

Issues and Requests Relating to Foreign Trade and Investment - Cambodia

Category	No	Issue	Issue Details	Requests	References
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Nebulous, Delayed Customs Clearance Procedures	<p>- For nebulous reasons, customs clearance delays frequently arise, forcing temporary cash flow difficulties, operational delays, etc.</p> <p><b>(Actions)</b></p> <p>- Cambodia, a Member State for the WTO Customs Valuation Agreement, has completed the transitional period in January 2009.</p> <p>- Automated System For Customs Data (ASYCUDA) is at work only in limited places such as Sihanoukville, Vientiane Laos National Border, etc. It takes a trip to customs at national border to file applications. From time to time, ASYCUDA itself is out of order, requiring filing of applications with paper documents. (JETRO Business Report of 6 September 2012)</p> <p>- At the 9th Cambodia-Japan Public-Private Sector Meeting, Cambodian side replied: "In January 2013, decision was made to prepare the list of all public service tariffs and each of their required time. Ministries and Agencies were directed to prepare the list."</p> <p>- On 28 June 2014, Cambodia acceded to "Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (Amended Kyoto Protocol)".</p>	- It is requested that CDC clarifies the criteria for judgment at the customs clearance procedures in writing.	- Cambodian laws
	(2)	Arbitrary Nature of Approval on Duty Free Import	- On Duty Free Import of Equipment and Raw Materials under the Qualified Investment Project (QIP), both the Scope Of Approval and the Lead-time for Approval vary by discretion of the officer in charge at the Council for the Development of Cambodia (CDC).	- It is requested that CDC clarifies the Standard System in writing.	- Cambodian laws
	(3)	Lack of Clampdown on Illegal Imports	- Unfair competitive environment prevails due to illegal imports. Enterprises filing Customs tariff declaration fairly and paying correct duty face unfair competition in the market.	- It is requested that GOC tightens its border control, and strengthens clampdown, revelation, and fines on illegal importers.	
14 Taxation Systems	(1)	Value Added Tax is not Registered by Many	- Despite the fact that registration of value added tax (VAT) is a mandatory requirement, it is not registered by many enterprises. Tax collection is not adequately made.	- It is requested that GOC promotes VAT registration by each enterprise.	- Cambodian laws
	(2)	Nebulous Base of Issues Raised at Tax Investigation	- Tax Investigation takes place 3-times for the same year. Tax Investigator raises issues without giving logical reasons, or interpretation, some of which are not based in tax laws.	- It is requested that GOC takes measures to overhaul Tax Laws, provides training to Tax Investigators regularly for updating their professional knowledge and changes/revisions of legislation, to thoroughly enforce smooth filing of Tax Returns and the Subsequent Tax Investigation.	- Cambodian tax laws

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	(3)	<u>Unrefunded Withholding Tax On Service(WHT)</u>	- <u>Primarily, the recipient of service pays to Taxation Bureau, Withholding Tax (about 10%) for service rendered on behalf of the person providing service by deduction. However, in reality, it seems no refund is made by Taxation Bureau so that, more often that not, under the contract, the recipient of service is made doubly responsible for Withholding Tax. (Note) Where the recipient of service is in a weaker bargaining position, the person providing the Service may refuse the contract, unless the former is willing to assume Withholding Tax. For example, double payment of Withholding Tax arises where the lessee has no alternative but to move in to the leasehold property.</u>	- <u>It is requested that General Department of Taxation (GDT) will affect withholding tax refund as set forth in the law.</u>	- <u>Prakas 599 on the Enterprise's deductible withholding taxes (Prakas 599)</u>
16	Employment	(1) Radical and Frequent Hike in the Minimum Wage Level	- <b>Despite the Legal Minimum Wages was raised from USD 60 to USD 80 monthly in May 2013 and to USD 100 in February 2014 in the sewing and footwear manufacture sector, another hike to USD 128 is due in January 2015.</b> <b>Frequent and radical rise of the legal minimum wages gave serious impact on the plan for investing into Cambodia. It consequently freezes the investor's propensity for investing into Cambodia (for example, suppression of new investment, withdrawal of investment already made, etc.).</b> <b>(Actions)</b> - GOC envisages deciding on increase of minimum wage hike based upon research, made periodically at predetermined interval, into prices that assure livelihood of its people, commensurate with the geographical culture. For this purpose, GOC sets in place for further discussion, hereafter, a working group in Department of Labour that hears views from both employers and employees. - In December 2013, Labour Advisory Board announced raise in Monthly Minimum Wages (USD95 in 2014, USD110 in 2015, USD126 in 2016, USD143 in 2017. and USD167 in 2018), doubling by 2017 compared to 2013. - <u>The legal minimum wage in Cambodia has increased in the last 3-years as follows:</u> -- 2014    USD100    Up by 12.5% against the preceding year -- 2015    USD128    Up by 28.0% against the preceding year -- 2016    USD140    Up by 9.4% against the preceding year	- It is requested that GOC revises the minimum wage at a level and at an interval that will permit continued, sustainable, and healthy economic growth in Cambodia, while maximizing employment for the Cambodian nationals.	- Cambodian laws
19	Industrial Standards, Approval of Safety Standards	(1) <u>Nebulous Definition of Electric Wire Industrial Standard</u>	- <u>The definition of electric wire industrial standard is extremely nebulous so that the purchasers of electric wire (including the electricity authority) are unable to compare, side by side by manufacturer, the specifications of the electric wire. Price comparison is only possible on local products by the price in the originating country.</u> <u>Excerpts from Prokas: [In case a matter is not stipulated in the technical standards, IEC standards shall be applied. If it is not covered</u>	- <u>It is requested that GOC integrates plural standards currently stipulated into a single standard.</u>	- <u>Ministry of Industry, Mines and Energy No. 701 Prokas on Establishment of Specific Requirement of Electric Power Technical</u>

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			<u>in the IEC standards, ISO Standards shall be applied. If it is not covered in the ISO Standards, internationally recognized standards shall be applied, subject to the approval by MIME]</u>		<u>Standards of The Kingdom of Cambodia</u>
24 Indigested Legislation, Abrupt Changes	(1)	<u>Immature Legislative Scheme/Nebulous Operational Procedures</u>	- Due to the immature legislation and the scarcity of cases in operation, it remains ambiguous what kind of legal procedures are necessary, and which Ministries and Agencies are in charge. - In the case where precedents are hardly available, its examination takes <u>an extremely long time.</u> - Where legislative amendment is necessary, in certain cases, applicants <u>have no alternative but abandon the project for lack of time.</u>	- It is requested that GOC will <u>overhaul the legal system, in mid-long term.</u> - In a short run, it is requested that <u>GOC will establish a framework that allows a prompt business decision, for example, by setting up an consultation window, etc.</u>	
26 Others	(1)	Nebulous Outlook on Power Supply/Pricing	- The outlook of power supply remains in the dark as supply shortage has occurred in certain regions. There is no concrete project in sight for resolving the supply shortage.  <b>(Actions)</b> - <b>Cambodia relies on import from Thai, Vietnam, and Laos for 56.3% of its electric power needs. Blackouts are frequent, and power supply is unstable (especially during the dry season, April and May) Power cost is expensive relative to neighboring countries (USD0.20 per kWh).</b> - At the 9th Cambodia-Japan Public-Private Sector Meeting, Cambodian side replied as follows: (1) Going power rates are established under the 5-year plan (2010 - 2015). Rates for this year (in the midterm) will not be radically lowered. Power Rate for Phnom Penh is somewhat lower than local areas as it draws power from the generating plant constructed under PRC loan. (2) In 2013, construction projects for 95% of the thermal electric power plant and 85% of the hydraulic electric power plant were completed respectively. (3) From now on, power shortage is expected in 2014 during the dry season, but in 2015, construction for the electric plants will be in operation, They should be able to meet the requisite demand by then. - <u>Electricity Du Cambodia (EDC) envisages its electricity policy on dual pillars, hydraulic power generation and coal fired power generation, estimating the peak momentary power consumption at 1,538MW until 2020, while after 2017, by domestic power generation and imports should total 1,672MW, which is sufficient to cover the domestic demand.</u>	It is requested that GOC: -- discloses the prospect of power supply and pricing outlook, in addition to its plan for power plant construction, and -- recognises the importance of power supply shortage of which can materially deter industrial development in Cambodia.	