

REGULATIONS OF THE SERVICES SECTOR

The liberalization of the services sector for the last 10 years was largely driven by Cambodia's market access commitments for the WTO accession process. Cambodia committed to open at least one sub-sector under each of 11 different services headings under the WTO classification.

1. Professional Business Services

Professional services include legal services, consulting, tax, accounting and human resources training, which are all areas of crucial importance to Cambodia's efforts to reform, modernize and strengthen its economy. As Cambodia modernizes its economy and gears up to attain lower middle income country status, professional services firms provide services that manufacturing, transportation, agricultural and other enterprises need to efficiently carry out their roles in the economy. These industries heavily affect the direction and size of investment, and directly influence Cambodia's growth prospects.

- a) **Legal practice:** The legal services sector had experienced continuous growth as a combined consequence of the 'Big Bang' opening of the economy in the post Paris Peace Accords period, the sustained inflow of FDI, and the rise in international trade. Following more than a decade of legal capacity building in human rights and other social protection movement, the post WTO accession period witnessed the gradual emergence of new fields of practice, in particular in the area of business law. The legal services are regulated by the 1995 Law on the Bar, which contained a few regulatory measures related to licensing and qualification requirements, some of which constitute barriers to trade in legal services. Representation in Cambodian courts is restricted to Cambodian lawyers. Foreign lawyers may practice law in Cambodia provided their countries of origin provides reciprocity to Cambodian lawyers. In actual practices, most of them have entered into some form of commercial collaboration with Cambodian lawyers.
- b) **Licensing of trademark agents:** The government has recently enforced a mandatory licensing of trademark agents effective in 2016, where only licensed agents will be permitted to represent clients in the registration, valuation and enforcement of trademarks and geographical indications in the country. Only Cambodian citizens with a permanent address and place of business in Cambodia, and the firms that employ them, may obtain an agent license.
- c) **Licensing of commercial arbitrators:** The practice of commercial arbitration is governed by the 2006 Law on Commercial Arbitration. An independent National Commercial Arbitration Center was established to promote the resolution of commercial disputes by means of arbitration and to create the necessary infrastructure and rules for the administration of arbitral proceeding of commercial disputes in Cambodia.

- d) **Licensing of Accountants and Auditors:** There are no special requirements or limitations governing the sector, which is regulated by the 2002 Law on Corporate Accounting, Audit, and Accounting Profession. Accounting firms are required to first incorporate with the Ministry of Commerce (MoC) to establish a legal entity and then register with the Kampuchea Institute of Certified Public Accountants and Auditors. To undertake commercial bank audits and listed companies, they are required to register with the National Bank of Cambodia and the Securities Exchange Commission of Cambodia, respectively. The National Accounting Council has imposed an requirement to have a qualified Cambodian accountant sign off on audit reports by 2022.
- e) **Licensing of Architects and Engineers:** In recent years Cambodia has witnessed a major boom in residential and commercial real estate developments, which have created a huge demand for architectural and engineering services. Architect needs to register with the Board of Architects of Cambodia (BAC). Compulsory requirement to work with local architects is required. The regulation does not constitute barriers to entry in those services, as they are not applied in a restrictive manner to create difficulties for foreign professionals to access the market. The rationale is to ensure a good understanding of cultural and other factors peculiar to the market.
- f) **Professional engineering services** are regulated by the Board of Engineers of Cambodia (BEC). Firms supplying professional engineering services are required to apply to the Ministry of Land Management Urban Planning and Construction (MLMUPC) and the Ministry of Public works and Transport (MPWT). They can be established in different legal forms, i.e. foreign joint venture, partnership, or limited liability company. Firms with 100% foreign owned capital or foreign joint venture firms could only be established in the form of a limited company. The management of the firm is required to have professional practicing certificate recognized by BEC. Currently, the BEC accepts the mutual recognition of ASEAN Engineers Register established under the ASEAN Federation of Engineering Organization.

2. Construction and Related Engineering Services

The construction industry constitutes one of the largest single sectors in the Cambodian economy. With its close link to public works it provides the infrastructure for all other industries. For construction and engineering services, the sector was already *de facto* wide open as Cambodia needed FDI to boost the economy as well as access to new construction technology and know-how. Joint ventures between foreign and domestic firms are quite common, often out of projects financing necessity, transfers of technology and know-how. The construction sector is subject to many different regulations, including land use controls, building regulations, registration of building practitioners and contractors, and environmental regulations.

3. Communication Services

- a) **Postal and Courier services.** Postal and courier services form a key part of the country's communications infrastructure. The growth of this sector results

from two factors: 1) the increasing regional supply chain favoring just-in-time delivery systems that use small and frequent deliveries rather than bulk transport and 2) the globalization of supply chains that place a premium on information management and speed of delivery.

The postal sector is characterized as state-run that provide just basic mail services and expedited delivery services. The market for courier services is already *de facto* quite open with operators like DHL, TNT, Federal Express, and UPS. These four international market leaders, known as the integrators, are working along with other regional express and courier operators to service the Cambodian market. They are subject to two different licenses: 1) international express mail services and 2) domestic mail services. Up to now, the MPTC has only issued license for international express mail services, even though the actual services cover as well the domestic delivery services.

- b) Telecommunications and IT Services:** In recent years, telecommunications and IT services are widely seen as an engine for development and an indispensable tool for Cambodia's economic growth, with digital and broadband platforms having a transformational impact on the local economy. With very little telecom infrastructure left following the post genocidal Khmer Rouge regime, Cambodia largely by-passed rebuilding the fixed-line market and quickly ventured into alternative technologies, jump-starting its telecommunications infrastructure with digital technology. The number of fixed-line services remained relatively static for some years and mobile services overwhelmed the market completely, with subsequent roll out of a variety of different network technologies. Internet was introduced to Cambodia in 1997. However, the limited fixed-line infrastructure had been a major inhibiting factor in the roll out of both dial-up and DSL internet services.

Since September 2012 the Government has decoupled its telecom operation arm and established a new public enterprise called 'Telecom Cambodia' and an autonomous industry regulator, the Telecommunications Regulator of Cambodia (TRC), making the latter responsible for key areas of spectrum allocation and the regulation of pricing, among others.

4. Distribution Services

The policy toward the distribution sector is one of free market forces and demand and supply. The benefits of Cambodia's liberalization of distribution services are significant in view of the sector's strong economic linkages. In the post WTO accession period, liberalization of the sector has led to efficiency improvement, economies of scale, and better prices, quality and choice for consumers. Exposure to competition stimulates Cambodian suppliers to upgrade their supply chains and production methods and standards.

Opening up to foreign investment in retailing have had a positive impact on Cambodia's retail sector, as characterized by the growing internationalization of distribution groups. Many of the top retailers have targeted Cambodia for its growing

middle-class consumers, and for its development potential for modern distribution channels.

Cambodia's retail landscape is undergoing rapid transformation with goods increasingly sold at small-scale western-style shopping malls, convenience stores, and supermarkets that cater mostly to social elites, the urban middle class, and expatriates. Retailers employ various strategies to enter the Cambodian market, through acquisition, joint ventures, strategic alliances and franchises. Larger retailers tend to operate a number of different store formats, from supermarkets, discount stores, to even convenience stores.

Though the phenomenon is very recent, franchising is a fast growing and an important mode of entry for international retailers in Cambodia. Cambodian entrepreneurs are increasingly becoming agents of, or distributors for, foreign companies from developed countries. Cambodia has yet to enact a franchise law, which can provide more protection for franchisees, e.g. dealing with mandatory disclosure of information. Legitimate importers may obtain exclusive rights protection from the MoC to import brand-name products.

Cambodia does not have many regulations governing the distribution services. The Commercial Enterprise Law has only broad provisions on commercial set-ups and corporate disclosure. There are no requirements in relation to the domestic sourcing of products or the marketing of domestically produced goods. Distributors rely most heavily on the freedom to establish a commercial presence. There are no limit to the number of foreign outlets nor measures restricting the offer of promotional programs, marketing, or other restrictive shop opening hours.

E-commerce is relatively new and undeveloped due to the lack of legal framework and inadequate internet security infrastructure. There is a growing number of online shopping websites that cater mostly to the small number of urban consumers with access to the internet. Social media, such as Facebook, is increasingly used as a medium for online shopping. The draft E-commerce law is yet to be submitted to Parliament.

Advertising services are de facto open, with many foreign firms already operating in the market. Advertising activities are regulated by the Ministry of Information (Mol) and advertisers are required as a matter of pure formalities to apply to the Mol before they can advertise their ads. For billboard advertising, there is an additional requirement to obtain site approval from the municipal or provincial authority, i.e. the Municipality of Phnom Penh.

5. Educational Services

In the last decade, demand for education has grown by leap and bound as the majority of the post-civil war population has reached school age and they recognize the importance of education in securing better employment opportunities. However, quality and diversity remain low, particularly with respect to vocational and technical training. A common complaint among investors is the difficulty of finding well-qualified employees, particularly for technical positions.

Other key factors have fueled the demand for better education, such as: a changing labor market that demands new and changing competencies; an increasing number of jobs requiring high-level skills beyond basic skills; international transactions necessitating English-language qualifications.

Driven by a combination of demographic changes, technological developments, and national development agenda, the Government instituted a very liberal policy and a legal framework in promoting trade in education services, particularly at the tertiary level. Significant shift occurred with private education taking a more prominent role, with growing numbers of Cambodian private universities seeking out international partners to increase the quality and competitiveness of their courses. Distance-learning, franchise or twinning arrangements with foreign educational providers from the US, Australia, United Kingdom, France, and Singapore have flourished. With a new focus toward industrialization, the Government has shifted its encouragement for more investment in the vocational and technical training field.

6. Environmental Services

As Cambodia has become more densely populated and as the volume of production of energy, chemicals, and other materials has increased, pollution and environmental degradation have grown in significance. Historically, the opportunities for trade in environmental services were limited because many of the major environmental services, like sewage and refuse disposal, were provided by the Government. Over the past decade, the Government has adopted adequate legislative and regulatory framework and liberalized the trade of environmental services by inviting private sector to provide these essential services, leading to greater diversity of environmental services, improved quality, and lower prices for the public.

7. Health-Related and Social Services

Health and social services, long considered as non-tradeables and to be provided by public institutions, has seen a shift in policy perception. Medical and health services serve a multitude of developmental, distributional, and social functions and in recent years, they have gradually improved, owing in particular to two complementary developments. First, the enactment of the 2000 Law on management of Private Medical, Paramedical, and Medical Aid Profession has shifted the regulatory regime towards stronger market orientation, opening space for increased domestic and foreign private involvement; second, technical and technologies changes are increasingly enabling certain services, or at least some sub-segments, to be electronically outsourced. More efficient air transport has enhanced also the mobility of both health professionals and consumers.

8. Tourism and Travel-Related Services

Tourism demand, both domestic and international, has brought prosperity to Cambodia. Cambodia's Open Sky policy along with the arrival of low-cost air carriers has radically transformed tourism as a whole and boosted the whole travel and tourism chain – from hotels, resorts, car rentals, computer reservations systems, entertainment, cultural attractions and all the rest of the industry. The tourism industry has matured quickly over the last decade due to political stability, economic growth and improved

infrastructure. The number of foreign arrivals exceeded 5 million in 2015, with more direct flights from foreign countries. The majority of tourists are attracted to the historical/cultural complex of Angkor Wat, but an increasing number of tourists are also visiting the beaches and islands in the southern coastal areas of the country.

The sector is fully liberalized with a comprehensive tourism policy and a well governed legal framework. Cambodia has no restriction on tourism travel agencies, except tour guides where they must use Cambodian guides to preserve the cultural heritage. As part of the hotel licensing process, applicant can apply for a star rating classification, which covers the quality of service and infrastructure of the various types of resort.

9. Recreational Services

The audiovisual sector has undergone, and will continue to experience, significant change as a result of technological advances, which, among other things, make it easier, in terms of cost, quality and time, to transmit greater amount of content within and across borders. Audiovisual services have experienced dynamic growth over the last decade. They are subject to a wide array of government regulations, due to the sector's high social, cultural, and economic importance. Regulations relate to the protection of intellectual property, protection against illicit or offensive content, advertising and the management of the use of the spectrum.

For printed media, the Ministry of Information oversees media enterprises through the mandate of the 1995 Press Law. Newspaper editors are required apply for a license from the Mol as mere regulatory formalities, i.e. provision of background and personal details. The Press Law prohibits any individual or company to own more than two Khmer-language newspapers.

For television and radio, a *de facto* liberalization in the cable and satellite television industry from the early 2000s has attracted foreign investment, spurring the growth of the television programming production industry. The television market has experienced important changes over the last decade thanks largely to technological advances resulting in a shift to cable and satellite, and from analogue to digital. The advent of cable or satellite TV transmission has provided the opportunity for local producers to form partnerships with foreign providers. All television and radio broadcasters are required to have a license from Mol. With the exception of a Sub-Decree on administering cinema and video production, projection, and distribution concerning cultural products, there is no law regulating TV and radio broadcasting nor specific requirements for production and distribution of audiovisual products.

In the area of motion picture production and distribution the Government' efforts remain on ensuring the protection of intellectual property rights of cultural products. The market of Cambodian filmmaking continued to develop with an increasing number companies entering the industry. The music and sound recording industry has also experienced a revolution in recent years, as digitization, increased bandwidth, and the fast growing younger population have generated phenomenal growth in sales of digital audio and video media. An emerging stream of young artists and video production companies are sprucing up in the major urban areas.

The Internet in Cambodia remains totally free. Cambodia used to be one of the lowest internet penetration rates in Southeast Asia with only an estimate 20% of the population had internet access. Internet penetration is on the rise and fast becoming an important communication tool for Cambodians while traditional media outlets – newspapers, radio stations and TV stations – are increasingly using the internet as an additional diffusion method, with all major media already online. In 2015, the Ministry of Post and Telecommunication reported about 20 million of mobile phone subscriptions – an average of 1.3 subscriptions per person. A large percentage of the population is believed to have a mobile phone, with almost 40% using a smart phone, while others have other access methods (such as laptops, tablets, and internet cafes).

10. Transportation Services

Transport like telecommunications provides a "horizontal" service, benefiting the economy as a whole while its "downstream" secondary activities further amplify the economic effects. The road network system, which forms the backbone of Cambodia's transport system, has improved considerably over the years with most of the national road network being upgraded. Due to the inadequate state of the railways services, road carrier services provide the backbone of regional supply chain. The mainly private road trucking industry is entrepreneurial, competitive, and growing. In recent years, policymaking, planning, and management of transportation, control of vehicle registration, driver licensing and registration, have improved significantly.

Legal framework for the development and operation of the railway is relatively nascent and rail operations are inefficient and uncompetitive. International shipping is very competitive with several different feeder lines competing for containers on the Singapore-Sihanoukville route. Inland waterway transportation, though a traditional means of moving goods and people in Cambodia, has so far received limited support and faces severe constraints in terms of draught restrictions, poor navigational aids, and the absence of wharf infrastructures for important river crossings. The civil aviation sector has also undergone major changes in the last few years to improve its compliance with the safety and security of international air transport. Air freight and cargo services in Phnom Penh has witnessed a steady rise with airfreight export volumes rising year-on-year as a result of the country's good trade performance.

11. Banking and Financial Services

Cambodia considered the financial sector as a very sensitive one where the existence of a sound legislative and regulatory framework is crucial for the protection of the public. Cambodia has made sufficient commitments in financial services sector to encourage foreign investment. The post accession period has witnessed an introduction of competition from international financial service providers, which entered the Cambodian market bringing along their latest management and risk-sharing methods, latest technology, and a wide variety of financial products and services to domestic businesses and consumers at lower prices.

Despite progress in the banking sector, the financial sector is still in the early stage of development as it lacks the infrastructure to engage in all financial operations. Cambodia has separate laws and institutions governing insurance and banking services. Foreign banks were permitted to purchase existing banks, establish branches and

conduct activities other than deposit taking, lending and payment services, such as leasing. Other smaller financial actors like micro finance institutions (MFIs) have also thrived. Insurance is also a growing sector that provides general insurance, compulsory vehicle insurance, microinsurance and life insurance, the latter being relatively a new concept in Cambodia. A stock market was officially launched in July 2011, and trading began in April 2012, with very little success up to now.

** Article courtesy of Dr. Sok Siphana, Advisor to the Royal Government of Cambodia*

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