

Cambodia's Challenges in International Trade

Evidences of Non-Tariff Barriers to Exports

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The import tariff is a common form of trade restriction and an exporting country is explicitly aware that this is a specific form of taxation. However, tariffs have been substantially reduced by global and regional trading agreements in favour of trade facilitation.

In this regard, multilateral trade negotiations have succeeded in bringing down tariff barriers and all members will benefit from this. Unfortunately, another type of barrier, the so-called "Non-Tariff Barrier" is gradually raised with both intended and unintended consequences. It is known that the non-tariff barriers are difficult to assess and quantify. Measurement difficulties and the multiplicity of possible regulatory interventions affecting exports make systematic analysis of non-tariff barriers a complex and uncertain exercise.

Cambodia like other least developed countries suffers from these kinds of barriers and the resultant impacts are hampering its exports. Clearly, a lot of efforts are needed to overcome those obstacles in order to seize global opportunities leading to economic growth and poverty reduction.

This article presents an overview of global issues concerning non-tariff barriers and some specific issues linked to least developed coun-

tries. It also briefly presents findings of the main barriers currently facing Cambodian exporters coupled with several case studies.

Global Issues of Non-Tariff Barriers

In a narrow sense, non-tariff barriers refer to import restraints, which a country imposes on one country or many. In a broader sense, they also include export constraints and subsidies or measures with similar effects. Explicitly it can take forms of quantitative restrictions, quotas, safeguards and technical barriers to trade (TBT) covering standards, testing and certification arrangements.

There are a number of reasons why a country decides to impose barriers against another country. For instance, China is very competitive in the area of labour-intensive products due to large numbers of cheap and available workers. This allows moving cheap Chinese products in increasing quantities into foreign markets.

Recently, the US and EU have taken safeguard actions against Chinese's exports of clothing and textiles

to protect domestic producers and to secure local employment levels. Other countries are suffering from export bans in form of economic sanctions for political reasons aiming to promote democracy and human rights.

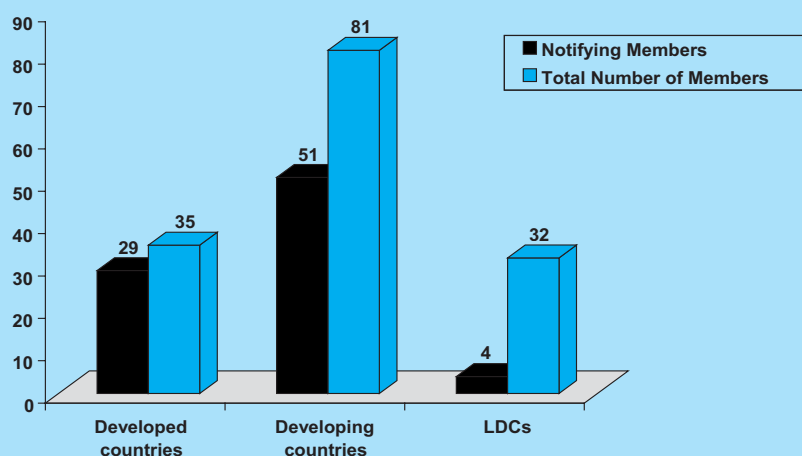
Often, many countries use different kinds of measures to hamper imports from other countries for domestic market protection. Based on the Non-Agriculture Market Access (NAMA) categorisations, non-tariff measures taken by importing countries are grouped into seven parts.

The progressive elimination of non-tariff barriers is the scope of intense discussion within WTO framework. Under WTO scheme, affected countries can raise trade concerns during committee meetings and seek support from other country members. The meetings provide opportunities for discussions and notifications. The notifications can make an important contribution toward avoiding unnecessary obstacles to trade and provide opportunities to influence final requirements of other members.

However, it is not an easy exercise to deal with while the barriers

This article is mostly compiled from a study report on Non-Tariff Measure Facing Asia Pacific Exporters: Cambodian Case Study commissioned by the World Bank, WTO and Pacific Economic Cooperation Council (PECC).

Figure 1: Notifications of Trade Concerns Related to TBT by Country Group (1995-2004)



Source: G/TBT/W/250, Secretariat's note, Committee on Technical Barriers to Trade, WTO, February 2005

are implicit and embedded into such issues as consumer health, safety and environmental protection.

Non-Tariff Barriers in LDCs

In the context of non-tariff barriers, least developed countries (LDCs) have to overcome many obstacles while markets are freely open. Noticeably, a key challenge facing least developed countries is the lack of national capacity to comply with the technical barriers to trade (TBT) and sanitary and phytosanitary (SPS) agreements and requirements which are now embedded in general market requirements.

LDCs are lacking standard infrastructure and capacity to implement standardisations which depend on factors correlated with country's level development. Standardisation infrastructure in least developed countries has often been non-existent or rudimentary. National standardising bodies are in many cases governmental bodies weakly linked to markets and largely inward-oriented with little or no participation of the private sector.

There are very few LDCs whose national institutions are part of international networks and more than half of least developed countries have no formal contact with the international standardisation organisation (ISO), the most important international standardisation body.

In this regard, there would have been many trade concerns related to technical barriers to trade and sanitary and phytosanitary concerns raised by LDCs.

But market accesses to least developed countries by developed countries are not hampered by these barriers. Import products from developed countries with international accreditation are *de facto* regarded as having higher standards than local ones.

According to WTO secretariat statistics, LDCs' participations in trade concerns related to technical barriers to trade and SPS are not so active

compared to developing and developed countries. It is unbelievable that those LDC countries are so indifferent to those barriers.

From 1995 to 2004, more than 6,000 notifications related to technical barriers to trade measures were submitted to WTO's secretariat by nearly all developed and almost two thirds of developing countries. Conversely few least developed countries have done so.

Likewise, from 1995 to 2003, 183 sanitary and phytosanitary trade

concerns were raised. Based on figure 2, only two SPS trade concerns were raised by least developed countries. Moreover, they have never supported another member raising an issue and no trade concerns have been raised regarding measures maintained by least developed member countries.

Non-Tariff Barriers to Cambodian Exports

A study conducted by Economic Institute of Cambodia (EIC) on

Box 1: Inventory of Non-Tariff Measures

I- Government participation in trade

- a- Government aids, including subsidies and tax benefits;
- b- Countervailing duties;
- c- Government procurement;
- d- Restrictive practices tolerated by governments;
- e- State trading, government monopoly practices; etc.

II- Customs and administrative entry procedures

- a- Anti-dumping duties;
- b- Customs valuation;
- c- Customs classification;
- d- Consular formalities and documentation;
- e- Samples;
- f- Rules of origin;
- g- Customs formalities;
- h- Import licensing;
- i- Preshipment inspection.

III- Technical barriers to trade

- a- General;
- b- Technical regulations and standards;
- c- Testing and certification arrangements.

IV- Sanitary and phytosanitary measures

- a- General;
- b- SPS measures
- c- Testing, certification and other conformity assessment.

V- Specific limitations

- a- Quantitative restrictions;
- b- Embargoes and other restrictions of similar effect;
- c- Screen-time quotas and other mixing regulations;
- d- Exchange controls;
- e- Discrimination resulting from bilateral agreements;
- f- Discriminatory sourcing;
- g- Export restraints;
- h- Measures to regulate domestic prices;
- i- Tariff quotas;
- j- Export taxes;
- k- Requirements concerning marking, labelling and packaging;
- l- Others.

VI- Charges on imports

- a- Prior import deposits;
- b- Surcharges, port taxes, statistical taxes, etc;
- c- Discriminatory film taxes, use taxes, etc.;
- d- Discriminatory credit restrictions;
- e- Border tax adjustments;

VII- Other

- a- Intellectual property issues;
- b- Safeguard measures, emergency actions;
- c- Distribution constraints;
- d- Business practices or restrictions in the market;
- e- Other.

Source: WTO Secretariat Notes

"Non-Tariff Measures Facing Asia Pacific Exporters: Cambodian Case Study" revealed some external non-tariff constraints facing Cambodian exporters. However, this study is illustrative rather than exhaustive. The main constraints to Cambodia's exports are obviously similar to those of other least developed countries. They include, but are not limited to, conformity assessment, sanitary and phytosanitary measures, and standards. Other barriers were also found such as rule of origin.

Conformity Assessments

It is crucial to have export goods accepted by importing countries. Cambodia has to prove that its exported products are compliant with the standards of importing countries. Those countries should have full confidence that test data and inspections from Cambodia are reliable and each certification of safety made in Cambodia can be trusted. Acceptance of Cambodia's assessments by importing countries is most important.

The accrediting laboratories and inspection bodies, the Mutual Recognition Agreement (MRA) and a network of established testing laboratories can gain this acceptance by demonstrating technical competence, reliability and honesty. However, Cambodia lacks some of the means to attain these standards and some products are suffering such as rubber with its price discount.

Sanitary and Phytosanitary (SPS) Measures

Sanitary (human and animal health) and phytosanitary (plant health) measures are increasingly used to ensure food safety and to prevent the spread of pests and diseases. Products can be required to come from disease free areas, be inspected, and undergo specific treatments to set maximum allowable levels of pesticide residues or additives in foods. Cambodia has problems complying with these measures due to lack of expertise, laborato-

ries and an adequate system in place. An unfortunate result is the rice export ban from Cambodia to China and fish product export ban to the EU.

Standards

Standards and technical regulations are essential for trade, commerce and diffusion of technology. Standards contribute to the efficient development, manufacturing and supply of products and services. However, it is very costly for Cambodia where local and international standards are often incompatible. Often, standards vary when importing countries have higher requirements than local Cambodian standards. It is believed that many Cambodian products such as pharmaceutical products can not access international markets because of lower standards.

Selected Case Studies

The cases below were found during a conducted study. These cases are illustrative rather than exhaustive and it is believed that a lot of uncovered products also confront non-tariff barriers in both specific and general markets.

Rubber

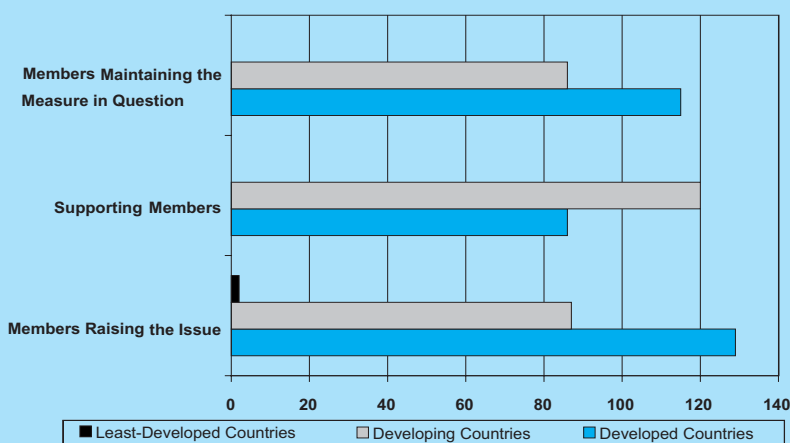
Cambodian rubber suffers a

20 percent discount price compared with global prices due to several factors. These factors include hidden margins and costs linked to the trade channel through Vietnam, irregularity of shipments and lack of technical standards of exported products. The lack of certification by an internationally recognised, accredited laboratory prevents Cambodian rubber from having broad market access. Cambodia can not sell directly to end users and can find export markets only in Vietnam. The limited markets decrease bargaining power and force producers to sell below international prices.

A rubber expert said in June 2005 that Cambodian companies receive an average of US\$ 1,150 per ton for rubber at the Vietnamese border compared to US\$ 1,343 per ton producers get in Malaysia. It is the major obstacle cited by all consulted rubber stakeholders.

The certificate is an attestation that a product conforms to pre-established standards and specifications. Specification is the definition of essential characteristics including threshold values by which natural rubber must be processed before it can be employed in accordance with the needs of users. This situation requires the creation of an internationally recognised certification body to guar-

Figure 2: Participation of Country Group in SPS Notifications (1995-2003)



Source: G/SPS/GEN/204/Rev.4, Secretariat's notes, Committee on Sanitary and Phytosanitary, WTO, March 2004

antee the rubber quality for all buyers.

To achieve this, Cambodia needs to be a member of the International Rubber Association (IRA) which requires a number of conditions. These are: the formation of a Cambodian Rubber Trade Association representing all stakeholders in the commodity chain, a laboratory equipped with qualified personnel and requisite equipment, and test participation in compliance with international standards. It is necessary for Cambodia to define its own specification scheme which generally is quite similar to the ISO 2000 specification guide.

With this disadvantage, it is estimated that Cambodia loses about US\$ 10 million every year with its current annual export about 45,000 tons. If this barrier exists longer, the revenue loss would be more serious since rubber production is on an uptrend. It is estimated that the small holders and private plantations are currently expanding at the rate about 1,000 to 1,500 hectares per year in traditional areas and are expected to expand into new growing areas as well.

Rice

In December 2004, China added additional requirements for all plants, including rice, imported from Cambodia. With the new regulations, Cambodia has to provide the required documents to the General Administration of Quality Supervision, Inspection and Quarantine of China (AQSIQ) for risk analysis and assessment. China has also required the right to request further documents and to dispatch a group of experts to conduct field inspections in Cambodia.

Cambodia has to provide the information required for facilitating any risk assessment concerning plants from Cambodia. Prior to this notification, Cambodian rice exports to China were based on agreements between buyers and sellers. This new measure is complex for Cambodia and official rice exports to China have been suspended. This complicated procedure

places a burden on Cambodian exporters and will be time consuming and increase costs.

Fish and Fish Products

Cambodian fish and fish products are not allowed to be imported into EU markets. In 1997, the European Community (EC) Council Directives on fish products and live shellfish established required sanitary conditions and procedures to be followed by both EC member states and third countries, which aim at protecting the health of European consumers. Since then, all third countries intending to export fish products to the EC must be authorised by the European Commission and be included in two lists of commission decision 97/296/EC.

Countries are included in list I when their results of evaluation by European Commission service are satisfactory and they are allowed to export fish products to EC. List II is a temporary list and countries on this list had provisional authorisation to export solely to those EC member states which accepted their products. However, list II expired as of 31 December 2000 and only list I exporters have been allowed to export to EC. Cambodia has not been included in either list

and its fish and fish products have been banned since 1997.

A number of conditions must be met to obtain approval. They include compliance with EC legislation, sanitary conditions in the production of fish products/live shellfish, hygienic conditions in production areas and in product handling, and controls such as physical inspection, inspection of Hazard Analysis and Critical Control Point (HACCP) systems and laboratory checks carried out by competent authorities.

For Cambodia, these conditions require establishing and amending legislation according to EC requirements. Moreover, existing laboratory capacity does not meet EU requirements. Thus, these measures would be prohibitive. Additionally, since 2004, the EU has banned the import of tuna and swordfish from a number of countries including Cambodia. The reason is Cambodia often failed to respect international conservation rules. However, this situation does not have a large impact because imports of fish products into the EU had already been banned since 1997. But it is an additional barrier.

Similarly, the study found that a few other products failed to be available in international markets with sim-

Box 2: WTO Rules in Trade Facilitation

Trade Facilitation was added to the WTO agenda in December 1996, when the Singapore Ministerial Declaration (paragraph 21) directed the Council for Trade in Goods "to undertake exploratory and analytical work, drawing on the work of other relevant organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area".

Work on trade facilitation in the WTO has passed through several distinct stages. In this process, Members' focus shifted from a fairly broad and comprehensive approach to a more specific emphasis on customs and border-crossing procedures.

Specific elements connected with the simplification and harmonisation of trade procedures are already contained in the WTO legal framework, e.g., in Articles V, VII, VIII, X of the GATT 1994 as well as the in Agreements on Customs Valuation, Import Licensing, Preshipment Inspection, Rules of Origin, Technical Barriers to Trade, and the Agreement on the Application of Sanitary and Phytosanitary Measures. However, only the Singapore Ministerial Conference gave the WTO the mandate to take a more comprehensive look at trade facilitation.

Source: Compiled from WTO documents, available online at <<http://www.wto.org>>

ilar barriers. The Confirel products which are whole range products made from the unique Cambodian sugar palm are as of yet inaccessible to the Chinese market due to a complex number of documents required for obtaining the "Certificate of Approved Labels for Food".

Pharmaceutical Products

The current trade of pharmaceutical products is fundamentally based on negotiations between buyers and sellers. Cambodian pharmaceutical products could access markets of other least developed countries and developing countries whose requirements are not high. Those countries want the benefits of relatively lower prices. Cambodian pharmaceutical products are not yet able to move into international markets since standards at both company level and public level do not meet requirements.

The two most difficult requirements for traders are GMP (Good Manufacturing Practices), standards compliant with WHO requirements and bioequivalence studies for pharmaceutical products. Producers are currently operating their businesses with local GMP standards certified by the Ministry of Health whose requirements are lower than that of WHO.

The lack of expertise and lack of modern laboratories and equipment are serious obstacles to satisfying international standards. Moreover, producers have to make a huge investment in the bioequivalence study compliance for admission to international markets. Cambodian pharmaceutical products can be exported to countries where these two requirements do not exist. These conditions are also subject to Cambodia's commitments to ASEAN's standards by the end of 2008.

Given the current situation, Cambodia would fail to satisfy these measures and market access to ASEAN will still be restrictive to Cambodian pharmaceuticals. Thus it is clear that this country needs both financial and technical assistance in this area.

Garments

Cambodia has been granted GSP status by Australia, Belarus, Canada, Japan, New Zealand, Norway, the Russian Federation, Switzerland and Turkey. But the benefit from GSP of those countries is very little.

More recently, Cambodian exports to the EU have been covered by the "Everything But Arms" initiative which provides duty-free and quota free access to almost all imports from least developed countries. This preference would boost garment exports significantly. But this benefit is conditional upon the rule of origin which is limiting Cambodia's capacity to claim the preference status.

The requirements of rules of origin can be met if the garments were "wholly obtained" which means that virtually all of original raw materials originated in Cambodia; or must be "sufficiently worked or processed" in Cambodia. The sufficiently worked or processed requirements allow Cambodia to use imported materials but not to exceed a certain percent, usually 40 percent, of the ex-works price of the garments.

Additionally, Cambodia can benefit from the regional cumulation which applies for ASEAN countries through the value added method. A garment shall have an origin of Cambodia if the value added is greater than the highest custom value of the products used originating in any one of other countries in ASEAN.

Unfortunately, these requirements place Cambodia at a disadvantage as the Cambodian textile industry is nearly nonexistent. The country has limited production of fabrics and accessories and it is fully dependent on imported inputs for garment exports. Moreover, buyers dictate the specifications and sourcing of fabrics.

Most of required fabric supplies are imported from China, Taiwan, Korea and Hong Kong, which are not in the regions qualified by the EU as pertaining to Cambodia.

These four countries account

for about 90 percent of the imports of fabrics and accessories. In this regard, Cambodia would have a large advantage if the EU were to change its origin rule or if Cambodia itself could import products for making garments from ASEAN.

The removal of this barrier would make for even more growth and the EU would be the first destination for garment exports while the worldwide quota system granted to Cambodia has just been eliminated.

Concluding Remarks

Cambodia's jumping into globalisation means reducing tariff barriers and expanding markets for its exports. But it also means that Cambodia is facing complexity of global trade beyond fair competition with its rivals. The illustrative evidence from case studies above stress the Cambodia's weakness in the area of sanitary and phytosanitary measures, standards, and technical barriers to trade.

Consequently, the development of internationally recognized laboratories and new expertise in these areas are daunting challenges. It is hoped that some barriers can be reduced through the bilateral negotiations while other barriers are difficult to overcome. The government, exporters associations and exporters should jointly establish a prior-warning system to protect Cambodian exporters.

Meanwhile, exporters should actively respond to the non-tariff measures and resort to legal means to protect themselves. At the same time, the government should promote efforts to strengthen exporter capacity to meet the standards and comply with technical regulations internationally. Cambodia really needs technical assistance on how to make its products pass these barriers and how to become more available in international markets.

**Dourng Kakada
and Sok Hach**