

Trade impacts of LDC graduation

CAMBODIA

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Introduction

Cambodia has been one of the fastest growing economies in Southeast Asia over the last decade. In 2021, Cambodia met all three criteria for graduation from the least developed country (LDC) category for the first time at the Triennial Review of the United Nations Committee for Development Policy (CDP).

If Cambodia meets the graduation criteria for the second consecutive time at the 2024 UN CDP Triennial Review, it may be recommended for graduation. After endorsement by the UN Economic and Social Council (ECOSOC) and General Assembly,

graduation takes effect following a preparatory period determined by the latter.¹ This period could vary depending on the consideration by CDP members. At the earliest, Cambodia may graduate from the LDC category in 2027.²

WTO members offer specific flexibilities to least developed country members, including Cambodia. Following graduation, these flexibilities may not be available. This note provides an overview of possible trade-related impacts of LDC graduation for Cambodia on market access, WTO rules and Aid for Trade.

Table 1: Performance vis-à-vis LDC graduation thresholds

	GRADUATION THRESHOLD	CAMBODIA, 2021
Gross National Income (GNI) per capita	US\$ 1,274	US\$ 1,377
Human Assets Index (HAI)	66 or above	74.3
Economic Vulnerability Index (EVI)	32 or below	30.6

Source: UN CDP Report on the twenty third session (2021), [E/2021/33](#)

1. Impact on market access

Cambodia's merchandise exports grew by 10 per cent over the ten years to 2020, reaching US\$ 17 billion. Its services exports contracted by 4 per cent over the same time period, reaching US\$ 1.8 billion. In 2020, Cambodia's top export items included textiles and clothing, gold, leather and footwear. In terms of services, travel services accounted for over half of Cambodia's services exports, followed by transport (25 per cent) and other commercial services (18 per cent).

Cambodia's exports are concentrated in a few markets. For example, 60 per cent of Cambodia's exports went to five markets in 2020. These include the United States, the European Union, Singapore, China and Japan. The United States and the European Union are the two markets of strategic importance to Cambodia, accounting for over half of Cambodia's merchandise exports over the past decade.

Over one quarter of Cambodia's merchandise exports went to the European Union during the period

of 2011-2020. The European Union provides duty-free quota-free (DFQF) market access to LDCs under its Everything But Arms (EBA) initiative, including simple rules of origin conditions. Cambodia is one of the few LDCs that made use of the LDC trade preferences, with a high utilization rate in the European Union. In 2020, one fifth of Cambodia's export items (garments, footwear, travel goods and sugar) were temporarily excluded from EBA due to concerns related to human rights, resulting in the application of most-favoured-nation (MFN) tariffs. Cambodia's exports of Indica rice had also faced safeguard measures by the European Union, in line with its Generalized System of Preferences (GSP) regulation, for a period of three years, from January 2019 to January 2022.³ The Cambodia Trade Integration Strategy (CTIS) (2019-2023) recognizes the withdrawal of the EU's EBA preferences as a key risk and provides a roadmap for mitigating it by strengthening the country's competitiveness and improving market diversification.

EBA offers a three-year transition period for LDC graduates. Cambodia will remain eligible to benefit from the EBA scheme for a period of three years after graduation from LDC status. Graduated LDCs are automatically admitted to the standard GSP scheme, following the end of the three-year transition period. Cambodia also has an option to apply for the European Union's Generalized System of Preferences Plus (GSP+), provided it ratifies and complies with the 27 international agreements and conventions. Attaining GSP+ would provide, for example, duty-free market access to textile and clothing products, as opposed to average 9 per cent tariffs under the standard GSP.

Graduation from LDC status will result in rules of origin conditions that are not as flexible as under EBA. While duty-free treatment may continue for textiles and clothing items under GSP+, these items will be subject to a double transformation requirement instead of the single-stage requirement under EBA.

Cambodia is eligible to benefit from the GSP programme of the United States, which offers additional benefits to LDCs. Over the past few years, around 30 percent of US imports from Cambodia have been enjoying GSP benefits (articles of leather, woods, vehicles, and plastics). Since most of these items

are duty free under the beneficiary developing countries programme, and only an insignificant share enter under GSP for least developed beneficiary developing countries, impact on market access following graduation may be limited.

Cambodia is party to seven regional trade agreements (RTAs) notified to the WTO, including: the Association of Southeast Asian Nations (ASEAN) and the ASEAN umbrella with Australia; China; Hong Kong, China; India; Japan; New Zealand; and the Republic of Korea. Cambodia is also a signatory of the Regional Comprehensive Economic Partnership (RCEP). In addition, it recently concluded free trade agreements (FTAs) with China and the Republic of Korea. Cambodia's trade relations with these countries will remain unaffected following graduation.

Cambodia is also eligible to benefit from preferential treatment in services under the LDC Services Waiver. This waiver was adopted in 2011 and is currently valid until 2030. So far, 25 WTO members, accounting for 86 per cent of total services trade, offered certain measures under the LDC Services Waiver. Preliminary review suggests that two thirds of those measures reflect the applied MFN regime, with no specific measures for LDC services and service suppliers.

2. Matters related to WTO Agreements

Cambodia became a member of the WTO in 2004. It was the first LDC to join the WTO through the full accession process. It has bound 100 per cent of its tariff lines. Cambodia's bound tariffs are 19.3 per cent, while applied MFN tariffs are 10.4 per cent. Cambodia has also made specific commitments in 97 out of 160 services sub-sectors, which is significantly above the LDC average of 33. Cambodia has made commitments in the following services sectors: business, communication, construction and related engineering, distribution, educational, environmental, financial, health, tourism, and transport services. Concessions and commitments in goods and services made by Cambodia will not be affected by graduation from LDC status.

Trade-Related Aspects of Intellectual Property Rights (TRIPS)

LDCs are eligible to benefit from longer transition periods to implement the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Originally, LDCs

were granted an 11-year transition period to implement the provisions of the TRIPS Agreement other than core non-discrimination principles. This general transition period has been extended three times and is currently valid until 1 July 2034, or until the member ceases to be an LDC, whichever comes first. LDCs are also eligible to benefit from a specific transition period for pharmaceuticals, which exempts them from protecting patents and undisclosed information for pharmaceutical products. They have also been exempted from mailbox and exclusive marketing rights requirements. Currently, these flexibilities last until 1 January 2033, or until the member ceases to be an LDC if that happens before 2033. At the time of accession in 2004, it was understood that Cambodia was entitled to benefit from the specific transition period for pharmaceuticals offered to LDCs.⁴

During the accession negotiations, Cambodia agreed to implement the WTO TRIPS Agreement in 2007, three years after its accession. Since then, Cambodia has enacted several

intellectual property (IP) laws (Annex, Table 1). It has legislation in place in most of the areas covered under the TRIPS Agreement. While LDCs are not obliged to submit notifications under the TRIPS Agreement, graduation from LDC status will require them to do so, which would be subject to review by the TRIPS Council.

Cambodia can also benefit from LDC flexibilities under the TRIPS Amendment. Cambodia ratified it in 2018. The TRIPS Amendment enables use of the special system of compulsory licensing for export to countries with limited manufacturing capacity. Prior to using this system, the submission of a notification with the following information is required: i) an intent to use the system; and ii) the existence of limited manufacturing capacity. LDCs are deemed to have limited manufacturing capacity. Hence, LDCs are only required to notify intent.

The TRIPS Amendment also provides for flexibilities to members of RTAs where half of the members are LDCs. For example, if a developing country or LDC produces or imports pharmaceuticals under this system and it is also a party to an RTA with half of its members being LDCs, the country can export to other members of that RTA with the same health problem without further notification.

After graduation, Cambodia would have to notify both elements, i.e. intent of using the system and the existence of limited manufacturing capacity, if it intends to use the special system of compulsory licensing for export. As per available information, Cambodia has not used the system so far.

Cambodia is also eligible to benefit from the technology transfer provision. Under this provision, developed country members are required to provide incentives to enterprises and institutions on their territories to promote technology transfer. Since 2003, developed country members have been reporting annually on their efforts. Cambodia has been mentioned in 186 reports from Australia, Canada, the European Union, Japan, New Zealand, Norway, Switzerland, the United Kingdom, and the United States. In preparing for graduation, Cambodia may consider engaging with its trading partners to see how it can continue benefitting from some of these programmes.

Agriculture

Cambodia is also eligible to benefit from LDC flexibilities in agriculture. For example, under the Agreement on Agriculture, Cambodia can provide its domestic support notifications every two years instead of annually.

As of 2022, Cambodia's rate of compliance with domestic support notification requirements stood at 91 per cent. Following graduation from LDC status, Cambodia would have to submit its domestic support notifications every year.

Currently, there are certain flexibilities available to LDCs and net food-importing developing countries (NFIDCs) in implementing the 2015 Nairobi Ministerial Decision on Export Competition. First, they are eligible for phasing out certain agricultural export subsidies until 2030. Second, in the context of export financing support, they benefit from longer repayment terms for the acquisition of basic foodstuffs (36-54 months). Third, they can monetize international food aid under specific circumstances, including for the purpose of transport and delivery of the food assistance, or to redress food deficit requirements or insufficient agricultural production causing malnutrition.

As far as agricultural export subsidies are concerned, the impact for Cambodia would be limited. During the accession negotiations, Cambodia committed not to use agricultural export subsidies. Since then, Cambodia has been regularly notifying to the WTO that it has not been providing agricultural export subsidies.

Subsidies and countervailing measures

WTO members are not allowed to use non-agricultural export subsidies under the Agreement on Subsidies and Countervailing Measures (SCM Agreement). LDCs are exempted from this prohibition (Article 27.2 and Annex VII (a)). In addition, a group of members identified in the list of Annex VII (b) are also exempted from this prohibition until their income per capita reaches US\$ 1,000 in 1990 constant dollars for three consecutive years. This flexibility will not be available after graduation. As per available information, the impact of graduation is expected to be limited, as Cambodia has not made use of non-agricultural export subsidies.

Trade facilitation

Cambodia ratified the Trade Facilitation Agreement (TFA) in 2016. As of 4 July 2022, Cambodia's implementation rate exceeds 93 per cent, which is significantly above the global average of 75 per cent. At the same time, Cambodia is yet to notify definitive dates for the implementation of category C commitments. The timeframe for notifying them will end on 22 August 2022. Cambodia's graduation from LDC status will have very limited impact on TFA implementation as Cambodia has already implemented most of the Agreement.

Dispute settlement

Cambodia can also benefit from special considerations under the Dispute Settlement Understanding (DSU). The DSU requires WTO members to exercise due restraint in bringing cases involving LDCs. LDCs are also eligible to request the good offices of the WTO Director-General or the Chair of the Dispute Settlement Body before the establishment of a panel. So far, Cambodia has not made use of the WTO dispute settlement.

Selected institutional aspects

Cambodia's annual contribution to the WTO will not change after graduation, as WTO members' contributions are based on their share in world trade. Eligible LDCs benefit from travel support to participate in the WTO Ministerial Conferences. This covers air fare, accommodation and per diems for the Head of Delegation and two high-level government officials. Following

graduation, Cambodia will not be eligible to benefit from such support.

Technical assistance

WTO technical assistance aims at strengthening the institutional capacity of developing countries and LDCs to support them in fully benefitting from the multilateral trading system. The WTO Technical Assistance Plan accords special priority to LDC trade needs. For instance, officials from LDCs remain priority beneficiaries of WTO internship programmes.

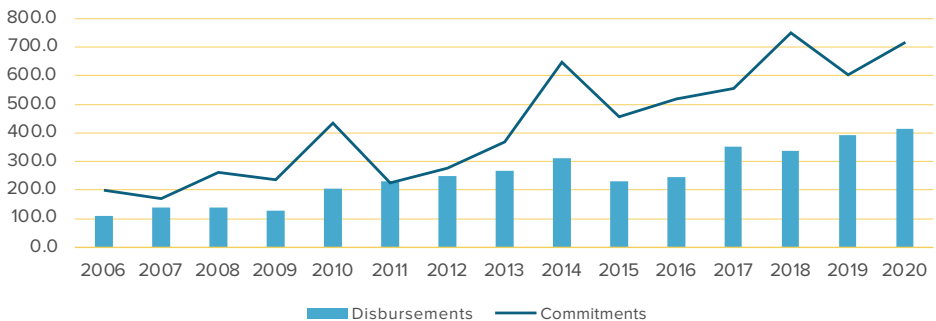
Graduation from LDC status may not result in significant changes in accessing different technical assistance products offered by the WTO. As a way forward, Cambodia may wish to map out its trade-related technical assistance needs and actively engage with the WTO Secretariat. For example, Cambodia may wish to consider looking into the notification requirements for TRIPS.

3. Aid for Trade

Aid-for-Trade disbursements to Cambodia have gradually increased over the past three years, reaching US\$ 4 billion in 2020. At the same time, Aid-for-Trade commitments have fluctuated, reaching US\$ 7 billion in 2020. In 2020, 62 per cent of Aid for Trade to Cambodia came from three Aid-for-Trade providers: Japan (30 per cent), the Asian Development Bank (22 per cent) and the Republic of Korea (10 per cent). In 2020, over 40 per cent of Aid for Trade to Cambodia went towards strengthening the transport and storage sector, followed by agriculture (26 per cent) and energy generation and supply (12 per cent).

Cambodia is one of the top recipients of Enhanced Integrated Framework (EIF) support. Since 2010, over US\$ 9 million have been allocated to support Cambodia in building strong trade institutions, ensuring the latest analytical work and strengthening productive sectors with high export potential. In 2017, Cambodia effectively used the EIF’s support to set up a permanent mission in Geneva, to play an active role as the LDC Coordinator, to prepare for the Trade Policy Review and to maximize its visibility during the 11th WTO Ministerial Conference.

Figure 1. Aid-for-Trade disbursements to Cambodia, US\$ million, constant price



Source: OECD-CRS (2022)

In 2019, Cambodia launched the fourth generation of the EIF's analytical work – the CTIS, 2019-2023 – during the Global Review of Aid for Trade. EIF support enabled Cambodia to strengthen key productive sectors under the Trade Sector Wide Approach (Trade SWAp) put in place to implement the Diagnostic Trade Integration Study (DTIS) Action Matrix 2007 and recommendations from the Trade Policy Review in 2011. Cambodia had also strengthened five out of ten sectors with high export potential identified in the CTIS (2014-2018) under Cambodia's Export Diversification and Expansion Program, including marine fisheries, milled rice, high value silk, and cassava, as well as the Academy of Culinary Arts Cambodia.

More recently, Cambodia has been working with the EIF to develop an e-commerce strategy and help Cambodian SMEs to fully realize the opportunities offered by the digital economy. Cambodia has been developing a B2B2C e-commerce platform for Cambodian SMEs to reach out to wider markets and to access financing to develop their businesses. In addition, Cambodia is strengthening its regulatory environment by implementing newly adopted e-commerce legislation.

Following graduation from LDC status, Cambodia can continue to access EIF support for a period of five years.

Cambodia has also been benefitting from the support provided by the Standards and Trade Development Facility (STDF). As an LDC, Cambodia has been receiving greater flexibility in terms of the co-financing threshold, i.e. 10 per cent for LDCs vis-à-vis 20 per cent for lower-middle-income countries. With the support of the STDF, Cambodia has developed three project preparation grants. Cambodia has also launched its Sanitary and Phytosanitary (SPS) Action Plan. In addition, it has been implementing four regional projects totalling close to US\$ 5 million, including: i) Promoting IT solutions for surveillance and pest reporting; ii) Food safety and market access for peppercorn; iii) Pesticide residue mitigation through the promotion of biopesticides; and iv) Improving pig biosafety and African swine fever control for several ASEAN countries. The STDF's transition mechanism allows graduated countries to continue benefitting from the 10 per cent co-financing threshold for a period of three years after graduation.

Overall, Aid-for-Trade flows to Cambodia are not expected to change after graduation, since Aid-for-Trade providers use a variety of considerations, and not necessarily LDC status, in determining their Aid-for-Trade allocations.



4. Concluding observations

This note offers some highlights of the trade impacts of LDC graduation for Cambodia. In sum, the impact is expected to be limited. The concessions and commitments that Cambodia made at the time of its accession to the WTO were higher than those of original LDC members. As a result, Cambodia should cope better with the graduation impacts, especially vis-à-vis WTO rules.

Graduation from LDC status will result in changing preferential market access conditions, especially in the European Union. First, Cambodia will have a three-year transition period to continue benefitting from duty-free quota-free market access to the European Union under EBA. It can consider applying for GSP+ or engage in any preferential arrangements to continue benefitting from duty-free market access for its major export items. Second, market access conditions to the United States will remain broadly stable, as most of preferential imports into the country takes place under the GSP for beneficiary developing countries programme. Third, Cambodia's focus on regional economic integration will continue to offer market access opportunities for

Cambodian exporters. Finally, in line with the CTIS (2019-2023), Cambodia is currently strengthening its export competitiveness.

In terms of WTO rules, graduation from LDC status will require greater attention to Cambodia's notification obligations, including for TRIPS. For example, Cambodia would have to notify its IP laws and regulations, which would subsequently be reviewed by the TRIPS Council. Cambodia may request WTO technical assistance in this area.

Aid for Trade to Cambodia is not dependent on LDC status. Besides, Cambodia will continue to access certain technical assistance and capacity building programmes for a transition period after graduation. For example, Cambodia will have three years to continue benefitting from a lower co-financing threshold under the STDF. If the current policy of EIF is maintained in supporting LDC trade development in the coming years, Cambodia will have access to EIF benefits for five years after graduation. EIF support could be used for developing Cambodia's smooth transition strategy.

Table 1: Overview of intellectual property protection foreseen by the TRIPS Agreement

INTELLECTUAL PROPERTY RIGHTS	SUBJECT	MAIN LEGISLATION IN CAMBODIA	DURATION OF PROTECTION	MINIMUM DURATION OF PROTECTION UNDER TRIPS
Copyright	Literary and artistic works (including computer programs and databases)	Law on Copyright and Related Rights, 2003	Life of author + 50 years	Life of author + 50 years
Related rights	Performers, producers of sound recordings, broadcasting organizations	Law on Copyright and Related Rights, 2003	50 years (phonograms) 50 years (broadcasting) 50 years (performance)	50 years (performers and producers) 20 years (broadcasting)
Trademarks	Signs that are capable of distinguishing goods and services	Law on Marks, Trade Names and Acts of Unfair Competition, 2002	10 years, renewable indefinitely for consecutive 10-year periods	7 years, renewable indefinitely
Geographical indications	Indications that identify the geographic origin of a good, where a given quality, reputation or other characteristic of the good is essentially attributable to its origin	Law on Geographical Indications of Goods, 2014	10 years, renewable indefinitely for consecutive 10-year periods	Unlimited, as long as conditions are met

Patents	Inventions (products or processes) in all fields of technology	Law on Patents, Utility Models and Industrial Designs, 2003	20 years from filing date	20 years from filing date
Industrial designs	Independently created industrial designs that are new or original	Law on Patents, Utility Models and Industrial Designs, 2003	5 years, renewable for two consecutive periods of 5 years each (15 years in total)	10 years
Layout designs of integrated circuits	Design of electronic circuits (chips)	Prakas on Registration of a Layout Design of Integrated Circuits, 2011	10 years	10 years from filing date or first commercial exploitation
Undisclosed information	Trade secrets, and undisclosed data submitted to government	<i>Law on Trade Secrets and Undisclosed Information (currently under consideration)</i>	-	Unlimited, as long as conditions are met

Source: WTO (2020), *Trade Impacts of LDC Graduation and compilation of main IP legislation in Cambodia* made by Paul Baker

Abbreviations

ASEAN	Association of Southeast Asian Nations	GSP+	Generalized System of Preferences Plus
CDP	Committee for Development Policy	LDC	Least developed country
CTIS	Cambodia Trade Integration Strategy	MFN	Most favoured nation
DFQF	Duty-free quota-free	NFIDC	Net food-importing developing country
DSU	Dispute Settlement Understanding	RCEP	Regional Comprehensive Economic Partnership
EBA	Everything But Arms	RTA	Regional trade agreement
ECOSOC	Economic and Social Council	SCM AGREEMENT	Agreement on Subsidies and Countervailing Measures
EIF	Enhanced Integrated Framework	STDF	Standards and Trade Development Facility
EVI	Economic Vulnerability Index	SWAP	Sector Wide Approach
HAI	Human Assets Index	TFA	Trade Facilitation Agreement
GNI	Gross National Income	TRIPS AGREEMENT	Agreement on Trade-Related Aspects of Intellectual Property Rights
GSP	Generalized System of Preferences		

Endnotes

- 1 When the CDP recommends a country for graduation, it includes a statement on what it considers an adequate preparatory period. The standard preparatory period is three years.
- 2 More information about the LDC graduation process: <https://www.un.org/ldcportal/content/support-ldc-graduation>. On Cambodia specifically, see <https://www.un.org/ldcportal/content/cambodia-graduation-status>.
- 3 Commission Implementing Regulation [2019/67](#) of 16 January 2019.
- 4 Fifth WTO Ministerial Conference, Cancún, Summary of 11 September 2003: https://www.wto.org/english/thewto_e/minist_e/min03_e/min03_11sept_e.htm

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