

# WORLD TRADE ORGANIZATION

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**Working Party on the  
Accession of Cambodia**

Original: English

## **ACCESSION OF CAMBODIA**

### Memorandum on the Foreign Trade Régime

In a communication received on 8 December 1994, the Government of the Kingdom of Cambodia (hereafter referred to as "Cambodia") applied for accession under Article XII of the Agreement Establishing the World Trade Organization (WTO).

At its meeting on 21 December 1994, the Preparatory Committee for the WTO established a Working Party (WT/ACC/CAM/1) with the following terms of reference: "To examine the application of the Government of Cambodia to accede to the WTO Agreement under Article XII, and to submit to the General Council recommendations which may include a draft Protocol of Accession." The membership is open to all WTO Members indicating their wish to serve on the Working Party.

In accordance with the established procedures (WT/ACC/1), the Secretariat is circulating the attached Memorandum on the Foreign Trade Regime received from the Government of Cambodia. WTO Members wishing to submit questions on the Memorandum are invited to do so by 23 July 1999 for transmission to the Cambodian authorities.

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<sup>1</sup> English only



## I. INTRODUCTION

The national elections that took place in May 1993 under the aegis of the United Nations ushered in a new era in Cambodia's history.

The preceding eighteen years had been a period of national calamity. During the Khmer Rouge period (1975-1979) more than two million people are believed to have died as the result of the policies of that regime. In particular, almost all educated Cambodians were either killed or fled the country. Money was abolished, and the Central Bank was blown up. The rule of law was abolished, and many courthouses blown up. Financial, administrative, legal and diplomatic records were entirely destroyed. Education ceased to exist. Pagodas, churches and mosques were razed. Families were dispersed. The objective was nothing less than to destroy completely Cambodia's political, economic, legal and social structures.

The period between 1980 and the signing of the Paris Peace Agreements in October 1991 was characterized by civil war. Most of the country was organized as a Socialist state with a command-and-control economy. Although certain steps to liberalize that economy were taken beginning in the late 1980s, the legal and administrative structures in place in early 1993 were generally not adapted to the requirements of a liberal democracy and a market economy.

The Constitution adopted following the elections of May 1993 guarantees liberal democracy and a free market economy. The Royal Government has moved swiftly to adapt the role of government to that required by a market economy. Most state-owned enterprises have been privatized. All prices, including the exchange rate and interest rates, have been liberalized and respond solely to market forces. Quantitative restrictions on trade have been removed. Import licensing is restricted to only a small number of sensitive goods. At the same time, the Royal Government has given highest priority to putting in place a legal framework necessary for the operation of a market economy. This process is still under way.

In adapting its laws, institutions and policies the Royal Government has been mindful of international standards, and the need to adhere to them. For example, MFN and National Treatment are accorded to all trade in goods. The tariff nomenclature is based on the Harmonized System. Draft laws on protection of intellectual property rights and technical standards fully meet the requirements of the respective WTO agreements. In brief, Cambodia has already taken, or is in the process of taking, a number of important steps to align its policies and practices to WTO rules.

However, the legacy of the past still bears heavily on Cambodia. Nowhere is this more evident than in the scarcity of skills required by a market economy. For example, in early 1997 there were 65 members of the Cambodian Bar Association. For these and other reasons, Cambodia has been classified by the United Nations as a Least Developed Country. Cambodia will need to utilize appropriately the various flexibilities contained in the WTO Agreements as regards Least Developed Countries to ensure that its integration into the world trading system is both rapid and consistent with its capabilities.

The present Memorandum is designed to furnish WTO members with background on Cambodia's economy, and detailed information on its foreign trade regime. The Royal Government stands ready to provide additional data and information if required. The Memorandum was prepared by the Royal Government's Inter-Ministerial Coordinating Committee on WTO Accession, and was finalized in July 1998. It was reviewed by the Council of Ministers on 21 May 1999.

## II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

### 1. Economy

- (a) General description (territory, population, economic specialization, main economic indicators)

#### Territory and population

The Kingdom of Cambodia is situated in Southeast Asia. It has three neighbours: the People's Democratic Republic of Laos to the north, Thailand to the north and the west, and Vietnam to the south-east and the east. In the south and south-west of Cambodia, the Gulf of Thailand forms a natural border.

Cambodia covers a land area of 181,035 square kilometres. The longest distance from north to south is about 450 km. and from west to east 580 km. About five per cent of Cambodia's land area consists of rivers and lakes, with the Mekong River and the Tonle Sap Lake linked at Phnom Penh by a 100 km. long river. During the dry season the water from Tonle Sap flows into the Mekong; the direction however reverses in the wet season due to the level of water in the Mekong being higher than that of the Tonle Sap.

The plains of Cambodia are bounded by the Cardamon Mountains to the west and the Dangrek Mountains in the north. In the north-eastern corner of the country the plains give way to the Eastern Highlands, a remote region of densely forested mountains and high plateaux that extends eastwards into Vietnam's Central Highlands and north into Laos.

Cambodia has a large forested area with nearly 50 per cent (9 million ha.) of its land area still under forest cover. Beside this, it has about 2.7 million ha. of arable land, of which 1.8 million ha. is used for rice cultivation (rice output accounts for 73 per cent of total crop output in terms of value).

#### Language

The official language is Khmer. As regards foreign languages, some of the older generation speak French and the use of English is now widespread among the younger generation. French is still used in education system. English is the main foreign language used by Government offices. Chinese, English and French are the main foreign languages used for business purposes.

#### Population

Cambodia's population is estimated in 1997 at around 11 million, of which about one million live in the capital city, Phnom Penh.<sup>2</sup> The population is unusually homogeneous with over 90 per cent of the inhabitants being ethnic Khmer. Minority groups include ethnic Chinese, Vietnamese and Cham (Muslims). In addition, there are about twenty different groups of hill-tribes or indigenous minorities. Cambodia's population is estimated to be growing at an annual rate of 2.7 per cent. A full-fledged census was undertaken in March 1998. The results of this census, when they become available, will provide an accurate and up-to-date profile of the Cambodian people.

Administratively, Cambodia has 20 provinces and four autonomous cities (Phnom Penh, Sihanoukville, Kep, and Pailin). Phnom Penh is the capital city of the Kingdom.

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<sup>2</sup> Source: Ministry of Economy and Finance: Monthly Bulletin of Statistics, 2<sup>nd</sup> year, 18 June 1997, P. 6.

### Economic specialization

Cambodia is well-endowed with natural resources including forests, inland and coastal fisheries, different agro-ecological conditions suited to a wide range of crops and livestock and rich biological diversity.

### Agriculture

The main domestic activity is agriculture, which contributed 44.6 per cent of the country's GDP in 1995<sup>3</sup>. This share is declining year by year due to the lower growth in this sector and the higher growth in other sectors. However, Cambodia's agricultural potential is good.

Crops grown both for food and industrial uses (such as jute and rubber) account for roughly 25 per cent of GDP in 1995, livestock for 12 per cent, fisheries for four per cent and forestry for three per cent. Rice accounts for 90 per cent of the cropped area (land suited for rice-based cropping is estimated at 2.6 million ha., but only about 1.7 million ha. was planted in 1992-93), one-third of the total value of agricultural production and almost three quarters of caloric intake. Agriculture employs between 82 to 85 per cent of the total labour force.

### Forestry

Cambodia has valuable forest resources and a long tradition of forest utilization by its population. The forests are an integrated component in the way of life of rural communities, contributing wood and wood products as well as non-wood forest products and foods from plants and wild animal.

However, forests in Cambodia have undergone major changes in the recent past, and serious concern has been expressed over their exploitation. The Government has taken efforts to protect forests and adopted a strategy for their exploitation in a sustainable manner. In 1969 a forest resource inventory indicated that forests covered 13.2 million ha., covering over 70 per cent of the country's territory. Nowadays, about 50 per cent (9 million ha.) of its land area is still under forest cover<sup>4</sup>.

### Fisheries

The fishery sector plays a significant role in the economy and traditionally in providing the population's protein needs. Fish production comes from inland (rivers, lakes, floodplain), marine and aquaculture sources.

The Great Lake Tonle Sap is a unique natural resource. In addition to its hydrological role, it represents the heart of Cambodia's capture fisheries productivity. One of the richest inland fishing lakes in the world, the Tonle Sap was reported as being nearly 10 times as productive as the best fishing grounds in the North Atlantic, even though reduced fish yields were at least 65 kg./ha./yr if calculated on the basis of the dry season area of the lake. This compares with an average yield of 12 kg./ha./yr in typical tropical rivers.

The inland capture fishery has been Cambodia's most important fishery both in terms of production and value. Total commercial output between 1990 and 1992 averaged 113,500 tons per

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<sup>3</sup> Source: First Five-year Socio-economic Development Plan 1996-2000, July 1997, P 87.

<sup>4</sup> See: Cambodia: Agricultural Development options review (Phase I), 1994, p.38

year, of which 70,000 tons (61 per cent) were inland fish, 37,000 tons (32 per cent) marine fish and 7,000 tons (about 6 per cent) aquaculture products. (See table A1-4).

### Minerals

Due to recent history, Cambodia's mining is very weakly developed. However, several pre-war studies had shown that Cambodia possesses a wide range of mineral resources.

At present there is little mineral resource exploitation in Cambodia. There is potential for production of clay (for ceramics), dolomite (for glassmaking), gold, limestone (for cement), bauxite, granite, pagodite, phosphates, quartz, sapphire, ruby, silica sand, and other precious stones. Extraction is on a very small scale with the exception of gemstones and gold. There could be significant natural gas and oil potential in Cambodia.

Contracts have been concluded for offshore exploration and further contracts for onshore exploration are expected to be issued. Estimates have been put at one to five trillion cubic feet of gas and 30 to 180 million barrels of oil.

### Industry

Cambodia's economy is traditionally dominated by the agrarian sectors. An industrial base had started to grow in the 1960's. However, during the Pol Pot regime (1975-79), both state and privately owned manufacturing firms suffered extensive destruction and deterioration, and many of those skilled in entrepreneurial and management functions were killed or emigrated.

In 1985 a process of reform from a centrally planned economy to a market-oriented economy was initiated. Private sector activities were allowed. Key reform measures included the restoration of private ownership of property. In 1989, the reform process was accelerated further. Under this programme liberalization allowed for privatization of state-owned enterprises and encouraged investments from the foreign and local private sectors.

With the improvement of infrastructure (including power and water supply) and the adoption of an investment law in 1994, the manufacturing sector received significant momentum for development. The most active areas are garments, wood processing, food processing, beverages and soft drinks and production of construction materials.

Manufacturing (value added) remained at a relatively low 18.2 per cent of GDP in 1996, though it has been growing at a more rapid pace than agriculture (over 10 per cent on average over the period from 1990-1995).

### Services

Services is a large field covering many sectors of economic life such as transport, telecommunication, banking and tourism.

In Cambodia, the services sector accounts for about 40 per cent of Gross Domestic Product (GDP). The largest sub-sector is trade-related services (12.7 per cent of GDP in 1995), and the fastest-growing sub-sector is construction services (See VI.1, below). For the period from 1995 to 2000, the annual growth rate of the service sector is expected to average about six per cent per annum.

INDICATORS	1992 actual	1993 actual	1994 actual	1995 actual	1996 actual	1997 actual	1998 estimate	1999 projected	2000 projected
<b>2-GDP by industrial origin</b>									
<b>2.1-Annual Change %</b>									
REAL GDP	7.1%	7.4%	7.1%	7.6%	7.0%	1.0%	3.0%	7.5%	7.7%
Agriculture	0.3%	4.1%	0.5%	6.4%	2.4%	0.8%	3.6%	3.9%	4.6%
Industry	6.7%	19.3%	15.0%	10.1%	18.2%	0.3%	1.6%	14.8%	14.0%
Services	9.6%	7.3%	11.6%	8.0%	7.3%	1.5%	3.0%	7.9%	7.8%
<b>2.2-Share of GDP %</b>									
<b>NOMINAL GDP</b>									
Bns R.	2509	5414	6131	7200	8250	9100	11000	12600	14328
	100%	100%	100%	100%	100%	100%	100%	100%	100%
Agriculture	46.4%	45.8%	43.1%	43.5%	42.3%	42.5%	42.2%	40.2%	38.6%
Industry	13.0%	15.0%	16.3%	16.6%	18.3%	18.0%	18.0%	19.6%	21.2%
Services	40.7%	39.2%	40.7%	39.9%	39.4%	39.5%	39.8%	40.2%	40.1%

Source: Ministry of Economic and Finance (July 1998).

(b) Current economic situation

Cambodia has made significant progress in stabilizing the economy and maintaining economic growth. Macro-economic development between 1991 and 1996 was impressive: GDP grew at an average annual rate of about six per cent during this period; inflation, which averaged about 140 per cent per annum during the period of 1990-92, had fallen to 7.1 per cent in 1996; and budget revenue as a share of GDP doubled between 1991 and 1995.

In 1997, economic growth slowed substantially, due to internal and external factors, reaching only one per cent. However, growth in 1998 is projected at about three per cent, and thereafter is expected to return to the pace of 1991-1996.

INDICATORS	1992 actual	1993 actual	1994 actual	1995 actual	1996 actual	1997 actual	1998 estimate	1999 projected	2000 projected
<b>3-MAIN MACROECONOMIC INDICATORS</b>									
Nominal GDP Mns US\$	1506	1923	2385	2923	3121	3033	2973	3600	4094
Population Mns	9.3	9.6	9.9	10.3	10.7	11.0	11.3	11.6	11.9
GDP per capita US\$	162	200	241	284	292	276	263	311	344
Real GDP % increase	7.1%	4.1%	4.0%	7.6%	7.0%	1.0%	3.0%	7.5%	7.7%
CPI average % change	75.0%	114.5%	-0.5%	7.8%	7.1%	8.0%	14.0%	6.0%	5.0%
Riel/\$ year average	1666	2816	2571	2463	2643	3000	3700	3500	3500
Budget revenue % GDP	6.2%	5.4%	9.6%	8.9%	9.1%	9.7%	8.3%	10.4%	11.4%
Budget expendit. % GDP	9.8%	11.2%	16.3%	17.3%	17.2%	13.9%	13.1%	14.1%	16.2%
Curr. def/surplus % GDP	-3.3%	-1.5%	-1.4%	-0.8%	-1.3%	0.7%	-0.9%	1.1%	2.2%
Over. fiscal defi. % GDP	-3.6%	-5.9%	-6.8%	-7.8%	-8.4%	-4.2%	-4.9%	-3.7%	-4.5%
Curr. acc. balance % GDP	-3.3%	-9.8%	-14.5%	-16.3%	-15.6%	-14.6%	-14.1%	-14.5%	-15.3%
External contribution to economy % of GDP*	3.0%	11.3%	17.4%	22.2%	20.2%	17.4%	15.0%	17.1%	17.9%
Total saving % of GDP	14.2%	17.8%	19.5%	21.8%	25.9%	22.4%	21.5%	26.7%	28.9%

Source: Ministry of Economic and Finance (July 1998)

\* Inflows of Official Development Assistance and Foreign Direct Investment as a percentage of GDP.

Revenue mobilization

The ratio of Cambodia's total budget revenue to GDP (9.1 per cent in 1996) is very low by international standards. Performance as regards tax revenue improved from 5.9 per cent of GDP in 1994 to 6.52 per cent of GDP in 1996. Since then, however, performance has remained steady.

Customs revenues made up about 60 per cent of all tax receipts in 1996 (see table below). This marks an improvement in diversifying the tax base: in 1995 the comparable figure was 72 per cent.

Because of the relatively weak mobilization of resources and imperative expenditures on national security, budget discipline has fallen heavily on civilian expenditures (see discussion under expenditures, below). Nonetheless, strict budget discipline has been maintained and will continue, since this is the essential underpinning of macro-economic stability. Up until 1997, the deficit in the current budget was restricted to what could be covered by external budget support. In 1997, the current deficit was eliminated. In 1998 a small deficit re-emerged. The capital budget has been financed almost entirely through external assistance and concessional loans. In the period ahead the current budget surplus will also be a source of such financing.

Cambodia's tax revenue structures 1994-1996 (in per cent of GDP)

	1994	1995	1996
Tax Revenue	5.9	6.19	6.52
Income tax:			
Individual	0.1	0.02	0.03
Corporate	0.2	0.24	0.23
Total	0.3	0.26	0.26
Domestic taxes on goods & services:			
Turnover, sales & VAT	1.1	1.07	1.19
Excise	0.1	1.13	0.69
Total	1.2	1.2	1.88
International trade taxes:			
Import	3.9	4.18	4.08
Export	0.2	0.24	0.1
Total	4.2	4.42	4.18
Property taxes	0.0	0.0	0.0
Others taxes	0.3	0.31	0.2

Source: Cambodia: From Recovery to sustained development. The World Bank, 1996 Cambodia: Progress in recovery and reform. The World Bank, 1997

The Royal Government attaches the highest priority to broadening the tax base and enhancing revenue mobilization. To this end, it adopted, through the Law on Taxation of January 1997, a medium-term tax reform strategy which includes important revenue-enhancing as well as equity-enhancing provisions. The main revenue-enhancing provisions are:

- Levying the turnover tax on the first sale after importation (previously exempt);
- Broadening the coverage of the excise duties on automobiles, international air travel, and international telecommunications services;
- Introducing taxes on interest and dividend earnings;
- Strengthening the application of minimum tax levels, including as regards enterprises granted tax holidays under the Investment Law;



- applying a 30 per cent rate of profit tax for oil and gas production-sharing contracts, and for exploiting natural resources, including timber, ore, gas and precious stones;
- Extending the coverage of taxes on salaries to include Government employees, elected officials, and employees of NGOs;
- Introducing the withholding of taxes; and
- Replacing taxes on turnover and consumption with a value-added tax (VAT) for about 1,000 largest taxpayers (from 1 January 1999), and extending it gradually to others.

With regard to equity-enhancing provisions, the following measures are being implemented:

- income from the sale of agricultural outputs, by a person who is not a large taxpayer, is exempt from profits tax;
- dividends paid to domestic and foreign shareholders are subject to a final withholding tax;
- medical services, public transportation, primary financial and insurance services, and public interest non-profit activities are exempt from VAT.

The Royal Government has thus embarked on a process of fiscal reform designed to enhance sources of revenue other than customs receipts. By so doing, it intends over the medium-term to reduce the share of customs receipts in total tax revenue to about 40 per cent. In the near-term, however, customs duties will remain the single most important source of budget revenue. Policies with regard to tariff rates will need to be shaped in the light of the key role of customs duties in total revenue, and the key role of fiscal balance in sustaining macro-economic stability.

### Expenditure

Cambodia has made significant progress in expenditure management since the adoption of the first Budget Law in 1993. Progress also has been made in establishing audit and inspection, Treasury cash management and accounting. Recent progress includes: assigning financial controllers to each ministry; establishing a system of direct payments by the Treasury; establishing competitive bidding procedures through the Public Procurement Department of the Ministry of Economy and Finance (MEF) (see IV.3.1, below); and adopting a public accounting sub-decree to improve overall budget management. Through these steps and measures, the Government has succeeded in containing current expenditures at around 10 per cent of GDP. However, the high level of defense and security expenditures has resulted in a very limited scope for civilian expenditures.

Cambodia spends about 1.5 per cent of GDP on health and education, compared with an average of five per cent of GDP for other low-income countries. At the same time, Cambodia's level of expenditure for defence and security is unusually high. This composition of spending needs to be changed to support development priorities: expenditure allocation needs to be significantly re-oriented toward social sectors and economic infrastructure. The Government recognizes the need for such expenditure re-orientation and it has committed to achieve this in the First Socio-economic Development Plan (SEDP) - 1996-2000, and the Three Year Rolling Public Investment Programme - 1996-1998 (PIP). The objective is to increase expenditures for health and education to five per cent of GDP from the current two per cent by the year 2000, and reduce defense and security spending to 3.5 per cent of GDP from the current five per cent. To achieve these objectives, the Government will first need to strengthen the capacity to monitor and control budgetary expenditures through full implementation of the recently introduced measures such as the assignment of financial controllers, direct payment systems, and competitive bidding procedures.

Current expenditure by sector

INDICATORS	1992 actual	1993 actual	1994 actual	1995 actual	1996 actual	1997 actual	1998 actual	1999 Project.	2000 Project.
<b>5-CURRENT EXPENDITURE BY SECTOR (1994-1999)</b>									
In Mns US\$	-	-							-
Total Curr. Exp.	-	-	257.6	299.1	298.8	272.0	262.3	327.2	-
o.w.									
-Defense-security	-	-	152.3	174.9	153.8	139.8	149.2	144.0	-
-Education	-	-	24.0	30.0	30.5	27.8	20.5	42.5	-
-Health	-	-	11.7	10.6	16.1	15.1	12.6	23.1	-
-Agric. & Rural Dev.	-	-	5.3	6.2	6.9	5.6	5.1	9.1	-
In % of Total Curr. Exp									
-Defense-security	-	-	59.1%	58.5%	51.5%	51.4%	56.9%	44.0%	-
-Education	-	-	9.3%	10.0%	10.2%	10.2%	7.8%	13.0%	-
-Health	-	-	4.5%	3.5%	5.4%	5.6%	4.8%	7.0%	-
-Agric. & Rural Dev.	-	-	2.0%	2.1%	2.3%	2.1%	1.9%	2.8%	-

Source: Ministry of Economy and Finance

Investment

The economic performance in the medium-term will depend on the initiative and dynamism of the private sector. The Government recognizes that the private sector is serving as the engine of economic growth while the Government is acting as a strategist. In this connection work is being done to establish a proper legal basis and transparent incentive framework necessary to support broad-based expansion of the private sector. A substantial rapid inflow of FDI has augmented domestic private capital formation and fuelled the expansion of private sector-led development, and also shown the potential of investment opportunities in Cambodia.

Investment trends in Cambodia

Year	Number of projects	Investment amount (in US\$)	Number of workers
1994	37	594,098,016	21,552
1995	164	2,379,469,223	48,772
1996	182	803,288,745	71,731
1997	206	759,291,881	130,465
1998	142	849,612,390	115,817

Note: "Investment amount" and "number of workers" refer to declared magnitudes in the investment projects approved, rather than actual out-turns.

Source: The Cambodian Investment Board (CIB).

**2. Economic Policies**

- (a) Main directions of the ongoing economic policies, tactical and strategic goals of the economic policies, pricing policy, economic development plans, privatization plans, sectoral priorities, regional development plans, etc.

For over a decade before 1990 the Cambodian Economy was organized predominantly along centrally-planned lines. Some economic liberalization began in 1985, and this accelerated after 1989 with the restoration of private property rights, the abolition of official procurement and the freeing of all prices, except for electricity and water.

Since the signing of the Paris Peace Accord in 1991, the reform process has been deepened and widened significantly to the point that the country is now operating a market economy system. Moreover the Royal Government is committed to strengthening this system and, over recent years, has been enacting legislation, adopting policies, creating institutions and adopting procedures as part of reform in order to quicken the pace of economic transformation and structural change.

However, such structural change will inevitably be a long process. Therefore, the following strategies to develop the country will remain very significant for the future:

- Reforming the administrative and judicial institutions of the State in order to adapt the public service and the judicial system to the needs of a market economy and of a liberal, democratic society;
- Promoting political and economic stabilization and growth. The Royal Government continues to pursue economic and financial stability. Fiscal policy is a key to stabilization, rehabilitation and development. For stability, the fiscal deficit will be kept to what can be financed through non-monetary means;
- Establishing a legislative and regulatory framework conducive to an attractive, fair and stable investment climate;
- Providing required physical infrastructure;
- Developing human resources through upgrading human skills and adapting them to the market economy;
- Gradually integrating the country into the regional and world economies; and
- Optimizing sustainable utilization of the natural resource base.

#### Economic Development Programmes and Sectoral Priorities

According to the First Socio-Economic Development Plan 1996-2000, which was adopted in 1996 by the Royal Government, the main elements of the Government's economic development programme can be identified as follows:

##### Agriculture and rural development

The Government sees agricultural and rural development as major instruments for eradicating poverty and improving the living standards of the people. The First Socio-Economic Development Plan states that:

- A prime objective of the Royal Government is to achieve food security for all the population.
- The basic goals of the Royal Government in the agriculture sector are to:
  - Ensure food security through expansion in the production of rice, or its availability through the market, and of secondary food crops;
  - Contribute to economic growth and to foreign earnings through exports; and
  - Improve income opportunities for farm households by diversifying crop production.
- The economic development programmes in agriculture call for:
  - Achieving food security and rice export capacity;
  - Controlling water resources, in particular through irrigation, in order to minimize local and national fluctuations in rice output;

- Developing commercial crop production, such as rubber;
- Expanding livestock production;
- Achieving the sustainable development of fisheries;
- Ensuring sustainable social benefits from the sustainable exploitation of forest resources;
- Improving agricultural planning and policy making.

#### Industrial development

Under programmes of reform major initiatives are being undertaken by the Government to stimulate and accelerate industrial development, including:

- Privatization of state-owned enterprises;
- Encouragement of foreign direct investment (FDI) and national private sector investment in industry through the adoption of the Law on Investment (August 1994), and the implementing Sub-decree (December 1997) (see 2(d), below).
- Securing access to international markets through application for membership in ASEAN and WTO, and the obtaining of GSP and MFN status from major trading partners;
- Adoption of plans for the promotion of growth centers throughout Cambodia for industrial development by improving basic infrastructure for transportation and communication, the establishment of industrial estates, export processing zones and free-trade zones etc.

Based on Cambodia's comparative advantages in the industrial sector, an appropriate strategy for the development of manufacturing during 1996-2000 involves the incorporation of a number of different strands. These are outlined below:

#### Export Orientation

For reasons of macro economic balance, it is important for Cambodia to promote exports, in both agricultural and industrial sectors, as well as through tourism. Moreover, the reason for adopting outward(export)-oriented industrial development policy is the small size of the domestic market in terms of purchasing power.

#### Labour Intensity

To deal with the emerging problem of urban unemployment and a rapidly growing workforce, Cambodia has started out with labour-intensive manufacturing for export, and will seek to move towards more technologically-sophisticated and capital-using activities in the future.

#### Natural-Resource Utilization

Cambodia will build on its comparative advantage by developing natural-resource-based industries of different kinds, including agro-based, wood-based, fisheries-based and non-metallic-mineral-based industries.

#### Private sector development and Privatization

Beginning in 1987, the Government encouraged private-sector activities. A "family collective economy" in the agricultural sector quickly developed. Nationalized industries began to receive

autonomy from the state planning system in 1988. Rights to inheritance and to traditional use of land titles were restored to individuals in early 1989. The new constitution, adopted in September 1993, enshrined the right to private ownership, including the right of individuals or legal entities of Cambodian nationality to own land. Citizens are free to trade.

Privatization has taken place in two phases: the first from 1991 until mid-1993 and the second after April 1995 when new privatization regulations were approved. UNTAC halted privatization for the interim period until a new government was elected and standardized procedures could be put in place.<sup>5</sup>

During the first phase (i), the authority to sell and lease State enterprises rested with the sectoral ministries with no provision for external approval; (ii) attracting foreign investors was a high priority; (iii) maintaining current levels of employment was considered crucial. The results reflect these priorities. Ministries simply privatized their own enterprises, negotiating the terms of the sales/leases and bringing revenues directly into the Ministries' budgets. A condition of both sales and leases was that the new enterprise should deal with their employees following certain norms. Workers could be laid off, but the owner was required to pay severance pay of one month's salary per year of employment, with a minimum of three month's salary and a maximum of ten month's salary. The Government allowed managers to avoid layoffs by paying non-working employees 60 per cent of a wage of US\$40 per month. (There is no general minimum wage in Cambodia, but a minimum of US\$40 per month was set for this purpose only.) Leases were long term, for up to 70 years, with rents adjusted at five-year intervals. Many buildings that were sold and leased reportedly were of little utility and discarded with the real value of the sale/lease residing in the land.

Following a two-year hiatus initiated by UNTAC, the second phase began in April 1995, with the approval of privatization regulations designed to tighten and centralize control over the process. An inter-ministerial privatization committee under the leadership of the Ministry of Economy and Finance was established and was operational by July 1995. This committee is charged with preparing a privatization programme, including: (i) compiling a list of all enterprises (ii) formulating strategies for privatizing them; and (iii) monitoring the process.

The results so far of these processes are laid out in the table below. As may be seen from that table, as of end-December 1997, 99 State-Owned Enterprises had been privatized, and one enterprise closed. Of the remaining 57 State-Owned Enterprises, seven are joint ventures. However, such joint ventures involving the National Bank of Cambodia are expected to be fully privatized. Of the remaining non-joint-venture enterprises, 16 will be privatized, and 17 will be closed. According to the First Socio-Economic Development Plan, a certain number of State-Owned Enterprises should not be or cannot be privatized for a variety of reasons. These enterprises perform essential roles in the Cambodian economy and they provide public services that otherwise would not be available from the private sector in the foreseeable future. Altogether 17 enterprises have been put in this category, including railway, water and electricity enterprises. However, for the latter two, the Government is working to grant them financial autonomy.

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<sup>5</sup> In accordance with the Paris Peace Accords, the United Nations Transitional Authority in Cambodia (UNTAC) exercised direct control over finance from April 1992 until September 1993.

State Owned Enterprises: 1989-1997

Parent entity	Privatization: 1989/1995		Privatization in 1996/1997			Situation as of end 1997				
	Leased	Sold	Leased	Sold	Closed	To be privatized	To be closed	Joint venture	To remain as SoE	Total
Council of Ministers	0	2	0	0	0	1	0	0	0	1
Municipality of Phnom Penh	8	0	3	0	0	0	0	0	4	4
NBC*	0	0	0	0	0	0	0	3	2	5
Ministry of:										
Agriculture	6	1	1	0	0	7	7	2	0	16
Commerce	1	0	1	1	1	6	0	0	0	6
Culture	0	2	0	0	0	0	0	0	1	1
Industry	41	16	6	3	0	2	0	0	1	3
Health	0	0	0	0	0	0	0	1	1	2
Public Works and Transport	4	0	3	0	0	0	10	1	8	19
Total	60	21	14	4	1	16	17	7	17	57

\* It is expected that the National Bank of Cambodia will, in due course, divest itself of its interest in all joint ventures.

(b) Monetary and Fiscal PoliciesPricing Policy

The role of prices in the economic system started changing in 1989 when the State order system under which farmers were compelled to sell a portion of their output to the State at below-market prices was abolished. State intervention in commodity markets has now totally disappeared. Prices are market-determined and are open to the influence of international trade. Commodity price subsidies and subventions to State-owned enterprise have been eliminated.

Monetary Policy

As clearly stated in Article 3 of the Law on the Organization and Conduct of the National Bank of Cambodia, the principal mission of the Central Bank is to determine and direct monetary policy aimed at maintaining price stability in order to facilitate economic development within the framework of the Royal Government's economic policy. To this end, the National Bank of Cambodia has maintained a restrained monetary environment since the May 1993 General Election, characterized by the absence, until 1998, of any bank financing of the budget. Outstanding net-bank credits to the Government declined steadily between December 1993 and end-1997.

The restrained monetary policy together with other exogenous factors have brought the rate of inflation down from an annual average of 114 per cent in 1993 to 7-8 per cent in 1995-1997. Inflation is estimated at 14 per cent in 1998, but is expected to drop to 6 per cent in 1999.

To help control liquidity, The National Bank also introduced in February 1994 a reserve requirement system. The reserve requirement is five per cent of deposits and other liabilities and is maintained as a combination of average vault cash (Riels) together with average Riel balances at the National Bank. Banks are temporarily permitted to maintain a part of their reserves in US dollar deposits. However, the current high level and uneven distribution of banks' excess reserves make this system an ineffective instrument of policy at this stage.

The current instruments of monetary control are a limit to bank financing of the budget, reserve requirements, the sale of foreign currency by the NBC and a positive real interest rate underpinned by the NBC's prime refinance rate. The planned introduction of Treasury bills is expected to add to the existing instruments of monetary policy.

#### Development of the Banking System (see also VI 2, below)

In 1980 the country's central bank was re-established as "the People's National Bank of Cambodia" under a Soviet-style mono-banking system with its branches spread throughout the provinces. The role and functions of the National Bank at that time were currency issue, treasury operations for the Government, lending to the economy (mostly to the public sector), and effecting international settlements.

To establish a modern financial sector, the banking system reforms which were initiated in 1989 focused on the transformation from a mono-bank to a two-tier system by completing the division of responsibilities between central and commercial banking activities.

In 1990 the National Bank transferred its treasury function to the Ministry of Finance (now, Ministry of Economy and Finance). The Government has also allowed the entry of foreign banks since 1991. In 1992 the Central Bank Law and Sub-Decree on the renaming, re-organization and functions of the National Bank were promulgated by the State of Cambodia.<sup>6</sup> Section 2 of the Law states that the National Bank of Cambodia is a State bank and shall rank as a Ministry reporting to the Council of Ministers .

The role and status of the NBC was significantly revised in the new central bank law passed by the National Assembly on 26 January 1996.

The current banking system in Cambodia is a two-tier system, consisting of the Central Bank and commercial banks. The Central Bank, named National Bank of Cambodia, NBC, is the Monetary Authority and enjoys operational autonomy. The commercial banking system consists of 31 banks, of which one is a state owned bank, 22 are privately owned commercial banks, seven are foreign bank branches, and one is a representative office.

The National Bank of Cambodia is putting in place a bank supervision system that will effectively respond to the challenges posed by the recent proliferation of commercial banks in Cambodia.

The supervisory capacity of the National Bank has been further strengthened with the implementation of existing prudential norms.

The National Bank has revamped the licensing procedures for commercial banks in order to ensure that the new licenses will be issued only to banks with an adequate capital base and a sound managerial track record.

#### Commercial Banking Law

The National Bank of Cambodia has drafted the Commercial Banking Law to be submitted to the National Assembly as soon as possible. Once this becomes law it will strengthen the legal basis for

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<sup>6</sup> The State of Cambodia, one of the four parties to the Paris Peace Accords, administered most of the territory of Cambodia, under this name and the designation People's Republic of Cambodia, from 1979 to 1993.

bank licensing, banking operations, supervision, liquidation of financial institutions, conduct of securities activities, and documentation of financial institutions (see also section on trade-related services regime: sub-section 2 on banking and other financial services, below).

### Fiscal Policy

Fiscal policy will remain at the core of the Government's adjustment and reform strategy. The medium-term agenda aims at strengthening the role of the budget as the key tool of economic management and at developing a fiscal structure that generates the domestic resources required for increased public expenditure in priority social areas while safeguarding financial stability. The main fiscal target was the elimination of the deficit in the current budget by 1997, which has been achieved (although some backsliding occurred in 1998). This is to be followed by progressive increases in Government savings to raise the domestic contribution to the financing of the public investment programme.

As mentioned above, revenue mobilization will be the key element in the Government's fiscal strategy. To achieve the targeted increase in the revenue ratio from the current nine per cent of GDP (one of the lowest in the world) to 13 per cent by the turn of the century, the Government will act on two fronts: putting in place the elements of a modern tax system and strengthening the administrative capacity to collect taxes. A comprehensive reform of Cambodia's tax system was adopted in January 1997. The Government will proceed rapidly with implementation of the provisions of the new Law on taxation, including a value-added tax for the largest enterprises (about 1,000), which was introduced in January 1999. Plans are underway to introduce the remaining elements of a modern tax system, in particular land and property taxation, during the course of 1999.

To improve budgetary performance and transparency, an Internal Budget Monitoring and Discipline Unit has been established at the Ministry of Economic and Finance. Internal monitoring and control will be improved through implementation of the recently adopted law and sub-decrees establishing a National Auditing Authority and strengthening inspection procedures and the Treasury's cash management function.

- (c) Foreign exchange and payments system, relations with International Monetary Fund, application of foreign exchange controls if any

The Government's external policies are aimed at fostering the country's reintegration into the regional and world economies. These policies are guided by the objective of maintaining a market-based exchange rate within a framework of liberal, market-oriented exchange, foreign investment, and trade regimes.

A free, market-based exchange rate has been in place since 1993. Initially, the official exchange rate was determined daily within a certain spread from the parallel market rate. Recently the spread has been eliminated entirely and the official exchange rate is now set at the market rate of the previous day.

The National Bank will continue to pursue a market-based exchange rate policy and will continue to base the official rate on the market rate.

As relative macroeconomic stability was restored and the credibility of financial policies improved, relative exchange rate stability was achieved during 1994-1996. However, the exchange rate remained subject to a large range of shocks, and the financial crisis in neighbouring countries contributed to a depreciation of the Riel in 1997 and 1998 (see tables A1-5 and A1-6). To cope with



such shocks, the National Bank organizes US dollar auctions from time to time in order to smooth exchange rate fluctuations and to strengthen public confidence in the local currency.

The current legal basis for Cambodia's foreign exchange system is the law on Foreign Exchange that the National Assembly approved during its 8th session in 1997. To facilitate external transactions and to encourage private investment in Cambodia, the law ensures no restrictions on foreign exchange operations through book entry. However, such operations should be undertaken solely through authorized intermediaries. Export or import of bank notes and other means of payment equalling or exceeding US\$10,000 is subject to a declaration only.

#### Interest Rate Policy

On 15 June 1994, the National Bank introduced a system of fixing a minimum interest rate on 3-month Riel deposit accounts to be used by commercial banks as a base rate for their Riel deposit taking, but giving commercial banks discretion in setting loan rates. The minimum rates on Riel deposits were set so as to ensure that deposit rates were positive in real terms. Subsequent experience showed that interest rates had little impact on deposit growth with the banks. This reflects the lack of public confidence in the local currency and the banking system due to Cambodia's historical legacy; it also underlines the lack of interest among commercial banks in doing business in Riel. The above interest rate requirement was lifted and both lending and deposit rates were completely liberalized in March 1995.

In April 1995 the National Bank began to set and announce the base rate for a refinancing facility to commercial banks as a credit window operation. The rate is presently one per cent per month. No doubt this arrangement will become instrumental in helping develop a liquid secondary market in Treasury bills which the Royal Government is planning to introduce soon.

#### Relations with IMF

In late 1992 a reform programme designed to improve the budgetary situation and reduce monetary expansion was put in place. In 1993 this programme was supported by a drawing on the IMF's Systemic Transformation Facility. To further support the Government's 1994-96 economic adjustment and reform programme, in 1994 the IMF approved a drawing, over three years, under the Enhanced Structural Adjustment Facility (ESAF) totalling SDR 84 million. Half of this was drawn during 1994-1995.

Along with this payments support, the IMF has provided technical assistance to Cambodia in the areas of tax and customs administration, central banking supervision, tax reform and fiscal management, and balance of payment statistics. Overall, the objectives set out in the technical assistance programme have been met and a sound foundation has been put into place.

Cambodia made considerable progress in economic and social recovery under the medium term reform programme: growth was robust, the budget situation improved significantly, monetary expansion slowed markedly, inflation fell into single digits, the exchange rate stabilized and recourse to central bank credit was virtually eliminated.

However, there were also some delays and difficulties in implementing some of the measures to mobilize domestic resources and strengthen public resource management. These led to the postponement in 1996 of the 4th instalment of the ESAF drawing. Cambodia currently has no programme supported by the IMF.

The Government recognizes that the sustainability of the reform process will hinge critically on determined efforts to improve governance and establish the rule of law in all spheres of activity.

(d) Foreign and domestic investment policies

The Law on Investment was adopted by the National Assembly of the Kingdom of Cambodia on 4 August 1994, and the implementing Sub-Decree was approved by the Council of Ministers on 29 December 1997. This law governs all investment projects within the Kingdom of Cambodia, without any distinction based on the nationality of the investor, except as regards ownership of land (see below). Investors submit investment applications to the Council for the Development of Cambodia / the Cambodian Investment Board (CDC/CIB) for review and decision. The applications should be processed by CDC /CIB within a period of 45 days maximum following the date of submission of the complete investment application.

Ownership of land for the purpose of carrying out investment activities shall be vested only in natural persons having Cambodian citizenship, and in enterprises that are at least 51 per cent owned by Cambodian citizens. Use of land shall be permitted to foreign investors, including long-term leases of up to 70 years, which may be renewed.

The law offers overseas and local companies attractive and competitive financial incentives as follow:

- nine per cent corporate income tax
- tax holidays of up to eight years in respect of the corporate income tax
- full import duty exemptions for export-oriented projects
- unrestricted repatriation of profits
- no nationalization
- no withholding tax on dividends
- five-year loss carry-forward

There is a transparent set of rules and criteria for determining the extent to which a given investment project will benefit from incentives. These are laid out in Sub-Decree 88 of 29 December 1997.

(e) Competition policies

Currently, there is no competition law in Cambodia.

**3. Foreign Trade in goods and services: volume and value of trade, exports and imports, foreign trade balance, structure of trade, trade by geographic areas and dynamics of trade, accompanying statistical data and information on publications (Annex 1 refers)**

The value of foreign trade in goods rose at rapid rates during 1993-1997: the average annual growth of retained imports was 28 per cent, and the average annual growth in domestic exports was 40 per cent.

The balance of trade in goods for 1993, 1994, 1995, and 1996 amounted to US\$ -188 million, US\$ -255 million, US\$ - 333 million, and US\$ - 428 million respectively. It is estimated that in 1997 the trade deficit declined to \$328 million.

The main import partners for 1997 were Thailand, with 18 per cent of imports: Singapore (10 per cent); Vietnam (10 per cent); Japan (7 per cent); Taiwan (7 per cent); China (6 per cent); Hong Kong, China (5 per cent); and Malaysia (5 per cent). (See table A1-18.)

The main export partners for Cambodian products in 1997 were Thailand with 26 per cent of domestic exports; the United States (17 per cent); Singapore (15 per cent); China (9 per cent); Vietnam (7 per cent); and the United Kingdom (6 per cent). (See table A1-19.)

Statistics related to trade in services are maintained only at the aggregate level (see table A1-4). During the period 1992-1997 the growth in the value of service receipts fluctuated widely from year to year. The average annual rate of growth during the period was 33 per cent, with service receipts reaching US\$160 million in 1997. Much of this increase was accounted for by tourism. The value of service payments rose over the same period at an average annual rate of 28 per cent, reaching US\$188 million in 1997.

Detailed foreign trade statistics on goods are provided in Tables A1-7 through A1-19 located in Annex 1.

#### **5. Information on financial movements related to nationals working abroad, remittances etc.**

Currently, there are relatively few Cambodian nationals working abroad and no information is available regarding their remittances or other financial movements associated with their activities.

### **III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES**

#### **1. Powers of executive, legislative and judicial branches of government**

Cambodia is a constitutional monarchy. The Constitution adopted in September 1993 stipulates that the Monarch is the Head of State for life. The Monarch appoints the Prime Minister and the Council of Ministers. Upon presentation by the Council of Ministers, the Monarch signs decrees of appointment, transfer and dismissal of high civil and military officials, and upon presentation by the Supreme Council of the Magistracy, signs decrees to appoint, transfer or dismiss judges. The Monarch appoints the Commander-in-chief of the Royal Khmer Armed Forces, declares war upon approval of the National Assembly, and, upon approval by the Prime Minister and the President of the National Assembly, may declare a state of emergency. The Monarch receives letters of credentials from foreign ambassadors to the Kingdom of Cambodia, and, upon approval by the National Assembly, signs and thereby ratifies international treaties and conventions.

##### Powers of the Legislature

Legislative powers are exercised by the National Assembly (lower house) and the Senate (upper house). The National Assembly consists of 122 members elected simultaneously for five-year terms of office. Members are elected directly by the electorate at large.

The National Assembly is the only organ empowered to adopt laws. The National Assembly approves the national budget and various government development strategies and programmes. It approves proposals of the Government to borrow or to lend, and imposes, alters or annuls taxes.

In order to fulfill its tasks, the National Assembly is endowed with the following commissions:

- Human rights and complaints;
- Finance and banking;
- Economics, planning, investment, agriculture, rural development and environment;
- Interior, national defense, investigation, anti-corruption;
- Foreign affairs, international cooperation and information;
- Legislation;
- Education, religious affairs, culture and tourism;
- Health, social affairs, labour and women's affairs;
- Public works, transportation, telecommunications, post, industry, energy and commerce.

The commissions may invite Ministers to give explanations in their fields of responsibility. In addition, National Assembly members may submit written questions to the Royal Government through the President of the National Assembly, and replies must be provided within seven days of receipt of the questions.

Legislation may be proposed by National Assembly members or by the Prime Minister. To date, however, the usual procedure has been characterized by the following successive steps:

- preparation of a draft law by the technical line ministry concerned;
- discussion of the draft law in inter-ministerial meetings;
- study of the draft law by the Council of Jurists of the Cabinet of the Council of Ministers ( who check for conformity with the Constitution, compatibility with existing legislation, etc.)
- examination and adoption of the draft law by the Council of Ministers;
- submission by the Prime Minister to the National Assembly;
- examination by the relevant specialized commission of the National Assembly;
- examination and adoption by vote at a plenary session of the National Assembly.
- submission to the Monarch for promulgation.

The National Assembly adopts legislation by a simple majority of all members. It may pass a vote of no confidence in the Government by a two-thirds majority of all members. Laws approved by the National Assembly and signed by the Head of State are effective in Phnom Penh within ten days after signing and are effective within twenty days throughout the country. Any law that runs counter to the principles laid down in the Constitution can be annulled by the Constitutional Council, the only organ having such powers. It is composed of nine member with a term of office of nine years. Three members are appointed by the Monarch, three by the National Assembly, and three by the Supreme Council of Magistracy.

The President of the National Assembly is selected by a two-thirds vote of the members of the National Assembly. The President of the National Assembly is a member of the Council of the Throne (the body that determines the succession to the throne) and acts as the Chief of State when the Monarch is absent from Cambodia or otherwise unable to fulfill those functions.

#### Powers of the Executive

The Council of Ministers are the Royal Government of the Kingdom of Cambodia. The Royal Government is the executive arm of the state. It is in charge of the overall execution of all national policies and programmes, and is responsible and accountable to the National Assembly.

At present, the Council of Ministers consists of a Prime Minister; two Deputy Prime Ministers, each also in charge of a separate ministry; four Senior Ministers or Ministers of State, two

of whom are also in charge of separate ministries; eighteen ministers; six Secretaries of State reporting directly to the Council of Ministers; and twenty-two Secretaries of State attached to different ministries.

The Prime Minister chairs meetings of the Council of Ministers, which can take full decisions concerning any type of activity of the Government, which decisions bind the Government as a whole.

The Prime Minister, through his regulatory authority, executes all decisions adopted by the Council of Ministers. The Prime Minister presents Decrees (Kret) to the Monarch for signature. The Prime Minister can also issue on his own authority Sub-Decrees (Anu-Kret), after the approval of the Council of Ministers. Individual Ministers issue Ministerial Prakas, and decisions and circulars. Provincial Governors issue decisions and circulars (see table below for the hierarchy of various official actions). All regulatory acts, whether by the Royal Government or by a Ministry, are published in the Official Journal once they are signed.

The Prime Minister can undertake the negotiation of treaties, international conventions, and intergovernmental agreements concerning economic, technical, cultural, and defense cooperation. The ratification and promulgation of such treaties, agreements and conventions are undertaken by the King after approval by the National Assembly.

The Prime Minister can present for nomination by the Monarch by way of a Royal Decree (Reach-Kret) the following high-ranking civilian and military officials: members of the Royal Government, the Governor and Deputy-Governor of the National Bank of Cambodia (the Central Bank); Under-Secretaries of State; Advisers to the Royal Government and to the Prime Minister; General-Secretaries of the Royal Government; General-Secretaries and Directors-General of Ministries; Delegates of the Royal Government; Governors of provinces and municipalities; Ambassadors; Extraordinary and Plenipotentiary Envoys; the Military Chief of Staff; General Officers of the military.

The Prime Minister appoints directly through a Sub-Decree other high ranking civilian, military and foreign-service officials, Deputy-Governors of provinces and municipalities; Chiefs of District (Srok) and urban divisions (Khan).

#### Powers of the judiciary

The adjudicate courts of the Kingdom of Cambodia are divided into three levels, namely the provincial, municipal, and military courts on the lower level, the Appellate Court, and the Supreme Court.

Provincial and Municipal Courts located in the various provinces and municipalities are lower adjudicate courts whose jurisdictions cover respectively the territory of those provinces and municipalities. The Military Court located in the municipality of Phnom Penh is also a lower adjudicate court whose jurisdiction covers the whole territory of the Kingdom. The Appellate Court and the Supreme Court located in the municipality of Phnom Penh are higher courts whose jurisdictions cover the whole territory of the Kingdom. Any intervening party, prosecutor or the accused, may appeal to the Appellate Court decisions of trial courts. Appeals must be filed within a period of two months from the day judgment is pronounced in court if the accused is present; fifteen days are added to this period if the judgment is rendered in absentia.

According to the Constitution, the Supreme Court exercises judicial review of the law and adjudicates questions of law in cases appealed from the Appellate Court; the Supreme Court envisaged in Article 109 of the Constitution adopted on 21 September 1993 has not yet been

established. Pending its establishment appeals of decisions rendered by Appellate Courts are heard by the Supreme Court Established by the State of Cambodia<sup>7</sup>.

The courts of all levels adjudicate their trials based on laws currently in force, or in their absence, on laws and provisions adopted by the Supreme National Council (a body that existed during the period of the United Nations Transitional Authority in Cambodia), or any other existing laws that are not contrary to the Constitution. In civil cases, when the law is explicitly silent or when there is a gap where the law does not stipulate any legal provisions, cases may be tried based on custom, traditions, conscience and equity.

The Constitution specifies that the judiciary shall be independent. To this end, it stipulates that a Supreme Council of Magistracy shall be established in order to guarantee the independence of the judiciary, maintain discipline for judges, and to ensure the good functioning of the courts of the Kingdom. The National Assembly adopted the law on the organization and composition of the Supreme Council of Magistracy in December 1994.

The Supreme Council of Magistracy decides on recommendations to His Majesty the King regarding the appointment, transfer, suspension or removal of all judges and prosecutors. The Supreme Council of Magistracy provides recommendations regarding the promotion of judges and prosecutors, and acts as a disciplinary council for matters involving disciplinary actions to be taken against judges and prosecutors.

The first meeting of the Supreme Council of Magistracy occurred in late 1997.

#### The Hierarchy of Various Official Actions taken in accordance with the Constitution

<b>I</b>	<b>International Level</b>
	Treaty
	Convention
	Agreement
<b>II</b>	<b>National Level</b>
	Law
	Royal Decree ( Kret Royal )
	Sub-Decree of the Royal Government (Anu-kret)
	Decision of the Royal Government
	Circular of the Royal Government
	Instruction of the Royal Government
	Ministerial or inter-ministerial decrees (prakas)
	Circular of provinces, municipalities

## **2. Government entities responsible for making and implementing policies affecting foreign trade**

The Royal Government (i.e., Council of Ministers) is responsible for establishing the Kingdom's economic policy, including policy on foreign trade.

Foreign economic policy is overseen by the Ministry of Foreign Affairs and International Cooperation (MFA & IC). General economic policies, foreign trade policies and trade related policies are prepared, developed, and coordinated through the Ministry of Economy and Finance (MEF), the

<sup>7</sup> The State of Cambodia, one of the four parties to the Paris Accord, administered most of the territory of Cambodia under this name and the designation Peoples' Republic of Cambodia, from 1979 to 1993.

Ministry of Commerce (MoC), the Council for the Development of Cambodia (CDC), the National Bank of Cambodia (NBC), the Ministry of Planning (MoP), and the Ministry of Industry, Mines and Energy (MIME).

Royal-Decree No 0196/18 dated 24 January 1996 establishes the organization and functioning of the MEF.

The MEF is charged with maintaining macro-economic stability and an economic environment conducive to growth. It collaborates with other ministries in formulating the strategic policy of the Government for integrating the Cambodian Economy into the regional and global economies. It prepares the national budget and oversees the execution of that budget once it is adopted by the National Assembly. It collects tax and non-tax revenue, including customs duties. It prepares draft laws on financial matters and implements such laws once they are promulgated. It administers and oversees government procurement activities. It proposes to the Government changes in import tariffs, and implements tariff and other trade policies through the Department of Customs, which is an integral part of the Ministry.

The Customs Department is the operational arm of the Ministry of Economy and Finance as regards the border control of international trade. It is charged with the preparation of proposals as regards the tariff schedule; with implementing all laws with regard to foreign trade; with collecting taxes and duties on imported and exported products; and with suppressing smuggling and other evasions of the law bearing on international trade.

Sub-Decree 54 dated 22 September 1997, establishes the organization and terms of reference of the Ministry of Commerce. Except as regards tax and investment matters, the Ministry is responsible for laws, rules and regulations governing domestic and foreign business activities. The Ministry of Commerce registers all business enterprises (see below), participates in the formulation and implementation of international trade policy, and is the focal point for the Government's activities with respect to WTO accession. Through CAMCONTROL (a body under the Ministry of Commerce) it participates in border control and the setting and implementation of technical standards (see IV.3.(b) below). It is responsible for developing and implementing the Government's policies on protection of intellectual property rights as regards trademarks.

The Investment Law of 5 August 1994 established the Council for the Development of Cambodia (CDC) and defined its activities (see also Sub-Decree 51, 26 June 1995). The CDC implements the Investment Law in accordance with Sub-Decree 88 of 29 December 1997, inter alia by reviewing and approving investment licence applications, granting duty and tax exemptions and other incentives to investors, approving land and building use and arranging visas and work permits for foreign employees (see II.2.(d)).

The Law on the Organization and Conduct of the National Bank of Cambodia adopted on 26 January 1996 establishes the functions and organization of the National Bank of Cambodia (NBC). The NBC determines, in consultation with the Royal Government, monetary and exchange-rate policies, and implements such policies. It licenses, regulates and supervises banks, financial institutions, financial auditors and liquidators, as well as firms operating in the foreign exchange market and the markets for precious stones and precious metals.

Sub-Decree 55 SD.ES dated 23 September 1997 establishes the organization and terms of reference of the Ministry of Planning (MoP). The Sub-Decree envisages the Ministry as an adjunct to a market economy, and in no way a substitute for properly functioning markets characterized by private ownership of the means of trade and production. The Ministry generates and maintains statistics on a variety of economic and social indicators, including the national accounts. It develops methodologies for measuring socio-economic progress. It prepares indicative socio-economic plans,

which form the yardstick against which socio-economic progress in the Kingdom is measured. It prepares the census and other socio-economic surveys. Working with the Ministry of Economy and Finance, it contributes to the establishment of priorities in the public sector investment programme.

Sub-Decree No 35 dated 26 April 1999 establishes the organization and functioning of the Ministry of Industry, Mines and Energy. The Ministry has responsibility for fostering an environment conducive to the industrial and technological development of Cambodia. It manages and implements national policies on the exploitation of petroleum, gas and minerals. It recommends and implements policies designed to develop the production and distribution of electricity. It implements water supply policies in both urban and rural areas.

### **3. Division of authority between central and sub-central governments**

The organization of the administration of the Kingdom of Cambodia are divided and subdivided into central governmental authority (Royal Government), sub-central units (provinces and municipalities), which, in turn, have sub-divisions.

Administratively, Cambodia comprises twenty provinces and four autonomous municipalities (Phnom Penh, Sihanoukville, Kep, and Pailin). The provincial (municipal) administration is headed by a provincial governor (mayor) and one or more deputy provincial governors (mayors).

The provincial and municipal administrations of the Kingdom of Cambodia come under the jurisdiction of the Ministry of Interior. The provincial and municipal administrations are the representatives of the Royal Government in the provinces and municipalities, and ensure the implementation within their jurisdictions of all laws, royal decrees, sub-decrees, decisions and other rules and regulations and ensure the execution of court orders. Provincial and municipal administrations have responsibility for naming officials at the sub-provincial and sub-municipal levels, and for ensuring that these officials implement laws, royal decrees, sub-decrees, decisions and other rules and regulations of the Royal Government, and that they execute court orders. The provincial and municipal administrations participate in the preparation of the national budget as it relates to their jurisdictions in accordance with the financial law and financial regulations. They issue land titles and issue operating licenses to businesses with annual profits of less than six million Riels. Provincial officials may also have responsibilities for overseeing the local provision of services (see VI.2.a)).

### **4. Any legislative programmes or plans to change the regulatory regime**

Laws currently under preparation include:

- The Draft Law on Contracts;
- The Draft Law on Bankruptcy;
- The Draft Law on Business Organizations;
- The Draft Law on Arbitration;
- The Draft Law on Trademarks;
- The Draft Law on Products Liability;
- The Draft Law on Corruption;
- The Draft Law on Establishing a Commercial Tribunal;
- The Draft Law on Insurance;
- The Draft Law on Traffic Regulations;
- The Draft Factory Act Law;
- Draft Company Law;
- The Draft Law Providing for an Industrial Zones Authority;
- The Draft Law on Patents and Industrial Design;



- The Draft Law on Commercial Banking;
- Draft Law on Customs Code;
- Draft Law on Copyright;
- Draft Law on the Cambodian National Standards Institute;
- Draft Law on Quality and Safety of Products and Services;
- Draft Law on Audit;
- Draft Law on Medical Services;
- Draft Law on Mining.
- 

**5. Laws and Legal Acts (Annex 2 refers)**

A listing of the existing laws and legal acts affecting economic activity and the foreign trade regime can be found in Annex 2 of this Memorandum.

**6. Description of Judicial, arbitral or administrative tribunals or procedures, if any**

The principal means, beyond the obvious one of negotiation, of resolution of commercial disputes in Cambodia are: i) judicial and ii) arbitral.

Judicial:

The judicial option must be divided into recourse to courts in Cambodia and to courts of foreign jurisdictions.

Courts in Cambodia:

At present, Cambodia has a unified court system; it does not, that is, have a separate commercial tribunal or commercial law bench. However, a draft law establishing a Commercial Tribunal is under preparation in the Ministry of Justice.

A commercial dispute, like any other civil matter, would be taken by a plaintiff to the court of first instance in the jurisdiction (i.e., the province) plaintiff thought appropriate under the facts of the case. Choice of jurisdiction would depend on such facts as where a contract was to be performed, where a defendant had an office or other assets, a choice of law clause, where loss had occurred, etc.

Most commercial disputes are brought in the Municipal court of Phnom Penh simply because most medium and large size businesses (and most lawyers) are based in the capital. A party can appeal an adverse first instance level decision to the Appellate Court.

Courts in Foreign Jurisdictions:

A commercial dispute with a nexus to Cambodia could be brought before a court of a foreign jurisdiction with which there was sufficient nexus, to allow the case to lie.

Such nexus could arise, for example, in a transaction that involved one or more foreign countries in addition to Cambodia. Examples would be cases involving 1) a contract signed in a foreign country for sale of goods loaded in a third country for delivery in Cambodia, or 2) a defendant whose physical presence (assets, head office, manufacturing facility) was in a foreign jurisdiction and the law of that jurisdiction and of Cambodia recognized such a presence as a basis for bringing suit there, or 3) a choice of venue clause in a contract selecting a foreign country as situs of suit.

At the conclusion of any such foreign suit, if assets of the losing party sufficient to satisfy the judgement were found outside Cambodia, the suit could be concluded with no recourse at all to a Cambodian court.

Alternatively, if the judgement from the foreign suit could not be satisfied without recourse to assets in Cambodia, a Cambodian court might be asked to enforce the foreign judgement. Cambodia at present has no "enforcement of foreign judgement" law. Such a request would therefore have to be based on general principles of international comity.

Arbitral:

In Cambodia: The Chamber of Commerce Law of 1995, in Sub-Article 9(6), states that the Chamber of Commerce "has the responsibility" to "play a role as arbiter in resolving business disputes".

Outside Cambodia: A dispute can be arbitrated outside Cambodia either a) in a case arising in Cambodia but subject to a choice-of-venue contract clause which moves the arbitration outside, or b) in a case arising outside Cambodia where the arbitral site selected is also outside the Kingdom.

Cambodia is a signatory to and ratifier of the New York Convention on the Enforcement of Foreign Arbitral Judgements (Cambodia acceded on 5 January 1960).

#### **IV. POLICIES AFFECTING TRADE IN GOODS**

##### **1. Import Regulation:**

###### **(a) Registration requirements for engaging in importing**

In accordance with the Law on Commercial Regulations and the Commercial Register, enacted by the National Assembly on 3 May 1995, all commercial enterprises operating in Cambodia are required to register. Commerce is defined by the Law as the activity of buying and selling merchandise or services, engaged in regularly, for the dual purposes of exchange and profit.

The Law provides for the establishment of the Commercial Court which is assigned responsibility for the registration and maintenance of the Commercial Register. In the interim period until the Commercial Court is established, these functions are entrusted to the Ministry of Commerce. In its Instruction Circular No. 360 dated 3 December 1997, the Ministry of Commerce defined requirements and procedures associated with the registration of commercial enterprises, as well as forms of such enterprises. The full texts of regulations with regard to registration requirements are reproduced in Annex 7.

The Law on Commercial Regulations and Commercial Register, as well as the Instruction Circular, do not contain any special provisions for the registration of importers or exporters. However, there are distinctions in the scope of commercial activities allowed for Khmer national companies and foreign-owned companies.

For Khmer national companies, registration allows these companies to engage in importing or exporting without limitations. A company is deemed to be a Khmer national company if (i) its stated office is located in Cambodia; (ii) more than 51 per cent of its stated capital is held by a Khmer citizen, and (iii) more than 51 per cent of its financial interests in the profits and losses are held by a Khmer citizen.

Enterprises that are less than 51 per cent Cambodian owned are considered foreign enterprises (foreign-owned enterprises). They have an additional requirement to register with the Council for the Development of Cambodia (CDC) in accordance with the Law on Investment dated 4 August 1994 and the Government Sub-Decree on the Implementation of the Law on Investment dated 29 December 1997. Foreign-owned enterprises have two limitations on the scope of their activities. First, they are registered as eligible to engage in import/export activities only as required by their investment/production activities. Foreign-owned companies are not authorized to engage in import/export trading activities—that is to import or export for the sole purpose of re-selling goods without transformation. Foreign representative offices are not allowed to engage in commercial activities. Second, these enterprises are not allowed to own, sell or buy land or engage in real estate business outside their stated scope of activities.

Commercial enterprises are required to pay fees for their registration. Registration fees are reproduced in Annex 7. Foreign-owned companies investing in Cambodia are also required to pay fees for their registration with the CDC: (i) for investment projects less or equal to US\$1 million - US\$100 at the time of application and US\$500 upon investment approval; (ii) for investment projects exceeding US\$1 million - US\$200 at the time of application and US\$1,000 upon investment approval.

At present, a draft Company Law is under consideration which, if adopted as expected, will not alter the above registration requirements for commercial enterprises.

- (b) Characteristics of the national import tariff (the most recent edition of which should be supplied), customs tariff nomenclature (HS), types of duties, general description of the customs tariff structure, weighted average level of duties on main customs tariff groupings; application of m.f.n. tariff rates, tariff preferences

The legal framework for import (and export) tariffs is based on the Law on Import and Export Duties dated 15 September 1989 with subsequent modifications and decisions of the Ministry of Economy and Finance (the most recent Decision on the Implementation of Customs Tariffs No.002 is dated 14 September 1997).

The tariff nomenclature is based on the Harmonized System (HS), and is articulated to at least eight digits, with the seventh and eighth digits harmonized to ASEAN practice. HS96 changes have been incorporated. Both import and export tariffs consist of only *ad valorem* duties. At present, only MFN duty rates exist; there are no preferential tariff duties, although the latter could be expected after Cambodia becomes a member of ASEAN.

As regards average import tariffs, the simple arithmetic average of all tariff lines is 18.6 per cent. The trade-weighted average is 16.5 per cent, if imports of non-monetary gold and silver are included, and 19.5 per cent if they are excluded. The weights are average annual import values for 1995 and 1996.

There are currently twelve import tariff bands. The following table provides information on the bands:

## Distribution of Tariff Bands

Tariff Band (per cent ad valorem)	Number of tariff lines	Share of tariff lines	Average Annual Imports*	Share of Imports
0	114	1.9%	119	0.0%
** 0.3	9	0.1%	163,566	15.6%
7	2,437	40.7%	306,570	29.3%
10	16	0.3%	2,571	0.2%
15	1,343	22.4%	239,551	23.0%
20	61	1.0%	121,300	11.6%
30	3	0.0%	1007	0.1%
35	1,833	30.6%	138,748	13.3%
40	5	0.1%	16,210	1.6%
50	156	2.6%	42,590	4.1%
90	3	0.0%	4,746	0.4%
120	2	0.0%	7,820	0.8%
Total	***5,991	100%	***1,044,839	100%

Source: Ministry of Commerce, based on customs data.

\* Thousands of dollars; annual average for 1995-96.

\*\* Consists solely of non-monetary gold and silver

\*\*\* Including 9 tariff lines that could not be allocated among the bands.

## (c) Tariff quotas, tariff exemptions

Cambodia does not apply tariff quotas.

Tariff exemptions include: (1) exemptions granted on imports by diplomatic missions; on imports for humanitarian or religious purposes; etc. (2) exemptions granted as incentives in accordance with the Law on Investment (see Section II 2(d)); (3) exemptions granted for commercial samples; and (4) various ad hoc exemptions decided by the Prime Minister.

## (d) Other duties and charges, specifying any charges for services rendered

There is a customs fee of 15,000 Riels per export/import declaration for services rendered.

## (e) Quantitative import restrictions, including prohibitions, quotas and licensing systems

There are no quantitative restrictions on imports into Cambodia. Import prohibitions are in force as regards narcotic drugs and poisons.

Import licensing requirements cover only a small number of products, as described below. The intent of import licensing is not to restrict imports.

## (f) Import licensing procedures (Annex 3 refers)

- Import licensing covers a small number of goods:
  - Weapons, explosives and ammunition: permit from the Ministry of National Defense;
  - All vehicles and machinery for military purposes: permit from the Ministry of National Defense;
  - Gold, silver, precious stones and articles thereof: permit from the National Bank of Cambodia;

- Pharmaceuticals and medical material: permit from the Ministry of Health.
- Please see also Annex 3 below.

(g) Other border measures, e.g. any other schemes that have the border effects similar to those of the measures listed under (e) above;

There are no other border measures that have similar effects of the measures listed under (e) above.

(h) Customs valuation (WTO Customs Valuation Agreement (Annex 4 refers), the Brussels Definition of Value, or any other system) whether used only for purposes of levying *ad valorem* rates of duty or for other purposes

The Decision of the Ministry of Economy and Finance of 14 September 1993 abolished the system of customs valuation based on an indicative price list. The Decision stipulates that customs value will be based on CIF market values, and will be expressed in Riels. Insurance has to be purchased in Cambodia if a consignment has no insurance policy from abroad.

All goods on which the customs duty is more than US\$300 must have their customs value approved by the Valuation Office at the Department of Customs and Excise Headquarters in Phnom Penh. Seven major border checkpoints are empowered to approve customs values for goods with a customs duty of US\$300 or less. All other local Customs offices are empowered to approve customs values when those values are US\$300 or less.

The contract between the Royal Government and the pre-shipment inspection firm requires the inspection company to determine whether the invoice price (transaction value) corresponds to the open market price of the goods. (See (j) below for a description of pre-shipment inspection).

For imports that are not subject to pre-shipment inspection (i.e. valued at less than US\$5,000), invoice (transaction) values are compared with a price list maintained by the Valuation Office at the Customs Department. This list is compiled from the findings of the pre-shipment inspection firm, and from various catalogues and price lists obtained from abroad. When the invoice price and the list price diverge, the higher of the two forms the basis for the customs valuation.

For more details on customs valuation, please see Annex 4 below.

(i) Other customs formalities

Procedures for entry prior to clearance are the following:

- Particulars required in the cargo manifest:
  - Bill of Lading Number;
  - Port of Loading and Unloading;
  - Consignee and Consignor;
  - Description and gross weight of goods; and
  - Quantity, marks, numbers and type of packages.
- Goods for imports require an import declaration form.

Customs Department charges a fee of 15,000 Riels per export/import declaration.

## (j) Pre-shipment inspection (PSI)

The Government signed an agreement with a PSI firm in 1995, under which imports into Cambodia are subject to PSI by that firm. CAMCONTROL, a body under the Ministry of Commerce, is responsible for the inspection of exports.

Pursuant to the announcement No. 321, dated 8 September 1995 by the Ministry of Economy and Finance and its Regulation on the implementation of the Pre-shipment Inspection Services, imports must be submitted to PSI, except for goods whose declared total value is less than US\$ 5,000.

The following goods are exempted from PSI:

- Precious stones and precious metals;
- Objects of art;
- Explosives and pyrotechnical products;
- Ammunition and weapons;
- Live animals;
- Current newspapers and periodicals;
- Household and personal effects including used vehicles;
- Parcel post or commercial samples;
- Gifts of foreign governments or international organizations to foundations, charities and recognized humanitarian organizations;
- Gifts and supplies to an embassy, legation, consulate general or consulates and to the United Nations Organization and its specialized agencies, imported for their own needs;
- Cigarettes.

Pursuant to the announcement of the Ministry of Economy and Finance No 213 dated 2 July 1996 on Rearrangement of Rules and Regulations on Pre-shipment Inspection any company or person failing to submit imported goods for PSI (other than exempted goods above) is subjected to a five per cent *ad valorem* penalty, starting from 1 August 1996.

Pursuant to the announcement of the Ministry of Economy and Finance No. 474 dated 25 July 1997 on Rearrangement of Rules and Regulations on PSI, investment companies (ie. any company, Cambodian or foreign, whose investment has been approved by CDC--see II.2(d)) were exempted from PSI until 31 December 1997. Export garment industry is exempted from PSI without any time limitation.

The PSI firm's Liaison office in Phnom Penh issues a Registered Import Advice (RIA) to the importers. The PSI firm gives copies of the RIA to the importer, customs and to the firm's offices in the country of supply.

The PSI firm's office in the country of supply is to perform the following tasks:

- Pre-shipment inspection;
- Price verification;
- Verification of total value of the goods;
- Determination of the dutiable value of goods in accordance with the customs regulations;
- Determination of the classification of goods in accordance with the tariff nomenclature;
- Calculate duties and taxes payable.

The seller is to provide the PSI firm's office in the country of supply with:

- Purchase order copy;
- Price list;
- Letter of credit;
- All other documents which the PSI firm in the country of supply may deem necessary for the purpose of PSI.

After PSI in the country of supply, the PSI firm's office in Phnom Penh will issue a Report of Finding (ROF) which contains: nature of goods, quality, price, classification, duties and taxes payable by the importer.

The Government established a special Appeals Committee to review any decision of PSI company referred to it in writing by an importer. This Committee comprises representatives from the Ministry of Economy and Finance, Customs Department, Ministry of Commerce, Council for the Development of Cambodia and the private sector. The decision of the Appeals Committee should be made within a maximum period of one month of the importer's application and is final and binding on the PSI Company and the importer.

(k) Application of internal taxes on imports

Several categories of imported goods are subject to excise taxes. Those include:

Products	Range of taxation (%)
Some types of cars	10-30
Car spare parts	10-30
Motorcycles	10
Buses and trucks	10-30
Soft drinks	10
Beer	10
Wine and spirits	10
Cigarettes and other tobacco products	10
Gasoline and lubricating oil	10

All consumption and excise taxes levied on imports are also levied in the same amount on like domestically produced goods.

(l) Rules of origin

Cambodia has not yet established regulations on the rules of origin.

(m) Anti-dumping regime

Cambodia has no anti-dumping regime.

(n) Countervailing duty regime

Cambodia has no countervailing duty regime.

- (o) Safeguard regime

Cambodia has no safeguard regime.

## 2. Export Regulation

- (a) Registration requirements for engaging in exporting

Registration requirements are the same as described in 1(a) above.

- (b) Customs tariff nomenclature, type of duties, duty rates, weighted averages of rates

The current export tariffs form part of the national customs tariff as described in 1(b) above. The following items are subject to export duties:

### Export Tariffs

HS Heading	Description of Goods	Export Tariff (ad valorem)
44.08.10.00 44.09	Sawn and shaped wood. Veneer sheets and sheets for plywood; strips for flooring	5%
01.02 01.03	Pure bred breeding bovine animals and swine	10%
03.01, 03.02 03.03, 03.04 03.05	Live fish, prepared fish and fish products	10%
03.06 03.07	Live crustaceans and molluscs and products thereof	10%
40.01 40.04	Natural rubber in primary forms or in plates , sheets or strips and rubber waste	10%
44.02, 44.03 44.04, 44.05 44.06, 44.07	Unprocessed and semi-processed wood; wood charcoal	10%
12.11,13.01 13.02	Cannibis, Cannibis resin, extracts and dyes, coca, opium*	50%
29.05.50	Halogenated , sulphonated , nitrated or nitrated derivatives of a cyclic alcohol*	50%
29.26	Nitrile-function compounds*	50%

Source: Cambodia's Tariff Schedule

\* These categories are included for the sake of formal completeness. The products in these groups require a licence in order to be exported. The Royal Government has in fact never issued any such licenses.

- (c) Quantitative export restriction, including prohibitions, quotas and licensing systems

There are no quantitative export restrictions with some exceptions pertaining to exports of rice and timber. Prohibitions are imposed on exports of the following items:

- round logs and unprocessed timber, owing to environmental reason;
- antiques more than 100 years old; and
- narcotic drugs and poisons. Export licensing procedures cover a few products and are described in (d) below.



### Exports of rice

A special inter-ministerial working group on exports of rice was set up by the Government Decision No. 88 dated 23 December 1995. This working group comprises Ministers of Commerce, Economy and Finance, Agriculture and Rural Development. The prime objective of the working group is to monitor the situation regarding aggregate domestic production and consumption of rice as a staple food for the population. Other objectives are: to prepare estimates of rice exports; to analyze market access conditions for Cambodian rice exporters; and to design measures aimed at improving quality of Cambodian rice. The working group prepares its report to the Government which may include recommendations regarding quantity limits for rice exports. For example, for 1996-1997 this limit amounted to 100,000-120,000 tons, while actual exports of rice during this period was not more than 30,000 tons.

Export of rice is subject to non-automatic licensing: an exporter is granted a license by the Ministry of Commerce to export not more than 3,000 tons of rice which is valid for two months.

### Exports of wood products

Government Decision No.17 dated 29 April 1997 established a list of processed wood products eligible for exports, as well as identified special requirements for such exports due to environmental reasons. These requirements specify that an exporter (i) has to obtain a special concession from the Government to exploit forest resources; (ii) to obtain an export quota from the Government; and (iii) be granted a non-automatic export licence by the Ministry of Commerce subject to the above conditions (i.e. concession and quota). Domestic consumption of timber is subject to similar measures.

In addition, the above Government Decision identified exact border crossing points through which wood can be legally exported.

#### (d) Export licensing procedures

The following goods are subject to export licensing requirements:

- Rice - see above in (c);
- Wood - see above in (c);
- Weapons, explosives and ammunition: permit from the Ministry of National Defense;
- All vehicles and machinery for military purposes: permit from the Ministry of National Defense;
- Pharmaceuticals and medical material: permit from the Ministry of Health.

#### (e) Other measures, e.g. minimum export prices, voluntary export restrictions, orderly marketing arrangements

Goods for exports require an export declaration form.

#### (f) Export financing, subsidy and promotion policies

Cambodia has not yet identified policies or measures relating to export financing or export support. In accordance with the sub-decree No. 54, dated 22 September 1997 of the Royal Government on the Organization and Functioning of the Ministry of Commerce, the Ministry of Commerce issued Declaration No. 343, dated 28 November 1997 on the organization and functioning of its Export Promotion Division. It is envisaged that the Division will undertake tasks such as helping

the private sector secure information on markets abroad and on potential export opportunities and helping organize trade fairs.

(g) Export performance requirements

The only measures that could be seen as export performance requirements are identified in the Law on Investment dated 4 August 1994 as part of investment incentives. Article 14 of the Law specifies that "100 per cent import duty exemption is granted on construction materials, means of production, equipment, intermediate goods, raw materials and spare parts used by an export-oriented project with a minimum of 80 per cent of the production set apart for exports."

(h) Import duty drawback schemes

A duty drawback on imports is possible, but at present is not applied.

### **3. Internal policies affecting foreign trade in goods**

(a) Industrial policy, including subsidy policies

Since the May 1993 election, Cambodia has been transforming its economic system to a free market system. Most state-owned enterprises have been privatized, subsidies have been abandoned, imported products made accessible, and the local currency (Riel) has been made internally convertible. The objective of the industrial policy of the Government is to develop an industrial base that operates effectively and efficiently, adds higher value to national natural resources, sustains economic development, creates jobs, and increases the standard of living of the citizens of Cambodia.

A major policy emphasis is to encourage the development of industry, thereby contributing to political, economic and social stability of Cambodia. A key ingredient in this area is the development of light industry. In this sector there are two key requisites that have been identified: (1) infrastructure and energy and (2) human resources development.

The Ministry of Industry, Mines and Energy (MIME) is addressing the infrastructure and energy issues through its policies in industrial sectors and is committed to using both public and private sources of funding. Another focus is on developing agro-manufacturing and food processing industries to support the agriculture sector. MIME also supports the goals of the Ministry of Education and other governmental bodies in developing vocational training centers to provide the needed trained manpower for industries. MIME is also developing a Petroleum Training Institute and is laying the groundwork for a training institute in the Mines and Geology sector.

Additional strategies which are conducive to the development of the industrial sectors are promoting the development of industrial zones. Further privatization of state-owned enterprises is also considered as an instrument of industrial policy. Roughly two-thirds of the state-owned sector was transferred into private hands in a relatively short period of time (see II.2.(a)).

At present, the Government of Cambodia does not apply any subsidy measures and has not yet identified its policies in this area.

(b) Technical regulations and standards, including measures taken at the border with respect to imports (Annex 5 refers)

At present, the system of technical regulations and standards in Cambodia can be considered as being in its very initial stage of development. The Instruction Circular of the Ministry of Industry dated 14 July 1989 took some initial steps towards establishing standards for products. However,

during the transition to a market economy, activities on standards were slow due to the lack of skills and understanding of the role of standards. The Ministry of Industry is currently the primary body in the area of standards. Quality control functions, mostly involving imported food products, are assigned to CAMCONTROL of the Ministry of Commerce.

Cambodia became a subscriber member of the International Organization for Standardization (ISO) on 1 January 1995.

Cambodia urgently requires technical assistance from the international community, particularly from the WTO members, in the area of technical regulations and standards.

Two draft laws are being prepared in this area. The draft Law on the Cambodian National Standards Institute (NSI) will address such issues as the functions of the NSI, compulsory standards, declaration of standards, certification marks, licenses, certificates of registration, publication of standards, national quality system certification scheme, etc. The National Standards Institute will serve as the inquiry point referred to in Article 10 of the WTO Agreement on Technical Barriers to Trade. The NSI will be governed by a Council that will be comprised of representatives of concerned Ministries, in particular the Ministry of Industry, Mines and Energy, the Ministry of Commerce, the Ministry of Agriculture, the Ministry of Health and the Ministry of Environment. Pending adoption of this legislation the entity responsible for standards is the Standards Office, Technical Department, Ministry of Industry, Mines and Energy.

The draft Law on Quality and Safety of Products and Services provides for the establishment of quality control of exported and imported products.

In the meantime, Cambodia will be seeking fuller cooperation with regional (ASEAN) standardization bodies and international organizations such as ISO.

(c) Sanitary and phytosanitary measures, including measure taken with respect to imports

Imported live animals, plants and foodstuffs of plant origin should meet the following requirements:

For live animals, various vaccinations (depending on kind of animal and original location of imports) are required. Ministry of Agriculture (Department of Production and Animal Husbandry) is in charge of vaccination controls.

For plants and foodstuffs of plant origin, a phytosanitary certificate is required. In accordance with Government Sub-Decree No. 98 dated 8 October 1983 on Imported and Exported Plant Products, the Plant Protection and Phytosanitary Inspection within the Ministry of Agriculture ensures phytosanitary controls at the border and issues phytosanitary certificates upon request of importers or exporters. The Inspection keeps the list of pests and plant diseases subjected to plant quarantine in Cambodia. Cambodia recognizes phytosanitary certificates of other countries.

(d) Trade-related investment measures

The only trade-related investment measures are contained in the Law on Investment dated 4 August 1994 and the Government Sub-Decree on the Implementation of the Law on Investment dated 29 December 1997. These measures form investment incentives and appear to be consistent with the WTO Agreement on TRIMs (see Section II 2(d)).

(e) State trading practices (Annex 6 refers)

Cambodia has no state-trading enterprises as defined by Article XVII of GATT 1994 and the WTO Understanding on the Interpretation of Article XVII. State-owned and private enterprises compete on the same footing in conducting domestic and international trade.

(f) Free zones

(g) Free economic zones

The Government Sub-Decrees No. 73 dated 5 October 1995 and No. 02 dated 5 January 1996 provide for the establishment of the Stung Hav-Sihanouk Ville industrial zone, including an Export Processing Zone. However, this project is still to be implemented and the preparation of relevant regulation are under way.

(h) Trade-related environmental policies

Trade-related environmental measures affecting exports of timber are described in 2(c) above. There are no other such measures.

(i) Mixing regulations

Cambodia does not have any mixing regulations.

(j) Government-mandated counter-trade and barter

There is no government-mandated counter-trade or barter in Cambodia.

(k) Trade agreements leading to country-specific quotas allocation

An agreement has been reached with Canada restraining the export of certain Cambodian textile products to that market. The United States has imposed quantitative restraints on imports of gloves from Cambodia.

(l) Government procurement practices, including general legal regime and procedures for tendering, dealing with tenders and award of contracts

The new public procurement system in Cambodia, which became operational under the authority of Government Sub-Decree No. 60 dated 30 July 1995, envisages five (5) methods of procurement namely: international competitive bidding (ICB); domestic competitive bidding (DCB); international shopping (IS); domestic canvassing (DC); and direct purchase or direct contracting (Dcon). ICB which is used for big value contracts and which would warrant and would attract international competition, adheres to widely-accepted standard international tendering practices and procedure. DCB is used where the value of the contract is not substantial enough to interest foreign bidders, and there is sufficient local capability to supply the goods or services. The other three methods (IS, DC or Dcon) are methods that do not require open public competition, although there is no prohibition on the participation of foreign suppliers who are interested in offering their goods or services.

ICB and DCB, which involve inviting tenders through public advertisements, are open to all interested bidders. There are formalities and procedures for submitting and accepting bids for evaluation, and for selecting the awardee of the contracts. Bids are prepared and submitted in accordance with the prescribed form of bids and conform to the tendering condition and instruction. After submission, the bids are evaluated for their compliance with the technical and commercial

specification and conditions and only the so-called substantially responsive bids are compared against each other to arrive at the lowest-evaluated bid. Prices are adjusted, if necessary, to correct arithmetical computation or to take into account non-substantive deviations. The lowest priced evaluated bid is normally awarded the contract.

The bidding procedures are substantially the same for international competitive bidding and domestic competitive bidding, except for some variation in the bid advertisements.

There are instances where the prescribed tendering procedures may not be followed as in the cases of emergency purchases, proprietary procurement, small value items, or where there is a special regulation which authorizes special procurement methods, e.g. when buying military equipment or supplies.

(m) Regulation of trade in transit

Cambodia has no regulation related to trade in transit, although there is a bilateral agreement with Vietnam on the transit of goods, which entered into force on 3 April 1994. Under the agreement, its parties allow the transit of goods across each other's territory, excluding prohibited imports and exports such as narcotics, toxic chemicals, radioactive items, pornographic and other materials contrary to public morals, rare, wild and precious animals and plants. Bilateral agreements on transit trade were signed with the Socialist Republic of Vietnam on 3 April 1994 and with Lao PDR on 12 May 1994.

#### **4. Policies affecting foreign trade in agricultural products**

(a) Imports - i.e. comprehensive description of the types of border protection maintained: customs duties and/ or any other border measures

Agricultural products are not subject to import licensing requirements. There are no quantitative restrictions or prohibitions imposed on agricultural products. The trade-weighted average duty on imports of agricultural products (HS 01-19) is 17 per cent, using 1995-1996 import weights. In those years, three products accounted for 51 per cent of Cambodia's total agricultural imports: milk (tariff: 35 per cent); rice (tariff: 7 per cent); and sugar (tariff: 7 per cent).

Phytosanitary certificates are required as described in 3(c) above.

(b) Exports - i.e. description of, and the budgetary expenditure and any revenue foregone involved in each of the export subsidy measure in place

There are no export subsidies for agricultural products.

(c) Export prohibitions and restrictions

There are no export prohibitions on agricultural products, except those used as narcotic drugs. Only rice is subject to export licensing requirements as described in 2(c) above.

(d) Export credits, export credit guarantees or insurance programmes

There are as yet no export credits, export credit guarantees or insurance programmes for agricultural products.

- (e) Internal policies - i.e. description of, and the budgetary expenditure and any revenue foregone involved in each of the domestic support measures in place

The majority of the Cambodian people live in rural areas and depend on agriculture--and especially on rice production--for their livelihood. Because of the central role of agriculture and especially rice production in determining national welfare, the government pursues a strategy designed--among other things--to improve food output and food security. That strategy includes the following domestic support measures:

- The Rice Seed Bank has been established and is managed by the Ministry of Agriculture. The Bank allocates rice seed among the selected provinces. Rice seed is then distributed to farmers upon their request by local offices of the Ministry of Agriculture. After the harvest, farmers return rice seed to the Bank without interest. In 1997, the Rice Seed Bank disposed of 5,000 tons financed from the government budget;
- The Ministry of Agriculture distributes diesel fuel used for supporting farmers only in running water pumps in the irrigation systems. The diesel fuel is distributed free of charge by local offices of the Ministry of Agriculture to farmers upon their request. In 1997, this covered approximately 1,5 million litres of diesel fuel financed from the government budget.

## **5. Policies affecting foreign trade in other sectors**

- (a) Textiles regime

There is no special textile regime in Cambodia. The weighted average tariff duty on imports of garments (HS 6101-6217) is 34 per cent, using 1995-1996 trade weights. The weighted average tariff duty on imports of yarn and fabrics (HS 50-60) is 14 per cent. However, almost all garment manufacturers in Cambodia are registered investment firms producing mainly for export, and are thus exempt from paying duty on imported raw materials and intermediate goods. (see II 2(d))

- (b) Policies affecting foreign trade in other major sectors

There are no special policies affecting foreign trade in other major sectors, except as indicated in 2(c) above with regard to exports of timber.

## **V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

### **1. General**

- (a) Intellectual property policy

The Kingdom of Cambodia respects intellectual property rights, and regards laws and other measures to protect them as important aspects of the economic, social, scientific and technological development strategy of the country, both short-term and long-term. Efficient and effective protection of Intellectual Property Rights is vital for the development of the domestic economy, for promoting foreign investment, for the transfer and dissemination of technology, and for increasing local jobs and income as well as facilitating the integration of Cambodia's economy into the regional and global economies.

In order to give effect to this policy, Intellectual Property Laws, including Marks Protection Act, Patent and Designs Law and Copyright and Related Rights are being drafted by the Ministries concerned, with the help of foreign legal experts and WIPO. However the draft Marks Protection

Act, Patent and Designs Law and Copyright and Related Rights have not yet been submitted to the Council of Ministers. In September, 1997, WIPO sent comments on the draft Patent and Designs Law and the draft Marks Protection Act of the Kingdom of Cambodia. The comments deal mainly with the compatibility of the draft Patent and designs Law and the Mark Protection Act of Cambodia with obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement).

The Ministry of Commerce is now revising the Mark Protection Act and will soon send it to the Council of Ministers.

Pending the passage of new legislation, policy with regard to the protection of Intellectual Property Rights is based on:

- Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period dated September 10, 1992, Article 47: Counterfeit of Seals, Bank Notes, Public Documents, Stamps and Trademarks, and Article 48: Violation of Copyright. The Provisions were issued during the United Nations Transitional Authority for Cambodia (UNTAC) period, and remain valid;
- Declaration No 368 of the Ministry of Commerce regarding Procedures of the Intellectual Property Department dated December 15, 1997.

(b) Responsible agencies for policy formulation and implementation

The National Assembly is the highest organ of State power exercising the competence in making policy and regime on Intellectual Property Rights through its legislation. However, draft Intellectual Property Rights laws have not yet been submitted to the National Assembly.

At present, the Department of Intellectual Property of the Ministry of Commerce is the responsible agency for policy formulation and implementation in respect of Trademarks. The responsibility for Patents and Industrial Designs is in the Ministry of Industry, Mines and Energy and Copyrights are under the responsibility of the Ministry of Culture and Fine Arts and the Ministry of Information (as regards audio-visual materials).

(c) Membership of international intellectual property conventions and regional or bilateral agreements

- Cambodia became a member of the World Intellectual Property Organization (WIPO) on July 25, 1995.
- In 1998 Cambodia became a member of the Paris Convention for the Protection of Industrial Property Rights. In addition, Cambodia intends to become a member of:
  - The Berne Convention for the Protection of Literary and Artistic Works (Berne Convention)
  - The Patent Cooperation Treaty (PCT)
  - The International Convention for the Protection of New Varieties of Plants, 1978 or 1991 (UPOV Convention)
- Cambodia is participating in the ASEAN Framework Agreement on Intellectual Property Cooperation, since it became a member of ASEAN in 30 April 1999.

- The Trade Relations and Intellectual Property Rights Protection Agreement between Cambodia and the United States of America was signed on 4 October 1996 which came into effect on 25 October 1996. The purpose of the Agreement is two-fold:
  - To develop mutually beneficial trade relations between the two countries; and
  - To provide adequate and effective protection and enforcement of intellectual property rights.
- A Memorandum of Understanding on Intellectual Property Cooperation was signed with Thailand on 5 March 1997.

(d) Application of national and m.f.n. treatment to foreign nationals

Cambodia accords to all foreign nationals treatment no less favorable than that accorded to its own nationals with regard to the protection of intellectual property. Any advantage, favor, privilege or immunity granted by Cambodia to the nationals of one country shall be accorded unconditionally to the nationals of other countries. For instance, all trademark application procedures, fees and taxes, trademark examination criteria, rights arising from trademark registration, competence of court.. etc have been implemented identically as regards Cambodian nationals and nationals of other countries. All draft legislation provides for MFN and National treatment.

(e) Fees and Taxes

Trademark processing fees:

- Issuing a new certificate of registration	US\$50.00
- Publication of mark, per class	US\$50.00
- Service fee, per class	US\$ 5.00

These Trademark processing fees may be revised by a declaration of the Ministry of Commerce.

Patent and copyright activities have not yet been begun, therefore fees and taxes related to these two areas have yet to be fixed.

**2. Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights**

(a) Copyright and related rights, including the right of the performers, producers of phonograms and broadcasting organizations.

In the absence of an adopted Copyright and Related Rights Law. Cambodia provides protection of copyright and related rights through Article 48 of the Provisions Relating to the Judiciary and Criminal Law and Procedures Applicable in Cambodia During the Transitional Period, of 10 September 1992. As mentioned above, Cambodia will apply for membership in the Berne Convention in near future.

Objects of copyright protection

Copyrights and related rights will be protected by the Ministry of Culture and Fine Arts, except for audio-visual materials, which are protected by the Ministry of Information.



The main provisions of the draft Law on Copyrights and Related Rights, which has not yet been sent to the Council of Ministers, are the following:

Intellectual property rights arise as a consequence of the creation of works.

The following are particularly considered as works:

- books, brochures and other literary, artistic and scientific documents, as well as official texts of legislative, judicial or administrative nature;
- Conferences, speeches, sermons, pleading and other works of similar nature;
- drama or musical drama works,
- choreographic works, circus acts and mime shows;
- musical compositions, with or without words;
- film works and other works in a series of animated inter-linked pictures, with or without sound, called audiovisual works, still photographs extracted from the latter audiovisual works;
- drawing, painting, architectural, sculptural, engraving and lithography works;
- graphic and typographic works;
- photographic works and those realised with the use of similar techniques to photography;
- work of applied arts;
- illustrations, cards, plans, sketches and plastic works pertaining to geography, topography, architecture and sciences;
- computer programs;
- Derived works, eg: translation, adaptation, audiovisual or else - the transformation or the arrangement, conceived from one or several pre-existing works or expressions of folklore, the title of an intellectual work.

#### Duration of the protection

The protection of the copyright covers the life of the author, the year of his/her death and seventy years following his/her death.

#### Moral Rights

The author enjoys the right with respect to his name, his quality and his work. This right, inalienable and inderogable, is attached to the person. This right can be conveyed to the heirs of the author, this conveyance can be conferred to third parties by virtue of testamentary dispositions. The author has the sole right to decide if, when, how and under what name his work will be disclosed.

The work is considered disclosed when it is rendered accessible for the first time by the author or with his consent, to a great number of persons outside the circle of intimate persons, such as families or friends.

#### Property Rights

The author has the right to decide if, when and in what manner his work will be exploited. He has the right, in particular:

- to make, through all processes, copies of the work, notably in the printed document, records or under all other forms;
- to translate, adapt, transform or to arrange the work;

- to offer to the public, to dispose of or to put in circulation copies of the work, to import or to export them;
- to recite, to represent or to perform the work, directly or through any other processes, as well as to make it seen or heard in a place other than that presented;
- to transmit the work, by all means, by wire or wireless;
- to rebroadcast the work by technical means the exploitation of which does not pertain to the original broadcaster;
- to make it seen or heard broadcast or rebroadcast emissions.

The author of a computer program has in addition the sole right to sell the original or copies of the program.

The producer of an audiovisual work has in addition the sole right to sell the original or the copies of the work.

#### Rights of performers

The performer has the sole right, as to his performance:

- to make it seen or heard in a place other than that where it is performed;
- to broadcast it, by all means, whether by wire or wireless;
- to rebroadcast it by technical means the exploitation of which does not fall under the original broadcaster;
- to record it on all media, particularly on records;
- to reproduce the media.

#### Rights of record producers

The producer of records has the exclusive right:

- to reproduce, directly or indirectly, the records that he has created;
- to bring in copies of his records in view of their distribution;
- to place in circulation copies of the records and particularly to sell them commercially.

#### Rights of broadcasting Companies

The broadcasting company has the exclusive right, as to its broadcasting

- to broadcast it;
- to make it seen or heard;
- to record it on all media, particularly on records;
- to reproduce the media.

#### Duration of Rights

The duration of the rights stipulated above shall be fifty years, beginning from 1 January of the calendar year following the first communication to the public of the performance, the creation of the records or the first broadcasting.

(b) Trademarks including Service marks

In the absence of an adopted Mark Protection Act, the protection of trademarks and service marks in Cambodia is based on:

- Article 47: Counterfeit of Seals, Bank Notes, Public Documents, Stamps and Trademarks of the Provisions Relating to Judiciary and Criminal Law and
- Procedure Applicable in Cambodia During the Transitional Period, dated September 10, 1992.
- Declaration No 368 of the Ministry of Commerce regarding Procedures of the Intellectual Property Department dated December 15, 1997.

The basic provisions of the draft Marks Protection Act, which has not yet been submitted to the Council of Ministers, are:

A mark shall consist of any visible sign capable of distinguishing the goods or services of an individual or corporation from those of another individual or corporation. Marks may consist of signs such as words, letters, numerals, designs, and three-dimensional form, alone or in combination or in colours.

Trademarks shall be protected by filing an application for registration of mark at the Intellectual Property Division, Ministry of Commerce and the granting of a protection certificate (Certificate for Registration of Trademark). Use of a trademark shall not be a condition for entitlement to file an application for the registration of a trademark.

In case a mark for which registration is requested does not possess distinctive characteristics it may be protected if such mark has been used widely and has a good reputation in Cambodia. Well-known marks shall be protected in accordance with the Paris Convention.

Priority rights shall only be conferred to the person who first validly files the mark or who first validly claims the earliest priority to the mark. When a mark has been first validly filed in any country member of Paris Union or the World Trade Organization, or when the registration of the mark is effective in any of these countries, the same applicant or his successor in title is entitled in the Kingdom of Cambodia to a priority for his mark based on the date of the first filing where the filing in the Kingdom of Cambodia is made within six months following the first filing.

Shall not be recognised as marks the signs specified as follows : the signs that do not possess distinctive characteristics; the signs that describe goods in term of quality, property, utility etc., of the goods; the signs that may mislead the public, the signs that represent state flags, armorial bearings or emblems of Cambodia or other countries; names or emblems of international organizations; the signs that are contrary to the law, public order and morality; the signs that are identical or similar to marks previously registered in Cambodia or protected by an international convention to which Cambodia is party in respect of the same kind of goods.

The owner of a mark shall have the exclusive right to use, transfer, or licence the trademark to other persons; the right to request a third party to stop infringement: in using identical or similar mark to such extent as to confuse with a protected mark for the same kind of goods and services in production, business, import/export, advertising activities, or request competent authority to handle such infringements.

The owner of a mark shall have the obligation to use such registered mark. Failing to use such trademark for five consecutive years from filing date without plausible reason will result in nullification of the protection certificate. The licensing of the right to use trademark shall not be

considered as realising owner's obligation of effective use, but the use of the trademark by the licence holder shall be considered as act of use.

Duration for protection of a mark is 10 years to be counted from priority date and renewable for periods of 10 years without limit (see also Section III Annex 8).

(c) Geographical indication including appellation of origin

At present, there is no law or regulation regarding the protection of geographical indication including appellation of origin. However, a draft law is being prepared, and will contain the following elements:

Any interested person and any interested group of producers or consumers may institute proceedings with the competent authorities to prevent, in respect of geographical indications:

- the use of any means in the designation or presentation of goods that indicates or suggests that the goods in question originate in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the goods;
- any use which constitutes an act of unfair competition;
- use of a geographical indication identifying wines and spirit of wines and other spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", imitation or the like.

In proceedings, the competent authorities may, in addition to issuing an injunction, award damages and grant any other civil remedy or relief.

(d) Industrial designs

There is no protection of industrial designs in Cambodia at present.

The draft Patent and Design Law, which has not yet been submitted to the Council of Ministers, contains the following provisions:

An industrial design is an object for protection as part of industrial property rights in Cambodia. Any composition of lines or colour or any three - dimensional form, or any material, whether or not associated with lines or colours, is deemed to be an industrial design, provided that such composition, form or material gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft, and appeals to and is judged by the eye. The protection of an industrial design does not extend to anything in an industrial design which serves solely to obtain a technical result and to the extent that it leaves no freedom as regards arbitrary features of appearance.

An industrial design is registerable if it is new. An industrial design shall be new if it has not been disclosed to the public, anywhere in the world, by publication in tangible form or by use or in any other way, prior to the filing date or, where applicable, the priority date of the application for registration. Industrial designs that are contrary to public order or morality shall not be registerable.

The exclusive rights arising from an industrial design shall be acquired by registration of such industrial design with the Ministry of Industry, Mines and Energy and the granting of a protection certificate (Certificate for Registration of Industrial Design). Only the applicant who has first validly

filed an application of registration or who is the first validly to claim the earliest priority shall be granted the right to industrial design and shall be deemed, in the absence of any evidence to the contrary, to be the creator.

Examination of applications for the registration of industrial designs shall be carried out in the form of a public examination. A duly formulated application shall be published and made public for the purpose of allowing opposition to the registration of an industrial design. In case of need the examiner shall simultaneously search for industrial designs not substantially distinguishable from the industrial design for which protection is requested. In absence of any opposition and if the result of the search shows that the industrial design possess novelty and satisfies such criteria as to be a pattern for a product of industry or handicraft, then a protection certificate shall be granted.

The owner of a protected industrial design shall have the right to prohibit any person from making, offering for sale, putting on the market or using any product in respect of which the design is registered. The owner of a protected industrial design shall also have the exclusive right to transfer or licence the right to use such industrial design to other persons and to request a competent authority to compel any person to stop any infringement, and shall also have the right to claim compensation for any damage caused by act of infringement.

The protection of an industrial design shall be valid for a period of 5 years from the priority date and may be renewed for two periods of 5 years each .

(e) Patents

Cambodia does not at present provide protection of patents. The relevant provisions of the draft Patent and Industrial Designs Law, which has not yet been submitted to the Council of Ministers, are:

Any invention may be patented which is new, involves an inventive step and is industrially applicable.

Any product for use in any of the methods required to achieve novelty, inventive step and industrial applicability may be considered as a patentable invention

Shall not be considered as a patentable invention :

- discoveries, scientific theories and mathematical methods;
- schemes, rules or methods for doing business, performing purely mental acts or playing games, and computer program; or
- methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practised on the human or animal body;
- inventions that are contrary to public order or morality and essentially biological methods for breeding plants or animals, other than microbiological methods and products deriving from those methods.

The right to an invention shall be established on the basis of filing an application for protection at the Ministry of Industry, Mines and Energy and on being granted a protection certificate (Patent for Invention). The rights shall be granted to the applicant who has first validly filed an application for a patent or who is the first validly to claim the earliest priority.

Examinations of an application as to form and as to substance are mandatory. If an invention for which protection is requested satisfies the criteria as stipulated then the protection certificate shall be granted and shall be published in order for the public to have the opportunity to claim for

annulment of the protection certificate. A patent shall not be granted before the expiry of 18 months after the filing or priority date.

The owner of the invention (patent) has the exclusive right to use, transfer or licence to other persons the right to use the invention, and the right to demand other persons to stop infringements. Acts of infringement consist of manufacturing products using the protected invention; using, importing, advertising, distributing products manufactured using a protected invention; or applying methods that are protected. The owner of a protected invention has the right to demand compensation for any damage caused by an act of infringement.

Any person may, after three years following the grant of a patent, apply for a licence for the exploitation of the patented invention where, at the time of the application, the owner of the patent, or his representative, without legitimate cause:

- was not using the invention, or making effective and serious preparation for such use, in the Kingdom of Cambodia;
- has not put the product for which the patent was granted on sale in a quantity sufficient to supply the market in the Kingdom of Cambodia.

The Ministry of Industry, Mines and Energy may grant to any person or administrative body a licence for the exploitation of the patented invention, when the objective is predominantly to supply the market in the Kingdom of Cambodia.

The duration for protection of an invention is 20 years from the filing date of the application for a patent.

(f) Plant variety protection

No protection is currently provided.

(g) Layout designs of integrated circuits

No protection is currently provided.

(h) Requirements on undisclosed information, including trade secrets and test data

No protection is currently provided.

Draft legislation on the above topics (plant variety protection, layout designs of integrated circuits and requirements on undisclosed information) will be drafted shortly, as part of Cambodia's compliance with the Trade Relations and Intellectual Property Rights Protection Agreement signed with the United States.

(i) Any other categories of intellectual property

Measures to control unfair competition: No law directed at unfair competition is currently envisaged. However, aspects of the question of unfair competition are addressed in the draft Marks Protection Act, which envisages that any act of competition contrary to honest commercial practices shall be unlawful, including:

- All acts of such a nature as to create confusion by any means with the establishment, the goods or the industrial or commercial activities, of a competitor;

- False allegations in the course of trade of such a nature as to discredit the establishment, the goods or industrial or commercial activities, of a competitor;
- Indications or allegations, the use of which in the course of trade is likely to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their rules.

### **3. Measures to control abuse of intellectual property rights**

At present, Cambodia has only:

- The provision Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period dated 10 September 1992;
- The Declaration No 368 dated 15 December 1997 to apply measure to control abuse of intellectual property rights in Cambodia.

Based on the draft Marks Protection Act, Patent and Industrial Design Law, and Copyright and Related Rights law, violation of the regulations on application rights, rights of authors, protection criteria, or of procedures establishing rights in relation to an object of Intellectual Property may result in the annulment of the granted protection certificate.

Acts of non-performance of the obligations of the owner of protection certificates such as failure to pay maintenance fees, or the failure to use the registered trademark or patent in the time stipulated by laws, may result in annulment of protection or the granting to another person or administrative body a licence for its exploitation, predominantly to supply the market in the Kingdom of Cambodia.

### **4. Enforcement**

At present, Cambodia has only:

- The provision Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period, dated 10 September 1992;
- Declaration No 368 dated December 15, 1997 to apply enforcement of intellectual property rights in Cambodia.

In practice, complaints with regard to the use of Marks have been resolved through administrative measures. There has been no active enforcement in the areas of patents and copyrights.

#### **(a) Civil judicial procedures and remedies**

Provisions in relation to civil judicial procedures and remedies contained in the draft intellectual property protection laws are:

Jurisdiction over disputes, or infringements of Intellectual Property rights belong to municipal and provincial courts and higher courts. The said courts have the authority of jurisdiction in the following cases:

- claims of abuse of Intellectual Property rights;
- disputes over royalty, remuneration;
- claims of application rights and the rights of authors;
- disputes in relation to a contract regarding the transfer of ownership rights, licensing contracts on the right to use objects of Intellectual Property.

The injured party shall have the right to request the court to compel the infringing party to compensate him or her for any damages. The court shall have authority to emit an order to stop the act of infringement, recognize legitimate rights to objects of Industrial Property and request competent authorities undertake procedures for the purpose of acquisition of rights, request infringing party to compensate damage to the injured party.

(b) Provisional measures

Provisions in relation to provisional measures contained in the draft intellectual property protection laws provide for the following:

The competent authorities having the authority to impose administrative measures to resolve an act of abuse and the court having jurisdiction over violations and disputes in relation to industrial property rights shall have the power to deliver a decision on application of provisional measures with a view to preventing infringement and injuries and guaranteeing proper handling of violations.

The provisional measures include:

- detention of material evidence, facilities of infringement;
- searching concealment of material evidence, facilities of infringement;
- compelling the infringing party to stop the infringement;
- confiscation of infringed goods;
- temporary seizure of goods for the purpose of ensuring proper compensation.

(c) Any administrative procedures and remedies

The draft intellectual property protection laws stipulate that administrative measures may be applied in remedy of abuses as follows:

- warning;
- monetary fine up to twenty million Riels (roughly equivalent to about USD6,000),
- seizure of material evidence, facilities of infringement;
- destruction of infringement articles,
- compensation for damage caused by acts of infringement.

The competent authorities to apply both provisional measures and administrative procedures and remedies in relation to violations of intellectual property rights are:

- Market control section of the Ministry of Commerce, of the Ministry of Industry Mines and Energy, and of the Ministry of Culture and Fine Arts;
- Customs offices;
- Economic police.

(d) Any special border measures

Cambodian laws do not currently provide for any special border measures related to intellectual property infringement. The draft laws on intellectual property protection allow the customs authorities to inform right holders that there are reasons to believe that goods infringing their rights are about to be imported or exported. By application, the right holders may request the customs authorities not to release any such goods where customs authorities have reasons to believe the goods are about to be imported or exported. The applicant shall give to customs authorities any information he may be aware of, including a detailed description of goods, to help these authorities take



appropriate action. In the absence of fraud, customs can make decisions and also detain the goods during ten working days. The goods must be released where the applicant fails, within the ten working days, to establish to customs that the interim measures have been requested or civil or penal proceedings have been instituted respecting the infringement. Meantime, the applicant is liable for any damages resulting from an unsubstantiated application.

(e) Criminal procedures

Article 68 of draft Patent and Designs Act, article 49 of draft Marks Protection Act and Article 37 of draft Copyright and Related Rights law stipulate that the act of infringement of intellectual property rights is liable to be punished by imprisonment of from one to thirty-six months, or by a fine of from one to twenty million Riels (USD6,000), or both. In the event of recidivism, the maximum penalties shall be doubled.

## 5. Laws, decrees, regulations and other legal acts relating to the above

The Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period, dated September 10,1992: Article 47: Counterfeit of Seals, Bank Notes, Public Documents, Stamps and Trademarks, and Article 48: Violation of Copyright. The Provisions were issued during the United Nations Transitional Authority in Cambodia (UNTAC) period.

The Declaration No 368 of the Ministry of Commerce regarding Procedures of the Intellectual Property Department dated 15 December 1997.

The following draft laws are under preparation:

- Patent and Industrial Design;
- Marks Protection;
- Copyright and Related Rights;
- Geographical Indications.

## 6. Statistical Data on Applications for and Grants of Intellectual Property Rights Protection

Since patent and copyright activities have not yet begun, statistics exist only with regard to trademarks.

### Trademark Statistics

Year	Applications Filed	Registrations Granted	Carried Over
1991	142	105	0
1992	2,273	2,260	37
1993	1,478	1,407	50
1994	1,337	1,418	121
1995	1,265	1,269	40
1996	1,708	1,712	36
1997	1,549	1,526	32
1998	1,341	1,128	245

## VI. TRADE - RELATED SERVICES REGIME

### 1. General

The private sector dominates the services industry in Cambodia. The legal framework for services is not yet completed. Moreover, Cambodia does not have detailed statistics for sectors related to trade in services except with respect to electricity distribution, railway and public water supply. Foreign entities have a significant share in most important services sectors. In particular, there is vigorous foreign private sector activity in transportation, courier, and banking services. The annex to this section provides a description of Cambodia's service sectors especially as regards financial services, post and telecommunications. Table 1 provides a breakdown of major service sectors as a percentage of GDP.

Table 1- Breakdown of major service sectors as a percentage of GDP

	1992	1993	1994	1995	1996	1997	1998p
Construction services	5.3	7.2	8.0	8.5	9.2	8.4	7.6
Financial services	0.8	0.8	0.8	0.8	0.8	0.8	0.7
Trade-related services	12.8	11.5	12.7	12.7	12.8	12.8	12.7
Transport & telecom services	6.3	6.5	6.4	6.2	6.4	6.8	7.4

### 2. Policies affecting Trade in Services

- (a) Government departments, agencies, professional associations or other bodies with authority or a role relevant to the conduct of services activities.

The state role in the services sectors involves regulation, licensing, administration (in the case of railways, electricity distribution and public water supply) and supervision in order to ensure compliance with legislation.

For the time being, legislation governing trade in services is prepared and submitted by the concerned ministries, reviewed by the Council of Ministers and approved by the National Assembly for both general and particular legislation for each type of services (see III.1(a)).

In order to implement its functions and duties, the Government delegates authority to sectoral line ministries. These line ministries are in charge of setting out policies, submitting bills to government for issuing laws and other legal documents needed for the administration and proper implementation of these policies. Government agencies having such authority to conduct services activities are shown in the annex to this section. At a local level, Government agents (bureau, offices) possess state management authority at their corresponding level within the scope authorized by line ministries and local administrations.

The governors of provinces and provincial offices of certain ministries are also given authorization to ensure that local services industries act in conformity with laws, sub-decrees, circulars, decisions, Prakas and other legal instruments. Local authorities exist under names of offices such as finance office, post and telecom office, etc. In order to assist the governors of provinces in sectoral issues, local offices must follow guidance from line ministries and are responsible for reporting their activities to the relevant line ministries.

The permissible scope of responsibilities of a representative office, agent, branch and subsidiary of non Cambodian entities is described in the Law on Investment, the Sub-Decree on

Implementation of the Law on Investment and a circular of the Ministry of Commerce (Please refer to section II and IV above).

- (b) Judicial, arbitral or administrative tribunals or procedures providing for the review of, or remedies in relation to, administrative decisions affecting trade in services

There are no distinct tribunals or procedures related to trade in services. See III.6.

- (c) Provisions, including in international agreements, concerning qualification requirements and procedures, technical standards and licensing and / or registration requirements for the supply of services

No more than one body is allowed to issue a particular licence. However, for certain types of services there is need for consultation with other concerned government agencies. In general, the governmental body responsible for issuing a particular licence is also responsible for supervising that activity.

The annex to this section depicts qualification requirements and procedures and refers to the relevant legislation and government agencies issuing the licence. The annex also refers to agencies not issuing licenses but concerned with the sector. There are registration requirements at the Ministry of Commerce for the supply of services (see IV.1.(a)).

Foreign companies and individuals supplying services under the Law on Investment submit their application to the Council for the Development of Cambodia. The Standard registration is required at the Ministry of Commerce and at the Department of Tax of the Ministry of Economy and Finance.

- (d) Provisions governing the existence and operation of monopolies or exclusive service suppliers

The policy of the Royal Government of the Kingdom of Cambodia is to promote competition in service sectors. Certain state monopolies in services like insurance are being de-monopolised.

Natural monopolies in particular railways, electricity distribution and public water supply services are operated by the Government.

- (e) Provisions relating to safeguard measures as they apply to trade in services

Cambodia does not have any safeguard measures for trade in services.

- (f) Provisions relating to international transfers and payments for current transactions of services
- (g) Provisions relating to capital transactions affecting the supply of services

The Royal Government permits investors to purchase foreign currencies through the banking system and to remit abroad these currencies for the discharge of financial obligations incurred in connection with their investment (payment for imports and repayment of interest, payment of royalties and management fees and remittance of profits), as well as the proceeds from the sale of assets. Relevant provisions are contained in the Law on Investment in Cambodia.

- (h) Provisions governing the procurement of services by governmental agencies.

Provisions for government procurement of services are the same as those governing procurement of goods (see IV.3.1).

- (i) Provisions concerning any forms of aid, grant, domestic subsidy, tax incentive or promotions scheme affecting trade in services.

In order to promote the production of energy and water, the government provides credit on favorable terms to EDC (Electricite du Cambodge) and to water supply services. Tax incentives and other promotion schemes are contained in the Law on Investment in Cambodia (see II.2.(d)).

### **3. Market access and national treatment.**

- (a) Limitations on the number of service suppliers

There are no limitations on the number of service suppliers in Cambodia. The only limitation concerns the total of newspapers of Khmer language owned by foreigners which should not exceed 20 per cent of the total number of newspapers in Khmer language published in Cambodia.

- (b) Limitations on the total value of service transactions or assets

There are no limitations on the total value of service transaction or assets, except in the establishment of an import-export trading company, in which the foreign partners are not allowed to hold more than 49 per cent of the total assets of the joint-venture.

- (c) Limitations on the total number of service operations or on the total quantity of service output

There are no limitations on the total number of service operations or on the total quantity of service outputs.

- (d) Limitations on the total number of natural persons that may be employed in a particular service sector

No foreigner can work unless he possesses a work permit and employment card issued by the Ministry in Charge of Labour. These foreigners must also meet the following conditions:

- Employers must beforehand have a legal work permit to work in Cambodia;
- These foreigners must have legally entered Cambodia;
- These foreigners must have a valid passport;
- These foreigners must possess a valid residency permit;
- These foreigners must be fit for their job and have no contagious diseases. These conditions must be determined by the Prakas of the Ministry of Health with a agreement from the Ministry in Charge of Labour.

The work permit is valid for one year and may be extended as long as the validity of extension does not exceed the fixed period in the residency permit of the person in question.

The Ministry in Charge of Labour can revoke a work permit in the following cases:

- When the holder does not fulfil one of the conditions laid in above points (a), (b), (c), d) and (e);
- When the job to be extended by the holder in Cambodia is competing with Cambodia job seekers in the country. This revocation is carried out upon the expiration of a work permit that may be reissued or extended in favor of the foreigner;
- When the foreigner is unemployed for more than one month or is hired by another employer.

The Ministry in Charge of Labour will issue a Prakas on the issuance of work permits and employment cards to foreign workers. A joint Prakas of the Ministry in Charge of Labour and the Ministry of Economy and Finance will set the fee for issuing such work permits and employment cards.

Enterprises of any kind and professionals such as lawyers, bailiffs and notaries who need to recruit staff to work in their profession must recruit Cambodians as a first priority.

Notwithstanding the above provisions, the maximum percentage of foreigners who can be allowed to be employed in each of the enterprises will be determined by a prakas of the Ministry in charge of Labour based on each of the categories of personnel as follows:

- Office personnel
- Specialised personnel
- Non-specialised personnel

The maximum percentage of foreign natural person who can be allowed employment in enterprises shall be determined by Decisions of the Minister in Charge of Labour. Each enterprise is required to justify, during the entirety of its existence, the maximum percentage of workers of non-Cambodian nationality. In exceptional cases, in order to allow the employment of specialists indispensable to the operation of the enterprise, the percentage of foreigners can exceed the above limit with the authorization of the Minister in Charge of Labour at the suggestion of the Labour Inspector.

- (e) Restrictions on, or requirements of specific types of legal entities through which a service may be supplied

Services may be supplied through existing legal entities: sole proprietorship, general partnership, public institution, limited partnership, private company limited, single member private company limited, public company limited, state enterprise and joint venture. However, when foreigners have majority ownership, such entities cannot own land or conduct import-export trading operations.

- (f) Limitations on the participation of foreign capital

There are no limitations on the participation of foreign capital in the services sectors except for the participation in the establishment of import-export trading company.

- (g) Measures providing for less favorable treatment than the treatment accorded to national services or service suppliers

In general, there are no measures providing for less favorable treatment than the treatment accorded to national services or service suppliers. However, exceptions exist in the areas of import-export trading company, ownership of newspapers, medical and architectural services. In general, national treatment for legal services exists only where the home country of foreign lawyers provides the same possibility for the Cambodian lawyer to practice. However, foreign lawyers may not represent clients nor perform any activity to attract clients nor do commercial advertisement.

**4. Most-Favoured-Nation Treatment.**

The Government of Cambodia makes no distinction among the services and service suppliers from various countries and provides to all countries a services regime which is not less favorable than that supplied to the services and service suppliers of any other foreign country. In the area of legal services, however, access of foreign lawyers is limited where a given lawyer's home country does not permit the possibility of practice by Cambodian lawyers (see Annex to this section).

## ANNEX 1

### STATISTICS AND PUBLICATIONS

#### 1. Foreign Trade statistics for goods and Services: Responsible Agencies

There are two key government agencies responsible for foreign trade statistics for goods and services. These agencies are the Customs Department of the Ministry of Economy and Finance and the National Institute of Statistics of the Ministry of Planning.

#### 2. Publications Related to Statistics

Publications related to statistics are brought out by the following agencies:

- Monthly Bulletin of Statistics: Ministry of Economy and Finance;
- Economic and Monetary Statistics Review (Monthly), National Bank of Cambodia;
- First Five Year Socioeconomic Development Plan 1996-2000.

#### 3. Statistical Data

##### (a) Main Economic Indicators

##### (i) GNP

Table A1-1 GDP by Industrial Origin

INDICATORS	1992 actual	1993 actual	1994 actual	1995 actual	1996 actual	1997 actual	1998 estimate	1999 Projected	2000 Projected
1-GDP by industrial origin – constant 1993 purchases prices -									
	Bns R.	% change	% change	% change	% change	% change	% change	% change	% change
<u>Agriculture</u>	2386	4.1%	0.5%	6.4%	2.4%	0.8%	3.6%	3.9%	4.6%
Paddy	873	7.3%	-11.9%	18.8%	0.2%	-3.7%	4.4%	4.5%	6.0%
Other crops	556	-14.8%	-11.9%	12.0%	6.2%	4.3%	5.1%	5.3%	6.0%
Rubber	41	-5.9%	15.6%	8.1%	5.0%	2.4%	4.7%	4.4%	4.3%
Livestock	624	4.1%	-2.7%	6.3%	7.5%	5.0%	5.0%	5.0%	5.0%
Fisheries	174	4.4%	4.4%	2.5%	-0.9%	-2.0%	-1.6%	0.0%	0.0%
Forestry	118	72.0%	91.0%	-24.4%	-6.6%	1.1%	-2.0%	-1.5%	1.5%
<u>Industry</u>	678	19.3%	15.0%	10.1%	18.2%	0.3%	1.6%	14.8%	14.0%
Mining & Quarrying	69	20.4%	14.7%	7.8%	18.6%	-1.4%	-1.0%	13.0%	12.7%
Manufacturing	284	6.8%	15.0%	8.1%	12.9%	7.7%	8.1%	10.4%	10.6%
Electricity & water	29	19.6%	16.7%	13.8%	21.3%	14.9%	15.1%	15.2%	15.4%
Construction	296	31.1%	14.9%	11.8%	21.9%	-5.8%	-4.6%	19.2%	16.9%
<u>Services</u>	1978	7.3%	11.6%	8.0%	7.3%	1.5%	3.0%	7.9%	7.8%
Transport & communication	322	9.8%	8.2%	8.4%	10.3%	5.3%	7.2%	7.8%	7.8%
Wholesale & Retail Trade	592	5.3%	18.2%	10.3%	9.2%	-0.1%	0.2%	7.0%	8.8%
Hotels-Restaurants-Tourism	64	22.4%	46.4%	16.9%	19.3%	-2.5%	0.7%	23.6%	21.1%
Banking-Insurance-Real Estate	37	13.6%	26.6%	7.6%	6.4%	5.0%	3.1%	7.1%	7.7%
Public Administration & Defense	162	232.1%	13.9%	8.0%	-1.8%	0.4%	10.4%	9.8%	3.6%
Ownership of dwellings	350	2.9%	2.8%	4.1%	5.8%	2.3%	2.05%	6.0%	6.0%
Other	451	3.1%	4.2%	5.1%	4.2%	1.9%	5.5%	5.5%	5.5%

Source: Ministry of Economic and Finance (July 1998).

Table A1-2 Summary of budget operations

INDICATORS	1992 actual	1993 actual	1994 actual	1995 actual	1996 actual	1997 actual	1998 estimate	1999 Projected	2000 Projected
(millions of dollars)									
<u>Domestic revenue</u>	156.0	290.1	590.4	643.0	749.2	881.0	908.8	1310.0	1679.7
<u>Current revenue</u>	156.0	290.1	589.2	635.3	709.9	868.7	875.8	1285.0	1654.7
Tax revenue	109.7	219.1	364.6	445.5	534.3	597.4	667.6	940.2	1164.9
Non-tax revenue	46.3	71.0	224.6	189.8	175.6	271.3	208.2	344.8	489.8
Capital revenue	0.0	0.0	1.2	7.7	39.3	12.3	33.0	25.0	25.0
<u>Total expenditures</u>	245.6	608.4	997.7	1200.6	1441.4	1259.8	1443.7	1773.0	2322.7
<u>Current expenditures</u>	238.5	373.2	662.4	689.5	812.8	807.9	970.5	1145.3	1337.6
Defense & Security	118.6	219.4	391.5	425.7	406.6	419.3	552.2	504.0	589.1
Civil Administration	119.9	153.8	270.9	263.8	406.2	388.6	418.3	641.3	748.5
Capital expenditures	7.1	235.2	335.3	511.1	628.6	451.9	473.2	627.7	985.1
<u>Current deficit/surplus</u>	-82.5	-83.1	-73.2	-54.2	-102.9	60.8	-94.7	139.7	317.1
<u>Overall fiscal deficit</u>	-89.6	-318.3	-407.3	-557.6	-692.2	-378.8	-534.9	-463.0	-643.0
<u>Financing</u>	89.6	318.3	407.3	557.6	692.2	378.8	534.9	463.0	643.0
Foreign financing	1.5	239.1	432.1	564.3	674.2	445.9	393.3	476.0	643.0
Domestic financing	88.1	79.2	-24.8	-6.7	18.0	-67.1	141.6	-13.0	0.0
o. w. bank financing	112.8	30.7	-26.6	5.5	-17.0	-75.3	100.0	0.0	0.0

Source: Ministry of Economic and Finance (July 1998)

(iv) Production and consumption of the basic goods

Table A1-3: Production of Basic Goods

	Unit	1990	1991	1992	1993	1994	1995	1996
<b>Industrial</b>								
Soap	Tons	935	279		311	336		
Soft drinks	1,000 cases	275	135	214	292	345		
Milk	1,000 cans	270	297	17,530	9,562	611		
Fabrics	1,000 meters	1,392	287	190	181	177		
Mosquito nets	1,000 meters	1,665	1,103	120	1,260	1,260		
Electricity	1,000 kWh	193,016	120,177	161,242	160,399	170,457		
Water	1,000 m3	20,759	20,758	38,944	28,293	11,531		
<b>Agriculture</b>								
<b>Crops</b>								
Rice	1,000 Tons	2,500	2,400	2,221	2,117	2,223	2,745	3,300
Corn	1,000 Tons	88	60	60	54	45	55	64
Cassava	1,000 Tons	60	56	150	66	65	82	68
Sweet potato	1,000 Tons	31	39	60	55	36	39	37
Vegetables	1,000 Tons	170	249	210	200	197	193	141



	Unit	1990	1991	1992	1993	1994	1995	1996
Mungbean	1,000 Tons	12	13	14	12	17	20	16
Groundnut	1,000 Tons	4	4	4	4	5	6	7
Soybean	1,000 Tons	22	35	40	39	23	17	28
Sugar cane	1,000 Tons	258	145	142	140	219	202	178
<b>Livestock</b>								
Cows	1,000 Heads	2,181	2,257	2,468	2,542	2,621	2,777	na
Buffalo	1,000 Heads	736	755	804	824	810	764	na
Pigs	1,000 Heads	1,515	1,550	2,043	2,123	2,024	2,038	na
Poultry	1,000 Heads	8,163	8,816	9,901	10,692	10,027	10,066	na
Draught oxen	1,000 Heads	1,018	1,042	1,050	1,184	1,161	1,320	na
Draught buffalo	1,000 Heads	478	502	482	520	473	444	na
<b>Fish</b>								
Fresh fish	1,000 Tons	111	118	103	94	65	40	na
Dried fish	1,000 Tons	3	2	2	2	30	3	na
Salted preserved fish	1,000 Tons	6	6	4	5	8	7	na

Source: The World Bank Report "Cambodia: Progress in Recovery and Reform"; June 2, 1997; P.58 and The World Bank Report "Cambodia: From Recovery to Sustained Development" May 31, 1996; P. A-26.

(viii) Balance-of-payments

Table A1-4: Balance of Payments (Million US Dollar), 1990-1997

	1992	1993	1994	1995	1996	1997
<b>Trade Balance</b>	-178.890	-188.031	-254.625	-333.098	-428.041	-328.102
Exports FOB	264.500	282.968	489.756	853.876	643.559	735.850
Domestic Exports	51.300	101.568	262.029	268.192	295.198	416.991
Re-exports	213.200	181.400	227.727	585.684	348.361	318.859
Imports FOB	-443.390	-470.999	-744.381	-	-	-
Retained Import	-230.190	-289.599	-516.654	-601.290	-723.239	-745.092
Re-exports	-213.200	-181.400	-227.800	-585.684	-348.361	-318.851
<b>Service Balance</b>	-13.900	-56.513	-85.476	-74.055	-52.215	-28.100
Service receipts	49.700	63.800	54.304	113.826	162.754	160.174
Service payments	-63.600	-120.313	-139.780	-187.882	-214.969	-188.274
<b>Income Balance</b>	-14.136	-16.100	-46.558	-56.878	-85.694	-42.034
Income receipts	0.000	0.544	2.266	9.794	12.737	16.024
Income payments	-14.136	-16.654	-48.525	-66.672	-98.431	-58.058
<b>Private Transfers</b>	9.000	9.000	20.000	20.000	20.000	20.000
<b>Current Account Balance I</b>	-197.926	-251.654	-366.660	-444.031	-545.950	-378.236
<b>Official Transfers</b>	177.966	270.621	283.108	335.003	436.704	233.407
<b>Current Account Balance II</b>	-19.960	18.967	-83.552	-109.028	-109.246	-144.829
Capital Account	16.019	0.090	54.450	109.889	252.220	220.939
Errors and Omissions	-42.558	-3.535	65.035	12.810	-70.937	-42.940
<b>Overall Balance</b>	-46.499	15.522	35.934	13.671	72.036	33.170

Source: Economic Outlook for Cambodia 1998-2003, Ministry of Economy and Finance, January 1998 and NBC.

(ix) Foreign Exchange

Table A1-5: Foreign Exchange

	1990	1991	1992	1993	1994	1995	1996	1997	1998*
Riel/US\$ Parity(end of period)	613	550	2310	2414	2588	2539	2720	3460	

Source: Economic Outlook for Cambodia 1998-2003, Ministry of Economy and Finance, January 1998 and NBC.

Table A1-6: Exchange Rate 1997-1998 (July)

Month	Parallel Market Rate Midpoint	Official Exchange Rate Midpoint
<b>1997</b>		
January	2746	2736
February	2752	2747
March	2745	2739
April	2760	2748
May	2769	2755
June	2772	2766
July	3055	2910
August	3073	3008
September	3343	3200
October	3498	3417
November	3483	3410
December	3523	3460
<b>1998</b>		
January	3645	3595
February	3598	3560
March	3618	3585
April	3708	3660
May	4004	4020
June	4051	4000
July	3764	3780

Source: 1998 Economic & Monetary Statistics Review, National Bank of Cambodia, various issues.

(b) Foreign Trade Statistics

(i) Foreign trade (aggregation at the two-digit HS level)

Table A1-7: Foreign Trade (in value and percentage) in 1996

HS	Chapter	Domestic Export (thousands US\$)	Import (thousands US\$)	% of total export	% of total import
01	Live animals	97.74	215.37	0.03	0.02
02	Meat and edible meat offal	68.50	168.47	0.02	0.02
03	Fish and crustaceans, molluscs and other aquatic invertebrates	4,823.52	231.37	1.25	0.02

HS	Chapter	Domestic Export (thousands US\$)	Import (thousands US\$)	% of total export	% of total import
04	Dairy produce; birds' eggs; natural honey	4.20	5,024.02	0.00	0.50
05	Products of animal origin, not elsewhere specified or included	1.47	1.15	0.00	0.00
06	Live trees and other plants	62.73	37.66	0.02	0.00
07	Edible vegetables and certain roots and tubers	34.41	540.19	0.01	0.05
08	Edible fruit and nuts	221.70	4,553.84	0.06	0.46
09	Coffee, tea, mate and spices	10.86	322.14	0.00	0.03
10	Cereals	3,781.97	10,587.91	0.98	1.06
11	Products of the milling industry	0.00	2,923.14	0.00	0.29
12	Oil seeds and oleaginous fruits	2,198.70	172.49	0.57	0.02
13	Lac; gums, resins and other vegetable saps and extracts	0.00	64.31	0.00	0.01
14	Vegetable plaiting materials	2,257.67	6.09	0.58	0.00
15	Animal or vegetable fat and oils	0.00	6,741.44	0.00	0.67
16	Preparations of meat, of fish or of crustaceans, molluscs	0.00	7,306.08	0.00	0.73
17	Sugars and sugar confectionery	0.00	15,468.37	0.00	1.55
18	Cocoa and cocoa preparations	0.00	91.76	0.00	0.01
19	Preparations of cereals, flour, starch or milk; pastry cooks' products	0.00	7,279.61	0.00	0.73
20	Preparations of vegetables, fruit, nuts or other parts of plants	72.41	1,348.68	0.02	0.13
21	Miscellaneous edible preparations	0.00	13,486.95	0.00	1.35
22	Beverages, spirits and vinegar	3,724.86	12,552.77	0.96	1.25
23	Residues and waste from the food industries	73.13	401.81	0.02	0.04
24	Tobacco and manufactured tobacco substitutes	6,898.59	34,179.28	1.78	3.42
25	Salt; sulphur; earth and stone	0.91	20,834.92	0.00	2.08
26	Ores, slag and ash	0.00	3.31	0.00	0.00
27	Mineral fuels, mineral oils and products	98.46	143,591.53	0.03	14.35
28	Inorganic chemicals	32.58	868.20	0.01	0.09
29	Organic chemicals	0.00	846.41	0.00	0.08
30	Pharmaceutical products	11.91	49,815.49	0.00	4.98
31	Fertilizers	0.00	4,510.62	0.00	0.45
32	Tanning or dyeing extracts	15.98	4,566.89	0.00	0.46
33	Essential oils and resinoids; perfumery cosmetic or toilet preparations	248.95	4,383.31	0.06	0.44
34	Soap, organic surface-active agents	0.00	2,304.60	0.00	0.23
35	Albuminoidal substances	0.00	833.77	0.00	0.08
36	Explosives, pyrotechnic products	14.47	363.18	0.00	0.04
37	Photographic or cinematographic goods	89.50	1,665.67	0.02	0.17

HS	Chapter	Domestic Export (thousands US\$)	Import (thousands US\$)	% of total export	% of total import
38	Miscellaneous chemical products	11.60	2,400.97	0.00	0.24
39	Plastics and articles thereof	17.51	12,751.30	0.00	1.27
40	Rubber and articles thereof	52,086.73	4,337.22	13.47	0.43
41	Raw hides and skins and leather	235.87	45.45	0.06	0.00
42	Articles of leather	0.00	267.40	0.00	0.03
43	Furskins and artificial fur	0.00	10.98	0.00	0.00
44	Wood and articles of wood	83,921.09	390.96	21.71	0.04
45	Cork and articles of cork	0.00	3.17	0.00	0.00
46	Manufactures of straw	669.37	178.35	0.17	0.02
47	Pulp of wood or of other fibrous cellulosic material	0.00	16.86	0.00	0.00
48	Paper and paperboard	1,009.10	23,376.39	0.26	2.34
49	Printed books, newspapers, pictures and other products of the printing industry	307.88	5,369.34	0.08	0.54
50	Silk	0.00	25.91	0.00	0.00
51	Wool, fine and coarse animal hair	165.16	439.25	0.04	0.04
52	Cotton	120.06	6,526.71	0.03	0.65
53	Other vegetable textile fibre	8.34	65.62	0.00	0.01
54	Man-made filaments	54.93	8,264.31	0.01	0.83
55	Man-made staple fibres	2,390.69	28,473.98	0.62	2.85
56	Wadding, felt and non-wovens	48.54	925.01	0.01	0.09
57	Carpets and other textile floor- coverings	1.77	231.57	0.00	0.02
58	Special woven fabrics	4.58	966.18	0.00	0.10
59	Impregnated, coated, covered or laminate textile fabrics	18.16	794.45	0.00	0.08
60	Knitted or crocheted fabrics	625.83	15,863.34	0.16	1.59
61	Articles of apparel and clothing accessories, knitted or crocheted	92,496.05	4,187.74	23.93	0.42
62	Articles of apparel and clothing accessories, not knitted or crocheted	32,864.61	3,186.02	8.50	0.32
63	Other made up textile articles	5,240.65	25,291.06	1.36	2.53
64	Footwear, gaiters and the like	569.56	2,777.01	0.15	0.28
65	Headgear and parts thereof	471.37	191.75	0.12	0.02
66	Umbrellas and parts thereof	0.00	303.60	0.00	0.03
67	Prepared feathers and down	0.00	6.72	0.00	0.00
68	Articles of stone, plaster, cement	0.55	2,551.30	0.00	0.25
69	Ceramic products	179.70	12,551.70	0.05	1.25
70	Glass and glassware	0.00	3,403.04	0.00	0.34
71	Natural or cultured pearls, precious stones, precious metals	35,721.84	41,763.29	9.24	4.17
72	Iron and steel	515.88	29,405.83	0.13	2.94
73	Articles of iron or steel	295.95	21,694.51	0.08	2.17
74	Copper and articles thereof	0.00	238.78	0.00	0.02
75	Nickel and articles thereof	0.00	49.16	0.00	0.00

HS	Chapter	Domestic Export (thousands US\$)	Import (thousands US\$)	% of total export	% of total import
76	Aluminum and articles thereof	0.00	4,569.98	0.00	0.46
78	Lead and articles thereof	0.00	797.03	0.00	0.08
79	Zinc and articles thereof	0.00	3,017.30	0.00	0.30
80	Tin and articles thereof	0.00	20.63	0.00	0.00
81	Other base metals	0.00	2.61	0.00	0.00
82	Tools, implements, cutlery, spoons, forks of base metal	71.47	2,255.32	0.02	0.23
83	Miscellaneous articles of base metal	8.47	1,628.21	0.00	0.16
84	Nuclear reactors, boilers, machinery and mechanical appliances	3,522.38	110,417.58	0.91	11.04
85	Electrical machinery and equipment	2,695.00	79,041.22	0.70	7.90
86	Railway or tramway locomotives, rolling-stock and parts thereof	1.38	372.65	0.00	0.04
87	Vehicles and parts	1,309.37	141,650.59	0.34	14.16
88	Aircraft, spacecraft, and parts thereof	2,628.52	4,853.33	0.68	0.49
89	Ships, boats and floating structures	0.00	5,322.10	0.00	0.53
90	Optical, photographic instruments, etc.	730.82	11,039.52	0.19	1.10
91	Clocks and watches and parts thereof	18.62	1,115.11	0.00	0.11
92	Musical instruments	138.65	256.26	0.04	0.03
93	Arms and ammunition	0.00	132.47	0.00	0.01
94	Furniture; bedding and the like	399.38	12,744.18	0.10	1.27
95	Toys, games and sports requisites	237.52	1,027.51	0.06	0.10
96	Miscellaneous manufactured articles	40.27	2,644.15	0.01	0.26
97	Work of art, collectors' pieces and antiques	39,263.40	75.43	10.31	0.01
	Total	386,564.18	1,000,602.12	100.00	100.00

## (ii) Export Statistics

Table A1-8: Total Exports of Cambodia ( balance of payments basis)  
(millions of US \$)

	1993	1994	1995	1996	1997
Total Exports	283.0	489.7	583.9	643.5	735.8
Domestic Exports	101.6	262.0	268.2	295.2	416.9
Re-exports	181.4	227.7	585.7	348.4	318.8

Source: Economic Outlook for Cambodia 1998-2003, Ministry of Economy and Finance, January 1998.

Table A1-9: Destination of domestic exports (Thousands US dollar)

Country	95 Exports	Share %	96 Exports	Share %	Exports 97	Share %
Thailand	173,475.30	46.32	116,831.80	30.52	129,177.11	26.18
USA	4,378.50	1.17	2,065.50	0.54	84,106.28	17.04
Singapore	107,265.10	28.64	109,166.70	28.52	72,587.21	14.71
China	3,547.50	0.95	5,533.90	1.45	44,772.49	9.07
Vietnam	13,674.00	3.65	24,425.10	6.38	34,500.52	6.99
United Kingdom	9,429.30	2.52	30,568.30	7.99	30,689.87	6.22
Taiwan	7,853.60	2.10	7,600.80	1.99	18,808.74	3.81
Germany	3,433.00	0.92	12,926.40	3.38	17,616.46	3.57
Hong Kong	21,196.50	5.66	11,508.00	3.01	12,510.82	2.54
Malaysia	2,162.60	0.58	3,126.80	0.82	10,730.09	2.17
France	8,913.00	2.38	39,613.30	10.35	9,551.24	1.94
Japan	5,287.80	1.41	5,036.80	1.32	6,176.87	1.25
Belgium	1,155.20	0.31	2,198.70	0.57	2,863.42	0.58
Netherlands	873.50	0.23	2,287.50	0.60	2,114.73	0.43
Denmark	741.60	0.20	1,754.50	0.46	979.85	0.20
Sub-Total	363,386.50	97.03	374,644.10	97.88	477,185.70	96.70
Total	374,512.90	100%	386,564.18	100%	493,446.76	100%

Table A1-10: Composition of Domestic Exports to Thailand

Sector	95 Exports	Share	96 Exports	Share
Food And Live Animals	454.1	0.3%	269.0	0.2%
Beverages And Tobacco	0.0	0.0%	437.5	0.4%
Crude Materials, Excl Fuels	32,038.0	18.5%	13,963.3	12.0%
Mineral Fuels Etc	0.4	0.0%	0.0	0.0%
Animal, Vegetable Oil, Fat	0.0	0.0%	5.2	0.0%
Chemicals, Related Prod Nes	106.1	0.1%	0.0	0.0%
Basic Manufactures	352.9	0.2%	715.0	0.6%
Machines, Transport Equip	117.5	0.1%	229.7	0.2%
Misc. Manufactured Goods	140,406.3	80.9%	80,918.10	69.3%
Goods Not Classed By Kind	0.0	0.0%	20,294.00	17.4%
Total	173,475.3	100%	116,831.8	100%

(iii) Import Statistics

Table A1-11: Imports of Cambodia (balance of payments basis)  
(Millions of US \$)

Year	1993	1994	1995	1996	1997
Total Import	471.0	744.3	1,187.0	1,071.6	1,063.9
Retained Imports	289.6	516.6	601.3	723.2	745.1
Re-Exports	181.4	227.8	540.0	361.0	250.0

Source: Economic Outlook for Cambodia 1998-2003, Ministry of Economy and Finance, January 1998.

Table A1-12: Imports by HS Chapters: 1997

HS	Chapter	U.S dollars	Share %
01	Live animals	1,602,380.79	0.15
02	Meat and edible meat offal	120,649.83	0.01
03	Fish and crustaceans, molluscs and other aquatic invertebrates	59,078.07	0.01
04	Dairy produce; birds' eggs; natural honey	2,870,090.07	0.26
05	Products of animal origin, not elsewhere specified or included	39,503.23	0.00
06	Live trees and other plants	20,616.95	0.00
07	Edible vegetables and certain roots and tubers	273,791.81	0.03
08	Edible fruit and nuts	4,585,667.41	0.42
09	Coffee, tea, mate and spices	109,871.17	0.01
10	Cereals	7,058,344.94	0.64
11	Products of the milling industry	1,876,927.55	0.17
12	Oil seeds and oleaginous fruits	67,304.88	0.01
13	Lac; gums, resins and other vegetable saps and extracts	111,262.35	0.01
14	Vegetable plaiting materials	151,073.98	0.01
15	Animal or vegetable fat and oils	4,553,687.13	0.42
16	Preparations of meat, of fish or of crustaceans, molluscs	3,669,644.84	0.34
17	Sugars and sugar confectionery	17,712,589.24	1.62
18	Cocoa and cocoa preparations	157,189.91	0.01
19	Preparations of cereals, flour, starch or milk; pastry cooks' products	6,831,258.67	0.62
20	Preparations of vegetables, fruit, nuts or other parts of plants	693,700.64	0.06
21	Miscellaneous edible preparations	11,860,202.38	1.08
22	Beverages, spirits and vinegar	11,100,674.82	1.01
23	Residues and waste from the food industries	1,631,099.22	0.15
24	Tobacco and manufactured tobacco substitutes	33,796,330.81	3.09
25	Salt; sulphur; earth's and stone	23,551,061.92	2.15
26	Ores, slag and ash	805.29	0.00
27	Mineral fuels, mineral oils and products	203,907,160.56	18.63
28	Inorganic chemicals	1,068,779.06	0.10
29	Organic chemicals	467,307.89	0.04
30	Pharmaceutical products	37,173,902.06	3.40
31	Fertilizers	5,135,692.58	0.47
32	Tanning or dyeing extracts	2,144,552.24	0.20
33	Essential oils and resinoids; perfumery cosmetic or toilet preparations	2,563,590.74	0.23
34	Soap, organic surface-active agents	2,724,906.62	0.25
35	Albuminoidal substances	765,549.01	0.07
36	Explosives, pyrotechnic products	614,469.58	0.06
37	Photographic or cinematographic goods	1,506,294.80	0.14
38	Miscellaneous chemical products	2,391,651.37	0.22
39	Plastics and articles thereof	17,913,722.46	1.64
40	Rubber and articles thereof	5,519,247.99	0.50
41	Raw hides and skins and leather	798,787.60	0.07

HS	Chapter	U.S dollars	Share %
42	Articles of leather	316,406.82	0.03
43	Furskins and artificial fur	11,377.87	0.00
44	Wood and articles of wood	560,717.87	0.05
45	Cork and articles of cork	18,835.43	0.00
46	Manufactures of straw	170,524.84	0.02
47	Pulp of wood or of other fibrous cellulosic material	3,899.06	0.00
48	Paper and paperboard	17,270,633.74	1.58
49	Printed books, newspapers, pictures and other products of the printing industry	1,926,276.34	0.18
50	Silk	9,416.88	0.00
51	Wool, fine and coarse animal hair	368,805.65	0.03
52	Cotton	20,024,205.04	1.83
53	Other vegetable textile fibre	42,925.16	0.00
54	Man-made filaments	7,849,484.04	0.72
55	Man-made staple fibres	32,766,511.45	2.99
56	Wadding, felt and non-wovens	2,770,145.49	0.25
57	Carpets and other textile floor-coverings	649,499.93	0.06
58	Special woven fabrics	4,978,148.53	0.45
59	Impregnated, coated, covered or laminate textile fabrics	2,360,780.57	0.22
60	Knitted or crocheted fabrics	43,027,893.71	3.93
61	Articles of apparel and clothing accessories, knitted or crocheted	6,691,127.99	0.61
62	Articles of apparel and clothing accessories, not knitted or crocheted	5,877,311.61	0.54
63	Other made up textile articles	21,475,906.11	1.96
64	Footwear, gaiters and the like	3,878,775.23	0.35
65	Headgear and parts thereof	224,825.30	0.02
66	Umbrellas and parts thereof	397,906.60	0.04
67	Prepared feathers and down	21,415.75	0.00
68	Articles of stone, plaster, cement	2,522,402.81	0.23
69	Ceramic products	12,258,668.82	1.12
70	Glass and glassware	4,016,654.26	0.37
71	Natural or cultured pearls, precious stones, precious metals	131,818,296.81	12.04
72	Iron and steel	30,678,337.02	2.80
73	Articles of iron or steel	15,799,794.85	1.44
74	Copper and articles thereof	260,283.90	0.02
75	Nickel and articles thereof	3677.74	0.00
76	Aluminum and articles thereof	5,688,822.25	0.52
78	Lead and articles thereof	1,107,474.88	0.10
79	Zinc and articles thereof	4,577,213.24	0.42
80	Tin and articles thereof	39,889.74	0.00
81	Other base metals	196,302.13	0.02
82	Tools, implements, cutlery, spoons, forks of base metal	207,101.84	0.02
83	Miscellaneous articles of base metal	2,918,203.99	0.27
84	Nuclear reactors, boilers, machinery and mechanical appliances	110,108,399.00	10.06
85	Electrical machinery and equipment	63,907,835.49	5.84



HS	Chapter	U.S dollars	Share %
86	Railway or tramway locomotives, rolling-stock and parts thereof	14,371.04	0.00
87	Vehicles and parts	72,276,661.10	6.60
88	Aircraft, spacecraft, and parts thereof	1,573,285.61	0.14
89	Ships, boats and floating structures	4,023,110.63	0.37
90	Optical, photographic instruments, etc.	10,159,701.84	0.93
91	Clocks and watches and parts thereof	709,296.50	0.06
92	Musical instruments	94,479.45	0.01
93	Arms and ammunition	17,005.54	0.00
94	Furniture; bedding and the like	16,685,976.38	1.52
95	Toys, games and sports requisites	1,685,255.44	0.15
96	Miscellaneous manufactured articles	5,961,155.07	0.54
97	Work of art, collectors' pieces and antiques	173,149.88	0.02
98		5,601.75	0.00
	Total	1,094,544,370.00	100.00

Table A1-13: Main import partners (Thousands US dollars)

Country	1995 Imports	Share %	1996 Imports	Share %	1997 Imports	Share %
Thailand	133,728.10	12.43	137,008.60	13.69	194,569.03	17.78
Singapore	529,727.10	49.26	457,688.70	45.74	112,828.03	10.31
Vietnam	109,085.80	10.14	119,629.80	11.96	105,884.82	9.67
Japan	64,111.70	5.96	32,619.20	3.26	82,200.22	7.51
Taiwan	9,186.00	0.85	42,924.80	4.29	77,511.58	7.08
China	28,400.70	2.64	28,408.50	2.84	65,843.97	6.02
Malaysia	15,461.90	1.44	19,713.50	1.97	58,662.14	5.36
Hong Kong	58,179.00	5.41	23,832.60	2.38	55,584.55	5.08
France	34,444.30	3.20	18,834.60	1.88	40,684.23	3.72
USA	17,406.10	1.62	15,494.80	1.55	26,337.40	2.41
Indonesia	9,091.00	0.85	9,313.30	0.93	14,457.01	1.32
Australia	13,598.10	1.26	5,310.00	0.53	10,980.49	1.00
Italy	404.50	0.04	14,839.60	1.48	2,046.03	0.19
Sub- Total	1,022,824.30	95.11	925,618.00	92.51	847,589.50	77.44
Total All	1,075,425.90	100%	1,000,602.10	100%	1,094,544.37	100%

(iv) Imports from main suppliers, preferably at a tariff line level

Table A1-14: Principal Import products from Japan

HS	Commodity	Dollars (thousands)
1006	Rice	1,622
5502	Man-made fibers	1,232
6309	Used clothes	1,087
7209	Iron products	3,307
7308	Structures of iron and steel	3,133
7801	Lead	1,092
7901	Zinc	1,304
8426	Cranes, derricks	1,231
8465	Machine tools	3,754

HS	Commodity	Dollars (thousands)
8527	Radio receivers	3,410
8528	Television receivers	1,936
8529	Radio and television parts	1,804
8701	Tractors	2,458
8703	Motor cars	5,295
8704	Motor vehicles for transporting goods	7,333
8711	Motorcycles	3,661
9018	Medical instruments	1,333
9406	Prefabricated buildings	1,849
	Total of above	46,841
	Total of imports from Japan	82,200

Table A1-15: Principal Import Products from Vietnam

HS	Commodity	Dollars (thousands)
23	Residues and Waste from Food Industry	1,547
27	Petroleum products	97,014
	Total of above	98,561
	Total of imports from Vietnam	105,885

Table A1-16: Principal Import Products from Thailand

HS	Commodity	Dollars (thousands)
401	Milk	1,340
1006	Rice	1,976
1701	Sugar	15,430
1901	Food preparations of flour	1,005
1902	Pasta	2,494
1905	Bread and pastry	1,511
2103	Sauces and preparations therefor	2,351
2523	Cement	20,125
27	Petroleum products	84,019
3004	Medicaments	6,155
3105	Fertilizer	4,305
3306	Preparations for oral hygiene	1,035
3402	Washing preparations	1,023
39	Plastic products, mainly pipe	3,111
6403	Footwear	1,208
6908	Ceramic tile	1,924
7216	Iron products	1,649
8525	Radio and television transmitters receivers	1,925
8711	Motorbikes	2,503
	Total of above	155,089
	Total of imports from Thailand	194,569

Table A1-17: Principal Import Products from Singapore

HS	Commodity	Dollars (thousands)
1511	Vegetable oil	2,471
2103	Sauces and preparations therefor	2,077
2202	Mineral water	1,288
2203	beer	1,281
2402	Cigarettes	2,504
27	Petroleum products	15,535
3917	Plastic pipe	1,169
6309	Used clothing	1,766
6908	Ceramic tiles	1,583
7210	Iron products	1,806
7612	Aluminum cans	1,551
8419	Machinery for heating	2,981
8422	Packing and wrapping machinery	1,333
8429	Bulldozers and scrapers	7,209
8452	Sewing machines	1,553
8458	Lathes	1,557
8465	Machine tools	1,106
8473	Machine parts	1,189
8517	Telephones	4,025
8701	Tractors	1,232
8901	Boats and barges	1,145
96	Miscellaneous manufactured articles	1,027
	Total of above	57,388
	Total of imports from Singapore	112,828

(v) Trade by geographic areas (main trade partners)

Table A1-18: Sources of Imports-By Major Trading Bloc (Thousands US dollars)

	Imports, 1995	Share %	Imports, 1996	Share %	Imports, 1997	Share %
<b>ASEAN</b>						
Thailand	133,728.10	12.43	137,008.60	13.69	194,569.03	17.78
Singapore	529,727.10	49.26	457,688.70	45.74	112,828.03	10.31
Vietnam	109,085.80	10.14	119,629.80	11.96	105,884.82	9.67
Malaysia	15,461.90	1.44	19,713.50	1.97	58,662.14	5.36
Indonesia	9,091.00	0.85	9,313.30	0.93	14,457.01	1.32
Philippines	1,704.60	0.16	315.8	0.03	1,035.61	0.09
Myanmar	0	0.00	12.2	0.00	151.42	0.01
Lao PDR	0.6	0.00	46.5	0.00	50.87	0.00
Total	798,799.10	7.28	743,728.40	74.33	487,638.93	44.55
<b>Other "APEC"</b>						
Japan	64,111.70	5.96	32,619.20	3.26	82,200.22	7.51
Taiwan	9,186.00	0.85	42,924.80	4.29	77,511.58	7.08
China	28,400.70	2.64	28,408.50	2.84	65,843.97	6.02
Hong Kong	58,179.00	5.41	23,832.60	2.38	55,584.55	5.08
USA	17,406.10	1.62	15,494.80	1.55	26,337.40	2.41

	Imports, 1995	Share %	Imports, 1996	Share %	Imports, 1997	Share %
Australia	13,598.10	1.26	5,210.00	0.52	10,980.49	1.00
New Zealand	249	0.02	135.8	0.01	821.48	0.08
<b>Total</b>	<b>191,130.60</b>	<b>17.77</b>	<b>148,625.70</b>	<b>14.85</b>	<b>39,279.69</b>	<b>29.17</b>
<b>European Union</b>						
France	34,443.30	3.20	18,834.60	1.88	40,684.23	3.72
UK	811.00	0.08	1,104.50	0.11	13,834.81	1.26
Germany	7,746.60	0.72	2,581.40	0.26	8,637.690	0.79
Denmark	177.90	0.02	1,874.00	0.19	6,887.32	0.63
Netherlands	234.00	0.02	333.80	0.03	3,870.21	0.35
Belgium/ Luxembourg	423.60	0.04	1,305.30	0.13	2,210.46	0.20
Italy	404.50	0.04	14,839.60	1.48	2,046.03	0.19
Spain	234.00	0.02	1,412.10	0.14	1,698.74	0.16
Austria	161.90	0.02	373.30	0.04	603.62	0.06
Ireland	103.80	0.01	0.02	0.00	119.22	0.01
Portugal	31.20	0.00	0.00	0.00	0.00	0.00
Greece	0.00	0.00	0.00	0.00	0.00	0.00
Finland	0.00	0.00	0.00	0.00	0.00	0.00
Sweden	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>44,771.80</b>	<b>4.16</b>	<b>42,658.62</b>	<b>4.26</b>	<b>80,592.33</b>	<b>7.36</b>
<b>Other</b>						
Russia (Fmr USSR)	1,642.70	0.15	689.80	0.07	6,113.56	0.56
India	959.80	0.09	834.50	0.08	5,823.55	0.53
<b>Total</b>	<b>2,602.50</b>	<b>0.24</b>	<b>1,524.30</b>	<b>0.15</b>	<b>11,937.11</b>	<b>1.09</b>
<b>Sub-Total</b>	<b>1,037,304.00</b>	<b>92.29</b>	<b>893,878.40</b>	<b>89.33</b>	<b>818,855.73</b>	<b>74.81</b>
<b>Total All</b>	<b>1,075,425.90</b>	<b>100%</b>	<b>1,000,602.10</b>	<b>100%</b>	<b>1,094,544.37</b>	<b>100%</b>

Table A1-19: Destination of Domestic Exports-By Major Trading Bloc (Thousands US dollar)

	Exports, 1995	Share %	Exports, 1996	Share %	Exports, 1997	Share %
<b>ASEAN</b>						
Thailand	173,475.30	46.32	116,831.80	30.52	129,179.11	26.18
Singapore	107,265.10	28.64	109,166.70	28.52	72,587.21	14.71
Vietnam	13,674.00	3.65	24,425.10	6.38	34,500.52	6.99
Malaysia	2,162.60	0.58	3,126.80	0.82	10,730.09	2.17
Indonesia	2,756.60	0.74	532.30	0.14	776.23	0.16
Philippines	764.10	0.20	129.70	0.03	414.87	0.08
Lao PDR	716.50	0.19	54.80	0.01	10.96	0.00
Myanmar	0.00	0.00	84.00	0.02	0.83	0.00
<b>Total</b>	<b>300,814.20</b>	<b>80.32</b>	<b>254,351.20</b>	<b>66.45</b>	<b>248,199.82</b>	<b>50.30</b>
<b>Other "APEC"</b>						
USA	4,378.50	1.17	2,065.50	0.54	84,106.28	17.04
China	3,547.50	0.95	5,533.90	1.45	44,772.49	9.07
Taiwan	7,853.60	2.10	7,600.80	1.99	18,808.74	3.81
Hong Kong	21,196.50	5.66	11,508.00	3.01	12,510.82	2.54
Japan	5,287.80	1.41	5,036.80	1.32	6,176.87	1.25
Australia	308.20	0.08	617.10	0.16	998.18	0.20
New Zealand	0.00	0.00	9.00	0.00	48.63	0.01
<b>Total</b>	<b>42,572.10</b>	<b>11.37</b>	<b>32,371.10</b>	<b>8.46</b>	<b>167,422.01</b>	<b>33.93</b>
<b>European Union</b>						
UK	9,429.30	2.52	30,568.30	7.99	30,689.87	6.22

	Exports, 1995	Share %	Exports, 1996	Share %	Exports, 1997	Share %
Germany	3,433.00	0.92	12,926.40	3.38	17,616.46	3.57
France	8,913.00	2.38	39,613.30	10.35	9,551.24	1.94
Belgium/ Luxembourg	1,155.20	0.31	2,198.70	0.57	2,863.42	0.58
Ireland	0.00	0.00	1,647.60	0.43	2,316.25	0.47
Netherlands	837.50	0.22	2,287.50	0.60	2,114.73	0.43
Italy	20.80	0.01	156.90	0.04	1,656.63	0.34
Denmark	741.60	0.20	1,754.50	0.46	979.85	0.20
Spain	0.00	0.00	287.70	0.08	609.63	0.12
Portugal	0.00	0.00	582.70	0.15	290.48	0.06
Austria	0.00	0.00	147.10	0.04	114.10	0.02
Greece	0.00	0.00	53.00	0.01	81.08	0.02
Finland	0.00	0.00	0.00	0.00	0.00	0.00
Sweden	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>24,530.40</b>	<b>6.55</b>	<b>92,223.70</b>	<b>24.09</b>	<b>68,883.74</b>	<b>13.96</b>
<b>Other</b>						
Russia (Fmr USSR)	109.80	0.03	923.50	0.24	3,053.99	0.62
India	389.00	0.10	0.40	0.00	2,499.49	0.51
<b>Total</b>	<b>498.80</b>	<b>0.13</b>	<b>923.90</b>	<b>0.24</b>	<b>5,553.48</b>	<b>1.13</b>
<b>Sub-Total</b>	<b>368,415.50</b>	<b>98.37</b>	<b>379,869.90</b>	<b>99.24</b>	<b>490,059.05</b>	<b>99.31</b>
<b>Total All</b>	<b>374,512.90</b>	<b>100%</b>	<b>382,766.20</b>	<b>100%</b>	<b>493,446.76</b>	<b>100%</b>

## ANNEX 2

### LIST OF LAWS AND LEGAL ACTS

#### 1. List of laws and legal acts regulating the activity of the customs authorities; responsible agencies

##### Laws

- Law on Import and Export Duties, 15 September 1989, Ministry of Economy and Finance
- Law on Taxation of January 1997; Ministry of Economy and Finance;

##### Sub-decree

- Sub-Decree on Abolishment and Installation the Checking Point along the Border and Transportation Network of Cambodia; N°75, 19 October 1995; Council of Ministers.

##### Decisions

- Decision on the Procedure for Export of Timber, Sawn Timber and Transformable Timber (7 January 1993, Ministry of Agriculture, Forestry and Fisheries
- Decision on the Annulment the Existing Procedure for Timber Export, #65, dated 18 June 1994, Ministry of Agriculture, Forestry and Fisheries.
- Decision of the Government on export regulation of timber, #17, dated 29 April 1997, Ministry of Agriculture, Forestry and Fisheries.
- Decision on the Implementation of Customs Tariffs No.002, 14 September 1997.

##### Declarations (Prakas)

- Prakas of the Ministry of Economy and Finance on turnover tax, (# 342, dated May 1997),
- Prakas of the Ministry of Economy and Finance on amendment of the composition of the committee for settlement the complain of the importer and exporter on pre-shipment inspection, (# 305, dated August 1996),
- Prakas of the Ministry of Economy and Finance on pre-shipment inspection to imported products to the Kingdom of Cambodia, (# 321, dated 8 September 1995),
- Prakas on the Supplement and the Amendment of the Items Tax in the Provinces and Municipalities (No. 015, 18 December 1993 Ministry of Economy and Finance)
- Prakas on the Amendment of the Stamp Tax ( No. 014, 4 February 1994, Ministry of Economy and Finance)
- Prakas on the Customs Tax Reduction on some Import Items in the Customs Tax Table (No. 0245, 7 March 1994, Ministry of Economy and Finance)
- Prakas on the Amendment of the Import Customs Tax Rates on Gasoline (No. 001, 4 January 1995, Ministry of Economy and Finance)
- Prakas on the Procedures to Determine Tax Rates (No. 260, 21 June 1995 Ministry of Economy and Finance)
- Prakas on the Amendment of the Import Custom Tax Rates on Passenger Vehicles and other Vehicles Listed in the Custom Tax Table, Line 87.03 (No. 293, 11 August 1995, Ministry of Economy and Finance)
- Prakas on the Implementation of the Custom Tax on Selected Import Items (No. 329, 2 October 1995, Ministry of Economy and Finance)

- Prakas on the Determination of the export Custom Tax Rates on Rubber Latex (No. 330, 2 October 1995, Ministry of Economy and Finance)

## **2. Laws and legal acts relating to non-tariff regulation of imports, exports and trade in transit, rules of origin: responsible agencies**

### Laws

- Law on the Import and Export (No. 57, 20 June 1989, Ministry of Commerce, State of Cambodia)

### Sub-decrees

- Sub-Decree on the Control of Hygiene on Import and Export Goods (No. 98, 8 October 1983, Peoples Republic of Kampuchea); Ministry of Health
- Sub-Decree Governing Public Procurement in the Kingdom of Cambodia (No. 60, 25 June 1995) Ministry of Economy and Finance
- Sub-Decree on Conferring the Right to Sell and Export Rubber Products to the Ministry of Agriculture, Forestry and Fisheries, 13 October 1994.
- Sub-Decree on the Administration of Small Scale Industry and Handicraft; N°12, dated 4 June 1991, Ministry of Industry, Mines and Energy.
- Sub-Decree on the Administration and Control of Quality of Industry and Handicraft Products; N° 4, dated 26 February 1992, Ministry of Industry, Mines and Energy.

### Decision

Decision on the Creation of Inter-Ministerial Commission for the Preparation and Organization of Import and Export Procedures and Regulations; 19 September 1994, Ministry of Economy and Finance.

### Declaration (Prakas):

- Declaration on the Authority to Sign Standard GSP Letter; November 21,1994; Ministry of Commerce;

## **3. Laws and regulations relating to foreign investment: responsible agencies**

### Law

- Decree on Contract and other Liabilities; 28 October 1988; Council of State People's Republic of Kampuchea;
- Law on Investment; 4 August 1994, Council for the Development of Cambodia.
- Law Bearing Upon Commercial Regulations and the Commercial Register; 3 May 1995, Ministry of Commerce
- Law on the Chambers of Commerce; 16 May 1995, Ministry of Commerce
- Law on the Supervision of Financial Institutions; 10 August 1992; National Bank State of Cambodia;
- Law on River Navigation (Inland Water); 1 May 1991; State of Cambodia, Ministry of Public Works and Transport.
- Law on Immigration; 26 August 1994, Ministry of Interior.
- Law on the Import and Export (No. 57, 20 June 1989, Ministry of Economy and Finance)

- Law on the Establishment of Insurance Business (No. 13, 30 January 1992, State of Cambodia), Ministry of Economy and Finance

Sub-decree

- Sub-decree on Conferring the Right to Sell and Export Rubber Products to the Ministry of Agriculture, Forestry and Fisheries; 13 October 1994; Council of Ministers;
- Sub-Decree on the Management of Foreign Exchange, Precious Metals and Stones; 8 November 1991; (State of Cambodia), National Bank of Cambodia
- Sub-decree on the Organization and Functioning of the National Bank of Cambodia; 26 January 1996; National Bank of Cambodia.
- Sub-decree on the Export of Khmer Labour to Work Overseas; 20 July 1995, Ministry of Social Affairs and Labour.
- Sub-decree on the Control of Hygiene on Import and Export Goods (No. 98, 8 October 1983, People's Republic of Kampuchea) Ministry of Health.
- Sub-decree on the Implementation of the Law on Investment (No. 88, 29 December 1997.

Decision:

- Decision on the Procedure for Export of Timber, Sawn Timber and Transformable Timber (7 January 1993, Council of Ministers)
- Decision on Buying Insurance in the Country (January 1993, Council of Ministers, State of Cambodia )

Declaration (Prakas)

- Declaration on the Application for Opening and Closing Companies; 6 August 1993; Ministry of Social Welfare and Labour, provisional National Government Cambodia;
- Prakas on the Setting Up of Border Check-points and the Control of Entry and Exit of Foreigners Passing Through Check-points (No. 553, 10 November 1995, Ministry of Interior)
- Prakas on Procedures Pertaining to the Issuance of Travel Document and Permits (No. 554, 10 November 1995, Ministry of Interior)

Circular (Sarachor)

- Circular on the Certification of the Business Account; 4 April 1994; Ministry of Economy and Finance;
- Circular on Insurance for Goods or Materials Imported to Cambodia (No. 002, 6 April 1993, Ministry of Finance, State of Cambodia)
- Circular on the Registration of Business Legal Entities (No. 124, 10 May 1994, Ministry of Commerce)

**5. (a) Existing laws, regulations or administrative guidelines which significantly affect trade in services**

- Law on the Organization and Functioning of the National Bank of Cambodia; 26 January 1996
- Law on Foreign Exchange rate; 22 August 1997, National Bank of Cambodia.
- Labour Law;



- Law on the Establishment of the Insurance Industry; N°13, 13 January 1992; Ministry of Economy and Finance.
- Law on the Management of Pharmaceuticals; 9 May 1996; Ministry of Health.
- Law on Press, Ministry of Information.
- Law on the Statute of State Enterprises; 18 July 1995; Ministry of Economy and Finance.
- Law on the Supervision of Financial Institutions; 10 August 1992; National Bank of Cambodia;
- Law on Investment of 4 August 1994; Council for the Development of Cambodia.
- Law on Registry of trades NS 0695/04 dated 25 June 1995; Ministry of Commerce;
- Sub-Decree N° 29 the ANKr. on the supervision of commercial banks of 16 November 1992; National Bank of Cambodia.
- Sub-decree No 88 of 29 December 1997 on the Implementation of the Law on Investment, Council for the Development of Cambodia.
- Sub-Decree N°5 ANKr on obligation for a company to maintain accounting records of 5 March 1993; Ministry of Economic and Finance.
- Sub-Decree N°30 SD on the creation of “ decentralized rural credit committee” of 8 February 1995; Ministry of Economy and Finance - National Bank of Cambodia;

The following prakas, regulations and circulars have been issued by the National Bank of Cambodia:

- N° 593-01 of 18 January 1993 regulation on the maintenance of a quarantine deposit;
- Declaration: N°793-282 on the maintenance of required reserves against deposits and other borrowings by financial institutions; 30 December 1993;
- N°794-001-R3 of 1 January 1994 regulation on minimum capital (Repealed and replaced by regulation N° 797-147 prokor dated 29 December, 1997);
- N° 794-78 (and circular No 794-002) of 31 December 1994 prakas regarding the classification of and the policy regarding the creating of provisions for bad and doubtful debts by a commercial bank;
- N° 795-01 (and circular) of 16 January 1995 regulation on the monitoring of banks' or financial institutions' open foreign exchange positions;
- N° 795-02 of 30 March 1995 (and circular of 31 March 1995) regulation on the late submission of the commercial banks' report;
- N° 795-03 of 22 May 1995 (and circular of 27 May 1995) regulation on risk cover ratio (capital adequacy);
- N° 795-04 of 23 June 1995 Instruction for monthly statement of Assets and Liabilities on Diskette;
- Regulation N° 993-06 of 22 September 1993 on the creation of foreign exchange market;
- Regulation N° 593-208 of 22 November 1993 on the use of Khmer language and domestic money in the periodic accounting reports;
- Regulation N° 594-03 of 30 June 1994 on off balance sheet format in addition to the periodic financial situation reports;
- Regulation N° 595-47 of 16 March 1995 on the liberalization of interest rate;
- Regulation N° 594-73 of 16 May 1995 on refinance rate;
- Prakas (Notice ) N° 796-153 Bis date 25 October 1996 . According to the Prakas, it does not apply to licenses for foreign bank branches in Cambodia which shall be governed by a separate regulation;
- Prakas N° B797-147 Prokor of 29 December 1997 on Condition for banks and financial institutions;

- Regulation N° Thor 797-02 BB of 26 December 1997 on the amendment of the maintenance of required reserves against deposit and other borrowings for financial institutions;
- N° 797-092 declaration of loans from 1 hundred millions dollar and 3 hundred million Riels, Credit classification, standard, Sub-standard, doubtful and lost;

**(b) Publications or sources of information, concerning measures of general application, of relevance to the GATS**

Ministry of Economy and Finance:	Monthly Bulletin of Statistics;
National Bank of Cambodia:	Economic and Monetary Statistics Review;
Ministry of Commerce:	Weekly Business Roundup;

**(c) Inquiry points, if any, as foreseen in Article III of the GATS**

The inquiry points referred to in Article III of GATS have not yet been established.

### ANNEX 3

#### INFORMATION ON IMPORT LICENSING PROCEDURES

##### I. OUTLINE OF SYSTEMS

Most imported goods may enter Cambodia without an import licence. However, certain goods may affect the health of citizens, consumer or environmental welfare or national security and are subject to import licensing.

##### II. PURPOSES AND COVERAGE OF LICENSING

Cambodia has one import licensing system which is not intended to restrict imports of goods.

The following goods are subject to import licensing:

HS Codes	Description	Government Body in charge of import licensing
36; 93	Weapons, explosives	Ministry of National Defense
88; 89	Vehicles, machinery for military purposes	Ministry of National Defense
71.06; 71.08; 71.18	Gold and silver	Central Bank
29.36; 29.37; 30	Pharmaceuticals and medical material	Ministry of Health

See also Ministry of Commerce Announcement No.2211 in Annex 8, page 130.

#### ANNEX 4

### INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE CUSTOMS VALUATION AGREEMENT

Cambodia is not a member of the WTO and is not implementing or administering the Customs Valuation Agreement. The following provides information on current policies and procedures of the Customs Department with respect to customs valuation.

1. (a) In making customs valuations, the Customs Department does not treat sales between related persons differently from sales between unrelated persons. The contract entered into between the Royal Government and the pre-shipment inspection firm for the supply of pre-shipment inspection services does not require sales between related persons to be treated differently from other sales.  
  
(b) When goods are damaged or lost, an investigative committee is formed consisting of local office staff from the Customs Department, port authority, transport company, CAMCONTROL and the owners of goods or their representative. This committee evaluates the damage and loss and, in the light of its findings, makes the report to the Director of Customs for approval.
2. The Cambodian Customs authorities have only two bases for customs valuation: the invoice price and market prices. They do not attempt to value goods by their cost of production.
3. Cambodia does not use computed values based on cost in determining customs values.
4. Customs valuation is on a CIF basis.
5. Customs valuation is made in Riel. The exchange rate used is the official exchange rate on the day the customs declaration is registered. The National Bank of Cambodia determines and makes available daily the official exchange rate.
6. The information used for customs valuation--invoice cost and open market price--are not of a confidential nature.
7. When valuation is determined through pre-shipment inspection, the appeals procedure is as described above (See Section IV.1.j above). For imports not subject to pre-shipment inspection, an appeal of a valuation decision may be made to the Ministry of Economy and Finance, whose ruling is final.
8. The Customs Law of 1989 is published. When changes in customs procedures are introduced this is made known through notices in the media. The Department of Customs provides a briefing to the 30-50 largest importers on the changes. Copies of all Ministerial Decisions, Instructions, etc. are available to the public on request.
9. The Director of Customs is empowered to approve the removal of goods from customs before a decision on valuation has been made. He may or may not require a financial guarantee.
10. There are no rules stipulating that an explanation for a customs valuation must be provided in writing, and this is not the practice.

11. At present, the draft Customs Code is under preparation which would take into account the provisions of the WTO Agreement on Customs Valuation.

12. Cambodia needs a comprehensive technical assistance from the WTO Members and international organizations with regard to customs valuation rules and procedures.

## **ANNEX 5**

### **INFORMATION ON TECHNICAL BARRIERS TO TRADE**

Cambodia is not a member of the WTO and is not implementing or administering the WTO Agreement on Technical Barriers to Trade.

All information available on technical regulations and standards is reproduced in Section IV.3(b).

## **ANNEX 6**

### **INFORMATION ON STATE-TRADING ENTERPRISES**

Cambodia has no state-trading enterprises as defined by Article XVII of GATT 1994 and the WTO Understanding on the Interpretation of Article XVII. State-owned and private enterprises compete on the same footing in conducting domestic and international trade.

**ANNEX 7 A**

**SERVICES SECTORAL CLASSIFICATION LIST**

**I. BUSINESS SERVICES**

**1. Professional Services**

Types of Services	Licensing Authorities	Qualification requirements and measures
Legal services	General Prosecutor of the Appeal Court	<p>The Law on the Bar was adopted by the National Assembly on 15 June 1995.</p> <p>Article5: Foreign lawyers whose names have been registered by the Bar of a foreign country or who have been recognized and authorized by the countries of their origin to practice the legal profession have the right to practice the profession with a khmer lawyer and accompany /assist khmer lawyers before the courts or other institutions of the Kingdom of Cambodia. Foreign lawyers may not represent clients.</p> <p>Article6: Foreign lawyers may only practice their profession in the territory of the Kingdom of Cambodia with authorization from the Khmer Bar Council; this authorization will depend on the sufficiency of qualifications of the foreign lawyer and will only be granted when the country of origin of the foreign lawyer provides this same possibility to Cambodian lawyers. This authorization may be withdrawn if there is malpractice during the practice of the legal profession in the territory of the Kingdom of Cambodia.</p> <p>A Decision by the Bar Council not to authorize practice of the legal profession or to remove authorization shall be communicated within 15 days to the General Prosecutor of the Appeal Court and to the concerned person. Appeal may be made against this Decision within a period of 2 months from the date this information is received.</p> <p>Article7: Those foreign lawyers who have been authorized to practice this profession may not perform any activity to attract clients or do any commercial advertising.</p>
Accounting, auditing and bookkeeping	Ministry of Economy and Finance	<p>Auditing: The Ministry of Economy and Finance has drafted a Law on Audit. This draft law creates and regulates the functioning of the National Audit Authority.</p> <p>Accounting: The current law, enacted in 1992 does not contain qualification requirements. To ensure that Cambodia's accounting system is more compatible with systems used in ASEAN, the Minister of Economy and Finance has directed the Department of Accounting to prepare a draft law that meets international standards and is more in line with the practices of ASEAN countries. This draft law was approved by the Council of Ministers and has been submitted to the National Assembly for adoption.</p>



Types of Services	Licensing Authorities	Qualification requirements and measures
Architectural services	Cabinet of Council of Ministers on the recommendation of the Ministry of Public Works and Transport.	Sub-degree on the issuance of certificates of construction, dated 19 December 1997, states that the person who makes the construction project must be an architect of Khmer nationality or a person who has received a "contribution" from a Khmer architect, is recognized by the Royal Government of Cambodia and was proposed by "competent authorities or the Khmer Architects Commission once the commission is established.
Integrated engineering services	-Ministry of Public Works and Transport. -Cabinet of Council of Ministers. -Ministry of Industry, Mines and Energy	Not yet regulated
Urban planning and landscape architectural services	-Ministry of Public Works and Transport. -Cabinet of Council of Ministers. -Phnom Penh Authority	Not yet regulated
Medical and dental services	Ministry of Health	A draft Law on Medical Services which has been submitted by the Ministry of Health to the Council of Ministers for approval. The draft law specifies that only a person with the following characteristics may practice medicine in Cambodia. That person must: --be of Cambodian nationality; --possess a certificate of medical training recognized by the Ministry of Health; --be of good health and without a criminal record. According to the draft law, non-Cambodians are allowed to practice medicine when the Ministry of Health determines that this is in Cambodia's interest.
Services provided by midwives, nurses, physiotherapists and para-medical personnel	Ministry of Health	Same as above.

## 2. Computer and Related Services

There are currently no licensing or qualification requirements for computer and related services in Cambodia.

**3. Research and Development Services**

Types of Services	Licensing Authorities	Qualification requirements
R&D services on natural sciences	-Ministry of Agriculture, Forestry and Fishery -Ministry of Industry, Mines and Energy	Not yet regulated
R&D services on social sciences and humanities	-Ministry of Education, Youth and Sport	Not yet regulated
Interdisciplinary R&D services	-Ministry of Education, Youth and Sport	Not yet regulated

**4. Real Estate Services**

Types of Services	Licensing Authorities	Qualification requirements
Involving own or leased property	-Cabinet of Council of Ministers. -Ministry of Agriculture, Forestry and Fishery	Not yet regulated
On a fee or contract basis	-Cabinet of Council of Ministers.	Not yet regulated

**5. Rental/Leased Services without Operators:**

Types of Services	Licensing Authorities	Qualification requirements
Relating to ship	Ministry of Public Works and Transport.	Not yet regulated
Relating to aircraft	State Secretariat for Civil Aviation	Not yet regulated
Relating to other transport equipment	-Ministry of Public Works and Transport. -State Secretariat for Civil Aviation	Not yet regulated
Relating to other machinery and equipment	-Ministry of Public Works and Transport. -State Secretariat for Civil Aviation -Ministry of Agriculture, Forestry and Fishery -Ministry of Industry, Mines and Energy	Not yet regulated

**6. Other Business Services**

Types of Services	Licensing Authorities	Qualification requirements and measures
Advertising services	None	A monopoly contract on outdoor advertising in Phnom Penh, signed in 1994 between the Phnom Penh Authority and a Cambodian national, will end in 2003. Not yet regulated
Services incidental to mining	Ministry of Industry, Mines and Energy	A draft Law on Mining has been submitted by the Ministry of Industry, Mine and Energy to the Council of Ministers for approval.
Services incidental to manufacturing	Ministry of Industry Mines and Energy	Not yet regulated
Services incidental to energy distribution	Ministry of Industry, Mines and Energy	Not yet regulated

Types of Services	Licensing Authorities	Qualification requirements and measures
Placement and supply services of personnel	Ministry of Social Affairs Labour and Veterans Affairs	Not yet regulated
Investigation and security	Ministry of Interior	Not yet regulated
Related scientific and technical consulting services	-Ministry of Commerce -Ministry of Industry, Mines and Energy -Ministry of Agriculture -Ministry of Education	Not yet regulated
Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)	-Ministry of Industry, Mines and Energy -Ministry of Public Works and Transport.	Not yet regulated
Photographic services	None	Not yet regulated
Packaging services	-Ministry of Industry, Mines and Energy	Not yet regulated
Printing, publishing	Ministry of Information	Law on the Press Regime, dated 1 September 1995, stipulates that publication of obscene texts or pictures and graphically violent materials are prohibited. The total number of khmer language newspapers owned or possessed by foreigners may not exceed 20 per cent of the total of all khmer language newspapers published in Cambodia.

## II. COMMUNICATION SERVICES

Although precise quantitative information is often lacking, it is clear that communications services have grown very rapidly during the past several years, and that the market for such services will continue to expand rapidly in the period ahead.

### 1. Postal services

The Ministry of Posts and Telecommunications owns and operates the national postal system.

The tariffs for main types of service are established by the Ministry of Posts and Telecommunications on the basis of the consumer Price Index and the convention of Universal Postal Union (UPU).

There are 40 Post Offices in Cambodia: One Postal Department and 6 Post Offices under its supervision; 23 provincial and town Cabinets and 10 district post offices. Total number of post offices in Cambodia is 40. The Post Offices in Phnom Penh provide all types of postal services as listed below. Six provincial cabinets provide Express Mail Services (EMS) and parcel services within and outside the country, as well as letter services; the remaining cabinets provide only letter services.

The main services provided by Post Offices in Phnom Penh include :

- Correspondence delivery (letter, post cards, business correspondence, registered mail)
- Distribution of newspapers and magazine

- Parcel services
- EMS
- P.O Boxes
- Bulk mail
- Express mail within and outside the country
- Surface Mail service to neighbouring countries

The table below shows the volume of main correspondence handled by the postal services during 1997 and 1998.

Type of correspondence for 1997 and 1998 (number of units handled)

Type of correspondence	1997	1998
Letters	2,300,702	3,310,790
Parcels and Packets	2,117	20,594
EMS	2,844	5,413
Express	4,231	9,304

## 2. Courier services

A number of foreign companies, such as DHL, TNT, OCS, UPS, and FedEx, provide courier services in Cambodia. This market is not yet regulated. In principle, a licence from the Ministry of Posts and Communications is required to operate businesses in this market. In practice, firms have operated so far without licenses.

## 3. Telecommunication services

The Ministry of Posts and Telecommunications of the Kingdom of Cambodia is currently responsible for the regulation, administration and management of the public telephone network and the licensing of other related services supplied by the joint venture partners. The MPTC has stated as primary policy position that all basic telecommunication services and facilities are operated by MPTC functioning as the dominant carrier. The Ministry operates and administers all telecommunications in the country, sets policy and at present acts informally as the regulator and standard setting body. MPTC is responsible for issuing licenses and also has the responsibility for promulgating and administering the regulations governing the licensed activity.

With regard to telecommunications services, licensing and qualification are required from the Ministry of Posts and Telecommunications. The qualification and licensing requirements for the supply of telecommunication services cover:

- Minimum registered capital.
- Availability of office and approved necessary equipment.
- Professional qualification.
- Application submitted to CDC and to Prime Minister for final decision.
- Partnership agreement between MPTC and other parties to be made after receiving the approval from the Prime Minister.
- Articles of association for the establishment of the company.
- Licence issued by MPTC stipulates the terms and conditions such as scope of licence and right of the company, technical requirements, international standards requirements of the equipment, performance guarantee of the system, tariff and billing, fiscal and administrative matters, licence term, bank guarantee, network ownership upon the expiration of the licence or extension.

- Registration at the Ministry of Commerce.

The MPTC has received the approval from the Royal Government of Cambodia to establish joint venture companies between foreign companies and the Ministry of Post and Telecommunications of Cambodia for the provision and operation of Mobile Cellular Services, as follows:

- CASACOM (Cambodia Smart Communication Co., Ltd.) using the system NMT (Nordic Mobile Telephone System) and the frequency band of 900 MHz. This company has extended its network to nine (9) provinces such as: Phnom Penh, Battambang, Koh Kong, Sihanouk Ville, Siem Reap, Kompot, Takeo, Kampong Cham, and Kandal. The total number of subscribers was 19,750 as of 31 March 1998. The original contract was signed on 19 October 1992. Its amendment for provision and operation of GSM Digital Cellular Mobile Telephony services was later signed on 20 June 1996, between MPTC and Cambodia Smart Co., Ltd. (CS).
- CAMTEL (Cambodia Mobile Telephone Company Limited), using the system AMPS (Advanced Mobile Phone System) and the frequency band of 800 MHz. As of end March 1998, it had 5,286 subscribers. The original contract was signed on 8 August 1992. The supplementary agreement was signed on 29 September 1997 for the provision and operation of CDMA Digital Cellular Mobile Telephony services within the Kingdom of Cambodia.
- TRICELCOM (Technology Resources Industries Cellular Communications Cambodia Company Limited), using the system ETACS (Enhanced Total Access Communications System) and the frequency band 900 MHz, and having 5,115 subscribers as of end of March 1998. The contract was signed on 15 February 1993. The supplementary agreement was signed on 14.3.97 for the provision and operation of a PCN 1800 and ETACS Cellular Mobile Telephone Network in the Kingdom of Cambodia.
- CAMGSM (Cambodia GSM or Mobitel). The Royal Government of Cambodia has entered into an agreement with Royal Millicom Co., Ltd., composed of local company Royal Group and foreign company Millicom from Sweden, to establish another Joint Venture company for the provision and operation of GSM Digital Cellular Mobile Telephone services, using modern technology, which was officially inaugurated and commissioned on 11 March 1997. The contract was signed on 20 April 1996. The number of subscribers as of the end of March 1998 was 7030.
- CAMSHIN (Cambodia Shinawatra Company Limited). Apart from the above mentioned 4 Cellular Mobile Telephone companies, there is another joint venture company for the provision and operation of Wireless Local Loop (WLL) using the frequency band of 450MHz and having as of 31 March 1998 the number of 6.975 subscribers. The contract was signed on 4 March 1993. The supplementary agreement was signed on 4 March 1997 for the provision and operation of wireless telecommunication system and services within the Kingdom of Cambodia.
- CAMINTEL In addition to the 4 mobile cellular companies and to the existing WLL company, the Royal Government of Cambodia also established another joint venture Company called "CAMINTEL", between MPTC (51 per cent equity share) and INDOSAT company from Indonesia (49 per cent equity share), for the rehabilitation

and improvement of the System Equipment of the EX UNTAC<sup>8</sup> telecommunication network. This company has expanded its network and services to all provinces and cities, using the satellite transmission Palapa in Indonesia. The existing subscribers were estimated at 3,114 as of 31 March 1998. The Agreement between MPTC and Indosat was signed on 29 December 1994.

A Business Cooperation Contract (BCC) was signed on 17 February 1990 between MPTC and OTC international Australia Limited, (now Telstra) for the investment in the Cambodia International Telecommunication Network.

According to the Master Plan for Telecommunication Development in the Kingdom of Cambodia, established by the International Telecommunications Union (ITU) and adopted by the Council of Ministers on 6 February 1997, the demand forecast of telephone users during the next five years (1997-2003) is estimated at over 138,000 subscribers lines, including 72.500 lines for all provinces and cities and 65.500 lines for Phnom Penh city.

In order to respond to the above demand and to continue the implementation of the free market economic policies, the Royal Government of Cambodia has authorized private local and foreign companies to establish more joint venture companies for investment in Cambodia's telecommunication development, as follows:

- American Cambodian Telecom Ltd. The Agreement between MPTC and Portacom Wireless Inc. from USA was signed on 26 December 1996 for the provision and operation of a CDMA based telecommunication system (reference: letter of Council of Ministers No.1052sCN dated 17-09-1996).
- R.T.I. (Royal Telecom International Ltd.) The joint venture Agreement between MPTC and Royal Millicom Co., Ltd. was signed on 6 June 1997 for the provision of international services and operation of an International Gateway (reference: letter of Council of Ministers No.642sCN dated 31 May 1996).
- Internet Services Agreement between MPTC and Telstra international Ltd. (Australia) was signed on 25 February 1997 for the provision of Internet Services in Cambodia.
- Khmer Telecom Company Limited. The J.V Agreement between MPTC and Tong Yang Cement Co. Ltd. (TYC) and Khaou Chuly Development Co., Ltd. (KC) for the provision of international Telecommunications from and to the Kingdom of Cambodia.

The Ministry has granted and issued the licenses to the 2 following companies for the provision and operation of TLMRS (Trunk Land Mobile Radio System) in the Kingdom of Cambodia:

- Cambodia National Communications (CNC): Licence was issued on 13 March 1996.
- Mekong Telecom Mobile Ltd.: Licence was issued on 5 June 1996.

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<sup>8</sup> The United Nations Transitional Authority in Cambodia, whose telecommunications network in Cambodia was donated to the Cambodian government upon termination of the UNTAC mandate.

#### 4. Audiovisual services

Types of Services	Licensing Authorities	Qualification requirements
Motion picture and video tape production and distribution services	-Ministry of Information -Ministry of Culture and Fine Arts	Not yet regulated
Motion picture projection services	-Ministry of Information -Ministry of Culture and Fine Arts	Not yet regulated
Radio and television services	Ministry of Information	Not yet regulated
Radio and television transmission services	Ministry of Information	Not yet regulated
Sound services	Ministry of Information	Not yet regulated

### III. CONSTRUCTION AND RELATED ENGINEERING SERVICES

Types of Services	Licensing Authorities	Qualification requirements
General construction work for building	Ministry of Land Management, Urban Planning, and Constructions	Same as in architectural services
General construction work for civil engineering	Ministry of Public Works and Transport.	Same as above
Installation and assembly work	Ministry of Industry, Mines and Energy	Same as above
Building completion and finishing work	Ministry of Land Management, Urban Planning, and Constructions	Same as above

### IV. DISTRIBUTION SERVICES

Types of Services	Licensing Authorities	Qualification requirements
Commission agents' services	None	Not yet regulated
Wholesale trade services	None	Not yet regulated
Retailing services	None	Not yet regulated
Franchising	None	Not yet regulated

### V. EDUCATIONAL SERVICES

Types of Services	Licensing Authorities	Qualification requirements
Primary education services	Ministry of Education, Youth and Sport	Not yet regulated
Secondary education services	Ministry of Education, Youth and Sport	Not yet regulated
Higher education services	Ministry of Education, Youth and Sport	Not yet regulated
Adult education	Ministry of Education, Youth and Sport	Not yet regulated

## VI. ENVIRONMENTAL SERVICES

Types of Services	Licensing Authorities	Qualification requirements
Sewage services	Ministry of Environment	Not yet regulated
Refuse disposal services	Ministry of Environment	Not yet regulated
Sanitation and similar services	Ministry of Health	Not yet regulated

## VII. FINANCIAL SERVICES

### 1. All insurance and insurance-related services

Currently, there is only one state owned insurance company which is carrying out all non-life insurance in conformity with the provisions of the Law on the Establishment of Insurance Industry promulgated on February 8, 1992; Sub-decree on the Creation of the State Owned Insurance Company known as the Cambodia National Insurance Company (CAMINCO) dated 20/09/1990; Sub-decree on the Control of Insurance Activity dated 09/06/1992 and the Notice of the Government dated 022/09/1992 authorizing CAMINCO to carry out all insurance services in Cambodia. However, private insurance agents and insurance brokers are allowed to operate in cooperation with and under the supervision of CAMINCO.

In addition to the existing legal framework, a new draft Law on Insurance is being considered by the Finance and Banking Committee of the National Assembly.

The main points covered by the draft law are as follows:

- General provisions on the responsibility of an insurer.
- Insurance contracts, specifying the main conditions of the contract, property insurance and life insurance.
- Conditions of motor vehicle insurance, construction insurance and passenger transport insurance.
- Insurance agents and insurance brokers.

When this draft law is adopted:

- Motor vehicle insurance, construction insurance and passenger transport insurance will be compulsory in Cambodia. The class of motor vehicle, the size of construction projects and the means for passenger transport for which insurance is compulsory will be specified in the Sub-decree of the Royal Government.
- All insurance companies must be registered at the Ministry of Commerce and operate under the supervision of the Ministry of Economy and Finance. The Ministry of Economy and Finance will be responsible for issuing licenses to insurance companies, insurance agents and insurance brokers.
- Only limited liability companies (private insurance company or joint-venture) will be allowed to operate in Cambodia.

Three kinds of insurance company may be created:

- Life insurance company
- Non-life insurance company
- Life and non-life insurance company.



The provisions of the Law on the Statute of State Enterprises will be applied for the control of the state company and joint-venture in which the state holds more than 51 per cent of the joint – venture asset. With regard to a private company, the control is carried out in conformity with provisions stipulated in its licence.

The Sub-decree of the Royal Government will contain (after the promulgation of the Law) the conditions for the establishment of insurance agents and insurance brokers, minimum capital requirement and solvency margin. The Sub-decree will also regulate re-insurance and retrocession.

Types of Services	Licensing Authorities	Qualification requirements
a)life, accident and health insurance services	Ministry of Economy and Finance	The draft Law on Insurance is considered by the Finance and Banking committee of the National Assembly.
b)Non-life insurance services	Ministry of Economy and Finance	Same as above.
c)Reinsurance and retrocession	Ministry of Economy and Finance	Same as above
d)Services auxiliary to insurance (including brooking and agency services)	Ministry of Economy and Finance	Same as above

## 2. Banking and other financial services (excl. insurance)

### Organisation

The banking system is a two-tier system: the central bank (the National Bank of Cambodia) and commercial banks.

### The Central Bank (See II.2.b)

The Central Bank has monetary authority which makes and implement monetary policy (refinancing resource requirements, interest rate, etc...) and has supervisory control over the banking system (it is empowered to licence, to enact prudential measure to be observed, and to take sanctions, etc.).

To accomplish its mission the Central Bank has been granted increased operational autonomy and is empowered to issue regulations on matters of monetary policy and banking prudential measures.

### The commercial banks

They are established on the model of a full services bank adapted to local conditions.

The licensed banks offer the following services:

- Collecting deposits (sight, term, foreign currency, domestic currency),
- Granting credits,
- Handling inter-bank operations,

- Managing means of payment,
- Dealing with securities, gold and foreign currency (for its own account or for the account of the clients).

Prakas No.796-153 Bis, dated 25 October 1996 requires banks incorporated under domestic law to be licensed to carry out banking activities. Separate regulations will be issued to cover branches of foreign banks operating in Cambodia.

### Composition

The Central Bank: the National Bank of Cambodia. Its head office is in the capital and has a network of 20 branches in the provinces.

There are 31 commercial banks consisting of:

- 1 state owned bank in the course of privatization,
- 7 branches of foreign banks,
- 22 locally incorporated private banks,
- 1 representative office.
- 
- -Some hundreds of unofficial small rural credit entities.

Presently, these entities are decentralized and financed by international or foreign organizations (UNDP-European Union, Caisse Francaise de Development, USAID, NGOs...)

They are to be federated in a mutual or cooperative institution under provisional supervision of a technical unit constituted by an inter-ministerial committee (CCRD) which received, from the National Bank of Cambodia, the mandate to take all measures in the prudential field and to prepare a report on its mandate.

The Government has requested the CCRD to come up with a plan to establish specialty bank dedicated to rural development to be called the Rural Development Bank. It is anticipated that funds from donor countries will provide an initial contribution to the Bank's capital, and that the Royal Government will contribute the balance.

### Characteristics

The banking system is concentrated in Phnom Penh. It is characterised by an unusually high proportion of assets held abroad. Foreign national can open account in Cambodian bank. Like wise, Cambodian national can open account with bank abroad.

### Main financial feature

Balance sheet information at 31 December 1997:

Total assets	1,613,510.00 Million Riels
Credit to individuals or enterprises	649,761.00 Million Riels
Deposits by residents or non-residents	870,324.00 Million Riels
- Residents	712,118.00 Million Riels
- Non residents	158,208.00 Million Riels
Net worth	619,480.00 Million Riels

### Regulatory and Prudential Framework in Force

- Licence
  - Issued by the Central Bank
  - Valid three years
  - Renewable
- Solvency
  - Minimum capital : 50 G (billion equalling thousand million) Riels
  - Solvency ratio (Risk Cover Ratio) : 5 per cent
  - Guarantee deposit at NBC : 10 per cent of registered capital

### Liquidity

- Reserve requirement deposit 8 per cent (on deposit and borrowing)
- This regulation may be altered according to the needs of monetary policy. (See 2.6.1. below)
- Exposure diversification:
  - Applicable to credits and to participation shares
  - participations are limited :
    - individually to 15 per cent of the capital the target -company.
    - Globally to 60 per cent of net worth of the bank.
- Strict limitation on the exchange positions (long or short position in each currency 5 per cent of the bank's net worth, aggregate short position 15 per cent of the bank's net worth).
- Procedures for identification and reporting of doubtful loans.
- Obligatory monthly accounting reports.
- On-site inspections.
- Professional secrecy
- Sanctions
  - disciplinary sanction (warning, reprimand, fine, etc...),
  - receivership,
  - or liquidation.
- Progressive normalization of decentralized rural credit
- The draft law on the establishment of commercial bank contains the conditions of issuing licenses.
- It should be noted that current regulations do not limit foreign ownership of banks or restrict or limit the activities of foreign-owned banks.

### Monetary Policy Measure

- Credit
  - Quantitative action
    - Direct - credit ceilings.
    - Indirect - control of banks liquidity by:

- Refinancing in Riels ( none )
- .Reserve requirements : 8 per cent of liabilities
- .Primary interest rate on Riels liberal ( real interest rate should be positive ),
- .Base rate of NBC: 12 per cent
- Other
  - Carrying out research into the quality of credits ( information, risks, unpaid amount, rating )

#### Foreign Exchange

- The official exchange rate does not differ by more than +/-1 per cent from the average market rate.
- The Central Bank may organize sales of dollars by auction.
- Exchange regulations provide de facto freedom for all payments.
- Research is underway on the question of an optimal exchange rate:

Only two constraints could be imposed on banks by new regulations for statistical reasons:

- Compulsory use of the local banking system for all international transactions.
- Monthly declaration by banks of flows of foreign capital broken down by category.

#### Legal And Regulatory Framework

Laws and regulations relating to banking and other financial services of Cambodia can be seen in Annex 2, section 5.

### **VIII. HEALTH RELATED AND SOCIAL SERVICES**

Types of Services	Licensing Authorities	Qualification requirements
Hospital services	Ministry of Health	The draft Law on Medical Services that contains qualification requirement for health services providers has been submitted by the Ministry of Health to the Council of Ministers for the approval.
Other human health services	Ministry of Health	Same as above

### **IX. TOURISM AND TRAVEL RELATED SERVICES**

Types of Services	Licensing Authorities	Qualification requirements
Hotels and restaurants(including catering)	Ministry of Tourism	Not yet regulated
Travel agencies and tour operators services	Ministry of Tourism	Not yet regulated
Tourist guides services	Ministry of Tourism	Not yet regulated

## X. RECREATIONAL, CULTURAL AND SPORTING SERVICES

Types of Services	Licensing Authorities	Qualification requirements
Entertainment services(including theatre, live bands and circus services)	-Ministry of Information -Ministry of Culture and Fine Arts	Not yet regulated
News agency services	Ministry of Information	Not yet regulated
Libraries, archives , museums and other cultural services	Ministry of Culture and Fine Arts	Not yet regulated
Sporting and other recreational services	Ministry of Education Youth and Sport	Not yet regulated

## XI. TRANSPORT SERVICES

Types of Services	Licensing Authorities	Qualification requirements
Maritime transport services	Ministry of Public Works and Transport.	Not yet regulated
Internal waterways transport	-Ministry of Public Works and Transport.	Not yet regulated
Air transport services	State Secretariat for civil Aviation	Not yet regulated
Roads transport services	-Ministry of Public Works and Transport.	Not yet regulated
Pipeline transport	-Ministry of Public Works and Transport. -Ministry of Industry Mines and Energy	Not yet regulated
Services auxiliary to all modes of transport	-Ministry of Public Works and Transport. -State Secretariat for civil Aviation	Not yet regulated

## XII. OTHER SERVICES NOT INCLUDED ELSEWHERE

Institutional base for trade and economic relations with third countries.

Bilateral and Plurilateral Agreements Relating to Foreign Trade and Economic relations.

Since the establishment of the Royal Government of Cambodia in 1993, the Kingdom of Cambodia has concluded with 13 countries 24 agreements and memoranda of understanding relating to economic cooperation, foreign trade, promotion and protection of investment and intellectual property rights protection. (See table, below). Most of these agreements are with countries that are members of the World Trade Organization (WTO). Most provide for MFN and national treatment.

### BILATERAL TRADE AGREEMENTS

No.		Remarks
1	Trade Agreement between the Government of the Kingdom of Cambodia and the Government of the Republic of Indonesia, Phnom Penh, 18/09/1997.	MFN accorded with respect to customs duties and other taxes and duties applicable to trade between the two countries as agreed upon by them in the General Agreement on Tariff and Trade (GATT-1994).

No.		Remarks
2	Trade Agreement between the Government of the Kingdom of Cambodia and the Government of the People's Republic of China, Beijing, 19/07/1997.	MFN accorded with respect to customs duties and other taxes and duties as well as requirements and formalities of custom clearance.
3	Agreement between the Kingdom of Cambodia and the United States of America on Trade Relations and Intellectual Rights Protection, Washington DC, 04/10/1996.	MFN accorded to products in all matters relating to: (i) customs duties and charges of any kind imposed on importation and exportation, including the method of levying such duties and charges.(ii) method of payment. (iii) rules and formalities in connection with importation and exportation, including those relating to customs clearance, transit, warehouses and transshipment (iv) taxes and other internal charges of any kind applied directly or indirectly to imported products. (v) Laws, and Regulations affecting the sale, offering for sale, purchase, transportation, distribution, storage and use of products in the domestic market. Detailed provisions mirroring TRIPs on protection of intellectual property.
4	Agreement on Trade, Economic and Technical Cooperation between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand, Phnom Penh, 13/10/1996.	MFN accorded with respect to duties, taxes and other charges as well as customs formalities in connection with the importation and exportation of goods.
5	Memorandum on Economic and Trade Relations between the Royal Government of Cambodia and the Government of the Republic of the Philippines, 17/12/1995.	Closer cooperation in the economic and trade fields. MFN treatment is not mentioned.
6	Agreement between the Government of the Kingdom of Cambodia and the Government of the Russian Federation on Economic and Trade Relations, Moscow, 25/05/1995.	MFN accorded to products in respect to: (i) customs duties and other taxes and duties as well as requirements and formalities of customs clearance.(ii) rules and formalities related to transit, warehouse and transshipment.(iii) taxes and other charges applied directly or indirectly to imported products.(iv) laws, regulations and requirements affecting the sale, purchase, transportation, or distribution in the domestic market.
7	Agreement on Economic and Trade cooperation between the Royal Government of Cambodia and the Government of the Socialist Republic of Vietnam, 03/04/1994.	The contracting parties shall discuss and study the MFN principle so as to realize it effectively at a convenient time.
8	Trade Agreement between the Royal Government of Cambodia and the Government of Lao PDR, 12/05/1994.	MFN treatment is not mentioned.

No.		Remarks
9	Trade agreement between the Government of the Socialist Republic of Vietnam and The Royal Government of Cambodia, 24/3/1998.	Grants Most-Favored-Nation Treatment
10	Trade agreement between The Royal Government of Cambodia and The Government of Lao People Democratic Republic, 25/5/1998.	Grants Most-Favored-Nation Treatment
11	Agreement Relating to Trade in Cotton, Wool, Man-made Fibre, Non-Cotton Vegetable Fibre and Silk Blend Textile and Textile Products Between the Royal Government of Cambodia and the Government of the United States of America, 20/01/99	Most-Favored-Nation is mentioned with conditions.
12	Agreement between the European Community and the Kingdom of Cambodia on Trade in Textile Products, 03/02/99	Promotion of security for trade, the orderly and equitable development of trade in textile products
13	Trade agreement between the Royal Government of Cambodia and the Government of Malaysia, 04/02/99	Desirous of developing and strengthening trade and economic relations between the two countries on the basis of equality and mutual benefit. MFN is mentioned.

#### OTHER BILATERAL AGREEMENTS

No.	
1	Agreement between the Government of the Kingdom of Cambodia and the Government of the Republic of Korea for promotion and protection of Investment, Phnom Penh, 10 September 1997.
2	Memorandum of Mutual Cooperation on Intellectual Property between the Ministry of Commerce of the Kingdom of Cambodia and the Ministry of Commerce of the Kingdom of Thailand, Bangkok, 6 March 1997.
3	Agreement between the Government of the Kingdom of Cambodia and the Government of the Republic of Singapore on the promotion and protection of Investment, Phnom Penh, 4 November 1996.
4	Agreement between the Government of the Kingdom of Cambodia and the Swiss Confederation on the promotion and Reciprocal protection of Investment, Phnom Penh, 13 October 1996.
5	Agreement between the Government of the Kingdom of Cambodia and the Government of China on the promotion and protection of Investment, Beijing, 19 July 1996.
6	Agreement between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on the promotion and protection of Investment, Bangkok 29 March 1996.
7	Investment Incentive Agreement between the Royal Government of Cambodia and the Government of the United States of America, Phnom Penh, 4 August 1995.

8	Agreement between the Government of the Kingdom of Cambodia and the Government of the Russian Federation on Cultural and Scientific Cooperation, Moscow, 25 May 1995.
9	Agreement between the Government of the Kingdom of Cambodia and the Government of Malaysia on Economic, Scientific and Technical Cooperation, Kuala Lumpur, 17 August 1994.
10	Agreement on Transit of Goods between the Royal Government of Cambodia and the Government of the Socialist Republic of Vietnam, 3 April 1994.
11	Agreement on Transit of Goods between the Royal Government of Cambodia and the Government of Lao PDR, 12 May 1994.

#### Economic Integration: customs union and free-trade area agreements

The signing of the Paris Peace agreement in 1991 and the democratic elections in 1993 opened up the opportunity for Cambodia to rejoin the international community and participate in regional and multilateral institutions.

The Royal Government of Cambodia considers Cambodia's accession to the Association of South-East Asian Nations (ASEAN) is an important initial step towards the integration of Cambodia's economy into the regional economy, a step which should be followed by Cambodia's joining WTO and being fully integrated into the international trading system as a whole.

Cambodia obtained observer status in ASEAN in July 1995, and in April 1996 submitted an official application for membership. Since then, Cambodia has been preparing so that it can meet all requirements for joining ASEAN. Membership of ASEAN was obtained in 30 April 1999.

Joining ASEAN automatically implies accession to the ASEAN Free Trade Area (AFTA).

In this context, Cambodia will sign bilateral agreements with all ASEAN member-countries with which it does not yet have such agreements.

In order to prepare adequately for its membership of ASEAN, the Royal Government has set up and/or strengthened various in-country liaison, preparatory and coordination mechanisms such as the Internal Coordination Network headed by the Prime Minister, the ASEAN General Department at the Ministry of Foreign Affairs and International Cooperation (which functions as Cambodia's ASEAN National Secretariat), the ASEAN Departments at the Ministry of Economy and Finance and the Ministry of Commerce, and the ASEAN Units within other line ministries and agencies.

The ASEAN agreements acceded to by Cambodia upon its assumption of full membership are:

- (i) ASEAN Agreement on Customs, 01 March 1997
- (ii) Basic Agreement on the ASEAN Industrial Cooperation Scheme, 02 April 1996.
- (iii) Protocol on Dispute Settlement Mechanism, 20 November 1996.
- (iv) ASEAN Framework Agreement on Intellectual Property Cooperation, 1995.
- (v) ASEAN Framework Agreement on Services, 1995.
- (vi) Framework Agreement on Enhancing ASEAN Economic Cooperation, 1992.
- (vii) Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area, 28 January 1992.



- (viii) Agreement among the Government of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand for the Promotion and Protection of Investment, 1987.
- (ix) Agreement on the Preferential Short-listing of ASEAN Contractors, 1986.
- (x) Agreement on ASEAN Energy Cooperation, 1986.
- (xi) ASEAN Petroleum Security Agreement, 1980.
- (xii) Agreement on the ASEAN Food Security Reserve, 04 October 1979.
- (xiii) Agreement for the Facilitation of Search for Ships in Distress and Rescue of Survivors of Ship Accidents, 1975.
- (xiv) Agreement for the Facilitation of Search for Aircraft in Distress and Rescue of Survivors of Aircraft Accidents, 1972.
- (xv) Multilateral Agreement on Commercial Rights on Non-Scheduled Services Among ASEAN, 1997.
- (xvi) Agreement for the Promotion of Cooperation in Mass and Cultural Activities, 1969
- (xvii) Agreement on the establishment of a Fund for ASEAN, 1994
- (xviii) Agreement on the Recognition of Domestic Driving Licenses Issued by ASEAN Countries, 1985
- (xix) Agreement on the Conservation of Nature and Natural Resources, 1985
- (xx) Agreement on the Establishment of the ASEAN Centre for Energy, 1998
- (xxi) Protocol on Notification Procedures, 1998
- (xxii) Framework Agreement on the ASEAN Investment Area, 1998
- (xxiii) Agreement on the Recognition of Commercial Vehicle Inspection Certificates for Goods and Public Services Vehicles, 1998
- (xxiv) ASEAN Framework Agreement on the Facilitation of Goods in Transit, 1998
- (xxv) ASEAN Framework Agreement on Mutual Recognition Arrangements, 1998

3. Labour markets integration agreements.

Cambodia has not yet entered into any labour market integration agreements.

4. Accession to Multilateral Economic Organizations

Cambodia is a member of:

- International Bank for Reconstruction and Development.
- International Monetary Fund.
- Asian Development Bank.
- International Development Association.
- Multilateral Insurance Guarantee Agency.
- United Nation Development Program.
- United Nation Conference on Trade and Development.
- Food and Agriculture Organization.
- International Fund for Agricultural Development.
- International Civil Aviation Organization.
- World Intellectual Property Organization.
- International Standards Organization.
- World Health Organization.
- International Maritime Organization.
- International Telecommunications Union.
- United Nations Educational, Scientific and Cultural Organization.
- World Tourism Organization.

- Economic and Social Commission for Asia and the Pacific.
- Paris Convention for the Protection of Industrial Property Rights.

**ANNEX 7 B**

**COMMERCIAL REGISTRATION**

KINGDOM OF CAMBODIA  
Nation Religion King  
\*\*\*\*\*

Ministry of Commerce  
No. 360 BN>Bkb>snN>

Phnom Penh, December 3, 1997

**INSTRUCTIONAL CIRCULAR**  
on Commercial Registration at the Ministry of Commerce

In order to comply with the Commercial Registration Law which has been enacted by the National Assembly on May 3, 1995, and promulgated through Royal Kram (decree) No. 06595/04 dated June 26, 1995. The Ministry of Commerce is pleased to issue instructions with respect to registration of Sole Proprietorships (merchants) and Companies as follows:

**I. Commercial Activities**

"Commercial Activity" means any activity engaged in, or usually engaged in the purchasing, sales, leasing, production, and services with the goal of earning profits.

"Enterprise" means any form of Entity which conducts commercial activity and is recognized by the Law.

"Entity" means any natural or legal person.

**II. Forms of Commercial Enterprise**

The Commercial Enterprises which have been authorized to register at the Ministry of Commerce are the following forms:

1. Sole Proprietorship,
2. General Partnership,
3. Limited Partnership,
4. Private Limited Company,
5. Single Member Private Limited Company,
6. Public Limited Company,
7. Public Institution,
8. State Enterprise, and
9. Joint Venture.

- Sole Proprietorship

A Sole Proprietorship is an enterprise which is established and operated by a single natural person who is the owner of all of its capital. The operator of the Sole Proprietorship shall be called a Sole Proprietor.

The obligations and liabilities incurred in the operation of the Sole Proprietorship are the obligations and liabilities of the Sole Proprietor and thus are his/her sole and exclusive responsibility. The Sole Proprietorship is not required to have Articles of Incorporation and Bylaws for its existence. The Sole Proprietorship which is subject to taxation of its profits shall be registered at the Ministry of Commerce.

A Sole Proprietor may, at any time, subject to the applicable laws, terminate the operation of his Sole Proprietorship.

- General Partnership

A General Partnership is a contract between two or more entities who agree to conduct any commercial activity. Each member of the General Partnership shall be known as a Partner or General Partner. All General Partners must be merchants and the liabilities of Partners with respect to the Partnership's debts is joint and unlimited on their personal properties. Each General Partner may, at any time, transfer part or all of his share to other person with a unanimous consent of all General Partners.

Each General Partner is responsible for an arrangement of registration. The name of the General Partnership shall include the name of one or more of its General Partners. And the words "General Partnership" shall be placed after or below such name.

The dissolution of the General Partnership may occur by the express will of all General Partners or by a decision of the court in accordance with the provisions of applicable laws of the Kingdom of Cambodia.

- Limited Partnership

A Limited Partnership is a contract between two or more entities who agree to conduct any commercial activity. There shall be two types of members in Limited Partnership, the first type shall be known as a General Partner and the second type shall known as a Limited Partner.

A General Partner shall be a merchant and his/her liability with respect to the Partnership's debts is joint and unlimited on his/her personal property. The General Partner has the rights to participate in the management and control of the Partnership's business. A Limited Partner is liable for the Partnership's debts only to the amount of capital he/she contributed and he/she is not considered having the rights to participate in the management and control of the Partnership's business.

Every Limited Partnership is subject to commercial registration requirement, and this shall be done at the Ministry of Commerce.

The name of the Limited Partnership shall include the name of at least one of its General Partners, and the words "Limited Partnership" shall be placed after or below such name.

The dissolution of a Limited Partnership may occur by the express will of all General Partners or by a decision of the court in accordance with the provisions of applicable laws of the Kingdom of Cambodia.

- Private Limited Company

A Private Limited Company is a contract between two or more entities who agree to conduct any commercial activity. Such company may not have more than 30 shareholders. The shareholders who jointly own one share in the Private Limited Company shall be considered as one shareholder.

Any person can be a shareholder in the Private Limited Company and the liability of shareholders with respect to the Company's obligations is limited to the shares they contributed in the Private Limited Company.

The Private Limited Company shall be under the management and control of one or more directors who are shareholders or other third parties.

Each shareholder may, at any time, transfer part or all of his/her share to another shareholder in the Private Limited Company or to his/her family member, other persons, or a group of persons, who have kinship and financial interest in the Private Limited Company. However, the shareholder shall not offer to sell his/her share to the general public.

Every transfer of share in the Private Limited Company shall be made in accordance with the Articles of Incorporation and Bylaws of the Private Limited Company.

Every Private Limited Company is subject to commercial registration requirement, and this shall be done at the Ministry of Commerce. The words "Private Limited Company" shall be placed after or below the name of the Private Limited Company.

The dissolution of the Private Limited Company may occur by the express will of all shareholders or by a decision of the court in accordance with the provisions of applicable laws of the Kingdom of Cambodia.

- Single Member Private Limited Company

A Single Member Private Limited Company is a form of enterprise established by a unilateral will of a natural person known as a Single Proprietor. Such enterprise may also be formed by a dissolution of a Private Limited Company in which all of its shares have been collected by any one shareholder.

A Single Member Private Limited Company is a particular form of Private Limited Company containing only one shareholder. The liability of such shareholder with respect to the obligations and debts of a Single Member Private Limited Company is limited only to his/her capital in the Single Member Private Limited Company.

A shareholder of a Single Member Private Limited Company may have a position as director in the Single Member Private Limited Company. A third party may also be appointed to be a director of a Single Member Private Limited Company.

A shareholder of a Single Member Private Limited Company may, at any time, transfer part or all of his/her capital to another person. If all capitals were transferred to one natural person then it shall be considered having the same characteristics as a Single Member Private Limited Company. However, if part of its capital was transferred then its existence as a Single Member Private Limited Company is no longer exist.

Each Single Member Private Limited Company is subject to commercial registration requirement, and this shall be done at the Ministry of Commerce.

The words "Single Member Private Limited Company" shall be placed after or below the name of the Single Member Private Limited Company.

The dissolution of the Single Member Private Limited Company may occur by the express will of the Sole Proprietor or by a decision of the court in accordance with the provisions of applicable laws of the Kingdom of Cambodia.

- Public Limited Company

A Public Limited Company is a contract between one or more entities who agree to conduct any commercial activity. A Public Limited Company may have more than 30 shareholders and each shareholder is liable for the obligations and debts of the Public Limited Company only to the amount of his/her share in the company. The share certificate and other securities of the Public Limited Company may be offered to sell to the general public consistent with the provisions of the Law concerning stock market.

The Public Limited Company shall be under the management and control of a Board of Directors, containing at least two directors. The directors shall be elected among the shareholders or a third party appointed by the shareholders.

Each Public Limited Company is subject to commercial registration requirement, and this shall be done at the Ministry of Commerce.

The words "Public Limited Company" shall be placed after or below the name of the Public Limited Company.

The dissolution of the Public Limited Company may occur by the express will of all shareholders or by a decision of the court in accordance with the provisions of applicable laws of the Kingdom of Cambodia.

- Public Enterprise

\* Further to Article 2 of the Law Concerning the Common Statute of Public Enterprise:

A Public Enterprise is a form of enterprise in which all or most of its capital owned by the state. The Public Enterprise has its mission to motivate economic and social development, including to promote values of natural resource and create employment.

\* Further to article 3 of the Law Concerning the Common Statute of Public enterprise:

A Public Enterprise shall have the following forms:

- Public Commercial Institution,
- State Company,
- Joint Venture in which the state is directly or indirectly held more than 51 per cent of the company's capital or voting powers.

\* Further to Article 4 of the Law Concerning the Common Statute of the Public Enterprise:

The Public Enterprise is a legal entity which has its financial autonomy. The Board of Directors of the Public Enterprise, hereinafter is referred to as a Board of Directors, which is a supreme management body of the Public Enterprise, and will perform its functions in a exclusively autonomous manner. The Board of Directors shall not have more than seven members.

Unless the provisions of this law provided otherwise, the management of each Public Enterprise's businesses shall be conducted in compliance with the principles and procedures of the Business Organization Law.

- Representative Office-Agent

A Representative Office-Agent is an office which is opened and conducts particular commercial activity within the Kingdom of Cambodia, by an enterprise of another foreign country. The Representative Office-Agent shall be under the management of one or more directors who may be appointed and removed by the principal enterprise. The Representative Office-Agent may lease a premise for its office, employ local staff to advertise its products, organize trade faire introducing model of commercial products at its office or any trade faire site, and a Representative Office-Agent can conduct commercial relations for the purpose of introducing itself to clients.

The Representative Office-Agent can enter into a contract with a local enterprise in the Kingdom of Cambodia if the principal enterprise so authorized. However, the Representative Office-Agent may not purchase, sell, or conduct any services as its usual business or conduct any operation engaging in production, or construction within the Kingdom of Cambodia.

The Representative Office-Agent is subject to commercial registration requirement, and this shall be done at the Ministry of Commerce. The words "Representative Office-Agent" shall be placed after or before the name of the principal enterprise.

Dissolution of the Representative Office-Agent shall be subject to the decision of the principal enterprise.

- Branch of a Foreign Company

A Branch is an office which is opened and conducts commercial activity in the Kingdom of Cambodia by a company of a foreign country. A Branch shall be under the management and control of one or more directors who may be appointed and removed by the principal enterprise. A branch can conduct the same activities as the Representative Office-Agent. In addition, the Branch may purchase, sell, or conduct regular professional services, or other operations engaged in production or construction in the Kingdom of Cambodia. The liability with respect to losses and debts of a Branch is a joint liability of both the Branch and principal company.

The Branch is subject to commercial registration requirement, and this shall be done at the Ministry of Commerce. The word "Branch" shall be placed above or before the name of the principal company.

The Branch may be dissolved by the decision of the principal company.

- Subsidiary

A Subsidiary is a limited company which is formed in the Kingdom of Cambodia and at least 51 per cent of its capital held by a foreign company. The formation, management, rights, and other obligations of the Subsidiary shall be operated in accordance with the same procedures as provided for the limited company.

Each Subsidiary is subject to commercial registration requirement, and this shall be done at the Ministry of Commerce. The word "Subsidiary" shall be placed above or before the name of such Subsidiary.

The dissolution of the Subsidiary shall occur in the same procedure as provided for the limited company.

### III. Formality for Registration of Sole Proprietorship

A Sole Proprietorship, which is formed and subject to taxation of its profit, is required to register. The Sole Proprietor or proxy is liable for filing and registration at any provincial-municipal trade divisions or at the Legal Affair Division of the Ministry of Commerce.

The documents required to present to the Registrar shall include:

- |    |  |          |
|----|--|----------|
| 1. | Registration Application Form  | 2 copies |
| 2. | Copy of Licence Certificate, if any  | 2 copies |
| 3. | Copy of identification card or Passport  | 2 copies |
| 4. | Photo 4 x 6 cm   | 2 copies |
| 5. | Copy of residence title of enterprise location or lease agreement of enterprise location | 2 copies |

A Sole Proprietor must present the registrar his/her original identification card or passport. When the specified documents were sufficient the registrars of provincial-municipal trade divisions or at the Ministry of Commerce shall enroll the Sole Proprietorship in the commercial register and notify the applicant within one month from the date of receiving such documents.

Any Sole Proprietorship which is formed and engaged in activity for earning profit, but failed to register, it shall be deemed conducting illegal activity and this will cause the Sole Proprietor to be liable for the penalties according to Articles 39 to 45 of the Commercial Registration Law.

### IV. Formalities for Limited Company Registration

#### 1. Drafting of Articles of Association and Statement of Conformity

Memorandum and Articles of Associations:

The Memorandum and Articles of Association is a contract of Limited Company. This is a necessary written contract which safeguard the rules concerning the functioning and mutual obligations which have been agreed upon among the shareholders.

The Memorandum and Articles of Association shall be prepared base on the form of each company and consistent with the rules of applicable laws. The Memorandum and Articles of Association shall be made in multiple original copies as required, and at least four of original copies (1 copy filing at the registered office of a company, 2 copies filing at the Legal Affairs Division of the Ministry of Commerce, and another copy for stamp).

On each page of Memorandum and Articles of Association shall be paginated and with initials of all shareholders or at least the initials of the founding shareholders or all directors (for a Public Limited Company). A mention " Having read and agreed" must be included at the end of the Memorandum and Articles of Association together with the signatures and handwritten names of all shareholders or at least the signatures and handwritten names of all founding shareholders or directors (for a Public Limited Company). The location, date, and recording number of Memorandum and Articles of Association shall be included herewith.

The Memorandum and Articles of Association must include:



A Name of the Company: Such name must be in Khmer language and be placed above and in bigger size than other languages, if any. The translation of a meaning of the name from one language to another is prohibited.

Khmer language must be used on all letters, documents, and a company's seal used on all marks authorized by the company in the Kingdom of Cambodia and public advertisements displayed along the road or on land, water, and in the air in the Kingdom of Cambodia. Any use of second language with Khmer one must comply with the above provisions of this section A. The form of the company, date, registration number, and the place of registration must be stated and placed after or below the name of the company.

B. Address of its original registered office which located in the Kingdom of Cambodia together with the address and name of applicant. The applicant must be a natural person who is or over 18 years of age and is legally competent.

C. Business objectives of the company. Such objectives may contain several types of lawful business, provided that such commercial purpose is not inconsistent with or prohibited by the provisions of any laws.

Even though the Memorandum and Articles of Association stated any specific objectives, the company must have prior authorization from the Ministry of Commerce or institution governing that business before operating such transactions.

D. Stated capital of the company. The stated capital shall be calculated in national currency. The Memorandum and Articles of Association must state the total amount of capital and the total of shares the company issued and price of each par value share. The company must deposit at least 25 per cent of its stated capital, upon registration, in any (authorized) bank in the Kingdom of Cambodia.

The Limited Company shall be deemed to be of Khmer nationality if:

1. Its stated office of origin located in the Kingdom of Cambodia,
2. More than 51 per cent of its stated capital is held by a Khmer citizen, and
3. More than 51 per cent of its financial interests in the profits and losses are held by a Khmer citizen.

Part or all of financial interests of the shareholder in the Limited Company may be, at any time, transferred to other shareholder or third party.

E. Name, occupation, nationality, mailing address, or residence of each shareholder. Limit of liabilities of each shareholder with respect to the company's obligations and debts. Each director and shareholder must provide the company a current address, phone or fax number for keeping on file. Failure to do so, such director or shareholder cannot make any claim against the company if he/she did not receive any notice from the company.

F. A description about the rights of the founding shareholder, director, or officials, and management procedures. The Limited Company shall be under the management and control of one or more directors. Both of the natural person of Khmer nationality and foreigner who have a residence in the Kingdom of Cambodia can serve as a director or chairman of the Board of Directors without any restriction to number of company.

The director or chairman of the Board of Directors shall be elected among the shareholders or any other third party. At least 30 per cent of the directors in the Board of Directors must be Khmer nationality.

- Statement of Conformity

A Statement of Conformity is a statement made by all shareholders of a Limited Company claiming that the company has properly complied with the formation procedure and other requirements under the provisions of the law.

The Statement of Conformity shall be drafted and served as a supplementary document to other files required when applying for a registration.

Such Statement shall be made, at least three copies, signed by all shareholders (and shall be signed by all directors who are not shareholders, if any). One copy of the Statement of Conformity shall be kept on file at the company's office and other two shall be attached to the registration application form.

If necessary, a shareholder may assign his/her rights to another shareholder to be a proxy in order to sign such Statement on behalf of him/her. A shareholder may have the right to sign for only another one shareholder.

If the Statement of Conformity was not attached herewith, the registration application form will not be acceptable. This shall deprive the company from having legal personality and thus it may not operate such business.

The Statement of Conformity shall be renewed if an amendment was made to the Articles of Association, but such new statement shall be deemed complete when one of the directors has signed it.

2. Publication of Memorandum and Articles of Association

The publication of the Memorandum and Articles of Association shall be made by a notary, a director, or proxy of the company.

There are two ways of publication as the following:

- Publication in the Newspaper, and
- Publication by filing with the Ministry of Commerce.

A. Publication in the Newspaper

A director, shareholder, or proxy, who received an actual mandate, shall prepare an application for publication in a newspaper which is recognized by the state. The application shall be signed by such a director, shareholder, or proxy.

Contents to be publicized in the newspaper shall include:

- Name of the company (and abbreviation, if any),
- Form of the company,
- Summary of business objectives,
- Office address,
- Term of the company,
- Total capital in cash: .....per share: ..... Par value of share: .....

If the company has both cash and in kind capitals, it must specify:

- Total capital in cash: .....
- Total of in-kind capital estimated in cash: .....  
(and a brief description of such n-kind capital)
- Name and family name, occupation, nationality, address of a director (and name and family name, occupation, nationality, and address of an auditor, if any)
- The location where the company to be registered.

The confirmed approval of the newspaper and application document shall be kept on file (at least two copies) to serve as supplementary file when applying for registration.

#### B. Publication by filing with the Ministry of Commerce

All letters and documents related to the formation of the company shall be filed with the Legal Affairs Division of the Ministry of Commerce upon the registration.

The letters/documents to be presented to the Registrar at the Ministry of Commerce shall include the following:

- |    |   |            |
|----|---|------------|
| 1. | Registration Application Form   | 2 copies   |
| 2. | Memorandum and Articles of Association  | 2 -        |
| 3. | Statement of Conformity   | 2 -        |
| 4. | Application for Publication in the Newspaper  | 2 -        |
| 5. | Copies of identification card or passport of directors and shareholders   | 2 pcs each |
| 6. | Photos (4cm x 6cm) of directors and shareholders  | 2 -        |
| 7. | Declaration of non-guilty of directors  | 2 copies   |
| 8. | Decision of share contribution (if a natural person participated)   | 2 -        |
| 9. | * If the office located in the residence of any shareholder, the company shall provide:<br>Certificate of estate title (title of residence)                     | 2 -        |
|    | * If the office located in a hotel for a period of less than one year, the company shall provide:<br>Certificate of lease agreement (issued by the hotel owner) | 2 -        |

#### 3. Registration to the Commercial Register

The required documents shall be filed, when applying for registration, by a director or shareholder. The director or shareholder responsible for registration is required to present his/her identification card or passport to the registrar at the Ministry of Commerce.

When the specified documents were complete a registrar of provincial-municipal trade divisions or at the Ministry of Commerce shall enrol the company in the commercial register and notify the applicant within one month from a date of receiving such documents.

The company has a legal personality and may conduct its commercial activities when it has been registered.

Any company which is formed, conducting activity in the purpose of earning profit, but failed to meet the registration requirement, shall be considered conducting illegal activity and this will cause its managers to be liable for the penalties according to Articles 39 to 45 of the Commercial Registration Law.

4. Amendment of the Memorandum and Articles and Dissolution

a) Amendment of the Memorandum and Articles

During the course of conducting business the company may, at any time, amend its Memorandum and Articles of Association. Usually, such amendment may be made with respect to: Change of company's name; increase, decrease or change of business objectives; change the registered office; removal or nomination of directors; transfer of share; increase or decrease its capital; change the quorum or majority vote at the general meeting etc.

b) Cessation of Doing Business and Dissolution

The company may cease its business, if it considers necessary. It may also resume such business when it has appropriate capacity to do so.

c) Every amendment to the Memorandum and Articles of Association, cessation, and dissolution shall be decided by the decision of the general meeting of the shareholders. The Board of Directors, with a majority of directors, may call the meeting of the shareholders. Otherwise, the votes of shareholders representing a majority in the capital have the rights to call and conduct a meeting of shareholders.

A written notice of meeting of shareholders shall be delivered to each shareholder entitled to vote at least twenty (20) days prior to the meeting and a draft proposal for amendment, cessation or dissolution must be enclosed to such notice.

The quorum of the shareholders' meeting is subject to the presence of the shareholders representing at least more than half (1/2) of voting power of shareholders in the total capital of the company. The votes of attending shareholders who represent a majority (51 per cent + 1) of the company's capital shall decide all matters in this meeting.

In case the first meeting does not have enough votes for a quorum to hold the meeting as provided above, at least fifteen (15) days later the second meeting shall be called. The quorum of the second meeting shall require at least one-third of the voting powers of all attending shareholders. The votes of attending shareholders who represent a majority (51 per cent + 1) of the company's capital shall decide (all matters?) in the second meeting.

\* All documents concerning amendment, cessation of doing business, and dissolution must be specified the dates and important matters to be decided in the meeting. Every amendment, cessation of doing business, and dissolution must be publicized and all documents and decisions of amendment related to the facts previously listed in the commercial registry shall be filed.

\* The company is subject to file its annual report at the Ministry of Commerce at the end of each fiscal year. If the company failed to do so, the registrar shall notify the company to file such report within the period of no longer than sixty (60) days from the date of notification. In case of ignorance or delay to so file within the prescribed duration, the (manager) of the company will be responsible for the fine penalty according to the case decided by the Ministry of Commerce.

5. Penalties

Failure to comply with the formation, publication, filing, and registration procedures specified above will cause a nullification by a cancellation such commercial company from the commercial registry and its manager shall be sued to the court in accordance with Articles 39 through 45 of the Commercial Registration Law.

V. Post-Company Creation Formalities

The company has full legal personality to conduct its business, after it has been registered. However, before the opening of its office and operation of particular activities dealing with industrial, handicrafts, publication, construction, mining, health, tourism, hotel, and restaurant etc. the company must have a prior and official permission from the competent ministry or institution governing such business.

VI. Final Provisions

This instructional circular is enforceable and effective from the date of signature.

In order to achieve a high efficiency, the General Directions and Legal Affairs Division have the obligations to enforce and promote an application of this instructional circular in a diligent manner.

In the spirit of cooperation, all General Directions and Divisions under the Ministry of Commerce shall enforce this circular in a high consideration.

Minister

Signature and seal

CHAM Prasidh

CC:

- The General Secretariat of the National Assembly
- The Council of Ministers
- The Cambodian Development Council
- All Ministries and Departments of the State
- All Provincial and Municipal Offices
- As stipulated in the Final Provisions
- Chorine file

KINGDOM OF CAMBODIA  
Nation Religion King  
\*\*\*\*\*

Ministry of Commerce  
No. 3289 BN>Bkb>kn>

Phnom Penh, December 3, 1997

ANNOUNCEMENT  
ON  
COMMERCIAL REGISTRATION  
\*\*\*\*\*

THE MINISTRY OF COMMERCE

is pleased to inform the general public and all merchants that:

I. A Commercial Enterprise which is authorized to register in the commercial registry shall include:

1. Sole Proprietorship,
2. General Partnership,
3. Limited Partnership,
4. Private Limited Company,
5. Single Member Private Limited Company,
6. Public Limited Company,
7. Public Institution,
8. State Enterprise, and
9. Joint Venture.

II. Formality for Commercial Registration:

1. Formality for Registration of Sole Proprietorship (merchants)

A Sole Proprietor (merchant) who owns all capital in the Sole Proprietorship or a proxy (assignee) must come to complete a form for registration at the provincial-municipal trade divisions or at the Legal Affairs Division of the Ministry of Commerce. The Sole Proprietor must present his/her identification card or passport to the registrar. In the case an applicant is a proxy, he/she must present his/her identification card or passport and a letter of attorney which the assignor authorized him to be a proxy.

Documents to be submitted for the registration may include:

- |    |  |          |
|----|--|----------|
| 1. | Registration Application Form  | 2 copies |
| 2. | Copy of Licence Certificate, if any  | 2 -      |
| 3. | Copy of identification card or passport  | 2 -      |
| 4. | Photo 4cm x 6 cm   | 2 -      |
| 5. | Copy of residence title of enterprise location or lease agreement of enterprise location | 2 -      |

## 2. Formality for Registration of a Company

A director or shareholder of a company must come to complete a registration form, in person, at the Legal Affairs Division of the Ministry of Commerce.

The director or shareholder responsible for such registration must present the registrar his/her identification card or passport. Such director or shareholder must come to sign, in person, in front of an official at the Legal Affairs Division, confirming that all documents to be filed are correct, complete, and no false representation.

If the ambiguity was found in any letter or document, the director of the Legal Affairs Division shall invite the chairman of the Board of Director or any director to make a clarification and such ambiguity shall be settled case by case.

Documents to be submitted for registration may include:

- |     |   |                     |
|-----|---|---------------------|
| 1.  | Registration Application Form   | 2 copies            |
| 2.  | Memorandum and Articles of Association  | 2 -                 |
| 3.  | Statement of Conformity   | 2 -                 |
| 4.  | Application for Publication in the Newspaper  | 2 -                 |
| 5.  | Copies of identification card or passport of directors<br>shareholders  | 2 pcs each          |
| 6.  | Photos (4cm x 6cm) of directors and shareholders  | 2 -                 |
| 7.  | Declaration non-guilty of director  | 2 copies            |
| 8.  | Decision of share contribution (if a natural person<br>participated)  | 2 -                 |
| 9.  | * If the office located in a residence of any shareholder,<br>the company is required to provide:   |                     |
| 10. | Certificate of estate title (title of residence)<br>* If the office located in a leased premise the company<br>is required to provide:<br>Lease agreement | 2 -<br><br>2 copies |
| 11. | * If the office located in a hotel for a period of less than<br>one year, the company is required to provide:   |                     |
| 12. | Certificate of lease agreement (issued by the hotel owner)  | 2 -                 |

## 3. Formality for Registration of a Public Enterprise:

A director or shareholder of a company must come to complete a registration form, in person, at the Legal Affairs Division of the Ministry of Commerce.

The director or shareholder responsible for such registration must present the Registrar his/her identification card or passport. Such director or shareholder must come to sign, in person, in front of an official at the Legal Affairs Division, confirming that all documents to be filed are correct, complete, and no false representation.

If the ambiguity was found in any letter or document, the director of the Legal Affairs Division shall call the chairman of the Board of Director or any director to clarify and such ambiguity shall be settled case by case.

Documents to be submitted for registration may include:

- |    |                               |          |
|----|-------------------------------|----------|
| 1. | Registration Application Form | 2 copies |
|----|-------------------------------|----------|

2.	Memorandum and Articles of Association	2 -
3.	Statement of Conformity	2 -
4.	Application for Publication in the Newspaper	2 -
5.	Copy of identification card or passport of directors and shareholders	2 pcs each
6.	Photos (4cm x 6cm) of directors and shareholders	2 -
7.	Declaration of non-guilty of director	2 copies
8.	* If the office located in the residence of any shareholder, the company is required to provide: Certificate of estate title (title of residence)	2 -
	* If the office located in leased premise, the company is required to provide: Lease agreement	2 -
	* If the office located in a hotel for a period of less than one year, the company is required to provide: Certificate of lease agreement (issued by the hotel owner)	2 -

#### 4. Formality for Registration of Representative Office-Agent and Branch of Foreign Company

A director of a Representative Office-Agent, a Branch, or proxy must come to complete a registration form, in person, for its office in the Kingdom of Cambodia at the Legal Affairs Division of the Ministry of Commerce.

The director or proxy who is responsible for such registration must present the Registrar his/her identification card or passport. Such director or shareholder must come to sign, in person, in front of an official at the Legal Affairs Division, confirming that all documents to be filed are correct, complete, and no false representation.

If the ambiguity was found in any letter or document, the director of the Legal Affairs Division shall invite the chairman of the Board of Director or any director to clarify and such ambiguity shall be settled case by case.

Documents to be submitted for registration may include:

1.	Registration Application Form	2 copies
2.	Memorandum and Articles of Association of a principal company "with a legally valid certificate"	2 -
3.	Copy of Certificate of registration of a principal company "with a legally valid certificate"	2 -
4.	Letter nominating a director/agent of a Representative Office-Agent or Branch	2 -
5.	Copies of identification card or passport of directors or agent	2 pcs each
6.	Photos (4cm x 6cm) of directors or agent	2 -
7.	* If the office located in a residence of a director, agent such office or branch is required to provide: Certificate of estate title (title of residence)	2 -
	* If the office located in leased premise, such office or Branch is required to provide: Lease agreement	2 -



- \* If the office located in a hotel for a period of less than one year, such office or branch is required to provide:  
Certificate of lease agreement (issued by the hotel owner) 2 -

Minister

Signature and Seal

CHAM Prasidh

## ANNEX 8

### IMPORT AND EXPORT LICENSES, CERTIFICATES OF ORIGIN AND REGISTRATION OF TRADE MARKS

KINGDOM OF CAMBODIA  
NATION - RELIGION - KING

Ministry of commerce  
N 2211

#### VI. ANNOUNCEMENT

In order to effectively implement the secularation N 339 dated 29 December 1998 of the Ministry of commerce, the Ministry of Commerce hereby. Issue the following instruction:

#### I. Application for Import, Export licenses.

##### 1. The Required Documents:

- Application form (except, round log, sawn timber and restricted goods)
- Commercial contract with foreign company or commercial invoice.

##### 2. Licence

- Division of Import, Export affairs, responsible for issuing licence to the commercial companies after completely review all document required.
- For any approval in principle importer permit to apply for licence several time but it will be unvalited after 12 month.

##### 3. Validity of a licence

- For import licence the validity is 3 months. However, Its allowed to extend for another 2 months in the case of second extending validity licence is required.

It shall be subject to the authorization of the Minister of Commerce with the reasonable reason

- For export licence, the validity is 2 months, however, it's allowed to extend for another 45 days. In the case of second extending validity of licence is required it shall be subjected to the authorization of the Minister of Commerce with the reasonable reason.

- There are two categories of licence extending validity requirement.

##### a. Unused Licence

-The company shall attach 4 copies of licence include 3copies of original copy and 1 copy of duplicate copy

##### b. Using Licence

-The company shall attach the written declaration on the back sheet of licence of the custom officer at the crossing border checking point or at custom head quarter.

##### 4. Licence fee

Licence fee is 15.000 Riels (Cambodian currency) new licence

A. II. APPLICATION FOR CERTIFICATE OF ORIGIN

1. Documents required for registration

- Application form (1copy)
- Registration form (1 copy)
- Approval declaration of Cambodian development Council (CDC) or Registered Certificate is issued by the Ministry of Commerce (1 copy)
- Approval declaration of Ministry of Industry (1copy)
- List of Raw material and Machinery (1 copy)
- Map of location of industry
- Products design with a strip of cloth
- Copy of passport, or I.O card and Photo

2. Document Required for issuing C.O

- Application form
- Certificate of production of Ministry of industry
- Commercial invoice
- Merchandise manifest
- Commercial contract

3. Certificate of Origin fees

- There are two categories of certificate of origin
- 30 USD for C/O normal form
- 50 USD for C/O form A

**III. Registration of Trade Mark**

1. Document Requirement

- Application form
  - Letter of power attorney to agent of lawyer or notary public or representative for registration Trade Mark or Service Mark in the Kingdom of Cambodia
  - 15 specimens of Mark
  - Mark 5
- After a complete review of the required documents, the Division of Trade Mark of the Ministry of Commerce issues Certificate of Acknowledgement and Registration of Trade Mark or Service Mark

2. Trade Mark Processing fees :

- 50 USD for registration fee for each certificate
- 50 USD for publication fee

IV. Commercial Registration and Company

The trading company which have been authorized to register at the Ministry of Commerce are the following form":

- a. Sole Proprietorship,

- b. General Partnership,
  - c. Limited Partnership,
  - d. Private Limited Company,
  - e. Single Member Private Limited Company,
  - f. Public Limited Company,
  - g. Public Institution,
  - h. State Enterprise, and
  - i. Joint Venture.
2. Documents to be submitted for registration may include:
- a. Registration Application Form 2 copies
  - b. Memorandum and Articles of Association 2
  - c. Statement of Conformity 2 -
  - d. Application for Publication in the Newspaper 2 -
  - e. Copies of identification card or passport of directors  
shareholders 2 pcs each
  - f. Photos (4cm x 6cm) of directors and shareholders 2 -
  - g. Declaration non-guilty of director 2 copies
  - h. Decision of share contribution (if a natural person  
participated) 2 -
  - i. \* If the office located in a residence of any shareholder,  
the company is required to provide:  
Certificate of estate title (title of residence) 2 -  
\* If the office located in a leased premise the company  
is required to provide:  
Lease agreement 2 copies  
\* If the office located in a hotel for a period of less than  
one year, the company is required to provide:  
Certificate of lease agreement (issued by the hotel owner) 2 -
  - j. Certificate of Deposit capital in the authorized bank  
The required documents shall be filed when applying  
for registration by director or shareholder. The  
director or shareholder responsible for registration is  
required to present his/her identification card or  
passport to the registrar at the Ministry of Commerce
3. Registration fees is 260,000 Riels (Cambodian currency)
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