

# Background

The Kingdom of Cambodia became a member of the World Trade Organization (WTO) on October 13, 2004. The terms of accession were negotiated with other WTO members over a period of almost nine years, and were formally accepted, in September 2003, at the WTO ministerial meeting in Cancun, Mexico. Ratification by the Cambodian National Assembly and approval by the Senate was received in September 2004.

By joining WTO, Cambodia gains an enforceable, contractual relationship with almost every other nation significantly engaged in trade. The WTO contract is a set of commitments and rules that permit access to markets. This contract is enforced through a dispute settlement system that has considerable legal and commercial authority.

The WTO legal system is extremely complex. It is comprised of approximately 20 individual agreements, and many more decisions and understandings. But its principles are very simple. These include: non-discrimination among members, transparency of trade laws and regulations, special treatment for developing countries, the use of tariffs only for protecting markets, and progressive market liberalization. Committees and councils comprised of representatives of WTO members oversee all the agreements in the head office in Geneva, Switzerland.

## EFFECTS OF WTO MEMBERSHIP ON THE CAMBODIAN PRIVATE SECTOR

It is important to remember that neither the advantages nor the challenges of WTO membership are felt immediately after accession. Some substantial changes took place during the accession process, while others will take place over the coming years.

WTO membership does not guarantee success in world trade. Instead, the WTO provides a framework for economic and other reforms that should help Cambodia be competitive in foreign markets, and, at the same time, provide an attractive environment for investment. Over time, new market

opportunities for competitive, entrepreneurial firms will appear. However, export success will only result from a productive partnership between government and the private sector. Cambodian firms need to identify their interests in the WTO trading system, and ensure that the government adequately represents those interests in Geneva.

The impact of the WTO will be felt on four levels. First, and in the relatively short term, will be the implementation of commitments to reform the domestic regulatory and administrative framework. These are the conditions under which business and commerce operate within Cambodia. Second, if the regulatory and legal infrastructure improves, WTO membership should encourage investment. Third, if Cambodian firms are productive, and are capable of delivering quality products on time and at competitive prices, market access conditions - partly those determined in the WTO, but also by regional and preferential arrangements - will become a decisive factor. Finally, the WTO offers some opportunities, not only for its members to become more competitive, but also, to cope with competition in their own markets.

The terms of WTO accession include commitments by Cambodia to move ahead with its legislative reform program, including establishment of a commercial court. The regulatory environment will be directly affected by a variety of WTO agreements. For example, the rules on valuation of goods for import duty and Value Added Tax (VAT) by the customs department will make tax and duties more predictable for importers. Similarly, the WTO agreements on pre-shipment inspection (PSI) and import licensing will remove concerns over the handling of goods at ports. Cambodia must also continue to develop its laws on intellectual property (IP) protection.

The attraction of Cambodia as a location for investment depends on improving the regulatory and judicial environments. The WTO commitments made by Cambodia in the area of services, however,

are a key to long term potential future investment. The lack of affordable credit and other financial services, in particular, is often identified as a major handicap for Cambodian companies. Telecommunications, construction, business, educational, and health services are vital for the future of the nation; all are subject to WTO commitments that open them to foreign suppliers. WTO rules also place disciplines on the kind of investment incentives that Cambodia can provide.

### **MARKET ACCESS ISSUES**

Cambodian exporters can expect greater security than before in access to overseas markets. The WTO provides ceilings, or limits, which differ widely, on the customs duties that its members can charge. For most industrial countries, except for the agriculture and textiles sectors, these ceiling duties are very low. For some of Cambodia's important developing country markets, the WTO duties are high. However, lower rates are often applied at the border. It is important for Cambodian firms to understand the difference between the ceiling duties, also referred to as "bound duties", and the actual applied duties. The former are enforceable in the WTO, the latter, for the most part, are not.

As a poor country, and member of the Association of South East Asian Nations (ASEAN), much of Cambodia's trade is conducted under preferential terms. Schemes like the Generalized System of Preferences (GSP) and the European Union's "Everything but Arms" (EBA) initiative, which provides duty-free and quota-free access to least developed countries (LDCs), are valuable to Cambodia. They are not, however, guaranteed in the WTO and often subject to complicated rules of origin.

During the process of joining the WTO, Cambodia reformed its own tariff structure. Those reforms, in 2001, reduced both the average level of import duties and the number of tariff bands, or groupings, from 12 to four. The tariff commitments made by Cambodia are either at these levels or above them. Therefore, the practical impact of actual accession in 2004 on tariffs is minimal; the competitive effects of tariff reform have already been felt by domestic firms. Further tariff reforms are planned, but they are not part of the WTO contract. If national revenues are to not decline, due to these reduced tariffs, the problem of smuggling must be resolved.

While WTO accession provides security with respect to ceilings on customs duties in overseas markets, Cambodian exporters will still have to deal with a variety of other barriers. Quotas on garments and textiles were eliminated at the end of 2004. In the agriculture sector, WTO rules on tariff quotas are very complex, and abuse of the system is common. WTO provisions in this area, as described later in this guide, will be important for Cambodian agribusinesses.

The WTO rules also include other non-tariff barriers. Those related to standards (Technical Barriers to Trade [TBT] and food safety regulations) and rules of origin will be important to Cambodian firms.

### **WTO IMPACT ON DOMESTIC FIRMS**

Competition in the domestic market may not intensify as a direct result of WTO membership. However, many firms will feel the pressure of competition grow as the Cambodian economy is reformed and continues to open. The WTO recognizes that sometimes governments have to offer protection to hard-hit domestic producers. The WTO provides legal protection for domestic firms, which is applied depending on whether the competition is deemed fair or unfair. However, the conditions for such legal protection are strict, and the rules must be applied carefully. In particular, the government must prove that imports are harming domestic firms.

The WTO agreements and the commitments to market access that affect industrial goods, agricultural products and services can change. Every few years, WTO members hold new trade negotiations; the Doha Development Agenda is the latest. Major changes in the competitive environment for global agribusiness are expected from the Doha Round, as it is commonly called. A new WTO agreement on trade facilitation, which addresses improving export/import procedures and eliminating informal border charges, is also expected.

The Doha Round will contain other changes important to Cambodian exporters, farmers, and the private sector in general. It will be necessary, therefore, for the private sector to work closely with the government to determine negotiating priorities, and to pursue them at the WTO. For this relationship to be effective, private firms will need to understand how the WTO system works and how to secure benefits.