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Chapter 4
Cambodia – Preferential Rules of Origin

Dourng Kakada, *Economic Institute of Cambodia*
Sok Hach, *Economic Institute of Cambodia*

Cambodia is a least developed country (LDC) with a per capita GDP of $448 in 2005. Over the past ten years, growth averaged 8.2 percent per annum, resulting in a decline in the poverty rate from 47 percent in 1993 to 35 percent in 2004. But growth is narrow-based and driven by only few industries—garment, tourism, and construction—with the agriculture sector experiencing booms and busts.

As part of its strategy for trade development and economic growth, Cambodia was eager to integrate itself into regional and global trading systems. It became a member of ASEAN in 1999 and a member of the WTO in 2004. Owing to its LDC status, Cambodia receives preferential schemes such as Generalized System of Preferences (GSP) and ASEAN Integration System of Preferences (AISP) from developed and developing countries which allow potential Cambodian products to access international markets at zero or low tariffs.

While external markets for exports are largely open, Cambodian exports are still limited in terms of products and destinations. Garment exports account for more than 90 percent of all exports. Nearly 90 percent of total exports are directed to the US and the EU. The recorded agricultural exports are minimal. Cambodian exports to other destinations, including countries providing GSP schemes, are also minimal.

1 Export Profile

Cambodian exports are limited in terms of products and destinations. The main exports are garment and textile which historically came to being as a result of the preferential schemes granted by the US and the EU. These preferential treatments made the US and the EU the main destinations for Cambodian exports, accounting for nearly 90% of total exports during 2000-05 (Figure 1). In contrast, exports to ASEAN countries are minimal while it is observed that informal exports to neighboring countries are significant. Exports to Canada and Japan—which also benefit from GSP schemes there—accounted for 2.8 percent and 1.5 percent of total exports respectively during 2000-2005.

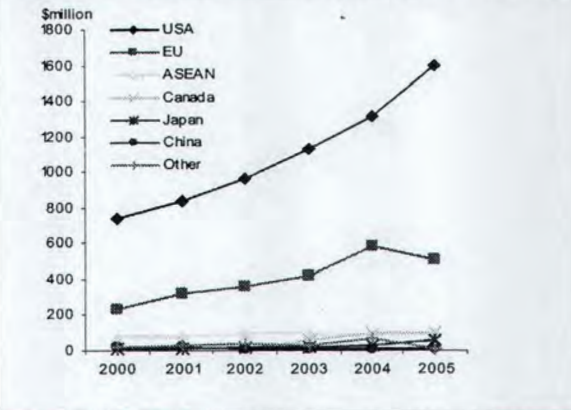
Exports of garments, shoes and textile products accounted for 92 percent of total exports during 2000-2005 (Figure 2). The US absorbs about 70 percent of total garment exports while the EU absorbs about 25 percent. Most of the rest are exported to Canada and Japan. The garment industry has rapidly grown since 1997 when the country was granted MFN status by the US and signed a cooperation agreement including trade cooperation with the EU. Following these agreements, the country was awarded GSP and quota schemes by the EU and the US in 1999, allowing it to access these markets duty free.

With those agreements, investments in the garment sector flowed significantly into the country. Between 1996 and 2005, the number of garment factories operating in the country jumped from just 24 to 247 and exports grew from just $80 million to $2.2 billion. Even after the phase out of the Multi-Fiber Agreement (MFA) quota system in 2005 under the WTO agreement, garment exports to the US continued to increase as the country had built a strong comparative advantage based on its reputation of good labor and working rights for their buyers. Safeguards on China until 2008 have also helped Cambodian garment exports to the US and EU markets. Garment exports to ASEAN are minimal.

In Cambodia, garment production involves mainly cut-make-trim (CMT) activities with almost zero backward linkages to fabrics and accessories. Cambodia offers relatively cheap labor, relaxed investment law, and benefits from GSP schemes granted by developed and developing countries. The country lacks a textile industry and most inputs are imported from China, Hong Kong, Taiwan and Korea whose nationalities are the majority of garment factory owners operating in Cambodia. All produced garments are for exports.

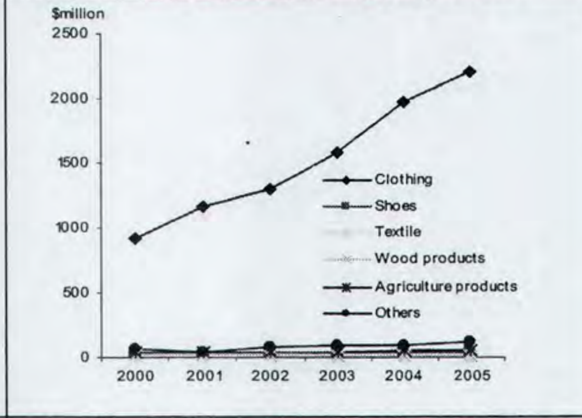
Cambodia is an agriculture-based economy. About 60 percent of Cambodians are employed in this sector and its share is more than 30 percent of GDP. It is estimated that production of some agricultural products has a surplus for exports but most of it is informally exported in the form of raw and unprocessed products. The recorded agricultural exports include wood products, rubber, fish products and rice and account for merely 3.4 percent of total exports.

Figure 1: Cambodia's main export destinations



Note: Exports to Japan sharply increased in 2005 due to exports of antiques older than one hundred years.

Figure 2: Cambodia's main export products



Note: Wood products include timber, plywood, veneer; Agriculture products include rubber, fish products, rice.

Source: *EIC, reproduced from data of Ministry of Economy and Finance*

2 Cambodia's Preferential Agreements

Free Trade Agreements (FTAs) with Cambodia. Since 1999, Cambodia has become a member of ASEAN through which it has committed to implement the common effective preferential tariff (CEPT) within the ASEAN Free Trade Area (AFTA). Under the AFTA framework, the original ASEAN-6 member (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) will eliminate import duties no later than 1st January 2010 while the new ASEAN-4 members (Cambodia, Laos, Myanmar and Vietnam or CLMV) will eliminate their tariffs not later than 1st January 2015, with flexibility allowed for import duties on some sensitive products to be eliminated no later than 1st January 2018.[1] Cambodia's sensitive list contains only 54 tariff lines, all agro-products. Currently, Cambodia is negotiating free trade agreements through the ASEAN framework with a number of countries such as ASEAN-China, ASEAN-Japan, ASEAN-Korea, ASEAN-India, ASEAN-Australia and New Zealand and ASEAN-EU (Table 1).

[1] Protocol to amend the agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) for the elimination of import duties. http://www.aseansec.org/14183.htm

Cambodia and the Generalized System of Preferential (GSP). As a LDC, Cambodia was given unilateral tariff preferences, commonly known as GSP scheme, by a number of countries in favor of developing exports of less developed countries (Table 2). A GSP scheme does not automatically increase market access to a country giving GSP as a range of conditions apply—including rule of origin, requirements of importing countries, and buyers' preferences—limiting the ability to use the preferences.

Under the AFTA initiatives for economic integration, ASEAN has developed its own GSP scheme called ASEAN Integration System of Preferences (AISP) scheme. Under the AISP scheme, old ASEAN members grant AISP to CLMV, except Singapore since its MFN rate is equal to zero. The AISP scheme has the following main purposes:

- ✓ To accelerate the integration of CLMV into ASEAN,
- ✓ To narrow the development gap among ASEAN member countries under the IAI framework,
- ✓ To promote greater exports of CLMV to the ASEAN-6.

Table 1: Cambodia's involvement in FTAs through the ASEAN framework

Partner	Title	Scope	Status
Japan	ASEAN-Japan Comprehensiv e Economic Partnership	Goods, services, investment liberalization by 2012; facilitation; economic and technical cooperation.	Negotiations commenced April 2005; commitments to conclude within two years
Australia/ New Zealand	ASEAN-Australia and NZFTA	Comprehensive for goods, services and investment within ten years	Agreement in November 2004 to establish an FTA by 2007
India	ASEAB-India CECA	Goods expected to be completed by end of 2005; services and investment; DS mechanism	Framework Agreement signed in October 2003; negotiations to finalize FTA on goods by end 2005; to establish DS mechanism by end 2005
Korea	ASEAN-Korea FTA	To expand two-way trade and investment by liberalizing and integrating markets; at least 80% of goods at zero tariff by 2009	Negotiations commenced early 2005; scheduled to be completed by end 2006
China	ASEAN-China CECA Framework	FTA on goods by 2010 for ASEAN-6; FTA for services trade and investment to be implemented within mutually agreed timeframes; Early Harvest program for tariff elimination on selected products; cooperation in other areas	Frame work agreement entered into force on 1 July 2003. Early harvest program completed. Normal track started in July 2005.
EU	ASEAN-EU FTA	The Vision Group on ASEAN-EU Economic Partnership was established by ASEAN Economic Ministers and the EU Trade Commissioner at their 6th Consultation on 27 April 2005. The Vision Group was to look into the feasibility of possible ASEAN-EU FTA and other new initiatives for enhancing cooperation and ties between ASEAN and the EU. The feasibility study also covers the scope of negotiation of ASEAN-EU FTA.	The feasibility study on a possible ASEAN-EU FTA was completed in May 2006 and submitted at the 7th AEM-EU consultation in May 2006. The report recommends that an ASEAN-EU FTA should be established as well as principles and scope for ASEAN-EU FTA negotiations. The ministers exchanged views on the recommendations put forward in the report and welcomed the recommendations to take the ASEAN-EU Economic Partnership to a higher level through the establishment of WTO consistent FTA and expansion of cooperation to ensure benefits of the FTA are maximized and balanced.

Source: *EIC, compiled from WTO Trade Policy and Annual Report (2006) of the Ministry of Commerce*

The AISP scheme offers unilateral concessions by preference-giving countries. The scheme is not subject to negotiation and is based on the commitments of preference-giving countries. The number of tariff lines (TL) given AISP is subject to annual reviews of AISP-giving countries and receiving countries are required to submit a new list of AISP requests by 1st June of each year to be considered for the following year.

Table 2: Countries granting GSP treatment to Cambodia

Country	Title of GSP scheme
Australia	Australian System of Tariff Preferences (ASTP)
Bulgaria	GSP Scheme of the Republic of Bulgaria
Canada	Least-Developed Country Tariff treatment (LDCT)
China	Special Preferential Treatment (SPT)
Estonia	GSP Scheme of the Republic of Estonia
EU	Everything But Arm (EBA)
Japan	GSP Scheme of Japan
Republic of Korea	Presidential Decree on Preferential Tariffs for Least-Developed Countries
New Zealand	Scheme of Generalized Preferences of New Zealand
Russian Federation	GSP Scheme of the Russian Federation
Turkey	GSP Scheme of Turkey
Switzerland	GSP Scheme of Switzerland
Source: EIC, compiled from UNCTAD and Ministry of Commerce	

In 2001 Cambodia requested 862 tariff lines to be included in the AISP list with a preferred GSP rate of zero. Cambodia gradually obtained GSP preferences under the AISP scheme, from 173 tariff lines in 2003 up to 632 tariff lines in 2005 of which 77 percent were given zero duty and 23 percent were subject to a 5 percent duty (Table 3). Of the 632 tariff lines, 293 tariff lines are textile and apparel, 113 tariff lines are wood and wood articles, 101 tariff lines are agro-products and the remaining is furniture, jewelry, paper products, paint and varnishes.

Table 3: Status of AISP given to Cambodia

	Brunei	Indonesia	Malaysia	Philippines	Thailand	Total
No of AISP TL requested (2001)	8	249	164	99	342	862
No of AISP TL given (2005)	8	40	180	64	340	632
No of AISP TL given at 0%	8	10	180	64	225	487
No of AISP TL given at 5%	0	30	0	0	115	145

Note: Singapore has zero MFN tariffs.

Source: *EIC, reproduced from reports from the Economic Integration and ASEAN Department of the Ministry of Commerce*

In 2002, China provided preferential tariffs to Cambodia under the Special Preferential Treatment (SPT) initiative. SPT covered 297 products and came into effect at the beginning of 2004. In December 2005, China decided to grant Cambodia preferential tariffs for an additional 83 products—bringing the total tariff lines covered by SPT to 380.

3 Preferential Agreements and Rules of Origin

Rules of origin associated with preferential treatment given to Cambodia's exports vary according to countries (Table 4).

Since the MFA was phased out in 2005, exports to the **US** enter at MFN rates and are hence not subject to any requirements of rules of origin.

Since early 2001 Cambodia's garments have been exported to the **EU** under the Everything But Arms initiative (EBA) which enables Cambodian exports to benefit from duty free entry if they meet the EU's rules of origin. To be eligible for duty free (i) a product must be wholly obtained in

Cambodia, or (ii) a product constructed of originating inputs from the EU, ASEAN, SAARC and ACP countries must have more than 50 percent value added in Cambodia. The eligible products are certified by certificate of origin form A, which allows those products to access the EU markets duty free.

Given the fact that Cambodia lacks a textile industry, most fabrics and accessories are imported from China, Hong Kong, Taiwan, and Korea. With this production profile, only 61 percent of garment export values to the EU in 2004 were eligible for certificate of origin form A; also, most of those eligible garments used regional cumulation within ASEAN and SAARC. Recent figures released by the EU confirm that EBA's utilization rate by Cambodian exports reached 63.3 percent.[2]

The criteria for **Canada**'s GSP rules of origin are more relaxed. As an LDC, Cambodia is able to import materials from undetermined countries up to a value of 60 percent of ex-factory price. Based on interviews with government officials, almost all exports to Canada under the GSP scheme are able to obtain a certificate of origin of form A with duty free access.

Cambodian exports benefit greatly from **Japan**'s GSP scheme. In 2005, 1,565 certificates of origin of form A to Japan were issued, with a value of $26 million. Total exports to Japan under the GSP/MFN scheme amounted to about $27 million in the same year. Thus, the utilization rate is about 96 percent.

Table 4: Overview of rules of origin in Cambodia's main export destinations

Countries	Criteria
EU (EBA)	1. Goods are wholly obtained in Cambodia. 2. Goods constructed of materials originating in the EU, ASEAN, SAARC or ACP countries; inputs must have more than 50% value added in Cambodia.
Canada	1. Goods are wholly obtained in Cambodia. 2. Goods whose imported content is not more than 60% of the ex-factory price.
Japan	1. Goods are wholly obtained in Cambodia. 2. Where goods are produced partially from materials imported from other countries, there must be a Change in Tariff Classification (CTC) between resulting products and non-originating materials or parts used in production. 3. Goods whose materials are imported from Japan to be used in production are considered as wholly obtained in Cambodia 4. ASEAN countries are considered as one preference-receiving country.
ASEAN	1. Goods are wholly obtained or produced in Cambodia. 2. Goods whose contents are originating from any ASEAN members and which have at least 40% value added.
Source: *EIC, compiled from various sources.*	

Cambodia can access preferential treatment in **ASEAN** in two ways: through the CEPT scheme and the AISP scheme. Exports eligible for CEPT require a certificate of origin (form D) for obtaining the preferential tariff. Exports eligible for AISP require a different certificate of origin (form AISP). The AISP rules of origin are different from those for CEPT, and they also differ among the ASEAN countries providing the preferences (Table 5).

[2] Presentation by Carlos Bermejo Acosta, EU trade representative, during the European Commission Media Seminar on 02-03 February 2006, Phnom Penh, Cambodia.

Table 5: AISP rules of origin

Country	AISP Rule of Origin
1. Brunei	40% of combined local content of ASEAN member countries
2. Indonesia	40% of combined local content of ASEAN member countries
3. Malaysia	40% of combined local content of ASEAN member countries
4. Philippines	40% of single country content
5. Thailand	40% of combined local content of Thailand and each CLMV country

Source: *presentation by Dr. Pola Singh (18 May 2006), Former Head of IAI unit, ASEAN secretariat*

4 Use of Preferences with ASEAN and China

Cambodian exports to ASEAN are minimal, accounting for 5.1 percent of total merchandise exports during 2000-2005. The country's merchandise is exported mainly to Vietnam, Singapore, Thailand and Malaysia. The major export products to ASEAN are rubber, wood articles, garments, gems and jewelry—which account for about 67 percent of total exports to ASEAN. Exports to China accounted for less than 1 percent of Cambodia's total exports during 2000-2005 even though the country received preferential treatment under the SPT initiative.

Most exports to ASEAN are agricultural products which qualify for the rule of origin "wholly obtained". There is also a certain amount of garment products exported to ASEAN which qualify for CEPT using regional cumulation. Interviews with garment factories exporting to ASEAN countries reveal that some garments are exported into ASEAN because buyers try to avoid re-export from their headquarters (in the US or EU) to a third country (in ASEAN). For instance, a factory produces garments in Cambodia to supply its headquarters in the UK. The global company establishes a branch in Thailand to sell garments under its global brand. Instead of exporting to the UK and re-exporting to Thailand, garments produced in Cambodia for this company are exported directly from Cambodia to Thailand.

The majority of Cambodian exports to ASEAN are not covered by preferential tariffs under the CEPT and AISP schemes, but they do enjoy low MFN rates. A number of export products to ASEAN benefit from AISP scheme. These products are mainly agricultural products such as corn, soybean, tapioca starch, peanuts and sesame. The value of exports under the CEPT and AISP preferential schemes is minimal. In 2005, the export value under both AISP and CEPT accounted for $10 million, in which exports under AISP accounted for $9.5 million and under CEPT for about $0.5 million.

A sample accounting for 76 percent of total exports to ASEAN shows that 90 percent of these exports (or 68 percent of total exports to ASEAN) have a zero margin of preference between MFN and CEPT and are not included in AISP lists (Table 6). These products enjoy the existing low MFN rates of 0-5 percent, while Cambodia's export in other tariff lines with high margins of preference is still limited. Only 23 certificates of origin of form D, with an export value of $0.5 million, were issued in 2005; and only 45 certificates of origin of form AISP, with an export value of $9.5 million, were issued in the same year (AFTA bureau of the Ministry of Economy and Finance).

Similarly, the utilization rate of preferences under China's SPT program remains very low. According to data from the Ministry of Commerce (MoC), there were only six SPT certificates of origin issued in 2005. These exports were all agricultural products and amounted to $94,200. The field survey for this study revealed that some export companies face high tariffs from neighboring countries giving preferential treatments where that tariff line is not included in the agreements (Box 1).

Box 1: Palm Wine Spiked with High Tariffs despite Preferential Agreements
Confirel Co., Ltd. produces a whole range of products made from the unique Cambodian palm tree including palm wine, sugar palm, crystallized products and palm hat. These products are supplied to both local and external markets. The majority of exports are directed to France and other EU countries, which make up 75 percent of its sales profit. The company can access EU markets duty free under the Everything But Arms (EBA) arrangement. As part of its strategy to gain market penetration, the company first exported palm wine to Vietnam in July 2005. The company had to pay a 65 percent tariff on these exports since the palm wine was not included in CEPT list and there is no agreement for low-tariff access between Cambodia and Vietnam. This makes the product uncompetitive in the Vietnamese market and therefore the company stopped exporting to Vietnam. Likewise, confirel is not able to access the Chinese market since it needs to pay a 93 percent tariff, making the undertaking unprofitable. Palm oil is excluded from the list of 297 products to which China unilaterally granted low-tariff access under the Special Preferential Treatment (SPT).
Source: *Authors based on The Cambodia Daily Newspaper, p. 18, July 13th, 2005 and Interviews with the General Manager of Confirel Co, Ltd. in June 2006.*

Table 6: Margins of Preference (MOP) for main export products in 2005

Export products by HS (8 digits)	% of Exports to ASEAN	MFN Rates	CEPT Rates 2005	MOP*	AISP
Vietnam					
Other crepe rubber	29.3%	3%	3%	0%	No
Reclaimed rubber in primary forms or in plates, sheets or strip	1.9%	3%	3%	0%	No
Wood (excl. of 4407.10-4407.92), sawn/ chipped LW, sliced/peeled, WN planed, sanded/end-jointed of a thickness >6mm	6.3%	0%	0%	0%	No
Other – Articles of plastics & arts. of other mats. of 39.01-39.14, n.e.s. in Ch.39	0.8%	20%	5%	15%	No
Other – Woven fabrics of acrylic/ modacrylic staple fibers, other than that mixed M/S with M-M filaments/wool/fine animal hair	1.3%	40%	10%	30%	No
Thailand					
Trout, fresh/chilled (excl. fillets/other fish meat of 03.04/livers & roes)	0.6%	5%	5%	0%	No
Soya beans, whether or not broken	1.7%	6%	5%	1%	0%
Containers for compressed or liquefied gas, of iron or steel	0.7%	10%	5%	5%	No
Worn clothing and other worn articles	0.7%	30%	0%	30%	No
Vehicles (excl. of 87.02 & 8703.10) principally destined for the transport of persons, with spark-ignition int. comb. recip. piston engine, of a cylinder capacity >1500cc BN >3000cc	2.7%	80%	5%	75%	No
Malaysia					
Palm oil, crude	0.6%	0%	0%	0%	No
Natural rubber other than latex/smoked sheets/technically spec. nat. rubber	2.8%	0%	0%	0%	No
Knitted or crocheted fabrics	0.6%	15%	5%	10%	No
Sub-Total	49.2%	-	-	-	-
Singapore (all tariff lines)	26.7%	0%	0%	0%	No
Total (% of total exports to ASEAN)	75.8%	-	-	-	-
Total exports with MOP=0% (% of total exports to ASEAN)	68%	-	-	0%	No

* Margin of Preference (MOP) is the difference between MFN rates and CEPT Rates in 2005.

Source: *Authors' calculations based on data from Ministry of Economy and Finance and www.aseansec.org*

5 Conclusion and Recommendations

Current major exports to ASEAN are benefiting little from the CEPT and AISP preference schemes. This is mainly due to the fact that they are already enjoying low MFN rates of 0-5 percent. Exports under tariff lines with a high margin of preference are still limited. The country also benefits little from China's SPT scheme. Taking into account the case of palm oil exports to Vietnam and China, the recommendation for negotiations on the AISP and SPT schemes would be to focus on tariff lines where exports are currently taking place rather than a list of many non-exported products.

While the latter market access problems are not due to rules of origin, Cambodian exports are also facing barriers in this respect. These barriers are preventing the country from fully benefiting from preferential treatment. The case of the garment industry clearly demonstrates that Cambodia cannot benefit fully from the EU's EBA initiative due to the absence of a local textile industry and the EU's criteria being tied up with specific regions which are not the main sources of Cambodia's garment inputs.

Regional cumulation plays a crucial role in helping Cambodian exporters meet the rules of origin. The Cambodian textile industry is underdeveloped and most fabrics and accessories are imported, mainly from China, Hong Kong, Taiwan and Korea as well as some from ASEAN and SAARC countries. The importance of regional cumulation becomes evident in the case of the EU. The EU's rules of origin criteria are restrictive with respect to imports of fabrics and accessories from ASEAN and SAARC countries. As a result, in 2004 only 61 percent of the garments exported to the EU qualified for duty free access. Garment exports to Japan and ASEAN have in the past benefited more from regional cumulation of origin.

Cambodia will need to proceed carefully with free trade agreements, especially through the possible enlargement of ASEAN. The region is in the process of setting up free trade agreements with other countries, such as China, the EU and Japan, where Cambodian exports are currently facing NTBs. Thus, if the FTA negotiations do not take into account the specific country experiences, Cambodia's benefits from those FTAs could be limited.

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