



Research and Technological
Exchange Group

Cambodian agriculture and WTO

Joining WTO : facing the challenges

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GRET

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Table of contents

LIST OF ACRONYMS	3
I. OVERVIEW OF THE WTO.....	4
1. From GATT to WTO.....	4
1.1 Overview of the GATT	4
1.2 The Uruguay Round and the Marrakech agreement	5
2. The WTO.....	6
2.1 The WTO mandate.....	6
2.2 The functioning of WTO.....	6
II. WTO AGREEMENTS REGARDING TO AGRICULTURE	7
1. The Agreement on Agriculture.....	7
1.1 General objective	7
1.2 Access to market	7
1.3 Domestic support	8
1.4 Export competition.....	9
1.5 Peace clause	10
2. WTO Agreements on standards.....	10
2.1 The SPS agreement	11
2.2 The TBT agreement	11
2.3 Distinction between technical regulations and SPS measures	12
2.4 Special measures for Developing countries	12
3. The TRIPS agreement	13
3.1 Description of the Agreement	13
3.2 Protection of plant varieties	13
3.3 Geographical indications.....	14
4. Results of the implementation of WTO agreement for developing countries	14
III. THE MEMBERSHIP AGREEMENT OF CAMBODIA.....	15
1. Commitments	16
1.1 Tariffs for goods.....	16
1.2 Trade in agricultural inputs	16
1.3 Agricultural policy	17
1.4 Trade in forestry goods	21
1.5 TBT Agreement	22

1.6	SPS Agreement	22
1.7	TRIPS Agreement	22
1.8	Notifications.....	22
2.	Agenda.....	23
IV.	THE ON-GOING NEGOTIATIONS	23
1.	Renegotiating the Agreement on Agriculture.....	23
1.1	The context before Cancun	23
1.2	Points of negotiation	24
2.	The Doha declaration	25
3.	The failure of the Cancun Conference.....	26
4.	Next steps	26
V.	JOINING WTO: FACING CHALLENGES	26
1.	Bad governance	27
2.	Marketing	27
3.	Protecting small farmers.....	27
4.	Use export opportunities.....	28
VI.	CONCLUSION.....	28

List of Acronyms

AoA	Agreement on Agriculture
ASEAN	Association of South Eastern Asian Nations
EU	European Union
GATT	General Agreement on Tariffs and Trade
IMF	International Monetary Fund
LDC	Least developed country
MFN	Most favoured nation
SPS	Sanitary and Phytosanitary
TBT	Technical barriers to trade
UPOV	International Union for the Protection of New Varieties of Plants
UR	Uruguay round
US	United States of America
WB	World Bank
WTO	World Trade Organisation

The WTO membership agreement of Cambodia was formally approved during the last WTO Ministerial Conference held in Cancun in September 2003. The agreement has still to be ratified by the adequate Cambodian institution, and 30 days after, Cambodia will be the 147th WTO member.

Joining WTO will generate in-depth changes in the Cambodian economy. The implementation of the membership agreement induces modification of trade rules, in a broad sense. Cambodia will have to open its market and liberalise its economy. On the other way, joining WTO might offer new opportunities for the development of Cambodian exportations.

As for other developing countries and among them Least Developed Countries, Cambodian agriculture plays a key role in the national economy. Therefore, this sector will face a major challenge.

The aim of this document is to highlight the implications of the implementation of WTO rules on Cambodian agriculture, and to provide information to stakeholders on WTO and the current negotiations. A workshop was organised on this issue in Phnom Penh in January 2004, by GRET and CEDAC, and sponsored by CFSI. This document benefits from the outputs of the workshop, especially in the last part.

It is divided in five parts:

- ▷ Overview of the WTO ;
- ▷ The WTO agreements regarding to agriculture ;
- ▷ Commitments of Cambodia and their possible implications for agriculture ;
- ▷ On-going negotiation process on the WTO Agreement on Agriculture;
- ▷ Joining WTO : facing challenges
- ▷ Conclusion and recommendations

I. OVERVIEW OF THE WTO

1. From GATT to WTO

After the Second World War, protectionism, reinforced after the economic crisis of the 30s was seen as one of factor responsible of the conflict. To promote a stabilisation of the world economy, three organisations were created in Bretton Woods in 1944. They are non-part of the United Nations system. Those organisations are the World Bank (WB), the International Monetary Fund (IMF), and the General Agreement on Tariffs and Trade (GATT), ancestor of WTO.

1.1 Overview of the GATT

The objective of the GATT is to promote world trade liberalisation. When it was created, 23 states joined it. The GATT is an agreement, modified and expanded through successive round

of trade negotiations. From 1947 to 1984, 8 rounds were held, and the average tariffs decreased from 40 % in 1947 to 4 % in 1996 (industrial products only).

Functioning of GATT is based on three principles:

- **Most Favoured Nation (MFN) clause:** each country has to apply to all of its partners the treatment applied to the most favoured partner. Regional agreements (free-trade areas or customs unions), such as ASEAN, lead to discrimination between countries. They are an exception to the MFN clause.

Cambodia had concluded an Agreement Relating to Trade in Cotton, Fibres and Textile Products with the United States. This is contrary to the MFN treatment, and Cambodia would extend the same preferential tariff rates accorded to U.S.-origin textile products under the Agreement to all WTO Members on an MFN basis upon accession.

- **National treatment:** Conditions applied to import products have to be the same that are applied to domestic products. The discrimination between import and domestic products is not possible.

In Cambodia, imported veterinary medicines are reserved for agricultural technician, also distributors of the product. During the negotiations on accession, a WTO member concluded that Cambodia had placed restrictions on imported veterinary medicines which would not apply to domestic production of similar products. This is contrary to the national treatment principle.

- **Reciprocity:** one country has to give to one partner the same advantages that the partner offers it.

As member of ASEAN, Cambodia was committed to extend tariff preferences as stipulated in the ASEAN Agreement on a reciprocal basis.

1.2 The Uruguay Round and the Marrakech agreement

The last round of the GATT, the Uruguay round, was launched in Punta del Este (Uruguay) in 1986. It was the longest round, and 123 countries participated to the negotiations. The duration of the discussion was due to the objective of this round: to enlarge the topics of negotiations. The round covered tariffs, of course, but also non-tariffs measures, services, intellectual property, textiles and clothes, and mainly agriculture. Agriculture was a hard point of discussion, and was responsible, at several times, of the failure of the discussion.

The Uruguay round was concluding at the end of 1993. The Marrakech agreement, on April 15th, 1994, created a new multilateral organisation, the World Trade Organisation (WTO).

The agreement signed in Marrakech, commonly known as GATT Agreements, is in fact the WTO Agreement. 29 distinct agreements (covering agriculture, services, goods, and intellectual property rights), memorandums, ministerial decisions are grouped into one single Agreement. The GATT is one of them, and its principles are still available.

The WTO Agreement is based on four main principles:

- To facilitate access to the market of good and services;
- To reinforce the system of international trade rules;
- To guarantee the stability, predictability and transparency of world trade;
- To improve the system for settling trade disputes.

2. The WTO

The creation of the WTO introduced a profound change in the way of regulating international trade. It confirmed that most national, regional and international trade rules are now defined within this inter-governmental framework.

2.1 The WTO mandate

The WTO has five basic functions:

- Ensuring the effective implementation of the Uruguay Round conclusions ;
- Administering the procedures for settling trade disputes ;
- Acting has a forum for future trade negotiations ;
- Managing the trade policy review mechanism ;
- Co-operating with the Bretton Woods institution

2.2 The functioning of WTO

The WTO is a permanent multilateral organisation, based on the principle of the single Agreement: membership in the WTO entails accepting all the agreements.

Decision-making bodies

The members govern WTO: decision are made by the membership as a whole on all matters. The top-level decision-making body is the **Ministerial Conference**. It is composed of representatives of all Members (usually, the Minister of Trade or Economy). The Conference is to meet at least every two years. The Cancun Conference was the fifth one. The sixth Conference will be held in Hong-Kong, at least at the end of 2005.

The body responsible for implementing the decisions taken by the Conference and for the day to day management of WTO is the **General Council**. The General Council is composed of representatives of all members.

Three councils assist the General Council:

- the Council for Trade in Goods, including Agriculture
- the Council for Trade in Services,
- the Council for Trade-Related Aspects of Intellectual Property Rights.

Several Committees have been set up to examine in depth a number of specific issues, such as “trade and development”, “trade and environment”. The Committee on Agriculture examine issues related to the Agreement on Agriculture.

The WTO has a **Secretariat**, with a weak power of initiative or decision-making. Its main duties are to supply technical support for the decision-making bodies.

Decision-making rules

The basic philosophy is that all Members sit as equals. Every country has a vote. According to the WTO statutes, a decision is taken by majority (simple or qualified). But in practice, the principle of consensus has prevailed up to now.

The description of egalitarian principles is contradicted by reality. In fact, there is a lack of transparency during the negotiations, and a lack of equality. Power of negotiation of each

country relies on its economic weight. Mini-ministerial are held, with some selected Members. The next one will be held in Davos (Switzerland) at the end of January 2004, with around 30 members on 146.

Limited participation of Developing countries

Despite the fact that they represent the majority of the WTO membership, only a few number of Developing countries exert an influence on the negotiations (China, India, Brazil, Argentina, South Africa, Mexico, Kenya,...). Most of developing countries does not have a permanent representation in Geneva, and when the representation do exist, it covers other international organisations based in Geneva. Therefore, it is impossible for these countries to participate fully to the work of the various WTO committees. Furthermore, most of them lack of appropriate expertise.

II. WTO AGREEMENTS REGARDING TO AGRICULTURE

Until 1986, agriculture was excluded from international trade negotiations. The major producing regions, especially the United States and the European Union, implemented various agricultural policy instruments to stimulate the growth of their domestic production. These policies generated growing surpluses, more and more difficult to sell. In the eighties, a trade war broke out between the two giants, using export support as a weapon.

The unaffordable cost of these policies, the negative impact on agricultural markets at international level, led to the incorporation of agriculture in the negotiations of the Uruguay Round.

1. The Agreement on Agriculture

The Agreement on Agriculture (AoA), included in the WTO Agreement, came into force on 1st July 1995. It is relevant for agricultural products only, including fibres and raw skins, but excluding fish products and wood. The general rules of GATT for trade in goods are relevant for agricultural inputs.

1.1 General objective

The main goal of the AoA is to ensure a certain discipline in agricultural trade and its support policies. It aims at restricting the use of agricultural policy tools that have negative or distorting effects on world trade. It covers export subsidies and border protection mechanism, as these have a direct impact on trade. It also covers production support, because it usually has direct effects on the volume of production, and consequently, indirect repercussions on trade.

The AoA is built on three pillars, access to domestic markets, domestic support for production, and export competition.

1.2 Access to market

The relevant measures

The measures concerned restrict access to national markets. They include:

▷ **Tariffs barriers** : custom duties

Usually, custom duties are « ad valorem »: a percentage applies on the import value of the product.

In Cambodia, mostly of rates are ad valorem for agricultural products, with a few exceptions. Cooking oil, green beans and tobacco are subject to minimum custom value.

▷ **Non-tariffs barriers**: import quotas, variable entry levies, minimum import prices and import licences.

The Cambodian Ministry of Agriculture, Forestry and Fisheries issues licenses (authorisation letters) for importation of agricultural inputs, principally pesticides and fertiliser.

First objective : bring transparency to levels of protection and reduce them

This entails the conversion of non-tariffs barriers into custom duties (tariffs equivalents). This is call tariffication. Then, tariffs are bound at a certain level, and cannot be increased. It is the binding principle.

Second objective: to further open domestic markets to imports

The Agreement provides a minimum import threshold for products that have been tariffied. Each country must ensure a minimal access equal to 5 % of the average internal consumption during the period of reference (1986-1988 for countries part to the negotiation of the AoA).

Exception : the Safeguard provision

In the event of a rapid surge in the volume of imports, or a strong fall in the prices of imported products, a country may add an additional tax to the existing tariff. The additional tax may not be higher than 30 % of the normal tariff, and can only be applied until the end of the year in which it was introduced.

The GATT contains many useful safeguard provisions. In the following cases, a country may resort to safeguard provisions:

- Significant deterioration of the balance of payments ;
- Clearly established dumping, that is to say the sale of an imported product at a price that is lower than the selling price on its home market ;
- To protect a newly developing industry (infant industry);
- To protect health and life of human or animals, and to protect plants.

1.3 Domestic support

The AoA distinguishes between three types of production support, grouped into “boxes”, depending on their more or less distorting effects on trade.

The Green Box

The green box is for subsidies that have minimal or no distorting effects. The green box consists mainly of:

- Government services programme : research, training, infrastructures, pest control, food security stocks, domestic food aid, ...

- Direct payments to producers non-linked to production levels or production factors, such as insurance mechanism in the event of disasters or loss of income. This type of support is called « decoupled ».
- Programmes for the protection of the environment and assistance to less favoured areas.

Such measures are not considered to be production incentives, and therefore they do not distort trade. There is no ceiling to the amount affected by a country to green box measures, and they can even be increased.

The Blue box

The blue box contains aid that are partially decoupled, and given to producers within the framework of a production-limiting programme. The blue box was created and negotiated by the US and the EU. Since the implementation of the AoA, only these two WTO members use blue box measures. Blue box measures are not subject to reduction, but they cannot be increased.

The Amber box

The amber box contains mainly price support measures and other types of assistance that are not included in the other boxes. This kind of support is designed to maintain high prices, or to regulate prices. They are considered as high trade distorting, and have to be cut according to the AoA.

« De minimis » provision

« De minimis » provision makes it possible to avoid reduction of amber box measures:

- if the value of the support for a given product is lower than 5 % (developed countries) or 10% (developing countries) of the total production value of this product ;

or

- if the value of non-product specific support is lower than 5 % of the value of the country's total agricultural production (10 % for developing countries).

Exceptions for developing countries

Agricultural investment incentives, subsidies for the inputs of low-income producers, and assistance to replace illicit crop are not subject to reductions.

LDCs are not subject to reduction commitment.

1.4 Export competition

Export supports enable a country to export its agricultural products at prices lower than those on the domestic market. These measures include:

- Direct export subsidies;
- Exports of stocks at lower prices than those on the domestic market;
- Subsidies aimed at reducing the marketing costs of exports;
- Subsidies for the international transport of exports products.

On the other hand, credits and guarantee of credit for exports, export promotion programme, trading state enterprises, are not taken into account.

The AoA provides for a cut in budget for export subsidies, and for decrease in the volume of subsidised exports.

LDCs are not obliged to reduce their export subsidies.

1.5 Peace clause

The peace clause covered a period of nine years (1995 – 2003) during which domestic support and export subsidies of one Member, may not be object of a complaint on the basis of the WTO Agreement, if the Member respects its commitments.

Most of the clauses of the Agreement on Agriculture are not in conformity with the GATT principles. The Peace clause protected this exception during a limited period.

The Peace clause will end in July 2004, the later.

Classification of agricultural policy tools

Market access	Export competition	Domestic support		
		Amber box	Blue box	Green box
Tariffs Variable entry levies Minimum import price Import quotas SPS standards TBT requirements	Export subsidies State trading company engaged in export and import Export credits Export of stocks under the price of domestic market Support for marketing and transport	Guarantee price Price added support to farmers, linked to products. Subsidies for inputs Support to investment	Support given to producers within the framework of a production-limiting programme	Income guaranty mechanism, in case of special events (market crisis, natural disasters,...) Providing farm credit or subsidizing it Crop insurance Expenditure on extension Expenditure on training Expenditure on research Expenditure on plant protection services Expenditure on animal health protection services Expenditure on public infrastructure (irrigation, drainage, slaughter house, ware house) Definition of standards Environment protection programme Food security stocks

2. WTO Agreements on standards

Within the WTO framework, two Agreements regulate the use of standards by Members, in order to prevent them as being used as protection tools. These Agreements are the Sanitary and Phytosanitary Agreement (SPS), and the Technical Barriers to Trade Agreement (TBT).

2.1 The SPS agreement

Presentation

The Sanitary and Phytosanitary Agreement is relevant for all rules of procedure which define formulation and implementation of SPS measures in international trade. SPS are set of measures to protect life and health of human / animals, and to protect plants. But the SPS Agreement does not define the measure.

The definition of SPS measures is under the responsibility of relevant international organisations (Codex alimentarius, Office international des épizooties, International plant protection convention) or WTO Members.

Implementation

The SPS Agreement is based on two key principles :

- **National treatment** : non-discrimination between foreign and national products;
- **Scientific justification** : member states have to establish risk assessment, to scientifically justify the relation between a SPS measure and level of sanitary protection.

The modalities of the implementation of the SPS Agreement are summarised in the following table.

▷ International standards already ratified	▷ Harmonisation on the basis of international standards
▷ International standards no ratified	▷ Individual country measures allowed based on risk assessment
▷ If a country wants to apply a higher level of sanitary protection	▷ Possible, with respect to the two principles : non-discrimination and relevant risk assessment
▷ If scientific proofs are insufficient	▷ Implementation of temporary measures is authorised

Transparency and equivalence

All measures have to be notified to WTO SPS Committee, before their implementation, in order to allow all Members to know SPS measures of other countries.

Other members may be allowed to contest scientific proofs provided by one country.

Members have to accept equivalent SPS measures implemented by other members, if they provide the same level of protection than the one they implement themselves.

2.2 The TBT agreement

Presentation

The Technical barriers to Trade Agreement existed before the WTO, under the framework of the Tokyo round standards code (1979). During the Uruguay round, the negotiations aimed at strengthening and clarifying it.

The TBT Agreement is relevant for technical regulations covering all specific characteristics of a product, such as :

- size, design, functions, performance;
- the way it is labelled or packaged;
- the way it is produced. In this case, it may be more appropriate to draft technical regulations on the production methods rather than the characteristics *per se* (case of organic products for instance).

A Member may apply technical measures for the following purposes :

- Protection of human safety or health;
- Protection of animal and plant life or health;
- Protection of the environment;
- Protection of deceptive practices: to protect consumers through information (labelling requirement);
- Other : quality, trade facilitation. (size of vegetables).

Implementation

The aim of TBT Agreement is to avoid unnecessary obstacles to trade. It is based on several key principles :

- Non-discrimination and national treatment;
- Harmonisation, by encouraging members to use existing international standards;
- Equivalence;
- Mutual recognition of conformity assessment results;
- Transparency, through the notifications and the settlement of a national enquiry point.

2.3 Distinction between technical regulations and SPS measures

A measure is SPS if its objective is to protect :

- human life from risks arising from additives, toxins, plant / animal disease;
- animal life from risks arising from additives, toxins, pests, diseases, disease carrying organisms;
- plant life from risks arising from pests, diseases, disease carrying organisms;
- a country from the risks arising from damage caused by the entry, establishment or spread of pests.

Measures adopted for other purposes are TBT measures.

2.4 Special measures for Developing countries

The WTO Agreement recognises that developing countries may face difficulties to conform to developed countries SPS or TBT measures (entry to developed countries' market) or to implement into their countries SPS measures.

A special treatment framework is designed to help developing countries, by providing them technical assistance. In case of implementation of new measures by a developed country that may hardly reduce market access, the Member has to provide technical assistance. When new measures are decided, developing countries have more time to implement them.

But SPS and TBT measures still constitute real obstacles to trade for developing countries, for several reasons. First, technical assistance is insufficient. Furthermore, the equivalence is implemented in a restrictive way, and developed countries look for similarity more than for equivalence. So, this leads to a loss of flexibility, which was the objective of the equivalence concept.

Developing countries lack of human resources or expertise to participate to the international organisations. Therefore, this induces a lack of ownership on SPS measures, and difficulties to harmonise and implement standards.

3. The TRIPS agreement

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is one of the chapters of the Marrakech Agreement.

3.1 Description of the Agreement

The Agreement obliges States to protect inventions of products and processes. It covers all intellectual property rights through legal instruments to protect authors, inventors, brands and names against imitation and reproduction. Two of them – patents and geographical indications – concern agriculture.

The TRIPS Agreement defines the areas that should be protected (chemicals products use in agriculture, plant varieties, geographical indications, trademarks, etc.) and the means that should be used. It makes provisions for transition period to apply the full agreement : 5 years for Developing countries and 11 years for LDCs.

Some Developing countries still do not fully implement the TRIPS commitments, particularly because of its provisions on plant variety protection. There is a strong opposition between developed and developing countries on this issue. For most of developing countries, recognising property right on living being is inconceivable.

3.2 Protection of plant varieties

The protection of plant varieties is established in the Article 27 of the TRIPS Agreement, which defines the field for application of patents. It stipulates that Members may also exclude from patentability plants and animals. *“However, Members shall provide for the protection of plant varieties either by patents or by an effective “sui generis” system or by any combination thereof.”*

A sui generis system is one that specific to each country, other than a patent that protects plant varieties from reproduction.

These provisions oblige WTO members to introduce intellectual property rights for plant varieties, through patents or other system, such as the International Union for the Protection of New Varieties of Plants (UPOV).

The main difference between the two system is that it is not possible to use a variety protected by patents for research or farming purposes. That means that farm saving seeds is impossible when the variety is patented.

3.3 Geographical indications

Geographical indications are used to identify a good as originating in the territory of a Member (or region in that territory), when this geographical origin gives the goods its specific characteristic (Jamaican Blue Mountain coffee for instance, or Cognac in France). WTO Members shall therefore provide the legal means to prevent the use, in the designation of a good, of a geographical term, which would mislead consumers as to the geographical origin of the good.

Geographical indications cover mainly wines and spirits. Some Members, such as the European Union, claim an enlargement to other agricultural products.

4. Results of the implementation of WTO agreement for developing countries

In addition to defining a framework of rules and disciplines for agricultural policies, the objective of the Agreement on Agriculture was to liberalise trade by limiting the agricultural policy measures that interfere with the free market forces, that is to say, the support and protection of agriculture. The expected results, which were intended primarily to benefit developing countries, were the following :

- ▷ More export opportunities due to easier access to the markets of developed countries since they are still the main consumption markets ;
- ▷ More stable and reliable international markets resulting from the liberalisation of trade in agricultural products and a reduction in distortions due to domestic and export support. By unifying markets segmented through protective measures, a higher volume of trade would absorb shocks and prices would become more stable.
- ▷ As a result, supply conditions on world markets would improve. It is to the advantage of a country to import all or part of its needs when its national production is variables and not very competitive. The export gains would, in fact, make resorting to imports a viable option.

For the moment, results for developing countries are disappointed, for several reasons. Access to developed countries market is still difficult. Even if tariffs have decreased, they still remains high on some products (see table below).

Duties in some developed countries, before and after the implementation of the Uruguay round Agreements

	EU before UR	EU after UR	Japan before	Japan after	USA before UR	USA after UR
Green coffee	5	0	0	0	0	0
Cocoa beans	3	0	0	0	0	0
Fresh tropical fruits	9	5	17	4	7	5
Sugar	297	152	126	58	197	91
Wheat	170	82	240	152	6	4
Dairy products	289	178	489	326	144	93

Source : OECD

Furthermore, standards and SPS measures constitute the main obstacle to entry to the developed countries market. Most of these countries are strengthening their SPS or technical regulations, in order to protect their consumers. This increases the difficulties of conformity to the standards by developing countries.

Despite of the provisions of the AoA on domestic support, the amount spent to agricultural expenditures by developed countries has increased since the implementation of the Agreement. The support shifted from amber or blue box to the green one, which is not subject to reduction or limitation. On the other hand, the AoA authorises supports that are not affordable for developing countries. Green box measures are more expensive than amber box measure. The competition on international markets between agricultural products from developed and developing countries remains unfair.

The implementation of the AoA leads to the reduction of direct export subsidies, but not their eradication. Other tools to support agricultural exports are not covered by the Agreement : export credits, inappropriate use of food aid.

The agricultural markets are still instable, even on fully liberalised markets such as coffee or cocoa markets. The instability and the decreasing trend of prices is mainly due to over supplying and unequal power of negotiation between sellers (small farmers or small co-operatives) and buyers (a few number of trans-national corporations).

III. THE MEMBERSHIP AGREEMENT OF CAMBODIA¹

This chapter focuses on the issues regarding agriculture in the membership Agreement.

¹ Information in this chapter came from the Report of the working party on the accession of Cambodia, WTO document WT/ACC/KHM/21

1. Commitments

1.1 Tariffs for goods

Prior its accession in WTO, Cambodia had reformed and modernised its Customs procedures, in 1989. In reforming its tariff structure, Cambodia had reduced the number of tariff bands from 12 to 4 at present (0, 7, 15, and 35 per cent). The highest tariff rates of 40, 50, 90 and 120 per cent had been abolished. The membership agreement does not modify this tariff structure.

1.2 Trade in agricultural inputs

Import licenses

Importation of pharmaceuticals is limited to pharmacists and the importation of agricultural inputs (in fact only veterinary medicine) to agricultural technicians. This induces a discrimination between domestic products and import products. No later than 1 June 2005, Cambodia would amend its legislation² so as not to abridge the right to import and to export, and that any registered entity could be the importer or exporter of record.

Import quotas

The Ministry of Agriculture, Forestry and Fisheries (MAFF) issues licenses for importation of agricultural inputs, principally pesticides and fertiliser. Firms wishing to import have to be registered with the Ministry of Commerce. The quantity of pesticides imported by individual companies can be restricted.

No later than 1 June 2005, Cambodia would eliminate quantitative restrictions on the import of agricultural inputs.

Value-added taxes

10 categories of agricultural inputs and/or "raw agricultural products" such as fertiliser, plant seeds, veterinary medicines, animal feeds, breeding stock, small tractors and spare parts, and miscellaneous agricultural machinery are exempt from VAT. Some imported agricultural inputs products were exempt from VAT :

- live horses, bovine, swine, sheep, goats : pure-bred breeding animals
- live breeding poultry weighing not more than 185g : fowls, turkeys, ducklings, goslings;
- live breeding fowls;
- others pure bred breeding animal;
- bovine semen;
- seeds of potatoes, maize, rice, canary seed, linseed, rape or colza, cotton, castor oil, sesamum, mustard, safflower, poppy, other seeds;
- silk-worm cocoons suitable for reeling;

² the Law on Drug Management and Prakas No. 82 of 31 March 1999 on "Procedures for Exports and Imports of Pharmaceuticals"

- vegetables materials used in animal feeding, preparations of a kind use in animal feeding except dog and cat food.

Since the beginning of the year 2003, the Cambodian Government applied the same VAT on imported and domestically produced agricultural inputs.

State trading enterprise

The Agricultural Inputs Company is engaged in importation, purchase and sale of agricultural products (fertiliser, pesticides, seeds and agricultural equipment). The Company operates on a strictly commercial basis, in competition with the private sector. Imports of agricultural inputs by the Agricultural Inputs Company has been effected through private enterprises. The Government plans for full divestment of State-ownership in the Agricultural Inputs Company by 2006.

1.3 Agricultural policy

Market access

Cambodia does not apply any licenses, import quotas or prohibition on imported agricultural products.

Sanitary and phytosanitary certificates are compulsory for imported agricultural products.

Average tariffs are around 17 %, from 5 % to 60 %.

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Tariffs level	Products
5 %	Live animals for reproduction, live poultry for breeding weighting not more than 185 g, breeding fowls Seeds
7 %	Finishing agents, products to accelerate dyeing Silk-worm cocoons, raw silk Wool, cotton, flax
10 %	Almonds Fresh grapes, apples Wheat, rye, barley, oats Cakes, pastries, bakery products
15 %	Live horses, asses, mules, sheep, ducks, geese, turkey (non for reproduction or breeding) Milk and cream not concentrated of a fat content not exceeding 6% Ivory, horns, coral, natural sponges, glands and other animal products for pharmaceutical products Bovine semen Live plants cutting and slips (except bulbs, tubers...) Brazil nuts Dried grapes. Fresh and dried pears, apricots, peach, cherries, dried apples Grain sorgho, millet, canary seeds, worked grains of barley, oats, malt, soya beans Linseed, rapeseed or colza seeds, mustard seeds Vegetables materials for plaiting, stuffing, brushes, tanning Animal fat, other vegetable oils Molasses Cocoa beans Malt extracts, food preparation of flour for infant use, bakers. Pasta
20 %	Milk and cream not concentrated of a fat content not exceeding 1%, or exceeding 6 % Animals' hairs, bristles, stomachs, guts, bones, feathers Bulbs, tubers, tuberous roots Potatoes Vegetables : fresh, chilled, frozen, provisionally, preserved, dried, Roots and tubers fresh, frozen, chilled, dried. Oranges Vinegar
25 %	Feeder cattle Cut flowers, foliage, grasses, mosses Hazelnuts, walnuts, chestnuts, pistachios Dates, figs Fresh and frozen berries (except strawberries), kiwifruits Maize Vegetables residues

	Preparations for animal feeding (except for dogs and cats)
30 %	Lemons, grapefruits Tea Ginger, saffron, curcuma, other spices Ground nuts, copra Other oil seeds and oleaginous fruits Vegetables saps and extracts Sunflower, coconut, palm kernel, linseed, maize, sesame, jojoba, oil Sugar (cane or beet), syrups, glucose Skins
35 %	Boneless beef meat, frozen edible offal of swine and bovine Frozen cuts and offal of poultry Egg yolks Sausages, prepared or preserved meat of poultry, swine. Chocolate confectionery, food preparations containing chocolate Biscuits Water Dog and cat food Essential oils, casein, gelatine,
38,5 %	Cocoa paste, butter, powder, chocolate Extract of coffee Soya sauce
40 %	Meat (fresh, chilled, frozen) ; fresh edible offal, Poultry not cut in pieces, fresh cuts of poultry Pig and poultry fat Meat and edible offal salted, in brine, dried, edible flours and meals of meat Milk and dairy products Eggs Honey Coconuts, cashew nuts Bananas, melons, pineapples, avocados, mangoes, guavas, strawberries, durian, longan, lychees Frozen strawberries Pepper, capsicum, pimenta, vanilla, cinnamon, cloves, nutmegs, mace, cardamon, anise, badian, cumin, coriander Other dried fruits Coffee Rice Flour (from all cereals), meals and pellets, worked cereals (except oats and barley), starches, gluten Flour of dried leguminous or roots. Sunflower seeds, flour and meals or oil seeds and oleaginous fruits Palm oil Prepared or preserved meat of bovine, sheep

	Cocoa powder sugar added Tapioca, prepared food obtained by roasting of cereals Prepared vegetables, fruits, including fruit juice Wines Brandy, gin Tobacco
45 %	Beers
50 %	Cigars and manufactured tobaccos
60 %	Grapes alcoholic beverages exceeding 15 %, vermouth, other fermented beverages (sake), alcohol

All tariffs are bound. It is not compulsory to decrease them, but it is not possible to increase them.

Exportations

No restriction or prohibition measures are imposed on agricultural products export except for narcotic drugs. A ten per cent tax is levied on exports of pure bred cattle and swine.

Export restriction on rice had been lifted on July 2001. However, the Government maintains the right to reintroduce restrictive measures in the future if necessary to prevent or relieve critical shortages of foodstuffs, which is allowed under the GATT.

Upon its accession, Cambodia will bind its agricultural export subsidies at zero, and not maintain or apply any export subsidies for agricultural products.

Domestic support

Cambodia does use neither amber box or blue box measures. Green box measures are described in the following table.

Measure type	Description of the Measure	Monetary Value of Measure (Unit - Thousand Riels) Average 1998 - 2000
Research	Expenditures on research activities, including those on agricultural productivity improvement, plant and animal health and forestry development.	513,084
Pest and Diseases Control	Expenditures on plant quarantine and animal health control.	609,627
Training services	Expenditures on training provided to farmers on the use of agricultural machinery and equipment.	6,344
Extension and advisory services	Expenditures on extension and advisory services.	140,297
Inspection services	Expenditures on inspection of plants and animals.	54,583
Infrastructural services	Expenditures on constructions and maintenance of irrigation system and drainage facilities, including the provision of diesel fuels for pumping water to irrigation canals.	3,999,168
Public stockholding for food security purposes	Expenditure on public stockholding of rice.	1,000,000
Payments for relief from natural disasters to the producers	Expenditure on the provisions of agricultural inputs, equipment and pest and disease control to agricultural producers for relief from natural disaster.	1,558,717
Exemption of land tax and income tax	For poverty reduction and improvement of living standards of farmers. Applicable to all farmers	Non available
VAT exemption on agricultural inputs	Applicable on some agricultural inputs	Non available
VAT exemption on agricultural outputs	Applicable to farmers who do not meet the minimum income threshold for mandatory application of VAT	Non available

The rice reserve is to provide emergency food aid to victims of natural disasters. The Green Trade Company, a state trading company, manages the rice reserve, and is not engaged in rice export. Purchases to the rice reserve (and sales) are effected by the Green Trade Company and have the effect of moderating movements in the domestic price of rice. This could be classified under Amber box measure.

1.4 Trade in forestry goods

Export taxes

Cambodia levies export taxes on certain unprocessed raw materials and products to encourage local processing, encourage exports of finished products and to protect human health. Forestry products subject to export taxes are natural rubber in primary forms or in plates, unprocessed and semi-processed wood, sawn and shaped wood. Cambodia refused to abolish all export duties, as some WTO members requested it.

Export restrictions

The export licensing of wood products is applied in conjunction with parallel restrictions on domestic production, aimed at preserving exhaustible natural resources as foreseen under the GATT.

State trading enterprise

Seven rubber plantations (Chup, Krek, Memot, Snoul, Chamcar Andoung, Boeng Ket and Peam Chaing) were being transformed into public enterprises in 1999. Although the estates remained State-owned, the enterprises received no privileges from the Government.. The Government intends to complete the wind-up of State-ownership in the estates by 2006.

1.5 TBT Agreement

Cambodia's standardisation system is at an early stage of development. Cambodia has requested technical assistance to develop its system. The Government of Cambodia has obtained a transitional period until 1 January 2007 for implementation of the TBT Agreement, to allow Cambodia to fully implement the obligations of the Agreement.

1.6 SPS Agreement

Cambodia will implement progressively the SPS Agreement provisions, and will ensure full application no later than 1 January 2008.

1.7 TRIPS Agreement

Plant varieties protection

Living material, including plant varieties, are excluded from patentability in Cambodia. Thus, Cambodia does not provide plant variety protection at present, but a draft Law on Plant Variety Protection is in preparation with the assistance of UPOV. Promulgation of the Law is at present foreseen in 2005.

Geographical indications, including appellations of origin

Cambodia does not protect geographical indications at present. A new law covering this subject, including additional protection for geographical indications for wines and spirits, is expected to be promulgated in 2004.

1.8 Notifications

At the latest twelve months after the entry into force of the Protocol of Accession, Cambodia will submit all initial notifications required by any Agreement constituting part of the WTO Agreement. Regarding the AoA, this implies the notification of domestic support measures, tariffs and non-tariffs barriers, export subsidies and export restrictions.

Notifications are of particular importance. The implementation of AoA is based on references i.e. notifications, and it is not possible to go back on it. If an existing amber box measure, for instance, is not notified, it will not be possible to implement it later.

2. Agenda

The table below presents the agenda for enacting laws for WTO conformity, and implementation of commitments as mentioned in the Membership Agreement.

Law	Agreement	Approval date (effective or expected)
Land law	General	September 2001
Inquiry points for SPS and TBT measures	SPS and TBT	June 2002
Forestry law	General	August 2002
Application of VAT on domestic and imported agricultural inputs equally	General	January 2003
Decree on animal quarantine	SPS	February 2003
Decree on plant quarantine	SPS	February 2003
Ratification of the membership Agreement		Non later than 31 march 2004
Law on Geographical indications, including appellations of origin	TRIPS	December 2004
Law on Plant variety protection	TRIPS	January 2005
Submission of all initial notifications required in all Agreements	all	Non later than 31 April 2005
Modification of the law on drug management	General	June 2005
End of quantitative restriction on fertilisers, pesticides and other agricultural inputs	General	June 2005
Full implementation of TBT agreement	TBT	January 2007
Full implementation of SPS agreement	SPS	January 2008

IV. THE ON-GOING NEGOTIATIONS

One of the function of WTO is to be a permanent forum for trade negotiations. Negotiations have begun since the establishment of WTO, in Geneva, and during the successive Ministerial Conference.

1. Renegotiating the Agreement on Agriculture

1.1 The context before Cancun

New international negotiations on the agricultural sector started on 1st January 2000, in conformity with the modalities defined in Article 20 of the Marrakech Agreement. The primary objective is to reinforce the liberalisation process of the sector initiated in 1994.

Article 20

Recognising that the long term objective of substantial progressive reductions in support and protection resulting in fundamental reform, is an ongoing process, Members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period, taking into account :

- (a) the experience to that date from implementing the reduction commitments ;
- (b) the effects of the reduction commitments on world trade in agriculture ;
- (c) non-trade concerns, special and differential treatments to developing country members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble to this agreement, and
- (d) what further commitments are necessary to achieve the above mentioned objectives

The purpose of Uruguay round was to establish new rules to regulate agriculture. Now, it is above all question of negotiating to what extent the existing AoA should be developed further.

Since the launch of this new negotiation process, a lot of points of hard debate have emerged, and until now, there is no real step in the way of conclusion.

Countries may be divided in like minded groups, as following. The European Union and the United States, even with different modalities, aim at defend their strong agricultural policies, providing protection, high level of subsidies and export support to their farmers. Before the Cancun Conference, they adopted a common paper, and proposed it as a basic document for discussions.

Prior Cancun, agri-export countries, developed (Australia, Canada, New-Zealand) and developing (Brazil, Argentina, South Africa, Bolivia,...) were part of the Cairns Group. Defined themselves as fair agri-exporters, i.e. using no export support and few domestic support, they claimed for the elimination of all kind of support to agriculture, and a better openness of markets.

Developing countries did not all defend the same positions, and was not grouped. But they all claimed for an assessment of the implementation of the Agreement on Agriculture, arguing that is was one of the point of the Article 20, and that the AoA had negative impacts on their agriculture. If it is difficult to confirm this affirmation, it is true that developing countries did not received benefits from the implementation of the AoA. This point was one of the reason of the failure of the Seattle Conference, in 1999. Since the launch of negotiation on agriculture, developing countries have argued for the establishment of a “Development box”, allowing them to protect some strategic staple crops regarding to food security and poverty reduction.

1.2 Points of negotiation

Market access

The point of discussion are

- New decrease in tariffs
- Transparency in the management of quotas, licenses, and all non tariffs barriers
- The safeguard provisions, some countries ask for its abolition, some for its maintain only for developing countries.

Export competition

It is one of the most controversial issues in the negotiations. The EU, main user of export subsidies, agrees to reduce them, but not to eliminate them. Furthermore, the EU claims for an extension of the field of the AoA to export credits and food aid abuse, used by the US, which of course refuses it. All developing countries ask for the end of export support in developed countries.

Domestic support

The negotiation concerns further reduction in amber box support (some Members ask for elimination), the preservation or not of the blue box (the EU support the maintain), and the redefinition of the green box criteria, and perhaps a ceiling in green box amount.

Other negotiating issues

This concerns:

- The assessment of the implementation of the AoA
- The preservation and the improvement of the Special and differential treatment
- The non trade concerns : some countries (the EU, Japan, Korea, Norway), argue that agriculture has some specificity (food security, food safety, land occupation, protection of environment, poverty reduction) which require a special treatment within the framework of the economic liberalisation. They try to explain that, even in developed countries, agriculture is an important activity, and that it needs public support. But they face the liberal point of view of the Cairns group, and the scepticism of Developing countries, which see there an new protectionist argument.

2. The Doha declaration

When the Doha Conference were held, in November 2001, the process of the renegotiations of the AoA had begun not far than two years ago. Agriculture was one of the hard point of discussion, and finally, members adopt a declaration including a paragraph on agriculture.

Doha declaration Article 13

We recognise the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

Source : WT/MIN(01)/DEC/1

3. The failure of the Cancun Conference

Between Doha and Cancun, no progress was done in the negotiation. Members were not able to adopt modalities at the deadline of March 2003 decided in Doha. Developing countries was disappointed because most of their propositions, such as the establishment of special provisions for strategic products, was denied by developed countries. Four African Countries, main cotton producers, had brought a « Cotton Initiative » in the agricultural negotiations. Facing a strong decrease in the international cotton price, they claimed the US (more) and the EU (less) supports to their producers are responsible of this price decline.

A few weeks before Cancun, the US and the EU tried to re-launch the negotiation, issuing a common text, but Members refused it.

Cancun has seen new negotiating grouping. First, major developing countries, such as Brazil, India, China, South Africa, and around 15 others developing countries created the G20+ group, aiming at the end of agricultural support in developing countries. LDCs, African countries, and ACP (Africa Caribbean Pacific) countries, grouped themselves to defend the right to protect their agriculture, and to fully support the Cotton Initiative. During the discussions, the impossibility for those countries to obtain something in their favour, strengthened the oppositions. Finally, the draft declaration, proposing diversification for cotton producing countries, was received as an insult by African and LDCs countries. Cancun end on a failure.

4. Next steps

Since Cancun, there is no progress in the discussion. But in the case of Agriculture, the end of the Peace clause obliges developed countries to re launch the discussion. In September 2002, Brazil complained in the Dispute Settlement Body of WTO against the EU sugar policy, and the US cotton policy. After the end of the Peace Clause, it is highly probable than Brazil shall complain against some agricultural sectors both in the EU and the US. In case, high probable, of Brazilian success, this shall induce the end *de facto* and no *de jure* of the Agreement on Agriculture. This is not in the interest of Developed countries, and the recent initiative of Robert Zoellick, the US trade representative, to re launch the process, is significant.

However, no one is able to say if the dead line of the negotiation of the AoA will be respected, and when the process will end.

Another consequences of the failure of Cancun is the needs to improve the WTO functioning. The lack of transparency, the increasing difficulty to successfully negotiate with 148 members and a consensus way of decision, the lack of negotiating rules are part of the reasons of Cancun failure.

V. JOINING WTO: FACING CHALLENGES

During the workshop, participants identified several challenges that Cambodia has to deal with, in order to allow the agricultural sector to benefit from the WTO accession.

1. Bad governance

Today, the main problem that Cambodia has to face may be grouped under the concept of bad governance, and weakness of government. Hidden costs, smuggling, lack of control and illegal monopolies discourage investors and restrain the possibilities to fully benefit from the WTO accession. Farmers are at the mercy of traders without any recourse. Arbitrary decisions and corruption threaten investors. Smuggling makes trade management and standards implementation inefficient.

The WTO accession gives the opportunity to Cambodia to set up a legal framework. To respect the WTO framework, 46 laws have to be adopted or modified during the next years. After the adoption, Government will have to implement them, and to guarantee their enforcement through a renewed court system.

2. Marketing

Producers face a lot of difficulties to market their products. Infrastructures are deficient for transport, warehousing, slaughtering. The processing industry are very weak. Private sector and farmers face a lack of market information. Finally, the entry to WTO induces the implementation of standards requirements. In order to match the challenge of export opportunities and to face new competition with import products, marketing conditions have to be improved.

Public investments are needed for public infrastructure, and in some case, it will be possible to call for private investments, with fee system. A market information system has to be set up in a first step by public sector, with a financial participation of users to access to information. The implementation of quality standards requires training along the whole supply chain, investment (public or private) in cold chain, control labs, constitution of an efficient team of civil servant.

To protect new agro-industry in order to keep the added value, it is possible to apply the safeguard provision under the general rules of GATT to protect an infant industry.

3. Protecting small farmers

Agriculture plays a major role in the Cambodian economy, and as the first sector of employment. 80 % of the workforce is in the agricultural sector, and most of them are small and poor farmers. Because of that, a specific attention has to be given to the impacts of joining the WTO on agriculture, with a focus on small farmers. If the effects are not mitigated, there is a real risk of social crisis.

To protect farmers income and to secure it, it may be useful to implement a price policy, under the constraints of WTO (Amber box), with two possibilities. First, to notify the use of the food security stock as a tool to regulate the rice price. When it is notified, Cambodia may use the same level each year. The second one is the « *de minimis* » provision : it is possible to provide

price support to rice, if the value of the support is less than 10 % of the total value of the rice production³.

To access to WTO, Cambodia has bound its tariffs on agricultural products at various levels. For rice, the strategic Cambodian crop, the tariff is bound at 40 %. Is this level enough to protect the domestic production and farmers and to avoid a surge of cheap imported rice? The survey of the differential between domestic price and international price is important, too, if needed, use protection tools allowed by the WTO Agreement on Agriculture. In case of a rapid surge of the volume of imports, Cambodia may have recourse to the Special Safeguard Provision : added a tax of 30 % to the tariff, for a limited period (not more than a year).

In order to avoid a decrease of the competitiveness of Cambodian products regarding to imported products, a support to the improvement of productivity is needed. This implies better quality of inputs (seeds, fertilisers, pesticides), the promotion of farmers training, and the support to the organisations of farmers, to improve their market power in front of traders. This is possible under the WTO framework, because all those measures are green box classified.

4. Use export opportunities

By joining WTO, Cambodia faces more export opportunities. If some developed countries already provide good access to their market due to the LDC status of Cambodia, this access will be reinforced and all WTO members will apply to Cambodia the most favoured nation treatment.

But to be able to export agricultural products to other countries, and specially developed countries (rich markets), matching criteria of SPS measures is compulsory. This request investments in warehousing, cold chain and labs, implementation of self inspection system, implementation of public control, training from farmers to exporters.

Labelling products is a tool to increase their added value, matching by this way niche markets in developed countries, such as organic products. Develop the geographical indications protected under the WTO framework may provide good opportunities, too.

VI. CONCLUSION

WTO provide a framework for trade policies, in a broad sense. Of course, it implies some constraints, but offers possibilities to develop agricultural trade. Cambodia is now (or will be in a few weeks) a full WTO member and will have to implement its commitments.

To match the opportunities, to mitigate the risk, Cambodian government has a major role to play. Being proactive by helping the agricultural sector to face the challenge is the way to fully take advantage of this new status.

Because of its accession to WTO, Cambodian agriculture have to face several challenges :

³ Value of the support = (domestic price – world price) x quantity

- ▷ The implementation of the WTO provisions, and the modification of national regulations according to WTO provisions;
- ▷ Among all rules, the implementation of SPS and TBT requirements will need technical assistance and capacity building;
- ▷ Because WTO in a permanent negotiation process, Cambodia has to prepare its own position in this process. This requires to define the modification in the WTO framework needed to protect Cambodian Agriculture and stimulate its development, to provide information to stakeholders, and to build alliance.

Recommendations

- **Creation of a specific team to follow-up all WTO issues** : this team, composed by people coming from all ministries involved in WTO process (Commerce, Economy, Agriculture, Rural Development, Industry, Water management, Custom authorities,...) has to work under the authority of Ministry of Commerce. The aim of this team is to prepare the notification, follow-up the accession process, the on-going negotiations, and to provide relevant information to stakeholders.
- **Well prepare the notification on behalf of Agriculture** : it is still possible to use all WTO AoA possibilities, including the Amber box measures. Notifications have to be prepared on the sectoral ministry (MOWRAM, MREM, MIME, MRD...), then finalised in the above proposed team.
- **Providing training sessions** : in order to fully involve all the relevant ministries and administrative body in the WTO requirements implementation, there is a need to organise training sessions on specific issues of WTO agreement, and to foreseen the consequences of the accession on the agricultural sector.
- **Providing information** : to fully benefit from training session, participants have to receive, after the sessions; relevant information to up-to-date their knowledge.
- **Involvement of civil society**: civil society has a main role to play to face WTO membership challenges. Members of National Assembly, business sector, NGOs and other civil society organisations have to be involved, by providing relevant information.