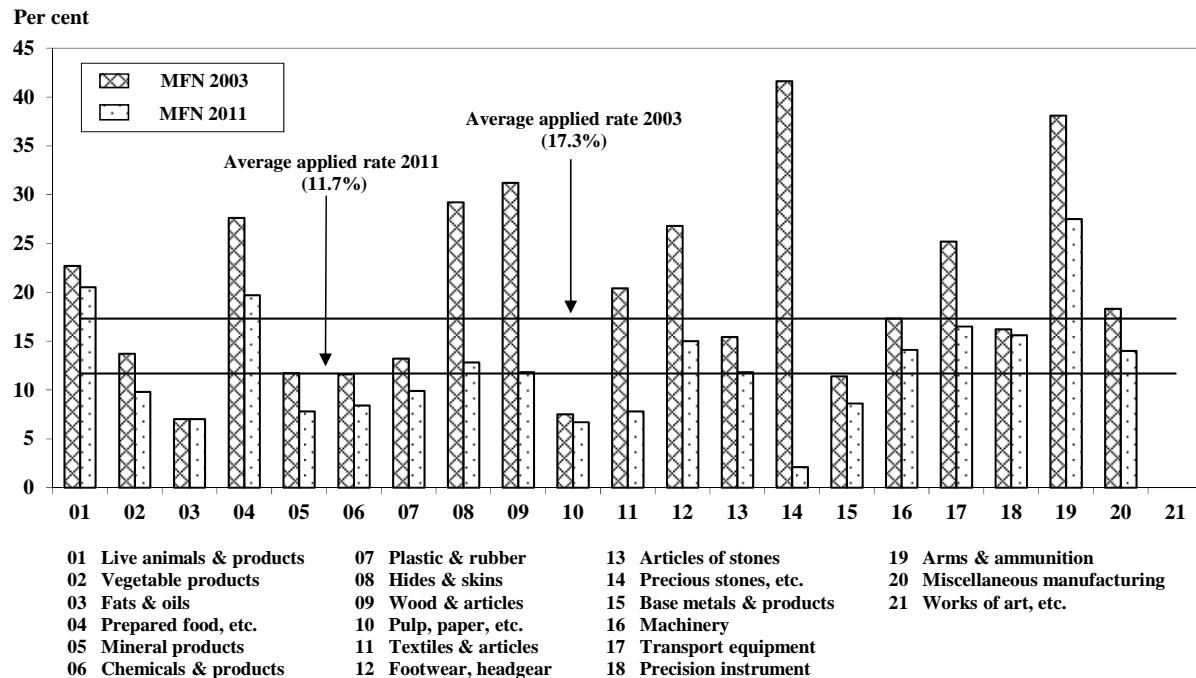
Source: Cambodian authorities.

(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



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

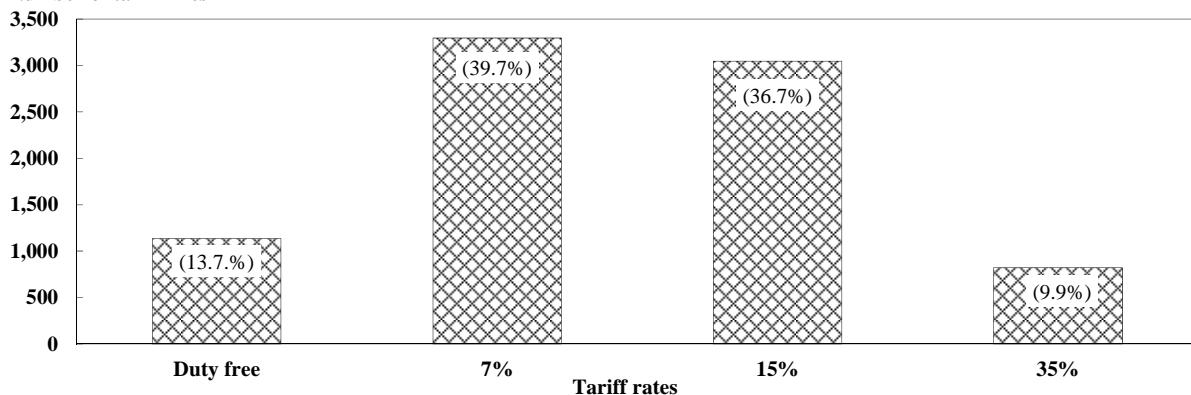
Note: The 2003 tariff is based on HS96 nomenclature, consisting of 6,809 tariff lines; the 2005 tariff is based on HS02 nomenclature, consisting of 10,689 tariff lines; and the 2011 tariff is based on HS07 nomenclature, consisting of 8,298 tariff lines.

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

Chart III.2

Distribution of MFN tariff rates, 2011

Number of tariff lines

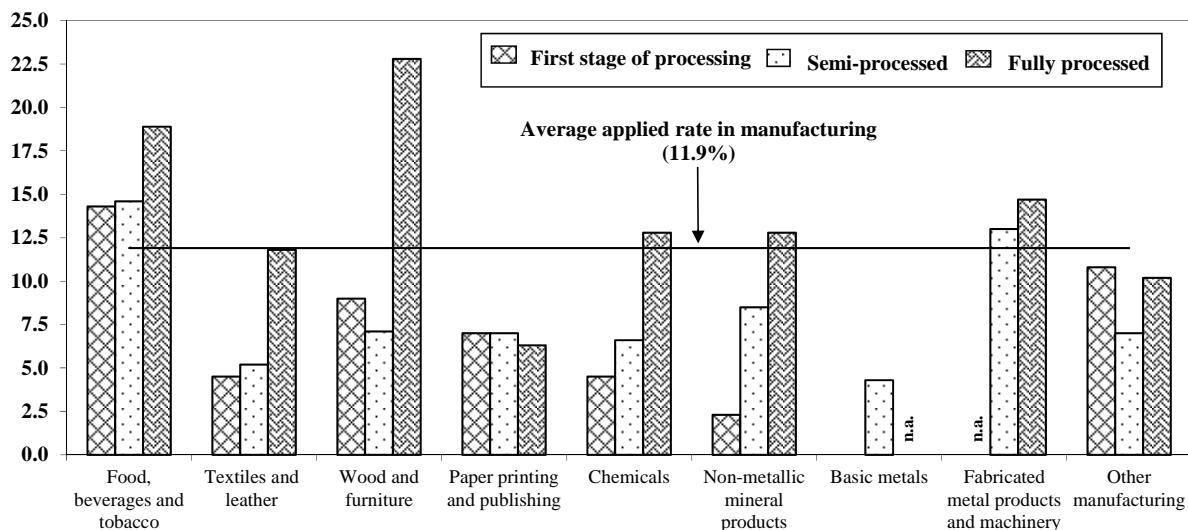


Note: Percentages in brackets denote the share of total lines.

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

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

Per cent



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		CEPT	
		Average (%)	Range (%)	Average (%)	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
<i>By WTO definition</i>					
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
<i>By stage of processing</i>					
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 parallel 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 requirements¹², 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 Customs¹³, 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 - Inter-ministerial committee
Sand	Export permit	- Ministry of Agriculture, Forestry and Fisheries
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-Procedure-Eng/\\$FILE/Handbook-Export-Procedure-Eng.pdf](http://www.ifc.org/ifcext/mekongpsdf.nsf/AttachmentsByTitle/Handbook-Export-Procedure-Eng/$FILE/Handbook-Export-Procedure-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

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 agreement²²; 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 standards²⁷ 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 developing 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 accession³⁰; 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

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).