Table of Contents

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Forward

Now we are living in a world full of competition. We cannot stop the strong wave of regionalization and globalization. The impact of globalization on Cambodia is not a matter of simple statistics and reports. It is, in essence, a careful analysis to assess its pluses and minuses on Cambodia as a whole. Globalization consists of social, economic and political adjustments that people may embrace to symbolize their culture and incorporate it with the world. It is a concept that has its economic, social and political roots and consequences.

Cambodia's intention to be a member of the World Trade Organization creates debates, studies and concerns from many Cambodians. Accession to the WTO was one of the priorities in the Royal Government's political agenda. It is generally accepted that integration into the world economy will benefit Cambodians in many fields including improvement of good governance, boosting local entrepreneurship and productivity. Therefore, it will help alleviate poverty and develop economy.

Experiencing a long civil war and international isolation, Cambodia is trying very hard to play an important role in the world community as we are already member in various regional and international bodies including ASEAN and now in the WTO. Though there are many opportunities when Cambodia is the WTO member, some challenges are lying ahead of us.

Though the government is very positive to the integration to the global economy, some of Cambodians including private sector are very worried about more competition that Cambodia is difficult to win. Therefore, Cambodia membership in the WTO creates many scepticisms and debates among population. There is still lack of information about the WTO and its impacts to the Cambodia both socially and economically.

As an independent and non-governmental think tank, CICP has coordinated in organizing forums and debates related to regional and international cooperation and development issues including the impacts of the WTO. We organized a Public Forum on "Cambodia' Membership in World Trade Organization" held in the Government Palace, Phnom Penh, 21-22 August 2002. About 300 participants from Government, donor community, private sector and civil society actively participated in the Forum. Some foreign experts also invited to share their ideas.

This book is based on selected papers presented in the Forum while Cambodia was preparing and negotiating for the WTO membership. It will be useful for us to know about Cambodia and the WTO. Therefore, this book will be used as a reference material for those who are interested in the WTO. It will also help promote awareness and new knowledge on trade policy, economic strategy and future direction for Cambodia to reap a maximum benefit from the WTO.

We are pleased to welcome any comments and criticism from our readers so that our publication will be better. We are sorry for being delayed in publishing the book.

Phnom Penh, June 2005
Norodom Sirivudh
Chairman of Board of Directors
Cambodian Institute for Cooperation and Peace

Introduction: Cambodia and WTO

By Chap Sotharith
Executive Director, Cambodian Institute for Cooperation and Peace

Background

Cambodia had embarked on a process of fundamental political and economic reforms since the adoption of a new Constitution in 1993, which had restored the constitutional monarchy in the country. However, Cambodia still challenges with the destruction as the aftermath of the Khmer Rouge time. Cambodia heavily suffered by two decades of armed conflict, which had resulted in huge losses of infrastructure and human lives. The lack of skilled manpower remained a major obstacle on Cambodia's way to economic development.

The Royal Government of Cambodia, in its second mandate, had developed a "triangle strategy", aimed at restoring peace, ensuring sustainable development, and integrating Cambodia into the world community. Reforms had been implemented simultaneously in many areas, including administrative reform; legal and judicial reform; financial reform and military reform. With a strong political commitment and participation from all stakeholders, Cambodia had joined the Association of South-East Asian Nations (ASEAN) in April 1999 completing a target of regional integration.

Accession to the WTO was one of the highest priorities of the Royal Government of Cambodia. Closer integration into the world economy was seen as a powerful instrument to alleviate poverty and the main driving force for socio-economic development. In reforming its trade system, the Government had paid particular attention to aligning its policies and practices to WTO rules, especially the principles of MFN and national treatment. A tariff nomenclature based on the 1996 Harmonized System had been put in place, and numerous laws had been drafted and adopted to ensure compliance with WTO regulations.

Scepticism

Implementation of WTO rules was, however, a lengthy and difficult process. In view of the difficulties Cambodia was facing, and bearing in mind Cambodia's status as a least-developed economy, the representative of Cambodia during the negotiation, called on members of the Working Party to be flexible in the negotiations to establish Cambodia's WTO commitments and to extend special and differential treatment as foreseen in the provisions of the WTO Agreements regarding least-developed countries (LDCs).

But maximizing the benefit from being member of WTO is not an easy task. Gaining the benefits of market access will require substantial reforms, which go far beyond what Cambodia' has committed during its negotiations. Cambodian local producers face a number of impediments beyond tariffs that tend to undermine the benefits of market access. Take the example of rice, the nation's most abundant crop. How can the farmer sell his rice to the international markets if the local miller has no access to working capital, pays five times the regional average for electricity, has no tertiary roads with which to reach markets, and must deal with overlapping inspections and unofficial fees at the port? To truly impact poverty, reforms need to be carried out throughout the value chain and inside the border. Trade policy is an important first step to support the market access.

Cambodia is a small economy in the region with limited production base. The country imports more than its exports. The trade deficit has been around from $300 to $600 million per year. The country, according to many analysts, is not yet well prepared for the competition in the world trade. Though Cambodia is now the member of the WTO with 147 countries as its markets, how to reach all those markets are still uncertain.

As a poor country based on agriculture with only garment as majority of export product, the member of WTO will more or less create impacts to the country. Though the government is very positive to the integration to the global economy, some of Cambodians including private sector and civil society are very worried about more competition that Cambodia is difficult to win.

Negotiation to be WTO member is one step. Implementation to WTO rules is another complicated step. Cambodians in all walks of lives should work hard and join effort together to reduce as much as possible the negative impact and to reap the maximum benefit in the world trade regime.

WTO Membership

The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business. The WTO has following Functions:

- Administering WTO trade agreements
- Forum for trade negotiations
- Handling trade disputes
- Monitoring national trade policies
- Technical assistance and training for developing countries
- Cooperation with other international organizations

Cambodia submitted, on 22 July 2003, its acceptance of the terms and conditions of membership set out in the Accession Protocol which was approved by the Ministerial Conference on

11 September 2003 and signed by Cambodia subject to ratification. Cambodia became the 148th member of the WTO on 13 October 2004. Cambodia is the second LDC to join the WTO through the full working party negotiation process.

The Debate of Cost for Cambodia in WTO

Cambodia will bear some costs after accession from loss of revenue resulting from tariff cut. The other substantial costs will be payment for participation in meetings, negotiations, and new institutions for managing the WTO affairs will be also.

Some has criticized Cambodia for strong commitment in openness for exchange of the membership during the negotiation. Cambodia is already obligated through its membership of the ASEAN Free Trade Area (AFTA) to remove most import tariffs by 2015, but will have to implement much of this package earlier to meet the WTO requirements. It will be unable to levy duty on agricultural goods, the main income source for 80 percent of the population, above 60 percent. In contrast, European Union farm tariffs range up to 252 percent, the US levies a maximum of 121 percent and Canada 120 percent.[1]

Additionally, Cambodia was unable to take advantage of the Doha concession on intellectual property rights, under which LDCs were to be allowed to wait until 2016 before complying with aspects of the Trade Related to Intellectual Property Rights (TRIPS) protocol. Cambodia will have to comply by 2007. But in practical terms, some elements of TRIPS - especially those relating to data protection and generic forms of pharmaceuticals - will take effect immediately after Cambodia take up their seats. Even existing members were allowed a 10-year wait.

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[1] Alan Boyd (2003) The heavy price of WTO membership http://www.atimes.com/atimes/Southeast_Asia/EI30Ae02.html accessed on 30 Sep 2003

Followings are selected papers that our honourable presenters delivered during the two day Public Forum on Cambodia' Membership in the WTO held in Phnom Penh, 21-22 August 2002.

Cambodia's Membership in the World Trade Organization (WTO): Advantages and Disadvantages

by Suos Someth
Ambassador Extraordinary and Plenipotentiary, Permanent Representative to UN, WTO and other international organizations, Geneva

I am honoured and happy to be back in Phnom Penh today among all distinguished personalities present at this very important forum to exchange views and information on Cambodia's quest to be member of WTO. I am grateful for the CICP and FES for bringing me here to share my views as well as to know yours because together we could help build a prosperous Cambodia, at least at par with neighbouring countries in not too distant future. Under the present circumstance, I strongly believe that Cambodia can do.

I have shared on several occasions through the press and other forums, prior to my departure to represent Cambodia at WTO, the information about this organization and my views as to why Cambodia should joint this rule based institution that is WTO. This forum provides another good opportunity to disseminate views and reasons underlying the implications on development when Cambodia becomes member of WTO, particularly on finance, local industries, export markets, imports, and employment and of course on the national policy for poverty alleviation. These concerns are not easy to answer, but they are the challenges that the Government decided to take and take them with strong commitment to integrate trade with development.

Before I get into the hot topics as briefly mentioned above, please allow me to mention some of WTO's features even at the risk of repeating them for those for know this organization. The WTO was established on 1 January 1995 as the result of the Uruguay Round Negotiations (1986-94). The WTO is made up of 144 member countries at present with the People's Republic of China and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu being the last new members, and operates on a basis of consensus. This means that all members are equal under the rules and have veto power. WTO agreements are negotiated by ambassadors representing their respective countries but before the agreements become effective, they are subjected to the government and parliament approval as required. WTO policy and direction are reviewed very two years at a Ministerial Conference. Its functions could therefore be summarised as follows: administering WTO trade agreements; serving as forum for trade negotiations; handling trade disputes; monitoring national trade policies; providing technical assistance and training for developing countries; and coordinating these with other international organizations.

At the outset, let me now turn very quickly to clear the most important question that puzzles some in the public as to why should Cambodia join WTO.? A short answer could be put this way: "WTO provide means, not instant wealth – but advantages are there" This is what Mr. Bala Chandran quoted me in his Business News of 22 October 2001 when I was interviewed on this subject. This view is notably similar with that of the incoming Director General of WTO, Dr. Supachai Panitchpakdi who said at a conference in Bangkok on 31 July 2002 that the WTO can not make trade "a full, usable instrument for development but we will be part of the process to render trade more friendly to our developmental efforts to make trade more related to employment creation". Let me expand this view. In the world of international economy or globalisation as it is commonly referred to today, the economic interdependence among nations is increasing on a global scale. International trade plays an increasing role in development; and when we speak of trade we talk about the private sector. I strongly believe that this sector is the real engine of growth as it is recognized by governments and organizations the world over. The question is: what are actions or policies to help promote this sector? This is where I feel that Cambodia can not stand outside of the arena of the market economy, for wealth is not created by watching others who work but by actively doing and competing in the work itself. It is like running in a marathon; we want to be the winner, but if we could not fully succeed we should be happy to have run together for 42 kilometers and gained the distance. And so, in simple example I submit this analysis. Yet, it should be remembered that it is a competition under prescribed rules which the players must know while applying their own discipline and ownership. It is this self discipline that constitutes the core success while being member of WTO as the WTO can not brings success to a member state. ! Here again, I should quote Dr.Supachai who said at the same conference that " poorer countries have to conduct their own internal policies in a way that they serve to enhance external competitiveness and build institutions that promote free trade". It is said that the biggest risk for the poorest developing countries does not come from the potential losses that globalisation or market opening may pose, but the exclusion from the opportunity for growth.

I have no doubt that these views are shared by most, if not all, those governments civil and business societies who see the benefits of trade and its "invisible hand" as the great economist Mr. Adam Smith put it. And so, there are currently 28 countries in the race to become members of WTO. Among them I feel that Cambodia is at the entrance door of this house of rules. Here, I would like to pay tribute to the ever tremendous effort by the leadership of the Ministry of Commerce with the group of dedicated staff. In Geneva, this volunteered servant and the recently joined three staff spare no effort at bringing Cambodia into WTO at the earliest. What we have achieved in our work are praised by many in this big international community where talks or discussions about Cambodia, be it in Geneva, at Doha or Monterrey recognized the efficiency and the accomplishments in our preparation to be member of WTO. No longer asked are questions on the usual turbulent past political history of the killing field and fighting. We have helped to close that grim chapter. A proud success is the completion of the "Integrated Framework" that Cambodia is now sought after by countries and institutions for advisory assistance.

So the march forward is here and with your help, let us keep the momentum as we are preparing for the third round of negotiations in mid-October 2002

As this is one of the most important public forums on WTO, I would like to give a quick reference on Cambodia's accession process.

After reforming its economy from a centralized planning to a free market economy, the Cambodian government recognizes that globalization would open an opportunity for fair competition in international trade. As such competition is carried out under established international laws and rules. Therefore, on 19 October 1994 Cambodia made an application for the World Trade Organization membership under article XII of the Marrakesh Agreement Establishing WTO. Subsequently, on 21 December 1994, a Working Party was established to look at the request of Cambodia to join the multilateral trading system.

As the focal point to deal with WTO, the Ministry of Commerce established an inter-ministerial Committee to carry out an assessment needs of Cambodia in the preparation for the accession to WTO. For this challenging task and as the start-up work, UNCTAD and the World Bank provided a technical assistance to help prepare the Memorandum on Foreign Trade Regime (MFTR) which was submitted to the Working Party on 21 May 1999.

While these first important steps were satisfactorily completed, Cambodia prepared itself to respond to member states' questions and comments. And so from November 1999 to February 2000, 179 questions on MFTR were received from some members. The replies to the questions as well as the list of laws and regulations and current tariff structure were submitted to the Working Party on 8 November 2000. Six months later on 22 May 2001 the First Working Party Meeting (FWPM) was held followed by bilateral negotiations with some interested members.

While the outcomes of the first round of multilateral and bilateral negotiations were positive, members sought further clarification on some issues e.g. the legislative program and work plans on some outstanding matters. Accordingly, in June 2001, another 107 questions were received. As part of our preparation for the Second Working Party, Cambodia also submitted the following documents to WTO Secretariat for circulation to members of the Working Party: replies of the MFTR, tariff offer for goods, services offer, checklist of domestic support and export subsidies in agriculture, checklist of SPS requirement and implementation, checklist of TBT requirement and implementation, checklist of TRIPS requirement and implementation, and national legislative action plan. On 14 February 2002 the Second Working Party was held in Geneva during which Cambodia undertook also bilateral and multilateral negotiations and initiated an informal pluri-lateral meeting on Agriculture.

The process of preparation for accession to WTO presents for LDCs like Cambodia a big challenging task in terms of procedural and technical knowledge; human and financial resources constraints compounded the difficulties in coordination among concerned parties. For Cambodia it is absolutely necessary to have a pool of trained officials to deal with WTO work and negotiations with members. Technical assistance is available from various bilateral donors and international organizations including WTO, UNCTAD, ITC who are generally ready to respond to LDCs that have strong ownership and commitment.

I believe that the referenced points presented above provided a good perspective on both WTO and our effort in integrating trade in development whereby economic growth and poverty alleviation are our basic goals. For trade is part of our daily life, it goes generally without notice, but the economic progress and prosperity resulting from trade depend on political will. What role then could WTO, this multilateral system really play?

While I would not like to enumerate the multiple advantages for WTO membership and the common misunderstandings about this organization, let us see some of the principal reasons and concerns…in other words about the benefits and costs of being a WTO member.

Trade is one of the major pillars supporting the economy of the country as government gives direction for war, peace and development. Trade binds people together in a dynamic and complex network of mutually beneficial commercial relations. The fruits of trade give us greater choice in enjoying life, be it in education, health, housing or food… or whatever to suit your desire. The job of WTO is to establish rules and nurture this web of commercial activity which essentially promotes understanding and peace among nations. The trade wars caused by protectionism in the 1930s plunged countries into a situation where everyone loses. In contrast, it is evident that free trade and competition give us, the consumers more choices of goods and services at low costs. Examples are many to illustrate these facts, right here in Phnom Penh – for local trade - from hotels to hand phones and clothing to computers. But, we should not loose sight of the fact that with the growing numbers of trading partners now, there is also greater opportunity for disputes. WTO allows those disputes to be settled constructively in conformity with the rules whereby small and big countries have the same power to negotiate.

You will recall my analogy of competition with marathon mentioned earlier. Well, I believe that many in the public are worried that free trade allows free imports, that the government would have less revenue for development, that employment would shrink and life would be harder for the poor etc My view is that the influx of foreign goods or services is a short run phenomenon based on comparative advantage. But what is more important for the government is that import of foreign goods and services should induce local investment and production and new technology. This requires government managed markets through provision of incentive so as to lead the private sector to integrate trade in the long term development goals of the government. The process would lead to diversification of the economy, and increase in employment and income. And so, we could say that trade stimulates economic growth. However, under this analysis, the government must be committed to carry out its balanced policy and strategy to promote foreign and domestic investments for which predictability and good governance practice are imperative. It should ensure that foreign and local companies are encouraged to adopt new innovation, export promotion and the development of new productive capacity Short of these the marathon runner i.e the country could no longer compete and may be left on the side to watch other runners go by and the concerns would be true.

What all these mean for Cambodia? Are we ready to be a member of WTO? I believe that our macroeconomic situation is moving toward a general stabilization with its fiscal and monetary policies being cautiously managed. Its real GDP growth rate between 6% and 7% with low inflation are excellent indicators for a country that only 10 years ago was struggling with the hard realities of politics and the economy. The gradual steps being carried out in trade liberalization coupled with the search for market access for our products appear to be the right strategic reforms with a close focus on poverty alleviation and human resource development. To this effect, the anti-poverty policy should of course emphasize rural development through household oriented strategies that promote a multiplicity for home- based activities, and through faster implementation of the land laws.

There are deceptions in the application of the free market economy and trade liberalization particularly in Latin America where protests abound against free market capitalism, charging that open market led foreign firms to compete with local firms and enrich corrupt officials without helping to better the lives of the poor. There are, however, countries in the same region that benefited tremendously from free market, such as Chile, Mexico, Bolivia. Economic growth, employment, low inflation and reduction of poverty are characteristics of their progress. A lesson to remember in this process is that in an open market economy where incentives are left entirely to the market forces, economic growth or poverty reduction are unlikely to achieve the intended goals. This view is supported by past experience showing that "the most successful sectors and enterprises in developing countries today are those that are operating or that developed under interventionist and flexible trade regimes, where trade was actively managed to meet development goals". The WTO supports a gradual liberalization " allowing countries time to make the necessary adjustments and takes contingency actions against imports that are particularly damaging, but under strict disciplines" .This indicates that flexible trade policy is a policy agreed by members of WTO particularly toward its Least Developing Members (LDC). In this context, Cambodia being an LDC, should sizes the opportunity given by the European Union and Canada to freely export our products (except arms) to them. There appears to have little constraint in our decision to participate actively in world trade. With the exception that we have to comply with the rules and to contribute a small fee for membership, the advantages of expanding our trade through being member of WTO constitute a choice to make.

Cambodia's Membership in the World Trade Organization (WTO): Advantages and Disadvantages

by Pich Rithi
Deputy Director-General and ASEAN Senior Economic Official, Ministry of Commerce, Cambodia,

First of all, I would like to thank the Forum Organizers (the Friedrich-Ebert-Stiftung (FES) and the Cambodian Institute for Cooperation and Peace - CICP) for inviting me to speak at this important Public Forum on Cambodia's Membership in WTO: Advantages and Disadvantages. The timing for this Forum is very crucial because Cambodia has been preparing to join the WTO since 1995 and Cambodia could become a full member of the WTO in the near future.

The understanding about the advantages and disadvantages of Cambodia's membership in the WTO is very significant for all of us, for the development of Cambodia's economy and for the well being of the Cambodia's people, including the business community.

Before I inform you about the advantages and disadvantages of Cambodia's membership in the WTO, I would like first to tell you about the impact of economic and trade liberalization on the Cambodia's economy since 1985.

I. Introduction

As you already know, in 1979 after defeating the Pol Pot Regime, the Cambodia's administration at that time took control of a country in which private property right had been abolished; property records had been destroyed; former proprietors were decimated or had been displaced; productive assets had largely been devastated; and urban properties had been laid waste. Faced with the challenges of rebuilding the economy, the administration kept real estate, natural resources, and all substantial enterprises under state ownership.

In 1985, the administration begun to accept a larger role for private initiative, in particular by relaxing the collective organization of agriculture and by officially recognizing private enterprises beyond merely household production.

In 1989, a decade after assuming control, the authorities launched a broad reform program for the governance of the country's properties. This program gave state enterprises greater autonomy and strict budget constraints; allowed for privatization of state enterprises and other state assets; and encouraged foreign and local private investment.

The reform program has deepened when the Royal Government of Cambodia was established in 1993 following the General Elections sponsored by the United Nations. The Free Market Economy is in scripted in the Cambodian constitution.

II. Core Strategy of Royal Government of Cambodia

Since its establishment in 1993, the Royal Government of Cambodia considers the integration of Cambodian Economy into the Regional and World Economies as one of the core of the government strategy for socio-economic development and for poverty alleviation in Cambodia.

Economic integration will result in close economic relationships among participating members, through the freer movement of goods and services, capital and labor, the coordination of economic and financial policies, and information sharing network. These are factors that stimulate the process of economic liberalization, increase the economies of scales, improve factor mobility and reduce the prices of imported and exported products. Therefore, such integration will increase the attractiveness of Cambodia to investors, promote higher factor productivity, create and develop comparative advantages of the nation, through the participation in international competition and specialization. If economic integration can be properly implemented and handled, it will play a crucial role and have positive, direct or indirect impact, on economic development and poverty reduction.

In this sense, Cambodia had applied for ASEAN membership in 1994 and became ASEAN observer in 1995. Since April 1999, Cambodia has become a full member of ASEAN. In ASEAN, Cambodia has participated in many ASEAN economic activities, for example the ASEAN Free Trade Area (AFTA), ASEAN Industrial Co-operation (AICO) Scheme, ASEAN Investment Area (AIA), and ASEAN Framework Agreement on Trade in Services (AFAS).

In addition, Cambodia has signed many bilateral trade and investment protection agreements with the countries in the region and in the world. Furthermore, Cambodia being classified by the United Nations as a Least Developed Country, has received also trade preferences [Generalized System of Preference (GSP) and Most-Favor-Nations (MFN)] from 28 developed countries.

III. Evidence of Positive Impact of Economic and Trade Liberalization

Macroeconomic Development

When we look at the past economic development in Cambodia, we can say that the achievement was quite favorable for us even though peace and stability have first fully prevailed in the whole country in late 1998 following the establishment of second Royal Government of Cambodia. This is an evidence that the economic and trade liberalization has contributed enormously to the achievement.

Between 1993 and 1996, Cambodia managed to maintain high economic growth with annual average of 6,1 percent. In 1997 and 1998 due to the adverse impacts of domestic political developments and the regional economic turmoil, the economic growth dropped to 4.3% and 2.1% respectively. During the last two years, in 1999 and 2000, the real GDP growth rebounded to 6.9% and 7.7% respectively. However, the GDP per capita has increased only slightly from US$ 251 in 1993 to US$ 261 in 2000.

The inflation rate fell sharply down from 41.1 percent 1993 to 12.6 percent in 1998 and to 0 % in 1999, 0.5% 2000 and -1.3 % in 2001. Curbing inflation is very crucial for an economy since unrestrained inflation as we all know afflicts the poor first and foremost since their resources are inelastic to withstand volatile price movements. The exchange rate has been fairly stable since the end of 1998.

Impact on Trade Development

The total international trade of Cambodia increased from US$ 754 million in 1993 to US$ 2,649 million in 2001. Cambodia's exports rose from US$ 283 million in 1993 to US$ 980 million in 1999; and the simple annual average of export growth from 1993 and 1999 was 26.1 percent. In 1997, Cambodia's exports went up by 33.9 percent if compared to 1996 because of the MFN trade preference granted by the United States in 1996. But the annual growth rate of exports in 1998 and 1999 were only 4.4 percent and 8.9 percent. However in general, Cambodia's exports were strongly supported by the trade preferences "GSP and MFN" granted by 28 developed countries, especially by the United States and European Union. The exports under these schemes continuously increased from US$ 102 million in 1996 to US$ 1,012 million in 2000. The simple annual growth rate of exports under these schemes was 84.2 percent (see also table 2 below). The annual growth rate for 1998, 1999, and 2000 were 40.5%, 44.6% and 78.5% respectively.

Table 2: Cambodia's Exports under MFN and GSP Scheme (in million USD)

Year	Textile Products	Non-Textile Products	Total
1996	80	22	102
1997	227	51	278
1998	378	14	392
1999	553	14	567
2000	985	27	1,012

Source: Ministry of Commerce

Cambodia's imports went up substantially to US$ 744 million in 1994 and US$ 1187 million in 1995 or by 58 percent and 59.5 percent, respectively if compared with imports from the previous years. In 1996, 1997 and 1998, trends of imports were -9.7, +1.9, and -1.7 percent, respectively, because of the financial and economic crises in Asia. However, imports rose by 13 percent in 1999 if compared to 1998 following economic recovery in Cambodia and in Asia.

Trade deficit declined noticeably mainly reflecting buoyant garment exports and stagnant imports from 1997 to 1998.

Impact on Investment

As you may already know, foreign and local private investment was first encouraged in 1989. From 1994 to 2000, the investment amount in fixed assets in Cambodia, declared by foreign and local investors in the approved projects was US $ 6,102 million (see also table 3 below). The investment has been made in many sectors of the economy like in manufacturing, construction, tourism, agriculture, and agro-industry. With the investment, Cambodia has benefited from the generation of new employment opportunities and absorbed new technology, know-how, and experiences associated with FDI and international trade. Cambodia's production and export capacity have been expanded and strengthened.

However, the amount of investment in Cambodia had not increased steadily because of internal and external factors.

Table 3: Investment Trends in Cambodia 1994-2000

Year	Number of Projects	Investment Amount in million US $	Number of required Jobs
1994	37	594	21,552
1995	164	2,379	48,772
1996	182	803	71,731
1997	206	759	130,465
1998	142	850	115,817
1999	62	448	-
2000	96	269	59,279

Source: The Cambodian Investment Board (CIB).

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

IV. Advantages of Cambodia's Membership in WTO

Most-Favoured-Nations (MFN) Status

When Cambodia becomes a member of WTO, it will be granted unconditional Most-Favored-Nation (MFN) treatment by all other WTO members (144 members as of January 2002). This means that exports from Cambodia will be on an equal footing with exports from other countries in all the world's markets. While MFN treatment is currently granted to Cambodia by its major trading partners, this is only on a bilateral basis and could be withdrawn.

The MFN treatment achieved through WTO membership cannot be withdrawn.

Fair Trade

WTO members are all required to follow certain rules regarding the management of trade. Therefore, when it becomes a member, Cambodia's exports could not be subject to arbitrary, unilateral actions by one of its trading partners. By clarifying the rules that will apply to Cambodia, WTO membership will make Cambodia a more attractive location for investors and exporters.

Multi-Fiber-Agreement expires by January 2005

WTO is presently in the process of requiring the United States and Europe to eliminate quantitative restraints on imports of garments from other WTO members. This process is to be completed by 2005. When Cambodia becomes a member, quotas on its exports will also be eliminated. If Cambodia does not become a member, it will continue to have quotas on its garments exports. But other exporting countries that are members of WTO will not have quotas on their exports. This would be very detrimental to the Cambodian garment industry, and would probably stop its growth.

Help Cambodia in dispute with large trading country

WTO has established process for dealing fairly with trade disputes among member countries. This will help Cambodia if it has a dispute with large trading country, since the dispute will need to settle according to the rules for dispute settlement, and not by the exercise of economic power.

Symbol of Integration into the World Community of Trading Nations

Membership in WTO is the symbol and definition of integration into the world community of trading nations. Cambodia cannot say to be integrated into the World Trading System until it becomes a member.

Other Benefits

- Freer Trade cuts the cost of living;
- It provides more choice of products and qualities;
- Trade raises incomes lowering trade barriers allows trade to increase, which adds to incomes;
- Trade stimulates economic growth; Cambodia's example;
- The basic principle makes life more efficient;
- The principles make life simpler for the enterprises directly involved in trade and for producers of goods and services;
- The system helps promote peace;
- Helping trade to flow smoothly;
- Providing countries with constructive and fair outlet for dealing with disputes over trade issues;
- Governments are shielded from lobbying; If we protect one domestic product, everyone else has to pay for more expensive product, which puts pressure on wages in all sectors;
- The system encourages good government.

Under WTO rules, once a commitment has been made to liberalize a sector of trade, it is difficult to reverse. The rules also discourage a range of unwise policies. For business, that means greater certainty and clarity about trading conditions. For government, it can often mean good discipline.

V. Disadvantages of Cambodia's Membership in WTO

There are challenges that Cambodia is or will be facing: Loss of Import Tax Revenue, financial means, legal and institutional reform, human resources, and international standards.

Expected Loss of Import Tax Revenue

Membership in WTO requires Cambodia to make some tariff concessions to WTO members. Therefore, Cambodia will lose some shares of its import tax revenue. Hence, Cambodia needs to reform its tax structure in order to compensate the expected loss of the import duties after becoming WTO member. But, WTO has not yet requested member countries to eliminate tariffs like in ASEAN Free Trade Area (AFTA) - by 2015 for Cambodia.

Financial Means

As a member of WTO, Cambodia has to pay contribution for the operating of WTO Secretariat, for participating in WTO meetings and for Cambodian representatives working in Geneva, Switzerland.

Legal and Institutional Reform

Cambodia should make legal reform in order to bring our current legal system to be compatible with WTO legal system so that trade and investment in Cambodia could be facilitated. Laws and regulations to be established are for example:

Law on trademarks and acts of unfair competition, law on protection of patents, utility models, and industrial designs, postal service law, commercial arbitration law, commercial contacts law, etc.

In addition, Cambodia has also to do institutional reform in order to work effectively with WTO member countries. Since its preparation for joining the WTO, Cambodia has already established inter-ministerial negotiation team comprised of high-ranking government officials and offices for dealing with WTO activities. Cambodia has also nominated Cambodian representatives for WTO matters in Geneva.

Human Resources

There is a lack of human resources dealing with WTO matters, especially officials with good skills/capabilities (in economics, trade and English). Cambodia needs here further technical assistance to upgrade its human resources. Moreover, Cambodia does have enough manpower so that more officials could be recruited for dealing with regional and global integration matters, if Cambodia would be able to provide better salary for them. This issue is very importance for future economic development in Cambodia. We need to build an effective and capable administration in dealing with regional and global integration matters.

International standards

In order to be able to export Cambodia's products and to compete on the world market, Cambodia needs to produce goods and services that meet international standards. Moreover, we need also to have capable institutions, which are in the position to test and certify that the export product meets international standards.

Weak Production, Supply and Export Capacity;

The market access for Cambodian products has been big since Cambodia receives MFN and GSP from 28 developed countries but we have not been able to export more except garments.

Weak Private Sector.

Our private sector has been developing just for some years and does not have enough capital and good entrepreneurial skills.

VI. Conclusion

Cambodia's membership in WTO is important for long-term development of Cambodian economy. However, we have to seriously address problems/challenges that we are facing now and in the future, if we want to succeed.

Cambodia's Preparation for WTO Membership: Issues, Challenges, and Where to Go from Here

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1. Introduction

The World Trade Organization's rules based multilateral trading agreements coupled with changes in technology wedded to evolving multinational corporation's international production, strategies and concentration – are fundamentally reshaping the nature of the trade, investment and business environment as we know it.

The new trade and business environment requires the transformation of the domestic economic, legal and institutional framework. At the heart of this phenomenon is the embracing of a free market centered rules based trading system which involves a greater role of the market vis-à-vis the State and a greater integration into the world economy.

It is suggested that the free market promotes productive and distributive efficiency and is the best allocator of scarce resources. In this view the market stimulates economic growth and ensures prosperity for all.

The economist and philosopher Adam Smith tells us that the free market is a self-regulating system where individual actions are directed and coordinated, as though by an invisible hand, to maximize economic welfare.

For Smith a self regulating system provides for society's orderly provisioning and the beautiful consequence of the market is that it is its own guardian. Thus the self regulating market system can be entrusted to decide on economic optimal outcomes consistent to the needs and interests of society - the promise off free market orthodoxy.

The mid-1980 saw the notions of liberalization, deregulation and privatizations becoming fashionable terminologies in the areas of policy making, business and international trade. During this period nation-states were beginning to embrace free market orthodoxy by liberalizing their trade, investment and financial sectors.

An important outcome of the new paradigm is the slow but eventual dismantling of the Keynesian state - it's provisioning role, regulatory power and distributive framework. These functions of the state were increasingly handed over to the private sector and the market since it supposedly performs better.

The 1990's can be said to be the era of free market hegemony. The Bretton Woods institutions – the International Monetary Fund, the World Bank – the World Trade Organization and developed nations and their multinational corporations were the principle drivers of the dominance of the free market economy. Essentially, the strategy was to establish a single global market with uniform rules.

It can be said that the agenda of the WTO, the Bretton Woods Institutions and the Quad nations and their respective MNC have a shared vision of establishing a global market place with uniform rules.

In the context of the new trade and investment paradigm, one can suggest three critical challenges to a less developing country such as Cambodia.

1. The challenges come from economic monopoly and political power of Multinational Corporations who seek market access in developing and less developing nations.
2. The challenge comes from the role and agenda of the WTO which appears to be on a collision course with the interests of developing and less developing countries alike.
3. The need to establish the practice of good governance, consumer and environmental protection

2. Multinational Corporations and Monopoly Power

A critical protagonist of the new trade, investment and business environment is the multinational corporation. There are about 63,000 multinational corporations with 800,000 subsidiaries/ affiliates with various inter-firm arrangements and are spread-out virtually in all countries and economic activities, rendering it a formidable force in today's global economy.

Of the world's largest 100 (non-financial) multinational corporations, ninety of them are located in the Triad – Japan, the European Union (EU) and the United States - are the principle drivers of international production, providing and receiving three quarters of the global Foreign Direct Investment inflows and 85 percent of outflows.

Multinational corporations shape trade patterns. Specifically, these corporations account for about two-thirds of world trade. Furthermore, one third of total trade is intra firm i.e. between parent firms and their affiliates overseas or among affiliates.

In 1999, about 90 percent of all cross border mergers and acquisition (M & A) including most of the 109 mega deals with transaction values of more than US $ 1 billion took place in developed countries.

The number of cross border mega-deals increased in the 1990's and thus appears to be a recent phenomenon. Specifically, the value of completed cross-border merger and acquisition rose from less than

US $ 100 billion in 1987 to approximately US $ 720 billion in 1999, a seven fold increase in a twelve year period. Interesting to note that developing countries firms have been largely acquired by MNC's in the developed world.

Clearly, the massive merger and acquisition exercise is being driven by competition. The need to survive and prosper in the global market place dictates the need to consolidate, thus making mergers and acquisition a strategic corporate objective.

Essentially, mergers and acquisition exercise involves defending and developing competitive market positions vis-à-vis competitors. Given that most of the mergers and acquisition were horizontal suggests that the concentration in the various industries have intensified and has made markets structures more oligopolistic rather than competitive.

In short, we can conclude that the MNC's are the driving force in a) the global expansion in investments; b) in international economic integration; c) shaping the direction of international trade; d) MNC merger and acquisition activities allows for the consolidation and expansion of big business and domination of markets.

Big business domination also involves concentration of wealth, economic and political power in the hands of corporations, one that can undermine the role of nation-state and government economic policy making. Viewed from this perspective, multinational corporations are the clear beneficiary in a liberalized environment.

There is a fear among governments of the developing world that big business will not only by- pass national controls and scrutiny but wipe out domestic business. This fear is echoed by Prime Minister Datuk Seri Mahathir Mohamed:

"….mergers and acquisitions …. are making big corporations even bigger. Now many of these corporations are financially more powerful then medium sized countries. While we welcome their collaboration with our local companies, we fear that if they are allowed into our countries unconditionally they might swallow up all our business" (UNCTAD X, February 200, p 6)

3. The World Trade Organization favors Developed Countries and their Corporations.

The role of World Trade Organization (WTO) in establishing a legal and rules framework is unprecedented and constitutes a critical component of the new trade and investment and business paradigm. This is because the WTO multilateral trade agreements stipulates a common legal framework for multilateral trading, rules which both governments and business must adhere in formulating their policies and practices in international trade and economic relationships.

Furthermore, the WTO provides for a common institutional framework for the conduct of trade relations between countries. In short, the WTO provides the legal basis for the integration of economies within a common framework and around common rules.

Multilateral trading agreements and trade rules are legally binding and member nations have recourse to the WTO's Dispute Settlement Body. Countries that do not abide by trade rules can be referred to the Dispute Settlement Body, which can impose fines, restrictions and trade sanctions on the affected party.

Compared to the GATT, the WTO is much more powerful as it has a legal and institutional foundation backed by a dispute settlement process. In addition, GATT has been enforcing phased-in tariff reductions world-wide. Its coverage was limited to non-agricultural goods. Presently, the WTO agenda includes agriculture, services (financial, insurance, tele-communication, information technology) intellectual property rights. At the Doha Ministerial or the Development Round, new issues were brought for negotiations, namely investment, government procurement, competition policy.

In theory, the WTO is a democratic institution where one country has one vote. Decisions are made by consensus. However in reality, the WTO is less democratic. Critics have pointed out that imposing uniform rules are not necessarily fair because of the different circumstances and levels of economic development of member nations. The use of green room negotiations – has raised many controversial issues in relation to good governance, power play by the WTO hierarchy and the Quad.

On the one hand, exports from developing nations continue to face significant market impediments where tariff peaks and tariff escalation hampers developing countries exports. On the other, the US and EU continue to protect its textiles, agriculture and other sectors but require developing nations to reduce tariff in view of eliminating tariff completely.

According to critics of the WTO, the Quads motivation is based on the notion of 'liberalization if it benefits me, protectionism if it benefits me, what counts is my commercial interests'. Thus, the WTO is perceived as the instrument through which the Quad – the US, EC, Japan and Canada – impose their interests on the rest of the world.

4. Doha Ministerial – the 'Singapore' or New Issues

The Doha Ministerial 2001 raises critical question and is highly disconcerting for the trade and business environment in developing and less developing countries including Cambodia. The WTO has emerged stronger since Doha. The strength emerges from the enlargement of its role as the vanguard of globalization involving both trade and non-trade issues such as trade, investments, environment, and intellectual property rights, including competition policy and transparency in government procurement.

It appears that the Director General of the WTO Mike Moore has already launched the process of a full fledged negotiation on the 'Singapore' or new issues, namely investment, competition policy, transparency in government procurement, and trade facilitation, an act contrary to the clarification by the Qatari Trade Minister in his capacity as the Ministerial chair on the draft declaration.

The Trade minister had clearly indicated through the ‘Chairman’s understanding’ that an “explicit consensus” was required for negotiations to begin. Negotiations would begin after the Fifth Ministerial in 2003 on the basis of explicit consensus on the modalities of the negotiations.

The majority of the developing countries including Malaysia and India opposed any negotiations on the ‘Singapore’ or new issues. This is because, the ‘Singapore’ issues are anti-development and attempts to stifle role of government in the development processes.

5. Investment Policy

Investment policy does not attempt to increase investments in the country but to ensure that the rights of foreign investors are protected and to grant “national treatment” to foreign investors and firms. The developed countries are pushing to introduce new rules that give new rights to foreign investors, so that they can enter countries and operate freely.

It attempts to weaken the role of the state to regulate foreign investments in the country. The role of the state is important in order to ensure that foreign investments are supportive of a countries development process.

6. Competition Policy

Competition policy was requested by the developing countries in order to protect themselves from competition from powerful multinational corporations. The European Union views unfavorably domestic laws or practices in developing countries that favor local firms on the grounds that this is against free trade.

Competition policies would expose domestic firms to face competition with multinational corporations and would place constraints on governments' discretion to give preference to local firms. Competition policy would perceive unfavorably on domestic laws or practices in developing countries that favor local firms on the basis that this violates free competition. Foreign multinational corporations should also be given national treatment i.e. equal status or better then foreign companies, for foreign companies.

In short, Policies or practices that give an advantage to local firms are perceived as creating barriers to foreign products or firms. This view suggests that foreign companies should be able to compete on equal terms as locals. A competition policy will target for removal pro-local development policies.

7. Transparency in government procurement

The transparency in government procurement agreement may curtail the rights of governments of the developing nations to a) choose the sources of supply for government use; b) to give preferences to domestic producers and suppliers. The aim of government procurement policy is to bring government spending polices, decisions, and procedure under the rubric of the WTO, where the principle of "national treatment" (foreign companies are treated on par with or better then locals) will apply.

Government procurement will require that contracts and projects be opened up to foreign investors and allows foreign firms to take governments to court in the WTO.

Clearly, the 'Singapore or new issues have major ramifications for the role of government in the development processes. It is designed to curtail the role of government in assisting local firms for purposes of national development and socio-economic wealth distributive policies.

The Singapore issues are being pushed to create a level playing field between local and foreign companies but it appear that local companies might be disadvantaged. Also, governments' ability to put forward a development strategy for its business sector and wealth distribution efforts and related socio-economic activities undermined.

8. Good Governance and Corporate Social Responsibility

Good governance, consumer and environmental protection are important features of the new business and trade environment. This phenomenon requires that business recast its relationship with both the environment and its multiple stakeholders, adopting policies and practices conducive to the promotion of sustainable development.

The decade of the 90's appears to have evolved certain sections of business promoting corporate and environmental responsibility. Many companies, business associations, governments and international organizations are adopting practices and policies that suggest that corporations can simultaneously make profits and be good citizens.

Accordingly, business is embracing the language of corporate social responsibility and good governance and taking measures to reform management systems to make them more responsive to the environmental, social and business concerns of different stakeholders.

We must be honest enough to accept the fact some of our companies and other Asian firms need to improve on corporate governance and ethical financial accountability.

Corruption continues to plague Asian firms. What is certain and an issue that must be borne by our governments and private sector is that improving accounting and reporting standards and corporate governance have significantly contributed to attracting foreign investors to the region.

9. The General Agreement on Trade in Services (GATS)

The purpose of the GATS agreement is to increase global trade in services by removing restrictions for trade is services. The GATS agreement will be negotiated as part of single undertaking by 2004. Once a country schedules GATS commitment for a specific service sector, the existing level of privatization and liberalization in that sector is 'locked in' and WTO disciplines apply.

WTO member states have to table their detailed request lists for market access in services by 30th June 2002. Governments must response to the request by 30th March 2003. On the basis of these requests and offers, WTO members will engage in bi-lateral negotiations, with an overall deal brokered before December 2004.

A critical look at the demands that the EU has made on the Malaysian government will a) open up every conceivable service in the economy to foreign competition; b) bring to an end the regulatory role of government; c) remove the critical role of government in the development processes i.e. the government will have no control over foreign ownership and control of the domestic economy; d) provides market access to foreign corporations.

10. The Challenge for Small and Medium Industries

The challenge for the Cambodian trade, investment and business environment in order to survive in the robust competitive global environment is enormous. The challenge is particularly acute vis-à-vis small and medium industries.

It might be prudent for the SMI to consolidate or merge among themselves for the purposes of economics of scale, market power, R&D, in order to compete effectively not only in the domestic economy but prepare effectively to face the competition from multinational corporations.

These firms should consider possibilities such as joint-ventures, strategic alliance with overseas based companies, sub-contracting for MNC's, organizing around clusters and participation in vendor programs, which involves MNC's working together with local SMI supplier to become competitive at the global market place. It appears that the need to act quickly is urgent.

Cambodians companies looking for opportunities in China should take note that China is no longer at the low levels of the value chain but is becoming a competitive location for technology-intensive location by multinational corporations.

The World Investment Reports 2001 indicates that Chinese foreign direct investment in the country has evolved. In the 1980, FDI inflows used to concentrate in labor intensive industries; and in the 1990's moved towards capital intensive. Presently, technology intensive industries have been attracting more FDI. Furthermore, MNC's have established 100 R&D centers in China.

Multinational Corporations presence in China is significant given that these companies accounted for 18 per cent (US $ 27 billion) of China's total corporate tax revenue in 2000. What is important to recognize is that Cambodian companies will face competition in their attempts to take advantage of the opening-up of the Chinese economy.

Today, approximately 400 of the Fortune 500 companies have invested in over 2000 projects in China.

China entry into the World Trade Organization and as the largest recipient of Foreign Direct Investment among developing countries has an impact on the Cambodian business environment.

11. On China – Opportunities And Threats For Business

China's entry into the World Trade Organization will involve substantial trade, finance and investment deregulation or liberalization of its economy. This process entails the opening of the service, manufacturing, financial and agricultural sectors to foreign investments in the country. China's service sector accounts for one third of its Gross Domestic Product. Liberalization of this sector will permit foreign investors to invest in service sector industries as distribution - wholesale, and retailing; and related services such as – warehousing, packaging, and advertising. Other service sector industries that will be opened up include information technology, telecommunications, tourism, legal services, management consultancy etc. Liberalization of the service sector will set the stage for a large-scale participation of foreign investments in this fast expanding sector.

In order to encourage long term investment commitments by foreign investors in the Chinese economy, the government has relaxed restrictions on foreign participation in terms of equity share in industries such as automobile, construction, hotel, and distribution services. Such policies will not only help attract new investments but enable foreign joint-venture partners to increase equity shares in exiting investments.

The World Investment Report 2001, a publication of the United Nations Conference on Trade and Development (UNCTD) entitled 'Promoting Linkages' indicates that Hong Kong (China) was the largest Foreign Direct Investment recipient in Asia and among developing countries in the year 2000. Hong Kong (China) attracted a staggering 45 percent (US $ 64 billion) of the US $ 143 billion FDI inflow into the Asian region, four times the inflows to ASEAN. Meanwhile, China (mainland) secured 28.6 percent (US $ 41 billion) of all FDI flows to Asia for the year 2000. Taken together, both the 'China's' were able to secure a total of 73.3 percent of all FDI flows to Asia.

It is important to note that Multinational Corporations planning to invest in mainland China were "parking" funds in Hong Kong (China) in anticipation of China's entry into the WTO. More than half of Hong Kong (China) outward FDI amounting to US $ 63 billion went to China. Two issues come to mind. First, there is a deepening economic integration between Hong Kong (China) and mainland China. Second, MNC are 'parking' funds in Hong Kong (China) in anticipation of business opportunities in China. Also, it indicates that Hong Kong (China) plays an important role as a funding hub for business in mainland China. A recent survey by the Hong Kong, China, Census and Statistics Department, 2001 indicated that 45 per cent of the 3000 foreign MNC surveyed showed they planned to increase their investment in mainland China; and another 93 per cent viewed the investment climate in the mainland to be extremely positive over the next five years.

The prominence of FDI in technology intensive industries is manifested in China's foreign trade. Exports of high and new technology products by MNC's increased from US $ 4.5 billion in 1996 to US $ 29.8 billion in 2000. Since the mid-1990's, China has significantly reduced its imports of complete sets of advanced equipment and is now relying more on FDI to acquire foreign technology. In fact, FDI has become the engine of growth of China's high technology exports and essential means of inward technology transfer.

The Effects of WTO Membership on the Small and Medium Enterprises and Garment Sector

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by Hang Chuon Naron
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The vast majority of firms operating in Cambodia are microenterprises, very small firms of 10 or fewer employees. These informal, unregistered firms play an important role in economic development, offering employment and income opportunities to poor and unskilled people. These microenterprises are the most common stepping-stone to small and medium-scale enterprises (SMEs), which typically employ up to 20 employees. In turn, the SMEs serve as a major vehicle of upward social mobility, enabling people to move out of lower-productivity occupations.

Over the past several years, the garment industry has rapidly developed and grown, becoming the most important industrial and manufacturing sector of the Cambodian economy. Employment in garments and textiles has been a major stabilizing force for the population and the economy in recent years, as the sector has absorbed a large number of skilled and semi-skilled labor, especially female workers who would have otherwise been unemployed or under-employed.

The development and sustainability of SMEs and the garment industry are crucial to the short-to-medium term development and welfare prospects of Cambodia. Cambodia is in the midst of the process toward becoming a member of the World Trading Organization (WTO). Given the overall fragility of the economy, how should Cambodia adjust to and manage the major changes expected with WTO accession?

This paper attempts to provide an overview of SMEs and the garment sector of Cambodia, and discuss, at least in a preliminary way, the likely effects of Cambodia's impending membership in WTO.

I. Trade Liberalization in Cambodia

The principal goal of Cambodia's foreign economic policy is to expand and strengthen economic ties and international cooperation through the integration of the Cambodian economy into the regional and world economy. This goal is designed to utilize the advantages of international division of labor to promote economic development and improve the welfare of the population.

Since the late 1980s and especially in the early 1990s Cambodia has embarked on trade liberalization and integration. The private sector was enabled to establish trading companies with a maximum foreign participation of 49 percent. Since 1993, the general licensing for most goods has been eliminated when registered companies undertake such trade.

Arguments for Tariffs and for Non-uniform Tariffs

There are several arguments in favor of tariffs:

- to maximize benefits from strategic application of tariffs. Tariffs could increase a country's welfare by enabling excess profits to be shifted from foreign to domestic firms;
- as instruments for temporary protection of a specific "infant" industry. It is argued that certain industries are initially uneconomic but they may become competitive (at world price) in the long run because costs may decrease over time through learning-by-doing effects;
- to raise budget revenue. Trade taxes however are not optimal instruments for achieving a revenue objective

because they distort production and consumption choices. Preferred instruments for raising revenue are taxes such as income taxes or commodity taxes (excise taxes, VAT), which are applied neutrally to domestically produced and imported goods;

- to reduce imports as a remedy for balance of payment problems.

Cambodia's tariff structure is based on four broad tariff bands, which correspond more or less, to whether goods are final goods or raw materials. The tariff rates cascade down, with higher rates for finished goods, to lower rates for intermediate goods and raw materials. Several major sectors — food and beverages, textiles and garments, basic metal products — have very distinct 'cascading' tariff structures.

The 0 percent rates apply to breeding animal, vegetable seed and special medicine. The 7 percent rates are imposed on chemical raw materials, raw materials for textile and clothing (in practice are exempted for garment factories), metal ores, base metal, wood in rough, wool and mineral fertilizers. The 15 percent rates apply to capital goods, locomotive, machinery and electrical appliances, finished industrial products and semi-finished agricultural products. The 35 percent rates are imposed on finished agricultural products, finished industrial products, alcohol, precious stone, precious metal, motorcycles, cars and petroleum products.

This 'cascading' tariff structure has important implications for the government's export led economic development and poverty alleviation strategy. By setting high tariffs on semi processed and consumer goods, Cambodians are required to pay above international prices for basic needs, unless smuggling of imported goods circumvents these high prices. To promote the garment industry the government provides tax exemption on imported raw materials for garment in compliance with the Law on Investment.

As a result of such tariff structure, downstream users of the products must pay a relatively high price for intermediate products as an important ingredient into production of their goods. The higher costs of production are then passed onto consumers through higher retail prices. Thus, those who lose from a high tariff are the consumers of the product.

Table 1: Summary of the Customs Tariff of Cambodia

Sector / Base rate	Number of Tariff Line				Total
	0%	7%	15%	35%	
Live Animal and Animal Products	18	3	133	120	274
Vegetable Products	15	178	97	40	330
Fats and Oils	0	50	0	0	50
Prepared Foodstuffs	0	106	19	209	334
Mineral Products	20	91	64	13	188
Chemical Products or Allied Industries	102	625	46	142	915
Plastics	3	192	33	53	281
Hides and Leathers	0	3	21	63	87
Wood and Wood Articles	0	8	9	89	106
Pulp and Paper	4	155	0	4	163
Textiles and Apparel	0	501	1	450	952
Footwear	0	17	2	44	63
Stone/Cement/Ceramics	0	112	10	49	171
Gems	9	0	1	51	61
Base Metal and Metal Articles	9	500	117	75	701
Machinery and Electrical Appliances	28	104	980	218	1330
Vehicles	26	10	187	88	311
Optical, Precision and Musical Instrument	17	54	186	43	300
Arms	5	0	0	16	21
Miscellaneous Manufactured Articles	33	49	30	65	177
Antiques and Works of Art	8	0	0	0	8
Total of Tariff Line	297	2758	1936	1832	6823
Percentage of Tariff Line	4.35%	40.42%	28.37%	26.85%	100.00%

Arguments in Favor of Uniform Tariffs

The advantages of a uniform tariff are as follows:

- it makes the gains to the industry much smaller.
- administrative convenience. If tariff is uniform, there is no incentive to misclassify goods. This enables customs authorities to concentrate on ensuring that the value of the imported goods is not understated and could reduce to corruption related to customs clearing. Thus, it will lower the administrative costs of trading.

- Reduced smuggling. Diverse tariffs provide an incentive to smuggle products that are subject to high tariff. If the tariff is uniform, these strong incentives for smuggling are considerably reduced.

- Worldwide experience in the past 50 years demonstrates the benefits of open trade regimes. However, many developing countries initially attempted to promote industrialization behind high protective barriers of tariffs.

- But in the past decade, there is growing evidence that high rates of protection significantly depress economic development, and that open trade regimes are more conducive to growth (WB. 2002:526).

- Countries that have been successful have been based on strong growth of industrial exports. Exporters have been successful either because there were low barriers to imports or because regimes were developed to provide incentives to exporters.

A Proposal to Adopt Low, Uniform Tariffs

The RGC's economic goals include higher rates of industrial growth and development based on an expansion and diversification of exports and improved competitiveness of import competing industries. If these goals are to be achieved to any significant degree, resources must be employed in their most productive uses.

The dominant role of the private sector in allocating resources means that it is essential that policy based incentives does not distort their assessment of the returns to alternative investments. In other words, the large differences in effective rates of protection noted above need to be substantially eliminated. This in turn implies moving away from a cascading tariff structure.

The primary policy objective for the tariff system should be the adoption of a low, uniform tariff rate structure. In other words, a single tariff rate that applies to all or virtually all imports. The sole purpose of the tariff system would be as a source of revenue. The determination of the appropriate level of tariff rate would be set to achieve the required revenue. The Integrated Framework suggested that a low uniform rate on (or virtually) all imported capital goods, raw materials and finished goods would ensure that local producers are not disadvantaged vis à vis competing imports. A low uniform tariff rate typically discourages smuggling of imported goods and a low uniform of say 5 per cent with no exemptions would produce almost as much revenue as the prevailing system with probably much less bureaucratic costs.

Tariff Restructuring

An effective trade policy is crucial for Cambodia's integration into the world economy. 'Trade policy forms the transmission mechanism through which international trade affects domestic resource allocation, the efficient and competitive restructuring of industry and agriculture, access to new and diverse technologies, improved incentives to exporters, and reduction to smuggling, rent-seeking, and corruption in customs (WB. 2002:526).

Tariff policy is the centerpiece of trade policy in a market system. Tariffs are, with few exceptions, the only acceptable policy tool for protection under the GATT/WTO. They are superior to alternative instruments of protection such as non-tariff barriers (NTBs), i.e. quotas, licenses, and technical barriers to trade (TBTs).

Most non-tariff barriers (NTBs) to trade have been eliminated. Those that remain are the temporary export restrictions on rice and import licensing for pharmaceuticals. Exports of wood products are subject to annual export quotas and non-automatic licensing. Owing to its low customs duties, Cambodia has become a hub for transit trade in the region, especially with Vietnam. However, re-exports to Viet Nam have experienced a gradual decline since 1996 with Viet Nam's own opening up to the world.

Trade policies, particularly tariffs, influence domestic prices and these in turn affect investment and production decisions. Industries that do not face import competition because of tariffs, subsidies, and quantitative restrictions have an incentive to produce for the domestic market and not to export. It is sometimes argued that a country can protect designated import competing industries, while at the same time allow exporters to source imported materials at competitive world prices through various duty exemption schemes, thus, achieving the dual objective of promoting exports and import competing industries.

Before embarking on the tariff restructuring, Cambodia's tariff schedule consists of 6,821 tariff lines with 12 bands: 0 percent, 0.3 percent, 7 percent, 10 percent, 15 percent, 20 percent, 30 percent, 35 percent, 40 percent, 50 percent, 90 percent and 120 percent. Three bands of 40 percent, 90 percent and 120 percent were for vehicles. The rate band of 50 percent was for cigarettes, petroleum products, beverages and spare parts for vehicles. Substantial proportion of

Cambodia's imports fell within the bands of 7 percent, 15 percent, 20 percent and 50 percent.

More than 90 percent of the tariff lines were under three bands: 7 percent, 15 percent and 35 percent. This means that any restructuring, which retains the tariff bands of 7 percent, 15 percent and 35 percent would not have a major impact on revenue. Therefore, the tariff restructuring undertaken by the Ministry of Economy and Finance consisted of consolidating all rates above 35 percent at 35 percent; unifying the three rates of 10 percent, 15 percent and 20 percent at 15 percent; retaining the 7 percent rates; and combining the 0.3 percent and the 0 percent at 0 percent.

However, such tariff restructuring would result in revenue loss from the following sources: a loss in import duties; a loss in excise duties; and a loss in VAT. It is worth noting that excise duties and VAT are calculated on the basis of customs value plus customs duties and excises. And it was estimated that the restructuring would result in a loss of between 40 to 50 billion CRs.

As a compensatory measure for the tariff changes, the government increased excise tax rates on these major products. The advantage of shifting away from tariffs to excise taxes as a revenue raising measure is that it avoids the negative effects of high tariffs on domestic resource allocation, since an excise tax applies equally to domestically produced goods and imports.

However, not all goods and products are subject to excises. Therefore, in order to ensure that there would be an increase in revenue after the restructuring, the government decided to increase the excise rate on some products more than the reduction in the tariff rate. The MEF also increased the nominal excise rates on domestically-produced excisables to maintain uniform excise rates on all excisables regardless of origin.

Table 2: Cambodia: Tariff Rate Structure

Tariff Band %	1997 Number	Share, %	2000 Number	Share, %	2001 Number	Share, %
0	107	2.1	290	4.3	297	4.4
0.3	7	0.1	9	0.1		
7	2,112	40.7	2,731	40.0	2,758	40.4
10	14	0.3	14	0.2		
15	1,184	22.8	1,861	27.3	1,936	28.4
20	46	0.9	68	1.0		
30			4	0.1		
35	1,575	30.4	1,569	23.0	1,832	26.9
40			8	0.1		
50	133	2.6	256	3.8		
90			6	0.1		
120			6	0.1		
Total	5,186	100.0	6,822	100.0	6,823	100.0
Average Tariffs						
Unweighted Average		18.4		17.3 (13.6)		16.5 (11.9)
Import-Weighted Average		15.9		16.77		16.87
Effective Tariff		n.a.		10.8 (12.4)		n.a.

Note: Figures in parenthesis are standard deviations, which measure the dispersion of tariff rates. The Effective tariff rate is the ratio of revenue from tariffs over the value of imports. Import weighted average tariff rate for 2001 is calculated using year 2000 import data.

Sources: Customs Department and Ministry of Economy and Finance.

On 25 May 2001, the Royal Government reduced the number of tariff bands from 12 to four with the maximum rate falling from 120 to 35 percent (Naron, 2001). The tariff bands of 35 percent protects several semi processed goods and consumer goods such as processed meat and dairy sectors, processed vegetables and fruits, wheat flour; beverages and tobacco; garments and footwear; plywood and jewelry. Under this tariff band fall a fifth of all imports.

By the end of 2002 the MEF plans to reduce the unweighted average tariff rate to below 15 per cent. The fewer the number of rates, the narrower the range of rates, and the lower the average rate, the less costly the tariff structure will be to the economy in terms of misallocation of resources.

In addition to the customs duty, two indirect taxes are levied on the value of imports: excise tax and value added tax (VAT). Overall, Cambodia generates almost 76.41 per cent of its tax revenue from taxes on imports, of which indirect taxes represent approximately 51 per cent of total taxes on imports in 2001.

Excise taxes are levied on five product groups: beverages (including mineral water), tobacco, passenger vehicles, motorcycles, and petroleum products. The VAT is a uniform 10 per cent rate. With few exceptions, both taxes are levied on imports at the same rates and conditions as on domestically traded goods. Exporters are zero VAT rated for imported materials used for producing exportable goods.

Typically, the protection pattern involves low tariffs for unprocessed commodities and raw materials and much higher tariffs for processed final goods. The Cambodian tariff schedule is characterized by low tariffs on intermediates and high tariffs on selected final goods – a situation known as tariff escalation. This causes problems of inefficient resource allocation.

In the long run this escalating tariff structure that tends to favor production of final goods at the expense of intermediates encourages assembly-type activities while discouraging production of intermediate goods.

Most of the rapid growth in the industrial sector has been driven by export-oriented sectors, notably garments and more recently, footwear. Instead, further tariff reform will produce greater benefits in the medium term. A low, uniform rate would signal to investors that Cambodia wishes to be a platform for investment in activities where Cambodia has a comparative advantage. This should attract new Foreign Direct Investment (FDI) into these sectors.

A low, uniform tariff rate would allow investors to source raw materials at world prices (or close to them) and this ensures that producers supplying the domestic market (including SMEs) will not be disadvantaged vis à vis imports; this in turn encourages development of competitive import competing industries.

Adjustment Costs of Tariff Reform

Countries that have liberalized their trade policy regimes have experienced varying short-term adjustment costs. In particular, countries that had in the past made extensive use of tariff and NTBs to protect their inefficient industrial bases typically experience the greatest adjustment costs. Often these costs included temporary, but high unemployment as inefficient sectors restructure and resources move to uses that are more productive.

The most important adjustment costs for Cambodia is the impact of tariff restructuring on budget revenue. To compare this impact, we need to analyze revenue collection from import duties, VAT, excises and turnover tax in the first half of 2002, compared to the same period of 2001. Revenue from the four taxes increased by 1.6 percent from 477.7 billion CR (import duties was 178.9 billion CR, VAT-205.7 billion CR, excises - 89.7 billion CR and turnover tax - 3.4 billion CR) in the first half of 2002 to 470.3 billion CR (import duties-195.7 billion CR, VAT - 205.0 billion CR, excises 63.7 billion CR and turnover tax 5.9 billion CR) in the first half of 2001.

We expect that tariff restructuring would result in revenue loss from the following sources: a loss in import duties; a loss in excise duties;

and a loss in VAT. We have seen that import duties dropped by 16.8 billion CR, while excises increased by 26 billion CR. VAT collection increased by 0.7 billion, though efforts have been taken by the Ministry of Economy and Finance to expand the real regime tax collection to five provinces and expand the tax base in Phnom Penh. At the same time revenue from turnover taxes fell by 2.5 billion CR, since some taxpayers have been transferred from the assessment regime to the real regime of tax collection.

If we exclude the revenue from VAT and turnover tax from our calculation, we can come to the conclusion that the tariff restructuring has yielded a revenue increase by almost 11 billion CR.

Thus, Cambodia has not faced the same short-term adjustment costs that some other countries experienced when they liberalized their trade structures. The reason is that, Cambodia does not have an inefficient industrial sector built around high tariffs. For many activities, remaining high tariff rates either are redundant, because little domestic activity is undertaken in these sectors or because smuggling of goods keeps domestic prices close to world prices.

Import Restrictions and Controls

With a few exceptions, all official quantitative restrictions on imports were eliminated in 1994 as part of a comprehensive program of trade reform measures. The import license system was also eliminated in 1994, except for selected items such as pharmaceutical products, gold and silver, armaments and ammunitions and various cultural and medical materials. Ministerial authorization is required for importing these items. A few bans on imported goods remain. Recent examples of import prohibitions include pig meat, used motorbike tires, right hand drive autos, and used footwear.

Otherwise, firms face no restrictions in importing goods as long as the importer is a registered firm incorporated under Cambodian law. Foreign trading companies are free to operate in Cambodia, as long as they are incorporated under Cambodian law and registered with the Ministry of Commerce. While a few state trading companies continue to operate, for most they compete with private trading companies in the same markets.

Export Prohibitions, Quotas and Charges

Licensing is used to administer quotas, conditional prohibitions, and absolute prohibitions on certain export goods. These measures are typically in place for public health and security reasons as well as to implement agreements with trading partners, notable concerning textiles and clothing to the United States (US) and European Union (EU).

Currently, Cambodia has an absolute ban on exports of logs, export quotas on rice, and garment quotas. There are five items subject to export licensing: (i) processed wood products (including furniture, wooden handicrafts, etc.), (ii) garments, (iii) weapons, (iv) all vehicles and machinery for military purposes, and (v) pharmaceuticals and medical materials. Ministerial authorization is required for the export of these items.

Garments Export Quotas

A quota has been in place on garment exports to the US since 1999. Quota restrictions were imposed on 12 broad categories of garments. The quota agreement is effective initially for three years ending in December 2001. Under the current arrangement, the quota restriction will be eased by 6 per cent per annum.

Up to an additional 14 per cent easing of the quota will be provided if Cambodia 'substantially complies with certain labor standards including those set according to Cambodia's labor laws and the four core conventions under the International Labor Organization (ILO). Following an assessment of Cambodia's labor standards, the US government granted a 9 per cent increase in quota, effective 2002.

The government has implemented a flexible quota system whereby 80 per cent of the quota is allocated to firms operating in Cambodia since 1998 and based on their export history and production capacity. Up to 10 per cent of the quota can be allocated to exporters as a reward for current export performance and compliance with the country's labor laws. The remaining 10 per cent is auctioned to garment producers through competitive bidding. The government charges a specific fee (known as visa fees) per dozen of garments sold under the quota to the US and EU.

The garment quota arrangement raises several important long-term competitiveness issues. First, institutional labor arrangements — such as relatively high minimum wages and restrictions on work shifts as well as compliance costs to these standards are raising the cost structure of the garment sector. These institutional rigidities constrain the development of other potential export sectors since these create a relatively high cost structure in the labor-intensive sectors where Cambodia has a comparative advantage.

Much of the export facilitation and documentation process revolves around ensuring that Cambodian garment exports meet requirements on rules of origin. For example, garment exporters require up to 11 documents from three ministries and five departments before their shipments are permitted to leave the port.

The above facilitation and documentation process is costly and time consuming, since it is heavily dependent upon the physical inspection of shipments by three agencies. The process is also very much open to abuse by petty officials.

2. The ASEAN AFTA

Cambodia was admitted as the 10th member of the Association of Southeast Asian Nations (ASEAN) in April 1999. The Royal Government of Cambodia has redoubled its efforts to meet the demands of ASEAN membership - from changing laws to bringing finance, investment, commerce and trade sectors into alignment with ASEAN standards. Under the ASEAN Free Trade Agreement (AFTA), Cambodia has firmly committed to reduce the majority of its tariff lines to 5 percent and below by 2010 and the remaining tariff lines (which are mostly sensitive agricultural products) by 2017 within the framework of the Common Effective Preferential Tariff Agreement (CEPT).

CEPT Implementation in Cambodia

The CEPT process requires that Cambodia classify all of its tariff lines or categories into one of four (4) lists:

- Inclusion List: goods for which the CEPT rates will be reduced either along the 'normal' or 'fast' tracks;

- Temporary Exclusion List: goods that are viewed as too sensitive to be subject to immediate rate reductions;

- Sensitive List: products that are declared sensitive and will have a longer time frame for phase into the Inclusion List; and

- General Exclusion List: that is intended to include a relatively small number of goods for which trade is restricted based on safety or cultural reasons.

The Royal Government of Cambodia reviewed its trade patterns and strategy and implemented the CEPT lists as follows:

First, 46 percent of all tariff lines are in the Inclusion List. The bulk of goods are in the Temporary Exclusion List while the remaining 2.7 percent of lines remain are in the Sensitive List and General Exception List;

Second, the reduction in tariff rates will occur quite slowly. Goods in the Inclusion List will not be fully liberalized to the 0–5 percent range until 2007. Moreover, goods in the Temporary Exclusion List will be phased into the Inclusion List only between 2003 and 2007 with the commitment that their tariff rates will be between 0–5 per cent by 2010.

It is important to recognize that goods in the Temporary Exclusion List would not be eligible for the lower CEPT tariff rates if exported to other ASEAN member states. In addition, Cambodia can choose to accelerate its tariff reductions anytime.

There are good reasons for Cambodia to transfer virtually all goods from the Temporary Exclusion List to the Inclusion List immediately and accelerate tariff reductions to 0–5 per cent before 2007. First, the acceleration of tariff reductions will make Cambodia a viable base for exports to the rest of ASEAN. However, Cambodia will only be a potential site for ASEAN oriented investment only for those goods that can be exported to member countries at the lower CEPT tariff rates. For this to happen, goods must be on the Inclusion List and the transitional CEPT rate must be 20 per cent or less. A more effective way to establish Cambodia's place as a potential investment site would be to ensure that most tariff lines are immediately placed in the Inclusion List, and that the maximum rates are reduced to no more than 20 per cent, preferably less.

A second reason for more aggressive action on tariffication and tariff reduction is the strong competition from the other new ASEAN Member States. Investors intending to locate in the ASEAN region will tend to select sites in one of the low wage, new members. Therefore, by delaying tariff reductions, Cambodia is not taking the advantage in this process.

Table 3: Cambodia Tariff Reduction Schedule for AFTA

Description		Year										
Base Rate	Track	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
7%	F	7%			6%		5%-0%					
	N	7%			6%			5%-0%				
10%	F	10%			7%		5%-0%					
	N	10%			7%			5%	5%-0%			
15%	F	15%			10%		5%-0%					
	N	15%			10%		7%		5%-0%			
35%	F	20%		15%		10%		7%	5%-0%			
	N	20%			15%		15%	10%			7%	5%-0%

Note: The new Schedule based on the Customs Tariff 2000

Industrial raw material (from existing rate)	7%	7%	7%	5%	5%	5%	5%	5%	5%	5%	5%
Equipment and machinery (from existing rate)	10%	10%	7%	7%	5%	5%	5%	5%	5%	5%	5%

Table 5: Timetable of transfer

Year Description	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2017
Transfer from TEL into IL												
Transfer UAP into IL												
Transfer SAP into IL												
Transfer HSP	Final rate shall be subject of further negotiation											

Remark:

a- Products transferred from TEL shall have the following tariff reduction:
1- products with tariff above 20% shall have tariff reduced to 20% by 1 January 2005;
2- products brought in after 1 January 2005 shall have tariff reduced to 20% immediately;
3- tariffs to be subsequently reduced to 0 - 5% by 1 January 2010.

UAP in TEL to be transferred shall have the following tariff reduction:
products transferred by or after 1 January 2005 shall be at 20% .Tariff rates to be subsequently reduced; to 0 - 5% in 1 January 2010;
2- products transferred in 1 January 2010 shall have tariff rate at 0 - 5%.

CEPT Strategy for Cambodia

For Cambodia to emerge as one of the more attractive platforms for investment, it will need to undergo rapid and comprehensive integration into AFTA/ CEPT framework, thereby ensuring the best possible prospects for ASEAN oriented investment relative to her neighbors. This suggests the need for accelerating tariff reductions.

A third reason to accelerate the implementation of CEPT tariff rates is the need for the RGC to establish predictability in its trade policies. The RGC expects most goods to be subject to preferential CEPT tariff rates between 0–5 percent by the year 2010. However, the interim of eight years is a long time and the less clearly defined is the tariff adjustment process, then the less confidence investors will have.

Stability and transparency are two essential characteristics of an effective industrialization strategy. However, the implementation of the CEPT system entails a large Temporary Exclusion List and this feature may create significant instability and uncertainty in the policy framework, especially during the next four to eight years as these goods are phased into the Inclusion List.

In implementing the CEPT tariff rates, there would be benefits if the difference between Cambodia's CEPT preferential tariff rates and her Most Favored Nation (MFN) rates for the rest of the world remain small. The reason is that the larger the difference between the two rates the greater the probability that the preferential trade area would divert Cambodia's trade away from the rest of the world to AFTA rather than create new trade partners for Cambodia. Recent analysis suggests that if this occurs, the benefits to Cambodia in joining the AFTA would be small. Indeed, an increasing proportion of Cambodia's trade is with partners outside the ASEAN. Further, the maintenance of a large margin between CEPT rates and MFN rates encourages Cambodian firms to source more expensive materials from ASEAN producers. Thus, the Cambodian government might consider ways of reducing MFN rates in parallel with CEPT rates to keep the wedge between the two small. This is permissible under AFTA rules.

Cambodia is also committed to promoting other mechanisms of economic cooperation like the ASEAN Investment Area (AIA), Liberalization of Trade in Services, and the ASEAN Industrial Economic Cooperation (AICO) system. As a participant in the AFTA, Cambodia will be able to increase its competitiveness against other regional groupings, increase trade and investments amongst ASEAN members and to the third counties, and in the end achieve higher growth of its economy. Moreover, Cambodia enjoys bilateral trade benefits such as the Generalized System of Preferences (GSP) granted by the United States in 1997 and the Preferential Rules of Origin for ASEAN members provided by the European Union in 1999.

3. Cambodia: WTO Accession

Cambodia first applied for membership in the WTO in December 1994. In June 1999, Cambodia submitted its Memorandum on its Foreign Trade Regime to the WTO Working Party. In May 2001, a Cambodian delegation went to Geneva to initiate the first meeting of the Working Party. The second meeting of the Working Party took place in January 2002.

Legislation In Support of WTO Membership

In preparation for WTO accession, the Council of Ministers adopted a Legislation Action Plan that set forth the legislative agenda supportive of Cambodia's membership in the WTO for 2001 – 2004. Under the Legislation Action Plan, some 55 laws or regulations are planned in order to complete the legal framework of Cambodia suitable for full participation in the WTO. In preparing, drafting, assessing and adopting these new laws and regulations, Ministries are required to ensure full compliance with requirements under the WTO Agreements. Due to its history, the Cambodian legal framework is being rebuilt almost from scratch, and thus the legislative work necessary to meet WTO requirements is tremendous.

The key aspects of the WTO Agreements where Cambodian legislation will most likely require major work are: (i) customs valuation; (ii) intellectual property; (iii) technical barriers to trade; (iv) sanitary and phyto-sanitary measures, and (v) due process requirements under Article X of the General Agreement on Trade and Tariffs (GATT).

Thus, the Legislation Action Program involves adoption of laws such as: (i) Law on Business Enterprises, (ii) Law Establishing the Commercial Court, (iii) Commercial Contracts Law, (iv) Commercial Arbitration Law, and (v) Intellectual Property Law. The Royal Government also intends to create a sound business environment complementary to WTO membership by preparing and adopting a complete Commercial Code. Later on, the Government will need to also consider detailed rules and regulations governing: (i) Rules of Origin, (ii) Anti-Dumping, (iii) Countervailing Measures and (iv) Safeguard Measures.

Implementation of WTO-Related Laws

The RGC is very concerned with the effective implementation of all the new laws expected to be enacted as part of the WTO accession process. The Government will do a full evaluation of the WTO-related technical skills and expertise currently available in the Cambodian Government and the Cambodian society. It is expected that permanent governmental entities responsible for the monitoring of WTO-related matters will be established. Capacity building at each of the institutions involved in WTO-related governance is sorely needed over the long-term.

BOX 1: WTO Agreements

The WTO Agreements cover:

Goods (GATT), e.g. all industrial products, consumer durables, etc., Services (GATS) e.g. Banking, Insurance, Consultancies, etc., and Intellectual Property (TRIPS) e.g. Patents, Copyrights, Trademarks etc.

The GATT and GATS are each structured in three parts: (a) general principles; (b) associate agreements/annexes on specific sectors/issues and (c) commitments of member countries. The TRIPS agreement contains general principles only that are to be followed by members.

Two important principles that underline the Agreements are:

Most Favored Nation (MFN) clause: No discrimination among Member countries.
National treatment clause: equal treatment to imported and domestic products.

The agreements seek to address, broadly speaking, three concerns:

Same Rule for All: To restrict Governments from 'distorting' normal trade by way of subsidies, dumping, discriminatory licensing, etc., which can hurt business both within and outside the country. Moreover, this rationalizes Government policies to eliminate distorting influences. Note that WTO allows exports to be relieved of all indirect taxes as Excise and Sales Tax having cascading effect on cost of the product. However, WTO rules prohibit direct tax benefits such as Income Tax waivers on export earnings.

Administration of Agreements: To provide detailed guidelines how the agreements should be administered at national levels (such as proceedings in anti-dumping cases) or how standards be used (as in sanitary and phyto-sanitary measures) or how the disputes between the nations to be resolved (through dispute settlement mechanism)

Fair Deal to Businesses: To establish and recognize basic rights of businessmen, e.g. right to information, right to present evidence, and so forth. For example, the Agreement on Customs Valuation reserves the right of importers to justify the value of imported goods or requires customs to give in writing the reasons for rejecting the value disclosed.

Issues in Implementation

Several issues facing the RGC concerning trade policies and the strategy for the implementation of WTO trade rules have emerged. These are the:

- use of fixed or specific duties to overcome valuation issues;
- differential taxation of domestic and imported products;
- formulation of a strategy for the offering by Cambodia of bound tariffs to other WTO member countries; and
- building of institutional capacity to implement WTO rules.

A feature of Cambodia's trade policy that is not consistent with WTO rules is the prevalence of administered minimum or fixed dutiable values from which customs calculates trade taxes. This valuation system is clearly inconsistent with WTO rules, since the WTO agreement provides for customs valuation based on the transaction value, that is, the price actually paid or payable for the goods when sold for export to the country of importation. Cambodia will need to phase out administered dutiable values currently used for several product groups.

The second issue relates to devising a strategy for setting binding tariff offers to other WTO member countries. 'Because the multilateral system centers on bindings, tariff negotiations in the WTO are not actually about applied tariff rates, but, rather, about the underlying bound rates' (WB. 2002:540). Because tariff bindings are commitments not to raise tariffs above a certain level, their actual relevance depends on how far bound rates are above actual applied rates.

Bindings are vital to the process of securing trade agreements. Binding tariffs are the maximum tariff rates the government commits to when joining the WTO. In other words, the government promises other WTO member countries that it would not raise tariff rates above these bound levels. 'For many developing countries, tariff bindings on industrial tariffs are still well above applied rates. High tariff bindings allow substantial room for applied tariff rates to vary below the level of the binding. Even so, binding may reduce both the average applied tariff and the variability of the applied rate of protection. In this sense, bindings increase the security surrounding market access conditions' (WB. 2002: 547).

'Setting binding rates relatively low, say close to current applied rates also has advantages. In particular low bound rates signal to the international investment community that the country is committed to an open trade regime and wishes to become a platform for investment. Crucially important, low binding tariff rates provide stability and certainty in the country's trade policy framework. As discussed in the section on AFTA, investors like a policy framework that is transparent and predictable. Setting bound rates close to current applied rates would achieve this predictability' (RGC. 2002:).

Another issue relates to building institutional capacity to implement WTO rules. As noted, the RGC has set out a very ambitious legislative agenda to implement the WTO requirements. Examples include various intellectual property laws (four laws are proposed in this area); competition law, bankruptcy law, law on business enterprises, commercial contracts law, secured transaction law, law on rules of origin, and various laws on antidumping and countervailing duties. Most of these laws are complex, and their implementation will require the establishment of separate agencies. For example, a competition law would require a separate competition commission with its own staff of highly trained economic and legal technical experts. These laws are in addition to many other laws and institutions that the RGC has or intends to establish in both the economic and non-economic areas not related to the government's WTO accession efforts.

Implementation Strategy

Given this heavy legislative load, the RGC administrative capacity will be stretched very thinly. It is also becoming clear that for some years to come the RGC may not have the administrative capacity to implement some of these complex laws. While the technical assistance canvassed in the preceding section will help, there may need to be a strategy to reprioritize legislative efforts. In particular, those commercial laws that are not fundamental to WTO accession or economic efficiency may need to be pushed back in time. Clearly, some laws are important for improving economic governance and reducing the risk of doing business in Cambodia such as a land law, contracts law and bankruptcy law.

Other laws which though important, may be deferrable include laws on antidumping and countervailing duties and competition. There are strong arguments against introducing laws on antidumping duties as many countries often use them as a disguised form of protection of local industries without considering the economic costs (that is, higher prices) this instrument has on end users and consumers of the product.

In this regard, technical assistance is crucial in assisting the RGC to reprioritize the legislative agenda contemplated for WTO admittance.

Trade Facilitation

The RGC has made significant improvements in processes and procedures for trade facilitation over recent years. Such improvements include:

established seven public/private sector consultative working groups and held four public forums chaired by the Prime Minister over the last two years to discuss issues raised at the working groups;

- removed most import and export licensing requirements;
- removed the monopoly of CAMINCO and introduced new legislation facilitating the entry of foreign insurers;
- entered into a new two year agreement in October 2000 with SGS to conduct Pre-Shipment Inspections on goods imported into Cambodia;
- required agencies operating at border checkpoints to co-ordinate their activities and subject traders to only one inspection;
- attempted to streamline procedures for issuing Certificates of Origin to garment exporters; and
- established visa-issuing facilities to individuals entering Cambodia at the major land border crossings.

Despite these achievements significant impediments to trade remain. These impediments reflect three themes that run throughout much of Cambodian administration. These themes are:

- procedural interventions by competing government agencies, underpinned by a general acceptance of activities which supplement very low civil service salaries;

- a lack of transparency and equitable enforcement of the law and a lack of redress from public decision making; and

- a lack of capacity in the administration of customs and sporadic enforcement of customs law.

4. Cambodia: Liberalization of Financial Services under the ASEAN Framework Agreement on Services (AFAS)

Liberalization for Trade in Services

Trade liberalization involves providing greater market access to foreign firms by lowering the barriers to trade. However, it is more complex for services, where of trade and the types of barriers are very different. There are four mode of supplying services trade, reflecting for at least some interaction between the consumer and the producer of services:

- Cross borders trade - electronic or physical transactions across borders, such as air or maritime transport and financial trading (mode 1)

- Consumption abroad-movement of the consumer to a foreign country for reasons such as tourism or education (mode 2)

- Commercial presence-direct investment for the purpose of delivering services such as local telecommunications or electricity (mode 3)

- Presence of natural persons-temporary movement of a producer to provide services such as consulting or construction (mode 4).

Commercial presence tends to be the dominant mode of supply for all but transport and tourism services; cross-border trade is the next most important. Trade through the presence of natural persons is typically small for all sectors, and consumption abroad is only significant for tourism.

Barriers to trade are typically regulatory in nature. They include measures that restrict market access by foreign firms (for example, by reserving supply for a public monopoly or through non-recognition of professional qualifications) or that discriminate against them once they are in the market through, for example, different tax treatment or local borrowing limitations for foreign firms.

Liberalization of trade in services therefore involves the reduction of regulatory barriers to market access and discriminatory national treatment across all four modes of supply.

Trade liberalization is to ensure that existing regulation does not discriminate against foreign participation in the market. Trade liberalization is consistent with countries' continuing to regulate industries for: the purposes of consumer protection, prudential management of the economy, control of natural monopolies, or the achievement of social goals.

Another key policy area that comes under the spotlight in services trade liberalization is the treatment of foreign direct investment (FDI). Commercial presence is a key mode of supply for services, and developing countries have historically placed significant restrictions on FDI in order to encourage domestic ownership of capital, limit repatriation of profits, and increase the linkages of the multinational firm with upstream suppliers. Full liberalization of the commercial presence mode of supply would outlaw most of these measures in the services sectors.

Creating a suitable environment for foreign investment extends beyond regulatory certainty; it may include strengthening the legal system, stabilizing the macroeconomic environment, and permitting the repatriation of profits.

Sequencing and Timing of Liberalization

Once the foundation for liberalization has been laid, the next step is to devise a trade liberalization strategy aimed at maximizing the gains and minimizing the adjustment costs. The strategy needs to set out in detail the sequence and timing of liberalization across the different sectors, the modes of supply, and the two groups of barriers (market access and national treatment). It also needs to focus on what concessions are desired from trading partners across these various dimensions. A degree of caution should be observed when designing the liberalization process, as some of the key sectors have a profound impact on the workings of the economy.

The sequencing and timing of liberalization in different services sectors will depend in part on progress in laying the institutional foundations for reform. Complications at this stage may affect the feasibility of going ahead with reform. Ideally, reform should initially be targeted at those sectors that are likely to bring about the most significant gains for the country.

These would consist of services that provide important intermediate inputs to the rest of the economy or to specific sectors that the country wishes to promote, or sectors in which protection has resulted in a considerable inefficiency cost to society. Sectors that have an economy-wide downstream effect, such as communications, transport, finance, and electricity, yield the most gains for liberalization effort. They also serve as inputs into other services sectors whose successful liberalization may well depend on prior liberalization of the intermediate services.

The next choice is which modes of supply to open and which barriers to remove. This process can be simplified by eliminating any technically infeasible modes. If liberalization is to have a significant effect on the sector, the dominant mode of supply should be opened up. In most cases this is the commercial presence mode, which is in any case popular as a target for liberalization because of the potentially greater gains and lower adjustment costs.

Merely opening a sector to commercial presence may, however, not be the most effective route in all cases. If the domestic market is limited in size, and if scale economies are site-specific, then opening up only to commercial presence may severely restrict the extent of possible competition and product differentiation, thereby limiting the gains from trade. In this case, opening cross-border supply may be necessary in order to realize the potential gains.

Inadequacies in the country's stock of human capital may also limit the gains from opening up commercial presence only. For example, liberalization of the financial sector in Cambodia created additional demand for skilled labor. In this instance, simultaneous liberalization of the movement of persons mode of supply allowed entry of foreign professionals, possibly preventing excessive wage inflation.

The move toward full trade liberalization can be made in stages, with the extent of competition and foreign ownership being two of the crucial variables.

Financial Service Liberalization under AFAS

Following the signing of AFAS in 1995, ASEAN has concluded two packages of commitments in the first round of negotiations covering seven priority sectors including the financial services sector. ASEAN Member Countries agreed to table GATS Plus offers under the ASEAN Framework Agreement on Services (AFAS). Thus, the ASEAN Member Countries agreed to table offers that is an improvement over their existing commitments in GATS or in new sub-sectors that has not been committed under GATS. However, for ASEAN Member Countries who are NOT yet members of WTO, their commitments should be no less favorable than their existing regimes. The commitments so far made by the ASEAN member-countries are:

- First Round of Negotiations (1 January 1996 -31 December 1998): commitments were made by some ASEAN Member Countries on financial services; and

- Second Round of Negotiations (1 January 1999-31 December 2001): ASEAN Member Countries made commitments in various financial service sub-sectors.

The liberalization of services will also complement the establishment of the ASEAN AFTA since the competitiveness of ASEAN manufacturers, producers of food and raw materials will be enhanced by strong transport, telecommunications and financial systems within the region.

Among the benefits from the liberalization of services is the generation of more foreign investment in the services sector, particularly from other ASEAN countries. To the extent that investment embodies new technology, it would also enhance the transfer of technology and expertise and can play a catalytic role in developing such critical services areas as finance, telecommunications, and transport.

To date, the ASEAN has completed two rounds of negotiations on liberalizing trade in services in seven sectors: air transport, business services, construction, financial services, maritime transport, telecommunications, and tourism.

The future liberalization of services under the AFAS is guided by the objective of a "free flow of services by 2020." However, the liberalization of financial services should be gradually implemented, taking into account the various levels of financial sector development in each country as well as the need for prudential regulation, effective supervision and capacity building to guide its full implementation.

ASEAN member-Countries are allowed flexibility in scheduling the liberalization of their financial services sub-sectors and in removing limitations on the four modes of supply under each sub-sector as guided by the GATS provisions on market access, national treatment and the MFN principle. ASEAN members have set the milestones by having a new round of negotiations every three years to keep the momentum going until year 2020.

The ASEAN has identified the common sub-sectors to be further liberalized as follows:

Insurance and Insurance-related Services

- Direct insurance (including co-insurance):

    - life;
    - non-life;

- Reinsurance and retrocession;

- Insurance intermediation, such as brokerage and agency; and

- Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and Other Financial Services (excluding Insurance)

- Acceptance of deposits and other repayable funds from the public;

- Lending of all types, including consumer credit, mortgage credit, I factoring and financing of commercial transaction;

- Financial leasing;

- All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers' drafts;

- Guarantees and commitments;

- Trading for own account or for account of customers, whether on r an exchange, in an over-the-counter market or otherwise, the following:

    - money market instruments (including cheques, bills, certificates of deposits) ;
    - foreign exchange;
    - exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
    - transferable securities.

- Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately), and provision of services related to such issues;

- Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services; and

- Advisory, intermediation and other auxiliary financial services including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

5. The General Implications of WTO Membership on Economic Activities in Cambodia

Membership in the WTO and the implementation of the various WTO agreements will influence across the entire Cambodian economy – be it in agriculture, trading, services, or manufacturing.

World markets are opening up due to lowering of tariffs and dismantling of other restrictions in developed and developing countries. Enlightened and awakened entrepreneurs have greater opportunities to benefit from their comparative advantages.

Domestic markets will be increasingly threatened because of lowering of tariffs leading to freer entry of foreign goods.

Whereas the developing countries will have greater opportunities in sectors in which they have cost based comparative advantages e.g. textiles and agriculture, the developed countries will benefit through the opening of their service sectors and the tightening of Intellectual Property Regime.

Export markets will become tougher because of competition among developing countries with similar comparative advantages.

Standardization is steadily spreading across the globe; products from developing countries will face tougher quality standards in developed markets.

Every company – whether serving domestic or the international market will need to assess its business strategies in order to identify factors affecting its international competitiveness in terms of cost as well as quality. It will need to study if it can stay competitive once the product becomes freely importable or tariffs are further lowered or both.

The WTO regime will provide greater benefit to those countries that are better able to skillfully engage in the ongoing dialogue. The Governments that are in constant touch with their industries and affected groups will be able to determine with clarity how and what should be negotiated to the best advantage in the multilateral negotiations.

The concepts of liberalization of international trade, deregulation and privatization of internal economy, have now been strengthened and legalized under WTO. Countries that are resisting these trends are falling behind. The countries that embraced the trends early have moved swiftly in fine-tuning their domestic and international trade policies and have created winning environments for their businesses. Those who are still debating the issues, or are paralyzed in bewilderment are of no use to their businesses and economies.

The Multi-Fiber Agreement

The Multi-fiber Agreement (MFA) has governed trade in the textile and clothing industry. It consists of a framework of bilateral agreements or unilateral actions that established quotas limiting the amount of imports to countries whose domestic industries were facing serious damage from rapidly increasing imports.

The MFA was intended only to be a temporary arrangement. However, it has been subject to four rounds of extensions and has now been in existence for almost twenty-five years. The MFA provided for the application of selective quantitative restrictions when surges in imports of particular goods are caused or threatened to cause damage to the industry of the importing country.

The MFA works through bilateral agreements between governments. The trading partners negotiate the total amount of garments that can be imported from the producing country to the importing country. Importing companies in the recipient country must apply for import licenses by category of garments desired. Cambodia has benefited under the MFA because of the relatively large quotas it has so far received from the US and EU, compared to those provided to other apparel exporting countries.

The Agreement on Textiles and Clothing

On January 1 1995, the WTO replaced the MFA with the Agreement on Textiles and Clothing (ATC). The ATC is a transitional tool that will be used in place of the MFA until January 1, 2005. The ATC has a number of defining features:

- the product coverage, encompassing yarns, fabrics, made-up textile products and clothing;
- a program for the progressive integration of these textile and clothing products into GATT 1994 rules;
- the liberalization process to progressively enlarge existing quotas (until they are completely removed) by increasing the annual growth rate at each stage; and
- the establishment of the Textiles Monitoring Body (TMB) to supervise the implementation of the other provisions.

The TMB monitors actions taken under the agreement to ensure these are consistent with agreed rules. The TMB reports to the Council on Trade in Goods (CTG), which reviews the operations of the agreement before the implementation of each new step in the process. The TMB also deals with disputes arising from the ATC. If disputes are unresolved at the CTG then these are forwarded to the WTO's Dispute Settlement Body.

Implementation of the Agreement on Textiles and Clothing

There has been established a process and timetable for the replacement of the Multi-fiber Agreement by the Agreement on Textiles and Clothing. The object of this negotiation has been to secure the eventual integration of the textiles and clothing sector - where much of the trade is currently subject to bilateral quotas negotiated under the Multi-Fiber Agreement (MFA) - into the GATT based on strengthened GATT rules and disciplines.

Integration of the sector into the GATT was initiated on 1 January 1995 when countries integrate into the GATT products from the specific list in the Agreement that accounted for not less than 16 per cent of its total volume of imports in 1990. Integration means that trade in these products will be governed by the general rules of GATT.

In Phase 2 beginning 1 January 1998, products that accounted for not less than 17 per cent of 1990 imports were integrated. On 1 January 2002, products that accounted for not less than 18 per cent of 1990 imports were integrated. All remaining products would be integrated at the end of the transition period on 1 January 2005.

At each of the first three stages, products should be chosen from each of the following categories: tops and yarns, fabrics, made-up textile products, and clothing.

All MFA restrictions in place on 31 December 1994 would be carried over into the new agreement and maintained until the restrictions are removed or the products integrated into GATT. For products remaining under restraint, at whatever stage, the agreement lays down a formula for increasing the existing growth rates.

Thus, during Stage 1, and for each restriction previously under MFA bilateral agreements in force for 1994, annual growth should be not less than 16 per cent higher than the growth rate established for the previous MFA restriction. For Stage 2 (1998 to 2001 inclusive), annual growth rates should be 25 per cent higher than the Stage 1 rates. For Stage 3 (2002 to 2004 inclusive), annual growth rates should be 27 per cent higher than the Stage 2 rates.

Issues in Transition from MFA to ATC

While the agreement focuses largely on the phasing-out of MFA restrictions, it also recognizes that some members maintain non-MFA restrictions not justified under a GATT provision. These would also be brought into conformity with GATT within one year of the entry into force of the Agreement or phased out progressively during a period not exceeding the duration of the Agreement (that is, by 2005).

It also contains a specific transitional safeguard mechanism that could be applied to products not yet integrated into the GATT at any stage. Action under the safeguard mechanism could be taken against individual exporting countries if it were demonstrated by the importing country that overall imports of a product were entering the country in such increased quantities as to cause serious damage - or to threaten it - to the relevant domestic industry, and that there was a sharp and substantial increase of imports from the individual country concerned.

Action under the safeguard mechanism could be taken either by mutual agreement, following consultations, or unilaterally but subject to review by the Textiles Monitoring Body. If taken, the level of restraints should be fixed at a level not lower than the actual level of exports or imports from the country concerned during the twelve-month period ending two months before the month in which a request for consultation was made. Safeguard restraints could remain in place for up to three years without extension or until the product is removed from the scope of the agreement (that is, integrated into the GATT), whichever comes first.

The ATC includes provisions to cope with possible circumvention of commitments through transshipment, re-routing, false declaration concerning country or place of origin and falsification of official documents.

The ATC also stipulates that, as part of the integration process, all members shall take such actions in the area of textiles and clothing as may be necessary to abide by GATT rules and disciplines so as to improve market access, ensure the application of policies relating to fair and equitable trading conditions, and avoid discrimination against imports when taking measures for general trade policy reasons.

In the context of a major review of the operation of the ATC to be conducted by the Council for Trade in Goods before the end of each stage of the integration process, the Council for Trade in Goods shall by consensus take such decisions as it deems appropriate to ensure that the balance of rights and obligations in this agreement is not upset. Moreover, the Dispute Settlement Body may authorize adjustments to the annual growth of quotas for the stage subsequent to the review with respect to Members it has found not to be complying with their obligations under this agreement.

A Textiles Monitoring Body (TMB) oversees the implementation of commitments and to prepare reports for the major reviews mentioned above. The agreement also has provisions for special treatment to certain categories of countries - for example, those that have not been MFA members since 1986, new entrants, small suppliers, and least-developed countries.

Impact of the Abolition of Garments Quotas on Cambodia

The introduction of the ATC by WTO and the ten year phase-out period for the quotas will mean massive changes in the Cambodian garment industry. The industry presently relies heavily on the MFA preferences and is structured along the quota categories. Thus, the quota system that has provided some security for the garment industry in Cambodia will be abolished by the beginning of 2005.

There are varying scenarios on the impact of the phasing out of quotas on Cambodia. Fundamentally, the abolition of quotas would leave Cambodia without a guaranteed market for its garments exports. Cambodia still suffers from poor infrastructure and high utilities costs. While the "cheap, productive workforce" approach will be used to maintain and attract new foreign investment, Cambodia will face great difficulties in competing with large-scale producers such as India or China.

The five most likely disadvantages or drawbacks for Cambodia with the abolition of garments quotas are:

- declining competitiveness;

- reliance upon quota categories (60 percent of garment exports fall under the quota and only 40 percent are outside of quota);

- a high concentration on a few markets; and;

- a heavy reliance on imported inputs/materials; and

Decline in competitiveness

The current trends in the Cambodian garment industry show a slowdown in market growth, which could cause damage to the industry if measures are not taken to address this backward trend. Garment factories in Cambodia are small compared to the massive manufacturing infrastructure in countries such as India and China. Moreover, attention should be paid to labor costs in Cambodia in the next three years. Electricity prices, transportation and port handling costs in Cambodia, are high when compared to other countries in Asia.

Reliance on Quota Categories

The introduction of the MFA can be clearly seen as one of the key factors in the rapid expansion of the Cambodian textile and clothing industry. Foreign investment was enticed with the assistance of more liberal economic policy from the early 1990s. Although rapid growth took place, the number of products mainly came under the MFA. About 60 percent of Cambodia's garment exports to the US, such as shirts, blouses, trousers and undergarments come under the quota (MFA) system. These items are nearly all of a standardized type.

Cambodia is established as a supplier of low-price, medium quality garments. Unlike Thailand, we have not been able to move into the high fashion, expensive branded clothing. Only 40 percent of Cambodia's garment exports to the US are not bound by quotas. This represented a significant increase over the last few years. Due to the reliance on low-priced quota-bound products, the Cambodian garment industry is likely to face severe competition once the MFA is finally dissolved in 2005. Indeed, further development of a non-quota market is essential for us to compete after 2005.

Concentration of Markets

The removal of the quotas will expose the vulnerability of an industry that has focused on too small a market, the US and the EU. With the phasing out of the MFA/ATC approaching, there should be an attempt to diversify exports of products that do not come under the quotas and to export to non-quota countries such as the Middle East and Australia.

Dependence on imported Inputs

Despite the rapid growth in the industry over the last two decades, the development of supporting industries such as fabrics and accessories has not been the case. As a result, the garment industry relies very much on imported inputs. This then affects local value adding keeping it at a low level.

Due to the need to import inputs there is often a long lead-time on products from Cambodia, when compared to some other countries, which have established domestic sources for necessary inputs. The prompt delivery of products is especially important edge for manufacturers.

Coping with the Cessation of the MFA

What actions should be taken to address the abolition of the quotas?

While the abolition of the garments quotas is three years away, it is imperative that action begins now. The beginning of 2005 will mark a dramatic change in business environment for the Cambodian garment industry and the country's economy. The Cambodian garment industry has benefited significantly from the quota and the

MFN status that Cambodia has enjoyed with the US and EU which has certainly attracted foreign investment and created many jobs.

It is crucial that Cambodia maintain its competitive advantage as a low cost production center by tackling high costs of transportation, utilities and handling of containers at the ports. Mechanisms to mitigate any wage increases should also be focused upon.

Within the industry itself, expansion of both product range and markets is essential if the industry is to continue and grow. Attention should be given to the further expansion of garment products outside of the quota system.

It is important to promote the development of ancillary industries in order to reduce Cambodia's dependence on imported inputs. In this case, supporting industries that produce garment accessories and the initial processing of imported gray fabric.

Upgrading of Skills and Technical Expertise

Although there is an apparent abundance of labor in Cambodia, there is insufficient level of skills when it comes to the use of many high-speed machines used in the industry. Far too little has been spent on training of staff with skills that are transferable across the industry. Better skilled staff will lead to a happier staff and more productive staff, which in turn will lead to an increase in production.

Opening of New markets

Diversification within the garment industry as well as the development of new industries is also essential. The development of new industries should however, be strategic, sustainable and evaluated in terms of their benefit to Cambodian people.

Diversifying Product range

Diversifying product range is essential. The development of high quality products will require investments in technology, training, and quality control.

6. The Impact of WTO Membership on SMEs in Cambodia

The development and sustainability of SMEs and the garment industry are crucial to the short-to-medium term development and welfare prospects of Cambodia.

The vast majority of firms operating in Cambodia are microenterprises, very small firms of 10 or fewer employees. These informal, unregistered firms play an important role in economic development, offering employment and income opportunities to poor and unskilled people. These microenterprises are the most common stepping-stone to small and medium-scale enterprises (SMEs), which typically employ up to 20 employees.

As mentioned earlier, the Cambodia's economic system is very liberalized, with the Royal Government providing little protection of the domestic market. As a result of the reduction of tariffs and the increased excise tax rates SMEs are more and more exposed to hard competition with more efficient imported products, since an excise tax applies equally to domestically produced goods and imports. Moreover, the MEF also increased the nominal excise rates on domestically-produced excisables to maintain uniform excise rates on all excisables regardless of origin.

Such exposure to outside competition exerts pressure on SMEs to improve their efficiency. The accession to the WTO would increase this pressure, unless the government provides assistance to SMEs to surf more confidently the tides of globalization.

According to a survey of 63 SMEs in Cambodia, conducted by the Mekong Project Development Facility (MPDF) and released in 2000, the lack of access to working capital and the severity of competition came out on top (IFC. 2000: 18).

Sixty-three percent of all managers surveyed named their lack of working capital as a major problem, with a third saying it was the number one obstacle facing their business. Many companies who had applied for bank loans were turned down, due to the lack of confidence of the commercial banks in the SMEs.

To assist SMEs the government could establish an insurance scheme, which arranges a credit window with the banks for SMEs. The scheme could charge 2 to 3 percent on top of the interest rates to be used to pay back to the bank in case of SMEs defaulting on their loans.

Other option is that the government could establish an SME bank, whose objective is to provide financing to SMEs to start up or expand their business. This SME bank could be established initially with the assistance of some donors.

Another challenge facing SMEs is stiff competition. There were complaints about political advantages of competitors and about illegal competition from smuggled imports. In general, the managers are concerned with their own ability to deal with competition.

The lack of market information is another important issue. There are few sources of high-quality, current market information in Cambodia. The managers stressed the lack of information on key technologies, commodity prices, industry trends, and domestic and foreign markets.

The main problems among exporters includes: (i) the bad conditions of roads and other difficulties in transporting goods; (ii) corrupt customs agents who create delays in shipments; and (iii) the government changing regulation little or no warning (IFC. 2000: 23).

Non-exporters cited a lack of information about foreign markets and an inability to locate foreign buyers as a problem. Some of them attributed the quality of their product or of their packaging was not high enough to compete in a foreign market. Moreover, they judged the problems and costs of transportation were expensive.

However, the competitiveness of these enterprises has not yet faced its toughest, since most of them have been producing non-tradable goods for domestic consumption. As Cambodia liberalizes its economy, more and more foreign products would enter the Cambodian market. Indeed, a more competitive market will force greater productivity gains.

7. Diversifying the Economy

The government needs to urgently diversify toward other industries to reduce its dependence on the garments and textile trade. On 15 May 2002, while meeting investors, Prime Minister Samdech Hun Sen unveiled the RGC's strategy to diversify the Cambodian economy. He emphasized that apart from assisting in the adjustment and further development of the garment industry, the RGC will give priority to the development of other labor-intensive enterprises, such as toys, footwear and assembly of electrical and electronics appliances for domestic and industrial use.

Thus, the RGC has set out a comprehensive policy to increase Cambodia's international competitiveness by focusing on development and improvement in physical infrastructure to effectively respond to the increasing needs for basic services, such as low-cost water and power supply, financial, information and telecommunications services.

Overall, the government's industrial policy is concentrated on the following:

First, continue to develop labor-intensive industry, such as garment, toys and footwear industries;

Second, promote the development of agribusiness by strengthening legal framework for longer-term land management. Moreover, the government will provide incentives to establish factories to process agricultural products, such as cotton, jute, sugar, palm oil, cashew nuts, rubber, cassava and fruits;

Third, develop industries based on the utilization of basic natural resources, mainly by processing the existing natural resources in the country such as fish, meat, cement production, brick and tile;

Fourth, promote small and medium enterprises (SMEs), micro-enterprises, and handicraft.

Fifth, promote industries that produce appliances and electronics products for domestic and industrial use and improving product quality. It is necessary to establish a system of quality control of export products to meet international standards and enforce the intellectual property laws.

Sixth, establish industrial and export processing zones by developing infrastructure, improving service quality and encouraging investments. These zones can be established on the outskirt of Phnom Penh, Sihanoukville, Banteay Meanchey, or Koh Kong. The RGC will build road network, develop power and water supply, ensure waste management and environmental protection, provide education and vocational training, upgrade health services, establish warehouse and reduce customs procedures and other actions to ensure an environment conducive to business profitability and growth;

Seventh, increase the production of goods for import substitution to some extent by encouraging the development of paper, chemical industries, such as the production of fertilizers, acid, as well as daily consumption goods such as soap, paint, electrical appliance, water pump, and agricultural inputs etc.

Finally yet importantly, the government's policy is to promote "cultural and natural tourism" development in Cambodia.

Referring to the strategy enunciated by the Prime Minister, the Royal Government has exerted tremendous efforts to rehabilitate and develop road and bridge infrastructure, airports, seaports and other physical facilities, such as water supply and power distribution systems, as well as telecommunications networks which form the foundation for economic activity and growth, enabling the country realizing its great potentials and comparative advantages.

Annex 1: WTO Agreements

General Agreement on Tariffs and Trade (GATT)

The entire edifice of the GATT is based on four principles. The first two are the principles of Most-Favored-Nation (MFN) and National Treatment. The others are: Protection through tariffs only and not through quotas, licenses and other not tariff barriers (NTBs), etc. and the elimination of these measures wherever existing. It is also understood that reduction in tariffs and other barriers to trade will be agreed through negotiations. Such reduced tariffs to be bound against subsequent increases.

Thirteen major 'associate agreements' (generally sector or issue-specific, like on agriculture, textiles, etc.), four 'understandings on decisions' and three 'understanding on rules and procedures governing the settlements of disputes' are integral to the GATT.

The GATT covers all trade in merchandise and goods in all member countries. Two agreements viz. Agreement on Textiles and Clothing (ATC) and the Agreement on Agriculture (AA) cover the two distinct sectors.

Under the ATC, the restrictions maintained by developed countries on the import of textiles and garments from developing countries are to be phased out by 2005 progressively. Under the AA, the high subsidies maintained by countries – chiefly by developed countries, have been converted into 'tariffs', which are 'bound'. Further, tariffs have been reduced and closed markets are obliged to open up progressively.

General Agreement on Trade in Services (GATS)

Like the agreement on goods, the GATS operates on three levels: First on general principles; Second on annexes on specific sectors, third, member countries' commitments for market access.

The agreement is based on same principles as GATT with a few modifications in view of the basic difference in nature of goods and services. Besides the MFN principle, the GATS provides for transparency in regulations (requiring Governments to publish laws and regulations and to establish 'enquiry points' for information), mutual recognition of qualifications of service providers, etc.

The GATS covers all the services covering all the 'four modes' through which services are provided. The GATS Annexes deal with specific service sectors such as Financial Services, Telecommunications, Maritime Transport, etc.

The Millennium Round of negotiations of the WTO, which started at Doha in 2001, has pushed for the further liberalization of services.

Agreement of Trade Related Aspects of Intellectual Property Rights (TRIPS)

The objects of intellectual property are creations of human intellect. The Agreement is built on the existing International conventions dealing with Intellectual Property Rights (IPRs).

Basic principles of the agreement are same: MFN and National Treatment. It seeks to address five objectives: (a) Application of basic principles, (b) protection to IPRs, (c) enforcement, (d) dispute settlement and (e) provisions for transitional arrangements.

The agreement covers Patents, Copyrights, Trademarks, Industrial Designs, Layout designs for integrated circuits, Geographical indications and Undisclosed information or Trade secrets.

Most of the developing countries have been required to pass laws or amend their existing laws in conformity with the TRIPS Agreement within five years from 1 January 1995. Further, many countries do not have laws related to Geographical indications, Trade secrets, Performers rights under copyright laws, etc. Governments are required to put in place new legislation to cover these matters.

Annex 2: Implications of Cambodia's Accession to the WTO on Business

AGREEMENTS	OBJECTIVE OF AGREEMENT	IMPACT ON POLICY/ LAWS	BUSINESS IMPLICATIONS
General Agreement on Tariffs and Trade (GATT)	Prohibits: actions of Government and organizations that distort normal trade; discrimination between member nations and discrimination between domestic and lawfully imported foreign goods. Sets guidelines for implementation of agreements and settlement of disputes.	Cambodia started tariff restructuring in 2001. Import duties down form peak of 120% to 35%. Committed to remove all QRs (Quantitative restrictions); Committed to create freer trade regime as per GATT agreement; Amended host of legislation, more to follow.	Impact on all manufacturers, traders and service providers: Competition to intensify as more imported products finds easier access. Removal of QRs to further accelerate import of all products. WTO-led liberalization speedily done; Industry suffers from poor infrastructure, high utilities costs; lack of coordination among ministries and non-availability of economical, quality services in banking, insurance, transport, etc. Ignorance among SMEs on WTO;

			Assessment of comparative advantage required. Many will have to change businesses. Only those businesses, whether producing for domestic or foreign markets, who have international vision will survive and grow.
1.a. Agreement on Implementation of Article VII of GATT (94) (Valuation of Goods)	Requires countries to follow the agreement for valuation of imports to check arbitrary decisions of Customs	Cambodia has yet to address the issue of valuation in the new draft Customs Law.	SMEs to benefit from more transparent regime Clear guidelines provided for computing value.
1.b. Agreement on Pre-shipment Inspection (PSI)	To check arbitrary ways of PSI companies in valuation of goods (Around 30 countries use them)	Cambodia uses services of PSI company, SGS.	Cambodian companies exporting to the countries using PSI companies to benefit from improved systems. Arbitrary actions of PSI companies in computing Export value to be checked.

1.c. Agreement on Technical Barriers to Trade (TBT)	To check misuse of mandatory product standards by countries Recommends countries to base their standards around Intl. Standards Requires countries to establish 'enquiry points'	Cambodia has yet to establish a Bureau of Standards (BOS) and to adopt international standards. BOS is to serve as an enquiry point	SMEs to benefit from the agreement as import of these products are subject to Mandatory Product Standards. Enquiry points to help in accessing information. Threat: agreement also covers PPM (Process and Production Methods) open to use in discrimination against Cambodian products.
1.d. Agreement on Sanitary and Phyto-sanitary Measures (SPS)	Same as above except that MFN rule-countries can deny import from certain region/country due to fear of spread of pests/disease.	Cambodia has to adopt international standards.	Companies exporting fresh/ processed fruit/vegetables, juices, meat, dairy products, etc. should understand the Mandatory Standards. They should follow the developments taking place at various international organizations

			such as the FAO Codex Alimentarius etc. that have serious implications for their businesses in agriculture, processed food, and dairy products.
1.e. Agreement on Import Licensing Procedures	To ensure transparency in issuance of import licenses and also prescribes time limits for licenses to be issued	Cambodia has abolished almost all licensing.	Improved system will have a positive fall out for small businesses that are usually at the receiving end of restrictive policy environment.
1.f. Rules applicable on Exports	Allows export product to be relieved of indirect taxes (e.g. Excise) prohibits direct tax benefits (e.g. Income Tax waivers on export earnings). Also allows countries to levy duties on exports for controlling it, if situation so demands, but prohibits other restrictions		Exporting companies have right to demand from government such schemes that neutralize the incidence of indirect taxes on the export product. In absence of such schemes, domestic products may be at disadvantage internationally. Cambodian exports suffer from high cost

	(except in few cases).		over their overseas counterparts due to inadequate financing, governance and infrastructure bottlenecks.
1.g. Agreement on Subsidies and Countervailing Measures (SCM)	Prohibits 'export subsidies'; allows 'permissible subsidies' Requires developing countries to phase them out by 2003 (with some exceptions) and to freeze their level and coverage during transitional period.	Cambodia has no subsidies other than VAT exemption for agricultural sector.	Businesses will have to understand what is permissible and what is not. e.g. government subsidies to small businesses are usually permissible or given for R&D or for adaptation to new environment requirements. Even during transition period, importing countries can countervail 'subsidies' by increasing duties. Export subsidies on import sensitive products (textiles, leather products etc.) can be maintained by

			importing countries.
1.h. Agreement on Safeguard Measures	Allows countries to take action against undue import surge injurious to domestic manufacturers during the transition period	The required system is put in place in Commerce Ministry	If undue spurt in imports causing 'injury' to domestic manufacturers, measures can be taken during the transition period through raising duties (beyond bound rates) or by imposing QRs; for new as well as for development of existing industries.
1.i. Agreement on Antidumping Measures (ADP)	Allow countries to take measures against imported goods benefiting from 'unfair trade practices'	An Anti-Dumping Unit to be established in the Ministry of Commerce	Most important for domestic manufacturers. A number of sectors have been hurt by 'unfair import' and smuggling. Actions should be taken against such import in many cases. Small businesses are hurt by smuggling.
1.j. Trade Related Investment Measures (TRIMS)	Currently prohibits countries form imposing 5 types of investment conditions on	Direct impact on the Government's industrial policies and approvals on foreign investments.	Currently 5 types of TRIMS (investment conditions) are prohibited out of 24 already identified. Issue

	investors		comes up again in year 2002. Allows export performance requirement, majority stakes for locals, etc.
1.k. Market Access Negotiations	By 1 Jan 2000, developed countries to cut tariffs by 40%, and developing by 30%, in five equal installments. More tariff lines are 'bound' (developed countries 99%, developing 73%)	Reduced duties on most tariff lines successively to comply with the agreement. Peak rate of duty is down from 120% to 35%;	Massive increase in competition for domestic manufacturers. Reduction in duties in developed countries not to have much impact, these are already very low. The actual benefit for Cambodia will come from removal of QRs in these countries.
(a) Agreement on Textiles and Clothing	Multi Fiber Agreement and other QRs usually imposed by developed countries to be phased out by year 2005 (in 4 phases)	Impact on Textiles/ Garments Exports	Opportunity: Important development for textiles/ garment exports from Cambodia. Quotas will be phased out. Threat: the level of competition will be tough. Countries imposing quotas authorized to take safeguard measures.

(b) Agreement on Agriculture	The subsidies on agriculture to be removed and converted into 'tariffs', 36% reduction of tariffs by developed countries, 24% by developing. Minimum market access to closed markets.	Obligation for Cambodia to review existing practices. No commitment regarding market access (being under Balance of Payment Cover, though disputed)	Removal of distortions like high subsidies and QRs will expand market for Cambodian agricultural products, if actions are taken to address the supply side. E.g., closed developed markets will have to procure rice at least 3% of home consumption.
1.l. Agreement on Government Procurement	MFN and National Treatment on the purchase of goods as per commitments.		Governments are large buyers, often purchasing 10-15% of their GNP.
1.m. Agreement on State Trading Enterprises	Recommends that STEs conduct their activities commercially. WTO to be informed of their activities.	Restructuring of STEs and commercialization of their activities	Current agreement has limited scope. In the coming negotiations, it is likely that monopoly /canalizing agency status will be broken.
2. General Agreement on Trade in Services (GATS)	All services (12 sectors) come under GATS; Requires countries to ensure MFN principle,	Committed to open 10 sectors, including banking, Telecoms, Insurance, etc.	Services constitute 40% of GDP. Cambodia has liberalized all the major sectors.

	transparency, mutual recognition of qualifications etc.; Lists liberalization commitments of countries; Further negotiation by 2004.		
3. Trade Related Intellectual Property Rights (TRIPS)	Provides protection to IPRs as patents, copyrights, trademarks, industrial designs, layout designs for ICs, geographical indications and undisclosed information. National and MFN Treatment Developing countries to implement within 5 years, LDCs in 11 years	TRIPS agreement will also trigger changes in Contract Law, Companies Law etc. New laws to be enacted.	Impact on all businesses Main source of technology for SMEs - reverse engineering will be difficult, with the stricter IPR regime. In new regime 'Ignorance of law will be no excuse' (the burden of proof is on infringer.) Transfer of Technology cases may increase on commercial terms as counterfeit trade will have effective deterrents in laws.
a. Patents	Patents given for process as well as	Patents Law will be enacted.	Patented products cannot be manufactured

	products. Life of patents: 20 years. Compulsory licensing on case to case basis Microorganisms to be patented and protection of plant varieties by patents or sui generis system or both.		without license
b. Copyrights	Definition, scope broadened. Now includes software, sound recordings, films, etc. Minimum protection 50 years (25 years for photographic works).	The new Law should take into account the TRIPS agreement	Actions to be taken against pirate software and products.
c. Trademarks	Covers trade as well as service marks, Protection for 7 years (renewals indefinite).	New Law to cover TRIPS promulgation	Impact on counterfeit trade; Care should be exercised in choosing names of the companies or products. e.g. Other's brand names cannot be used as company's name.

d. Industrial Designs and Lay-outs	Covers new and original industrial designs and layout designs for ICs. Minimum protection: 10 years.	New bill contains changes as per agreement; includes service marks.	Implications for designers as well as garments/ textiles using protected designs and manufacturers of ICs.
e. Undisclosed Information and Trade Secrets	Does not demand it to be Intellectual Property but stipulates their protection through contractual obligations.	Impact on 'know-how' agreements, Contract Law etc.	Employees, consultants, licensees, sub-contractors, etc. restrained from divulging confidential information. A provision on Undisclosed Test Data, submission of which is required by Governments before grant of permission stipulates adequate protection.
f. Geographical indications	Prohibits trademarks containing misleading information on geographical origin of goods.	No specific law on Geographical indication yet;	Benefits from improved system

Annex 3: Cambodia: Schedule of Specific Commitments in Financial Services

Modes of Supply:

Cross-border supply
Consumption abroad
Commercial presence
Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitation on National Treatment
Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction	Unbound None Only permitted through licensed financial institutions as banks. As specified in the horizontal commitments.	None None Subject to existing laws. As specified in the horizontal commitments.
Financial leasing	None None As specified in the horizontal commitments As specified in the horizontal commitments	None None As specified in the horizontal commitments As specified in the horizontal commitments
Acceptance of deposits and other repayable funds from the public	Commercial presence is required None Only permitted through licensed financial institutions as banks. Subject to the Labor Law, Immigration law, Law on the Investment of the	None None As specified in the horizontal commitments As specified in the horizontal commitments.

and regulations.

Annex 4: Cambodia: Schedule of Horizontal Commitments

Modes of Supply:

Cross-border supply,
Consumption abroad,
Commercial presence, and
Presence of natural persons

Sector or Sub-sector	Limitation on Market Access	Limitation on National Treatment
All Sectors	1 and 2 for each sector. 3. Commercial presence of foreign service providers shall be in the following forms: Company or enterprise with 100% foreign equity is allowed. Branch or representative office is allowed. Joint venture enterprises or joint operation with any form are allowed (except the import-export business, the foreign equity participation should be no more than 49%) Business cooperation contract. 4. Foreign workers shall be subject to the Cambodian Laws and regulations.	1 and 2 for each sector. 3. Foreigners are not allowed to purchase or own land in Cambodia. However, they may lease land and buildings for up to 70 years, renewable. The commercial presence of foreign service providers shall be subject to licensing by government. The form and terms of investment and business operation shall be specified in the investment license of each project in accordance with the Cambodia Investment Law and Commercial Law. 4. According to the Labor Law and Immigration Law.

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The Implication of Cambodia's Membership in WTO on Legal Framework and Policy

by Khun Nhem
Deputy Director, Customs and Excise Department of the Ministry of Economy and Finance

1. Introduction

Becoming a member of the WTO is a major initiative of the Royal Government, and one that can bring significant long-term benefits to Cambodia, in terms of expansion of its international trade and its continuing economic development. As one of the requirements to become a member of this internationally prestigious organization, Cambodia will need to establish or amend her legal system which should be in consistency and compliance with standard and practice of the WTO. A legislative package of laws and regulations has been prepared with time limit for completion. Customs Law is one of the Laws indicated in the package.

In drafting the Customs Law, two major international documents have been taken into account: that is the International Convention on simplification and Harmonization of Customs Procedures known as the Kyoto Convention and the WTO Agreement on the Implementation of Article VII of the GATT. This Agreement is one of the major elements of the WTO Agreements, commonly referred to as the WTO Valuation Agreement. The implementation of the Valuation Agreement (the Agreement) will have a major impact on Government (primarily on the Customs and Excise Department) and on trade (primarily on importers and to a lesser degree exporters). This paper provides a brief assessment of the policy, legal, and operational implications for both government and the private sector of the implementation of the Agreement in Cambodia.

First, a very brief description of the Agreement: It establishes an internationally harmonized method of customs valuation and is one of the most important agreements in international trade. It sets out the primary rule for determining customs value for imported goods as the "transaction value"; that is, the price actually paid or payable, subject to certain adjustments. It also provides alternative valuation methods that could be used when transaction value is not available.

The Agreement facilitates international trade by respecting actual transaction prices and commercial practices to the maximum extent possible. It promotes transparency, consistency and fairness in customs administrations so as to facilitate trade. The valuation methodologies under the Agreement require the application of a fair, consistent, and neutral valuation system, rather than an arbitrary or discriminatory one.

The Agreement does however, represent a major change in the valuation practices of the Customs and Excise Department. Currently Customs uses practices that are inconsistent with the Agreement (for example; use of minimum or determined values, uplifting of declared values by customs and PSI company, method of determining freight and insurance costs). While it is argued, with some justification, that many of these practices are needed due to the low levels of compliance and widespread practice of under-invoicing by many importers, they will over time have to be abandoned once Cambodia joins the WTO. This change will present a challenge for customs administration, particularly the threat to revenue collection because of weak enforcement and lack of appropriate mechanism to conduct audit by customs, and low compliance and tax culture "attitude to avoid paying tax" by traders.

2. Legal Implications

The Agreement and its various annexes and interpretative notes deal with questions of customs value, origin and other related matters. The Agreement spells out the various provisions that must be included in the legislation of member countries, and of those seeking membership. Following is a review of these requirements in relation to the draft Customs Law currently at the Council of Ministers. This paper does not present an analysis of the existing customs legislation (the Law on Imported and Exported Goods adopted in 1989), which falls short of the Agreement's requirements in many aspects. As the new law is in process and because it endeavours to take all the WTO requirements into account, the analysis will focus on this draft Customs Law.

The approach taken in drafting the law has been to put the basic requirements of the Agreement in the law and to include the detailed requirements and provisions in regulation. Advice received from the WTO, and the New Zealand Valuation experts is that this approach should be acceptable. However, the total legislative package including the law and all regulations will have to be developed together and submitted to the Working Party as a single package to demonstrate that all requirements are indeed covered.

Following is an analysis of the requirements spelled out in the articles of the Agreement and the status of the Draft Customs Law in terms of meeting these requirements.
Articles 1 to 7 of the Agreement:
Requirement: These articles establish transaction value as the primary basis for customs valuation of goods and lay out the alternate methods to be used when the transaction value cannot be used.

Status: The Draft Customs Law complies with the requirements of these articles. Article 21 establishes the use of transaction value and the other methods to be used in determining customs value of imports. The details of the methods are not spelled out in the law but are to be included in a Prakas to be issued by the Minister under Article 21 (H). A preliminary draft of this Prakas has been prepared. The prakas will spell out the methods of valuation, and the adjustments and conditions for use of the transaction value. The Prakas will also have to include the Interpretative notes to the Agreement which are considered as part of the Agreement and must be included in members' legislation.

The requirement under Article 1, 2. (a) that there be consultation between customs and the importer regarding the consideration of the relationship between the buyer and the seller and the acceptability of transaction value is not specifically spelled out in the law. It will be included in the Prakas issued under 24 (H).

Article 8: Adjustments to value
Requirement: This Article provides for various adjustments to the customs value and establishes the requirement for legislation to either include or exclude certain costs (e.g. freight, insurance, handling).

Status: This provision is provided for in the draft Prakas. Cambodia currently uses CIF value, and will continue to do so.

Article 9: Conversion of currency
Requirement: This article requires members' legislation to use a rate of exchange for foreign currency that is published by the authorities and that the rate should be that in effect at the time of exportation or importation.

Status: Article 23 of the draft law provides for the use of the exchange rate published by customs, and that the date of the rate is the date the declaration is registered with customs. Therefore this requirement is fully met under the draft law.

Article 10: Confidentiality of information provided
Requirement: This article requires that the authorities treat information as confidential and that it not be disclosed other than

with the permission of the person or government providing the information, or through judicial proceedings.
Status: The draft Customs Law meets this requirement through Article 63 (B) that restricts customs officers to use information provided under the law only for purposes specified in the law. Details on these uses and restrictions will be in a Prakas issued under Article 63 (C).

Article 11: Appeal rights
Requirement: The authorities must provide for the right of appeal against customs' decisions on valuation to an internal or independent body, and to further appeal to a judicial authority, without penalty. The appellant is also entitled to a written explanation of the decision and the reasons for it.
Status: Article 24 of the draft law provides for appeal of a decision of the Customs and Excise Department on tariff classification, value, or origin. The initial appeal is to the Director and then to a Customs Tariff Committee. This Committee is to be established by the Government. The Article does not specifically state that the decision on appeal has to be in writing, although it is implied. This requirement will be included in the Anukret.

Article 12: Publication of rulings and judicial decisions.
Requirement: The Agreement requires the publication of all laws, regulations rulings and judicial decisions.
Status: This requirement will be met by the administrative policy of the Government. The planned Government Gazette will be the vehicle for official publishing of the laws and regulations.

Article 13: Right of importer to withdraw goods if decision on valuation delayed.
Requirement: Legislation must provide the right to the importer to withdraw goods if the decision on valuation is delayed, subject to provision of security to cover the duty and tax involved.
Status: Article 24 (B) authorizes customs to release goods during an appeal. In addition Article 14 (B) provides authority for the Minister to establish conditions under which goods can be removed prior to

payment of customs duty and tax. These two articles fully meet the Agreement's requirements under

Article 13.

Article 14: The interpretative notes to the Agreement.
Requirement: The interpretative notes are to be considered as an integral part of the Agreement and the articles are to be applied in conjunction with their respective notes.
Status: The Prakas on valuation issued under Article 21 (H) will include the interpretative notes for certainty and clarity in their application.

Article 15: Definitions.
Requirement: This article sets out definitions for key terms in the agreements that are important for ensuring consistent and appropriate application of its provisions.
Status: Article 5 of the draft law includes many definitions. In addition, the Prakas under Article 24 (H) will include all the definitions stated in Article 15 of the agreement.
These are the major legal issues surrounding implementation of the Agreement. There are matters relating to Origin and Intellectual Property rights that will need to be addressed. The Draft Customs Law provides, under Article 20, for the determination of the origin of goods, and for the preparation of a Prakas setting out the requirements and procedures. Additionally the current rules under the CEPT/AFTA are in effect. The legislative plan for WTO accession includes the development of a Law on Origin. Customs will need to participate in the drafting of this law as it will be largely responsible for its administration and enforcement. Similarly, IPR legislation is planned as part of the legislative program for WTO. In preparing the draft Customs Law articles were prepared for IPR related issues but were not included due to the plan for a separate law.

3. Policy Implications

Currently approximately 75% of Cambodia's total tax revenue comes from duty and taxes collected by Customs and Excise Department. This reliance on trade related taxes, it has been argued, leads to an imbalance in the economy, as the tax burden is not distributed equitably. The level of economic development constitutes that the tax base in Cambodia for direct taxes is very small. Consequently a higher than average proportion of tax revenue comes from taxes and duty collected on imports. With the move towards freer trade, including the reduction of rates of import duty brought about by the AFTA commitment, and the planned second phase of reductions in general rates of customs duty as part of the tariff restructuring initiative, import duty is expected to further decline relative to other taxes. Reform efforts in the Tax Department are expected to broaden the internal tax base, and to increase the effectiveness of tax collection by the Tax Department. The result of these developments will be a reduction in the reliance on trade taxes by the Government. The reform of tariff policy (tariff reduction and restructuring) must be well coordinated and balanced with the reform of the tax policy. This is the chance to establish an integrated tax system in Cambodia without unexpected distortion of revenue collection. However, it is important to note that the pace of reforms both the tariff and tax policies must be based on the realistic stage of economic development of the country.

Tariff reduction under AFTA and tariff commitment in the form of tariff offers under WTO will have impact on fiscal revenue. However, this impact will also give the change to look at tariff not only from the fiscal perspective as it used to be in the case of Cambodia. In this situation fiscal policy must be re-oriented to other source of revenue. At the same time, there is a need to link tariff policy with industrial/investment policy. In the WTO playing rule, customs tariff is the only legitimate instrument to protect domestic industry. Therefore, in order to maintain momentum of economic development without unforeseen distortion, and ensure benefit from

WTO membership in the long term, it is imperative to build up a four-pillar integrated policy namely, industrial/investment-fiscal-tariff-trade policies.

It is hoped that the implementation of the WTO Valuation Agreement should not have a direct impact of revenue collections, as long as the changes are implemented carefully and over time. To move immediately to transaction value would result in greatly increased levels of non-compliance in particular the under-invoicing practice and related frauds, and reduced revenue. Neither the Customs and Excise Department nor the trade are fully prepared to make such a drastic move in a short period of time. For this reason Cambodia as least-developed country, needs a transition period for the implementation of the Agreement.

The Impacts of WTO Membership on Cambodia's Labor and Employment

by: Christopher Ng
Regional Secretary of UNI Asia Pacific Regional Organization

I commend the Cambodia Institute for Cooperation and Peace and the Friedrich-Ebert-Stiftung, Germany for the initiative to organize this public forum to discuss an issue of wide ranging implications for Cambodia, namely Cambodia's membership in WTO.

I thank you for your kind invitation and I am delighted to be here with you. I am particularly grateful to be given the opportunity to share with you the general trade unions' perspective of the impacts of WTO membership and some of our main concern about the present globalization process, especially its impact on workers and employment.

Let me start with a brief introduction about United Network International (UNI). UNI APRO that I represent is the Asian Pacific Regional Organization of UNI – the International Trade Union for skills and service employees. UNI came into being on 1st. January 2000 as a result of the merger of four International Trade Unions. They are FIET (International Federation of Commercial, Clerical, Professional and Technical Employees) representing white-collar and service employees, CI (Communications International) representing the telecommunications and postal employees, IGF (International Graphical Federation) representing the graphical workers and MEI (Media and Entertainment and Arts International) for media, entertainment and art employees.

The four partner International Trade Unions have an accumulated history of some 300 years, the oldest being more than 100 years old. Therefore, UNI is a new and yet old organization. UNI with about 15 million members in more than 900 trade unions in 140 countries is the largest international trade union.

Throughout the world, change is occurring and with change has come new challenge. The major economic change is the onset of globalization. Globalization has brought with it significant implications for workers and trade unions. UNI was created in response to the dramatic changes going on in the global economy and the consequential impact of technology on increasingly overlapping industries. It is a concrete expression of the efforts of trade unions to forge a higher level of international solidarity in facing the challenges of economic and technological globalization in the new economy.

By pooling the resources and experiences of the four International Trade Unions, UNI aims to give union members and workers all over the world a more effective voice – with multinational corporations and with international financial and economic institutions such as the IMF, World Bank and the World Trade Organization.

These institutions, particularly the WTO are the major forces pushing for the present globalization process. A process, which, regrettably ignores social institutions, labor laws, culture and aspirations of developing economies to be equals of the developed nations. Under neo-liberal economics, everything is reduced to a question of opening up markets, with maximum protection to capital but little or no safety nets extended to labour and other sectors of society. This is what the various WTO agreements are all about as revealed by the impact of the two agreements that have been concluded, namely that covering the Telecommunications and Financial Sectors.

With new technology and intensified global competition, certain industries are merging, forging strategic alliances and consolidating for market control. This is particularly true in the banking, commerce and telecommunications industries. These global business alignments and re-alignments make good copies in business magazines and newspapers.

However, the plights of the workers expelled from these converging industries is hardly written or documented, mainly because these industries are in a better position to give higher separation pays and benefits or because there are no union to champion their interests. In most cases, the workers are not laid off; they are recorded as having voluntarily resigned. The truth, however, is they are victims – victims not of an economic crisis but of the effort of big business towards mergers and consolidations.

Undoubtedly, the new economy is not hospitable to workers and trade unions. There has been a revolution in management techniques and form of work organization, which has impacted heavily on workers throughout corporate structures. The search for business flexibility has become a search for labor flexibility. Downsizing, outsourcing, hiring of casual and contract workers instead of regular workers and so on have become the norm in many industries.

It has spawned new employment and human resources management practices that have deprived many workers, especially the new workers, including the increasing number of professional and managerial employees from exercising their rights to from or join unions. Thus, depriving them protection under outdated legislations.

In this connection, the existing legislations concerning workers, employment and industrial relations in nearly all countries are outdated against the background of today's labor marker, working environment and employment practices.

Therefore, we see the need for governments to update all laws concerning workers, employment and industrial relations to ensure its relevance to the new labor market environment and put into place a better framework for harmonious industrial relations. Equally important, the relevant laws must be extended to confer the same rights and protection to the new workers, including the increasing number of professional and managerial staff and those on contract and flexible employment.

The adverse impact of globalization on workers and a large majority of Asian society is likely to grow, rather than ease, given the economic environment favoring trans-nationalization and privatization of economies inspired by a narrow minded neo-liberal philosophy of total reliance on market forces and promoted by international financial and trading bodies which operate on non-transparent rules and mandates.

This is now clearly manifested by the global epidemic of bad corporate governance, with excessive pay to top management, corrupt analysis, complacent boards and questionable accounting practices. We have a crisis of confidence in business practices and the credibility of CEO's and corporate behavior with a disconnection between economic performance and executive pay.

Workers and their trade unions are not against modernization, nor globalization. No, we are not against industrial restructuring, especially if this is necessary for business to survive. No, we are not against the normal expansion of global trading links. However, we are against economic processes and industrial restructuring that are one-sided and unfair to workers in particular and to society in general.

We are against industrial and organizational restructuring that promotes competitive advantage by watering down labor rights and cheapening the cost of labor. Global competition should not and should never be a race to the bottom.

We also cannot accept neo-liberal globalization process which treats labor as another commodity, subject this time to the global forces of supply and demand. In reality, the interplay of supply and demand is influenced and shaped not necessarily by free competition but by the wishes of transnational monopolies.

As repeatedly pointed out by trade unions: workers are human beings with basic human rights. Workers are not inanimate commodities; they are creative individuals, whose collective hands and brains, give value to commodities. Without the transformative role of workers, economies will grind to a halt.

This is why it is our view and history will proves the correctness of this position – which the advancement of workers' welfare and rights should and must go hand in hand with the development of an economy and the larger society. Simply put, the social dimension of globalization is equally important. What kind of economic development is it – if it leads to greater inequality, joblessness, and injustice to workers and, worse still if it institutionalize social divide?

The various WTO General Agreements on Trade in Services (WTO GATS), in place and those being negotiated are increasingly seen by workers and their trade unions as promoting a one-sided type of economic development devoid of a human face.

This is precisely why organized labor, together with civil societies, has taken the lead in protesting the unjust and unequal rules shaping the new global economic order. Universal labor solidarity has been further strengthened, as manifested by the various protests actions in numerous countries, that started with the protest actions that shut down the WTO Ministerial Meeting at Seattle in November 1999 and various protests organized in other world capitals which have become the venues of international meeting of multilateral financial institutions such as the IMF and the World Bank and global and regional trading fora such as the WTO and APEC.

Thus, we believe very strongly that we need new rules, new global rules based on justice and equity. We need rules on the free flow of speculative and predatory capital. Most importantly, we need a new policy architecture based on the concept of a people oriented globalization aimed at poverty reduction through creation of decent jobs for all.

There is an urgent need to have new safety nets addressing the social security requirements of workers suddenly either by a crisis or by industrial restructuring, which seems to be a permanent feature in the new economy. In addition to financial compensation, such workers should be assisted to find alternate employment and provided training and retraining to make them more employable.

We support the ILO Declaration of Fundamental Principles and Rights at Work, which reaffirms the basic rights of workers, anywhere, to freely organize unions, conclude bargaining contracts, contest discrimination at the work place and expose employers using forced labor and extreme forms of child labor. We want this Declaration be made part of the various agreements under the WTO. Global rules on trading are not complete without the recognition and respect accorded by global capital to these labor rights.

At the industry level, we support the campaign for greater social responsibility of business in the environmental and labor spheres. We understand that some big corporations, in their effort to project a wholesome image among consumers, have even adopted Codes of Conduct containing some positive corporate values, including support for basic labor rights. There are, however, some corporations, which treat these Codes of Conduct as primarily a PR instrument, as a means to sell more.

But to us, the best evidence of corporate responsibility is not through a beautifully-worded Code of Conduct but through a corporate acceptance of the need for a company, especially a transnational corporation operating in several countries, to sit down with trade union representatives and discuss a whole range of issues related to globalization, technology and industrial restructuring as they directly affect workers' interests. In short, we need a genuine and honest-to-goodness social dialogue at the industry level.

In the Philippines, our affiliate, the National Union of Bank Employees has succeeded in obtaining the consensus of the government and the management to establish a tripartite banking industry council to discuss and address problems associated with mergers, acquisitions and consolidations in the banking industry. In Indonesia, our affiliate in the postal sector has reported the pledge of the government for dialogue and consultation related to any restructuring in the postal services. In Singapore, the unions and the government and employers are working closely together to minimize the impact of structural changes on workers. Through an extensive and intensive program of training and retraining, the unions are preparing workers for the structural changes and the inevitable consequences of displacement or retrenchments.

These are clear examples of the value of dialogue with workers and involvement of unions as part of the process to manage change. Governments and Management should understand the importance of dialogue and consultation with the trade unions before any adjustment is undertaken.

This is a more cost-effective way, as corporations should realize that smooth adjustments, including productivity-enhancing programs, could only succeed with the cooperation of the employees themselves.

In summary, let me reiterates once again that globalization in the current form is not sustainable socially, environmentally or economically. If we are going to have a just global economy, then there needs to be a new set of global rules that are fair and just. Equal rules between unequal competitors only deepen inequality.

The following are some of the possible rules that UNI Apro affiliates are propagating:

Developing economies not only from the Asia and Pacific region but also from the other parts of the world should be given wider latitude and freedom in formulating their own development programs and calibrating the liberalization of their economies and select industries in accordance with their own strategic development requirements based on their existing national capacities and the needs of their own people to keep existing jobs and industries.

The programs, policies and governance of WTO and the IFIs should be made more transparent and accountable based on new democratic rules.

The TNCs, as the leading players in the global economy, should be subject to a binding international Code of Ethics prescribing among other things, observance by TNC of the core labor standards among their subsidiaries, suppliers and contractors and respect for the sovereignty of developing economies to chart their own economic destiny.

I urge the Cambodian Government to ensure that its policy response to the question of its membership in WTO, include measure that will bring about or contribute further to sustained improvement in the quality of life and the well being of all Cambodians in a sharing, caring and democratic society.

The trade unions movement in Cambodia must be integrated into the process to help formulate and implement alternate development paradigms to counter the challenges of globalization and realize the promise of a better life for all people.

Closing Remarks

by Keat Chhon
Senior Minister and Minister of Economy and Finance

I am very pleased and honored to join you this afternoon, to help bring to a close this Public Forum on Cambodia's Membership in the World Trade Organization. I am glad to see all of you here– specially my honorable colleagues in the Royal Government of Cambodia and all the distinguished participants. As the Deputy Chair of the Board of Directors of the Cambodian Institute of Cooperation and Peace, I thank you all for your active participation!

Through all of the sessions of this Public Forum, all of the participants have had the opportunity to listen to many presentations, and to discuss and reflect upon the points made. The speakers and commentators have offered varied and thought-provoking views and suggestions about the many issues raised regarding the accession to the WTO by Cambodia. There has also been much discussion about the potential impacts of Cambodia's membership on the social and economic development of the country.

The discussions, dialogue and sharing that have unfolded at this forum have been very significant. It is important for all of us to provide comprehensive comments and recommendations in a constructive manner on issues of national development and policy. This kind of constructive communication leads to the building of a strong foundation for the Royal Government's strategy for the economy to draw maximum benefits from, as well as mitigate the negative impacts of membership in the WTO.

You are all aware that since 1998 the Royal Government of Cambodia, under the firm leadership of Prime Minister Samdech HUN SEN, adopted the "Triangle Strategy," as its political platform and development thrust. The strategy envisages a wide-ranging, long-term reform agenda that gradually but steadily integrates the economy of Cambodia into the region and the world.

The quest for regional and international economic integration constitutes one of the major pillars of the Royal Government's strategy to promote sustainable socio-economic growth in Cambodia. To achieve such economic integration, Cambodia worked hard to attain full membership in the Association of Southeast Asian Nations. Now that we have successfully become a member of the ASEAN, we are now preparing for Cambodia's accession to the World Trade Organization.

The international experience in development and growth now shows clearly that open trade is crucial to domestic development and welfare. However, the employment and economic growth benefits of trade openness do not result simply from openness. For Cambodia to benefit from globalization and the multi-lateral rules-based international trading system, the Royal Government must take further steps in strengthening institutional capacity and developing human resources. In general, appropriate economic strategy, policy, and programs are still needed to create an environment that will enable and accelerate and sustain the dynamics of growth.

To prepare for Cambodia's participation in global economic initiatives, the Royal Government has undertaken many and varied steps. These actions are meant to reform the investment and foreign trade regime, and include:

- the liberalization and decentralization of the decision making process; reduction of bureaucratic red tape;

- minimizing impediments to investments, particularly private investments, in Cambodia, and

- implementing broad reform programs leading to the modernization of the national economy and upgrading its competitiveness to regional and international standards.

With a reform framework and strategy in mind, the Royal Government has set ambitious goals in the attainment of higher rates of industrial growth and development. These are expected based on the further expansion and diversification of exports as well as the improved competitiveness of import competing industries.

To achieve its goals in international trade and competitiveness, Cambodia needs a sound foreign economic policy. An effective trade policy is crucial to Cambodia's integration into the world economy. Trade policy forms the transmission mechanism through which international trade affects domestic resource allocation, the efficient and competitive restructuring of industry and agriculture and access to new and diverse technologies.

A competitive tariff policy lies at the center of trade promotion strategy in a market system. Tariffs are acceptable and legal policy instruments for trade protection as agreed among all members of the WTO. Historically, many developing countries attempted to promote industrialization behind high tariff barriers. However, from painful experience we have learned that high rates of protection significantly depress economic development. It is now clear that open trade regimes are more conducive to improved welfare and growth.

In general, Cambodia's tariff policy protects designated import-competing industries, while allowing exporters to source imported materials at competitive world prices. The tariff system is also designed to generate more government revenue.

Our own experience with the development of garment industry has confirmed this tariff and trade strategy. Cambodia's development during the past decade has been based on the strong growth of merchandise exports.

The Royal Government has devised a trade liberalization strategy that sets the sequence and timing of liberalization across the different sectors. Liberalization should initially be targeted at those sectors that are likely to bring about the most significant gains for the country. Moreover, the development of new industries should be strategic, sustainable and evaluated in terms of long-term benefit to the Cambodian people.

A prerequisite to participation in the ASEAN Free Trade Area and later on the WTO is to embark on tariff restructuring and provide national treatment. Our country has already embarked on such actions consistent with trade liberalization. On 25 May 2001, the Royal Government reduced the number of tariff bands from 12 to four with the maximum rate falling from 120 to only 35 percent. To compensate for some revenue loss, we increased the excise rates on a number of products.

By the end of 2002, we plan to reduce the un-weighted average tariff rate to under 15 per cent. The fewer the number of tariff lines, the narrower the range of rates, and the lower the average rate, the less costly the tariff structure will be to the economy in terms of misallocation of resources.

Under the AFTA, Cambodia has firmly committed to reduce the majority of its tariff lines to 5 percent and below by 2010. The remaining tariff lines, which are mostly sensitive agricultural products, will be included within the framework of the Common Effective Preferential Tariff Agreement by 2017.

The reduction in tariff rates will be gradual. Goods in the Inclusion List will not be fully liberalized to the 0–5 percent range until 2007. Goods in the Temporary Exclusion List will be phased into the

Inclusion List only between 2003 and 2007 with the commitment that their tariff rates will be between 0–5 percent by 2010.

Cambodia is also a party to the ASEAN Framework Agreement on Services (AFAS). The future liberalization of services under the AFAS is guided by the objective of a "free flow of services by 2020." Cambodia has been involved in the negotiations for the liberalization of trade in services. On 6 April 2002, I was authorized by the Prime Minister to sign the Protocol to Implement the Second Package of Commitments on Financial Services under AFAS. Moreover, during the last round of negotiations Cambodia committed to further liberalization of our banking sector.

The Royal Government is conscious that liberalization should go in tandem with building up institutional capacity and deepening of financial development. Towards this end, the government adopted on 24 August 2001 the Financial Sector Blueprint for 2001-2010, which envisages the development of a sound, market-based financial system in ten years.

The main thrust of the blueprint is to establish legal and regulatory framework and develop human resources for the banking system, insurance industry, non-bank financial institutions, money and capital markets and legal and accounting infrastructure.

Among the benefits from the liberalization of services is the generation of more foreign investment in the services sector, particularly from other ASEAN countries. To the extent that investment embodies new technology, it would also enhance the transfer of technology and expertise and can play a catalytic role in developing such critical services areas as finance, telecommunications, and transport.

Membership in the WTO will provide Cambodia with greater market access in the wake of the phase-out of the multi-fiber agreement on 1 January 2005. While the Agreement on Textiles and Clothing will take the place of the MFA, alternative strategies are required so that Cambodia is not left without a guaranteed market for its garments exports.

Cambodia must maintain its competitiveness. It is crucial that Cambodia maintain its competitive advantage as a low-cost production center by tackling high costs of transportation, utilities and handling of containers at the ports.

To assist the small and medium-scale enterprises, the government is considering the establishment of appropriate financing and insurance schemes. These include the opening of credit windows with the banks for SMEs or the establishment of an SME bank that will, whose objective is to provide financing to SMEs to start up or expand their business.

The Royal Government is also aware that Cambodia-based enterprises are facing stiff competition. Legal enterprises are also challenged by smuggled goods. Thus, the government is actively expanding mechanisms for the provision of market information. The competitiveness of local industries is protected and promoted, the greater the availability of timely and accurate information on key technologies, commodity prices, industry trends, and domestic and foreign market opportunities.

Cambodia has grown steadily and rapidly over the recent past. However, it is clear that for the Cambodian economy to continue on its high-growth path, we have to diversify our production base and reduce our high dependence on the garments and textiles industry.

Our leader Samdech Prime Minister Hun Sen has already unveiled the Royal Government's strategy to diversify the Cambodian economy. He has emphasized that in addition to facilitating the adjustment and further development of the garments industry, the Royal Government will target support for the development of other labor-intensive enterprises. Such ventures include toys, footwear and assembly of electrical and electronics appliances for domestic and industrial use. The government will also explore opportunities in agribusiness and food processing.

Diversification within the garment industry as well as the development of new industries is essential. The diversification of products and the attainment of high quality will require investments in technology, training, and quality control.

Although there is an apparent abundance of labor in Cambodia, there is insufficient level of skills when it comes to the use of the high-speed machines used in the industry. Far too little has been spent by the garments industry on the training of staff in skill categories that are transferable across different industries. Labor with flexible skills is suited for employment in multiple occupations, leading to more stable income and welfare. Such stability and improved morale will in turn support increased productivity and competitiveness.

This Public Forum has made a significant contribution to improved knowledge and understanding on the progress that Cambodia must achieve to enable our country's accession to the WTO. This is another step completed out of many required in nurturing a strong, sustainable, and competitive trading capacity for our country.

The most important message that we get from the Public Forum is that training government officials and building up institutional capacity is critical if Cambodia is to benefit from the rule-based trading system.

Allow me to end these remarks. It has not been my intention to raise all the issues and problems already discussed at this gathering. Overall, this Public Forum has been though provoking and has promoted the open exchange of information and ideas.

I thank you all for your attendance and participation. Together let us thank the CICP and all the staff for their hard work in successfully organizing this important forum.

About Editor

Dr. Chap Sotharith is the Executive Director of the Cambodian Institute for Cooperation and Peace (CICP), a leading policy-oriented think tank in Phnom Penh and a member of ASEAN-Institutes for Strategic and International Studies (ASEAN-ISIS), a regional think tank. He worked in various capacities in Government Offices including Assistant to Minister of Planning and Director of ASEAN Department, Office of Council of Ministers, a programme officer in UNDP Phnom Penh and consultant to many International Organizations including FAO, UNCTAD and the World Bank. At present, he is also Adviser to H.E.Mr. Sok An, Deputy Prime Minister and Minister in charge of the Office of Council of Minister. Dr. Chap Sotharith, who holds Doctor Degrees in Economics from University of Sydney, Australia, has written extensively on ASEAN Affairs, foreign policy, security and international relations, and has participated in various national, regional and international forums and meetings. During 2002- 2004, he lectured in various topics including Financial Management, Commercial Law, and Economics in some universities in Phnom Penh including Institute of Technology and Management (ITM), Royal School of Administration (RSA) and International Institute of Cambodia (IIC) and served as thesis supervisor to the many students of Master Programme of National University of Management.

Programme of Public Forum on Cambodia's Membership in WTO

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Cambodia's Membership in WTO

Jointly organized by

Cambodian Institute for Cooperation and Peace and Friedrich-Ebert-Stiftung

The Government Palace, 21-22 August 2002

<u>Program</u>

<u>Day One, Wednesday, 21 August 2002</u>

08:00-8:30	**Registration**
08:30-09:45	**Opening Session**
	Welcoming Remarks by **Sdech Krom Khun Norodom Sirivudh**, Supreme Privy Counselor to H.M. The King, Member of the Senate, and Chairman of the Board of Directors of CICP
	Opening Remarks by **Mr. Norbert von Hofmann**, Head, Office for Regional Cooperation in Southeast Asia, Friedrich-Ebert-Stiftung, Singapore
	Keynote address on "Cambodia's Membership in WTO: Opportunities, Challenges and Prospects"

by **H.E. Dr. Sok Siphana**, Secretary of State, Ministry of Commerce

09:45-10:00 Coffee Break

10:30-12:00 **Session I: "Cambodia's Membership in WTO: Advantages and Disadvantages"**

Chair: H.E. Sok Chenda Sophea, Secretary General, Council for the Development of Cambodia (CDC); Member of the Supreme National Economic Council (SNEC)

Speakers:

H.E. Suos Someth, Cambodia's Ambassador and Permanent Representative to the United Nations Office and the World Trade Organization in Geneva

Dr. Pich Rithi, Deputy Director General of the General Department of Trade and Senior Economic Official, Ministry of Commerce

Dr. Chap Sotharith, Assistant Director, Cambodian Institute for Cooperation and Peace

Questions and Answers.

12:00-14:00 Lunch break

14:00-16:00 **Session II: "Cambodia's Preparation for WTO Membership: Issues, Challenges, and Where to Go from Here"**

Chair: **H.E. Un Ning**, Vice Chairman, Committee for Foreign Affairs, International Cooperation and Media, and Member of the National Assembly

Speakers:

H.E. Dr. Sok Siphana, Secretary of State, Ministry of Commerce

Mr. Uy Sambath, Director, Department of Economic Integration and ASEAN, Ministry of Economy and Finance

Mr. Charles Santiago, Consultant of Globalization and International Trade, Kuala Lumpur

Mr. Sok Hach, Senior Economic of Cambodia

Questions and Answers.

16:00-16:15 Coffee break.

16:15-18:00 **Session III: "The Effects of WTO Membership on Cambodia's SMEs and Garment Sector"**
Chair: H.E. Khek Ravy**, Secretary of State, Ministry of Cmmerce**

Speakers:

H.E. Dr. Hang Chuon Naron, Secretary General of the Supreme National Economic Council and Deputy Secretary General of the Ministry of Economy and Finance (MEF)

Dr. Hing Thoraxy, Deputy Director, Project Monitoring Department of Cambodian Investment Borad, Council for development of Cambodia

Mr. Mario Fischel, General Manager (Cambodia and Lao PDR), Mekong Project Development Facility (MPDF) (confirmed)

Questions and Answers.

Day Two, Thursday, 22 August 2002

08:00-10:00 **Session IV: "The Implications of Cambodia's Membership in WTO on Legal Framework and Policies"**

Chair: **H.E. Ngy Tayi**, Under Secretary of State, Ministry of Economy and Finance (MEF)

Speakers:

H.E. Sok Siphana, Secretary of State, Ministry of Commerce

H.E. Dr. Khun Nhem, Deputy Director, Custom and Excise Department, Ministry of Economy and Finance

Mr. Martin Desautels, Managing Director of Dirksen Flipse Doran & Le

Dr. Sarin Denora, J.D., Cambodian Legal Resource Institute (CLRI)

Questions and Answers.

10:00-10:15 Coffee break.

10:15-12:15 **Session V: "The Impacts of WTO Membership on Cambodia's Labor and Employment"**

Chair: Mr. Norbert von Hofmann**, Head Office for Regional Cooperation in Southeast Asia, Friedrich-Ebert-Stiftung, Singapore**

Speakers:

Mr. Sok Sopheak, Director, Department of ASEAN and International Organization, Ministry of Commerce

	Mr. Christopher Ng, Regional Secretary of Union Network International – Asia Pacific Regional Organization (UNI-APRO)
	Dr. Chea Vandeth, Deputy Director, International Relations Department Office of the Council of Ministers, and Senior Research Fellow, CICP
	Questions and Answers.
12:15-14:00	Lunch Break
14:00-15:45	**Session VI: "Prospects for Cambodia's Membership in WTO: Problems, Concerns and Expectations"**
	<u>Chair</u>: **H.E. Dr. Chhay Yiheang**, Adviser to the Royal Government of Cambodia in charge of Education; President of Institute of Culture and Fine Arts, and Member of the Royal Academy of Cambodia, and Senior Research Fellow, CICP
	<u>A Discussion Panel</u>:
	H.E. Dr. Sok Siphana, Secretary of State, Ministry of Commerce
	H.E. Sok Chenda Sophea, Secretary General, Council for the Development of Cambodia (CDC); Member of the Supreme National Economic Council (SNEC)
	Mr. Ladislaus Byenkya-Abwooli, Vice Country representative, UNDP
	Dr. Kao Kim Hourn, Executive Director and Senior Fellow, CICP
	Questions and Answers.
15:45-16:00	Coffee break.

16:00-17:30 **Closing Session**

Summary of the Public Forum by **Dr. Kao Kim Hourn**, Executive Director, CICP

Closing Remarks by **H.E. Un Ning**, Vice Chairman, Committee for Foreign Affairs, International Cooperation and Media, and Member of the National Assembly

Closing Keynote Address on "The Future of Cambodia in WTO"

by **H.E. Mr. Keat Chhon**, Senior Minister and Minister of Economy and Finance, Vice Chairman of the Council for Development of Cambodia, and Vice Chairman of the Board of Directors of CICP