



Effective Market Access for Least Developed Countries' services exports

Case Study on Utilizing
the World Trade Organization Services Waiver in
Cambodia





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ABBREVIATIONS AND ACRONYMS

ASEAN	Association of Southeast Asian Nations
BAKC	Bar association of the Kingdom of Cambodia
BPO	Business Process Outsourcing
CMMI	Capability Maturity Model Integration
CPC	Central Product Classification
CPTPP	Comprehensive and Progressive Trans-Pacific Partnership
CSS	Contractual Service Suppliers
CTF	Cultural Task Force
CTS	Council for Trade in Services
DDA	Doha Development Agenda
DITC	Division on International Trade and Commodities
DTIS	Diagnostic Trade Integration Study
EBOPS	Extended Balance of Payments Services Classification
EEA	European Economic Area
EFTA	European Free Trade Association
EIF	Enhanced Integrated Framework
ENT	Economic Needs Test
FATS	Foreign Affiliates Trade in Services Statistics
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GPA	Government Procurement Agreement
ICT	Information and Communication Technology
ILO	International Labour Organization
IT	Information Technology
ITC	International Trade Centre
KICPAA	Kampuchea Institute of Certified Public Accountants and Auditors
LDC	Least Developed Country
MCFA	Ministry of Culture and Fine Arts of Cambodia
MFN	Most-Favoured Nation
MOU	Memorandum of Understanding
MRA	Mutual Recognition Agreement
MSITS	Manual on Statistics on International Trade in Services
MTOSB	Manpower Training and Overseas Sending Board
NAC	National Accounting Council of Cambodia
NGO	Non-governmental Organization
PTA	Preferential Trade Agreement
SME	Small Medium Enterprise
UNCTAD	United Nations Conference on Trade and Development
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
WEF	World Economic Forum
WTTC	World Travel and Tourism Council
WTO	World Trade Organization

PREFACE

This paper was prepared in the context of the United Nations Conference on Trade and Development's (UNCTAD) intensified work in support of Least Developed Countries' (LDCs) participation in trade. It aims to contribute to the discussion on market access for services and services suppliers from LDCs. In particular, in the context of the World Trade Organization (WTO) Services Waiver Decision adopted on 17 December 2011 (hereinafter "the Waiver").

For many years UNCTAD has been emphasizing the importance of services and services trade for developing countries, and the need to strengthen and diversify services sectors. This includes a focus on services and services-supported exports. Over the past 30 years the share of services in the gross domestic product (GDP) of developed countries has grown from 61 to 75 per cent, while the share in developing countries has grown from 42 to 55 per cent. In LDCs, the share was and is still lower, but the growth trajectory is very clear: services are a key part of their economic future. Trade in services remains important as their exports have grown more than goods exports and more resiliently.

In addition to these direct effects, services provide inputs to all economic sectors. They are bundled with goods, for example when manufacturing firms also provide distribution services. They also create linkages in productive value chains, as in the case of telecommunication and information and communication technology (ICT) services which integrate, through digitization, production processes more than ever before. These indirect effects imply that there is value added of services included in output and exports of all economic sectors. While direct exports of services were 13 per cent of total exports in LDCs, services accounted for 39 per cent of total value added in their exports. This value added, the so called "Mode 5" of services trade, confirms that servicification trends also occur in international trade and place services as a key contributor to trade as it is for output.

The LDCs Services Waiver, which effectively operates as a new LDC-specific "Enabling Clause for services", now allows developed-country WTO Members and developing WTO Members in a position to do so to provide preferential treatment to services and service suppliers originating in LDCs. Consequently, the Waiver releases WTO Members from their legal obligation to provide non-discriminatory Most Favoured Nation (MFN) treatment to all trading partners when granting trade preferences to LDCs as per the General Agreement on Trade in Services (GATS) Article II.

After a slow start, WTO Members took up the challenge. Since 2015 developed and several developing Members, in total 24 WTO Members (counting the European Union as one), have submitted notifications granting specific preferences to LDCs under the Waiver. This was an important start but more remains to be done.

Perhaps most importantly, the Waiver has been a catalyst for a growing discussion and growing awareness among policy makers, service suppliers and other stakeholders both from LDCs and from current and potential importers of LDCs' services. But the task at hand for all those interested in LDCs and their services trade integration goes beyond the operationalization of the Waiver. The Waiver is just one tool among others, from autonomous liberalization to regional and bilateral agreements, that enables services liberalization in favour of LDCs.

The Waiver itself neither requires WTO Members to grant preferences nor provides them with specific ideas or tools to devise smart mechanisms that facilitate LDCs' services exports into their markets. Thus, even if the range of preference-granting countries itself is noteworthy, the breadth, depth and real-life relevance of the preferences offered require and deserve attention, not least with a view to diversifying and sharpening the tools to provide effective pro-development access to services markets of export interest to LDCs.

UNCTAD has an important role to play in fostering, facilitating and enriching this discussion among all those who care about LDCs and their considerable potential in services. In 2016 UNCTAD commissioned a study on "LDCs Services Waiver—Operationalized?" The study carried out an in-depth assessment of the preferences offered in the context of the Waiver and juxtaposed them with what LDCs had asked for through their Collective Request. This deliberation has now been further developed in the current overview paper enriched by findings from the four pilot country studies, namely Cambodia, Nepal, Senegal and Zambia, that accompany this overview. The

overview is intended to assist negotiators and policymakers in the WTO Members and LDCs in their efforts in identifying, designing and implementing smart mechanisms that could facilitate LDCs' services exports.

This paper presents the findings of the pilot study on Cambodia. Focusing on a selection of services sectors of particular export interest to Cambodia, this case-study assesses, where appropriate on an anecdotal basis, whether and to what extent the preferences granted by WTO Members respond to the market access, regulatory and other barriers experienced by Cambodia's services exporters in their export market(s). By converging all available sources of information, the analysis aims to identify the relevance of the notified preferences for Cambodia's services exports, possible gaps and opportunities for further development of improved market access mechanisms, as well as its utilization by LDCs' services exporters.

This case study does not aspire to provide a complete view of services exports from Cambodia or of every demand-side barrier existing in respect of the services examined. The analysis neither aims to give a comprehensive picture of all services exported and barriers operating in the sectors chosen for examination. This paper and other work products produced under this study are selective, aimed at providing a critical mass of useful findings that could meaningfully advance the discussion on LDCs' services trade. It is based on desk research and in-country consultations with services exporters, services regulators, representatives of relevant government agencies and representatives of services related business associations, against the background of often weak and unreliable services statistics.

This paper is intended to assist negotiators and policymakers in the WTO Members and LDCs in their efforts in identifying, designing and implementing smart mechanisms that could facilitate LDCs' services exports. The set of papers will not only benefit the countries examined, but other LDCs and the LDC Group, as the barriers faced by one LDC's service or service supplier are often also faced by services and service suppliers from other LDCs. It follows that potential preferences suggested by this study may be relevant for several, often for many, and sometimes for all LDCs.

This exercise remains by its nature necessarily a limited one, a work in progress that should stimulate further, progressively broader and deeper engagement by LDCs' governments, LDCs' services importers and other stakeholders, on the obstacles encountered and the solutions to be sought. UNCTAD's hope and ambition is to encourage stakeholders to carry the discussion forward, and to support them in this endeavour.

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**LEAST DEVELOPED COUNTRIES
SERVICES EXPORTS, THE WORLD
TRADE ORGANIZATION SERVICES
WAIVER FOR LEAST DEVELOPED
COUNTRIES AND PREFERENCES
NOTIFIED BY MEMBERS**

This paper focuses on Cambodia as an LDC and a services exporter. It does so embedded in the immediate context of the overall question of LDCs' services exports, their promotion and the operationalisation of the LDCs Services Waiver. It thus serves as a case study, one of a set of four, and should be read in conjunction with the paper "Effective Market Access for Least Developed Countries' Services Exports – Overview Analysis of the World Trade Organization Services Waiver for Least Developed Countries", which considers cross-cutting observations and conclusions.

A. LDCS' SERVICES EXPORTS

Least-Developed Countries participation in services trade is on the rise. According to the WTO, LDCs' commercial services exports expanded by 12 per cent on average per year during 2005-2016.¹ An impressive outcome compared to 8 per cent in other developing economies and 5 per cent in the developed group.²

While LDCs as a group are generally services importers, their share of global services imports is slowly decreasing. In 2016, for instance, LDCs' services imports decreased from 1.7 per cent to 1.4 per cent in 2011.³ In turn, the share of LDCs in global exports of commercial services grew from 0.4 in 2015 to 0.7 per cent in 2016.⁴

However, LDCs' services exports have also seen a sharp decline in recent years. Services exports from LDCs in Africa dropped by 5 per cent in 2016. Likewise, services exports from LDCs in Asia, which recorded the most rapid export growth expanding by 14 per cent on average per year during 2005-2016, saw a 3 per cent decline in 2016, while imports recorded 10 per cent growth.⁵

Least-Developed Countries' portfolio of services exports is mainly focused on tourism with some variations by region. In 2016 exports of LDCs in Africa accounted for more than half of LDCs' total commercial services thanks to transport and tourism services in Ethiopia and in the United Republic of Tanzania and Uganda respectively.⁶ Least-Developed Countries in Asia recorded the most rapid expansion from 2005-2016, mainly due to Myanmar's and Cambodia's performances as the leading tourist destinations in the region, and to Bangladesh and Nepal as leading exporters of information and communications services.⁷ In LDC islands, tourism accounted for more than two-thirds of their services exports.⁸

Least-Developed Countries commercial services exports remain concentrated within a few economies. Myanmar leads the table boosted by rising travel exports that account for 12.3 per cent of LDCs commercial services exports. It is followed by Cambodia (12.1 per cent), United Republic of Tanzania (11.6 per cent), Ethiopia (8.7 per cent), Bangladesh (6 per cent), Sudan (4.8 per cent), Uganda (4.2 per cent), Angola (3.6 per cent), Senegal (3.3 per cent) and Nepal (3.1 per cent). This is an unchanged pattern since 2005.⁹

In addition to these direct effects, services provide inputs to all economic sectors; are bundled with goods; and create linkages in productive value chains. These indirect effects can be measured by the value added of services included in output and exports of all economic sectors. While direct exports of services were 13 per cent of total exports in LDCs, services accounted for 39 per cent of total value added in their exports. This value added, the so called "Mode 5" of services trade, confirms that servicification trends also occur in international trade and place services as a key contributor to trade. Such important indirect effects have a relevant bearing on inducing efficiency and effectiveness, reducing productive and trade barriers, and contributing to more productivity and increased productive and export capacity.¹⁰

B. THE LEAST DEVELOPED COUNTRIES SERVICES WAIVER

While LDCs participation in service trade is slowly increasing, their vast potential is still untapped partly due to capacity constraints, but also due to market access barriers encountered in export markets. This fact has initiated a series of deliberations in the WTO and other multilateral fora.

In 2003, the WTO Council for Trade in Services adopted a Decision on Modalities for the Special Treatment for LDC Members in the Negotiations on Trade in Services. Quite generally, this decision aimed at defining negotiating modalities for LDCs in the area of services to ensure that WTO Members would take the special situation of LDCs into consideration when negotiating with them. The text also highlighted the need for WTO Members to open their services markets as a priority in sectors of interest to LDCs. A bit more than two years later, further developments on the matter were reflected in the 2005 Hong Kong

Ministerial Declaration, where WTO Members agreed to “implement the LDC modalities and give priority to the sectors and modes of supply of export interest to LDCs, particularly with regard to movement of service providers under Mode 4”.

After several years of discussions on how to effectively implement those LDCs modalities, trade ministers finally adopted on 17 December 2011 a waiver to enable developing and developed-country WTO Members to provide preferential treatment to services and service suppliers originating in LDCs. The Waiver, initially granted for 15 years from the date of adoption, releases WTO Members from their legal obligation to provide non-discriminatory (MFN) treatment to all trading partners (GATS Article II), when granting trade preferences to LDCs. It effectively operates as a new LDC-specific “Enabling Clause for services”.

Two years later, with no progress made, Ministers came back to the issue with a subsequent decision on the ‘Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least Developed Countries’, adopted on 7 December 2013 at the Ninth Ministerial Conference in Bali. That decision established a process which foresaw that a High-Level Meeting (an idea akin to that of the Signalling Conference of 2008, or a pledging conference) would be held six months after the submission of a Collective Request by the LDC Group. After a significant exercise in fundamental research the LDC Group developed the Collective Request and circulated it to WTO Members in July 2014, followed by the High-Level Meeting in February 2015, at which WTO Members agreed that those intending to grant preferences under the Waiver would follow up by submitting specific and detailed notifications of their intended preferences by July 2015.

Building on this success, the Nairobi Ministerial Conference in 2015 adopted the decision to extend the Waiver until 31 December 2030. The decision encourages WTO Members that have not notified preferences to do so, and WTO Members that have notified one to provide technical assistance and capacity building in order to allow LDCs to actually benefit from the preferences granted. It also asks WTO Members to address regulatory barriers as defined in GATS article VI:4 and mentions tasks to be fulfilled by the Council for Trade in Services (CTS) for a quicker and more efficient implementation of the notified preferences.

Since its adoption, the Waiver has been a catalyst for a growing discussion and growing awareness among policy makers, service suppliers and other stakeholders both from and in LDCs and from and in many other countries that import services from LDCs or may do so in the future. Twenty-four WTO Members have so far taken the next step and notified the lists of preferences they grant to LDCs’ service providers and services under the Waiver. For now, this discussion process at the WTO has become a permanent feature of the proceedings in the CTS. One element of that discussion has been the attempts to evaluate the ‘value’ of the preferences offered.

But the task at hand for all those interested in LDCs and their services trade integration is arguably much greater than that. The Waiver is a legal tool that enables WTO Members to sidestep the otherwise applicable Most Favoured Nation (MFN) obligation when granting preferences to LDCs. As such it only enables preferences, but neither requires WTO Members to grant them, nor provides them with specific ideas or tools to devise smart mechanisms that actually facilitate, and perhaps even support, LDC exports into their markets.

This paper stands in the context of efforts to assist all stakeholders in doing precisely that: Identify, design and implement smart mechanisms to facilitate LDCs’ services exports. It aims to make a contribution to the process stimulated by the LDCs Services Waiver, but not exhaustively covered by that tool or the specific processes around it. The goal must be to come to an integrated, holistic debate and development process where the needs are fully understood, and tools are used in the most constructive, creative and productive way.

Building on a study “LDCs Services Waiver – Operationalized?” that was commissioned by UNCTAD in 2016, the current analysis presents and reflects on the pilot review, undertaken in late 2017, of Cambodia’s services trade and its interests under the Waiver. By taking a look at a selection of Cambodia’s services and service providers, and the issues they encounter in their export markets, the study aims at providing a start into the next phase of the ongoing discussion process. Thus, taking the Waiver process as a context, it is now needed to look at the specific situations of service providers on an LDC-specific basis, consider specific issues encountered in export markets, and devise specific responses, whether incremental improvements or complete solutions, to these challenges.

C. PREFERENCES NOTIFIED BY MEMBERS – A SUMMARY ASSESSMENT¹¹

At the time of writing 24 WTO Members have notified preferences under the Waiver to the WTO, including all developed but also many developing country Members: Australia; Brazil; Canada; Chile; China; European Union; Iceland; India; Japan; Liechtenstein; Mexico; New Zealand; Norway; Panama; Republic of Korea; Singapore; South Africa; Switzerland; Thailand; Turkey; United States of America; Uruguay; Hong Kong, China; and Taiwan Province of China.

Categorizing, counting and assessing the preferences contained in the 24 notifications so far is a complex task requiring multiple choices that can affect statistical outcomes and other findings. With that caveat in mind, certain careful observations on the over 2000 preferences can be made:

- **Rising above the 2006-2008 Doha Development Agenda (DDA) offers.** Almost half of the preferences promised to LDCs now go beyond what was offered a decade ago to all WTO Members. In another 40 per cent of the cases the preferences correspond to the DDA offers. Only 12 per cent remain below that threshold. While that is encouraging in that it reflects a willingness of WTO Members to engage seriously in the challenge to design services preferences and make the Waiver work, most of the DDA offers already a decade ago reflected applied Most Favoured Nation (MFN) treatment rather than new, improved market access or national treatment.
- **Getting close to the “best Preferential Trade Agreement (PTA)” level.** Preferences already offered under PTAs are politically and technically tested. Over two thirds of the preferences correspond to what the respective WTO Members have granted to third parties under recent PTAs. Almost one quarter of the notified preferences seem to provide even better treatment to LDCs' services and service providers.
- **More than demanded in the Collective Request? Yes, but...** A simple count suggests that 46 per cent of the notified preferences go beyond what was specifically demanded in the Collective Request. That, however, is arguably misleading. Over one third of these 'Collective Request plus' preferences are in the, mostly meaningless, Mode 2, which the LDCs mostly left out of their request, presumably in order to steer the focus towards the more important

other modes. Second, many of the preferences are arguably covered by the general list of services and activities of interest annexed to the Collective Request. Third, the fact that preferences are offered in sectors/modes not asked for may also, in part, reflect a choice by preference grantors to 'boost' their packages by adding more easily feasible but less relevant preferences.

- **Most preferences cover market access.** Only about 15 per cent cover national treatment, with few providing preferential regulatory treatment. This is arguably the biggest weakness of the notifications so far.
- **Uneven sectoral distribution.** By far, the most notified preferences are in business services. The second largest number concern transport services, also important are recreational, cultural and sporting services. Arguably disappointing is the small number of preferences in tourism, construction, health and education services, all with significant export potential for LDCs.
- **Modes almost equally distributed, with Mode 4 being the strongest.** Rather encouraging is the notifying WTO Members' response to LDCs' strong emphasis on Mode 4. One third of the preferences concern Mode 4. This effect is, however, to some extent linked to the counting method applied, where improved horizontal commitments are counted per each sub-sector to which they apply. This leads to a multiplication effect, but arguably appropriately so, as improved horizontal commitments in Mode 4, for example, a new category such as contractual service suppliers (CSS) and/or independent professionals do indeed apply their effect in all sectors covered.
- **Degrees of liberalization: a mixed picture.** Almost half of all notified preferences are full commitments ('none'). Still, almost one third of which are in Mode 2 and are often partial commitments. However, these may in fact be the most interesting ones, as they reflect efforts to carefully craft access opportunities in cases where barriers exist, but their prevalence also suggests that there is room for improvements in the future.
- **Some WTO Members offer big, some small packages.** While some of these variations may result from scheduling techniques and/or the counting method applied here, large discrepancies remain in any case. However, it should be noted that numbers do not necessarily imply quality. Selected, targeted and carefully designed preferences offered

by WTO Members with existing links to LDCs' markets may well offer more meaningful access to markets than large sets of commitments in less relevant sectors, less relevant modes, and/or less relevant geographical contexts.

1. Actual preferences?

Unlike normal services trade agreements the LDCs Services Waiver is, or was meant to be, about actual preferences (real-life deviations from MFN treatment) and about actual improvements for LDCs' services trade. It remains unclear how many such actual preferences (*vis-à-vis* the previous practice) are contained or reflected in the notifications, finding out would require a comparison with applied regimes, something rather ambitious to do. Local academics and Non-Governmental Organizations (NGOs) in particular would ideally fill this gap, bringing clarity to what remains to date an obscure situation.

That said, there has been significant progress with regard to data on applied regimes. While the WTO's and the World Bank's joint I-TIP Services database¹² began integrating applied regime data some time ago, it appears that recently new and much richer data has become available and is now being integrated into the database. It is hoped that this will in future allow for at least some analysis of the Waiver and other preferences against applied regimes.

That said, "best practices" observed in existing notifications and preliminary lessons for future notifications would include the following:

2. Best practices: approach, technique and presentation

- **Comprehensive and systematic approach** proactively considering the complete range of services sectors, rather than a selected approach to 'cherry-picking' sub-sectors and modes of supply arguably tends to generate more and more open-ended opportunities, better suited to respond to a very dynamic sector. That said, seriously targeted sets of preferences may be of high value as they may send equally targeted and concentrated signals, and hence make recognizable contributions to the development of LDCs' services trade as 'pilots' or 'bridgehead' commitments.
- **Clear identification of preferences vis-à-vis GATS MFN commitments** (ideally *vis-à-vis* applied MFN treatment, although no WTO Member made

this step). Ideal would be a hybrid: A full schedule with LDCs preferences highlighted. Iceland's notification does that to a large extent.

- **Clustering modes where possible.** Services are often provided in several modes within the same business relationship. For LDC service providers, As for Small and Medium Enterprises (SMEs) generally, separating modes is often particularly difficult. It is therefore desirable for WTO Members to provide to the greatest extent possible market access across all/most modes of supply.
- **Using the flexibility of unilateral action to explore uncharted waters.** The Waiver offers the possibility of unilateral preferences but does not commit WTO Members to maintaining them indefinitely or indeed at all if and when found to be undesirable. This is in contrast to multilateral WTO or even bilateral free trade agreements (FTA) negotiations. Therefore, it seems unnecessary to exercise heightened caution in sectors and modes where the potential impact of LDCs' services would in any case be marginal for the importing country, but potentially interesting for LDCs' services exporters.

3. Best practices: substance

- **Taking Mode 4 seriously.** Among the most interesting potentials for LDCs' services exports are improvements for exports through Contractual Service Suppliers (CSS) and Independent Professionals, often effective trailblazers for and components of primarily Mode 1-based business models, alongside Service Sellers and Business Visitors. While many WTO Members struggle with the challenge of integrating trade and immigration tools and mechanisms for this purpose, some have made a recognizable effort to make steps forward to facilitate bona fide services trade.
- **Taking regulatory issues (and possible preferences) seriously, creatively so.** Unfortunately, most WTO Members have tended not to explore regulatory preferences, an approach that stands in some contrast to the express needs and desires of LDCs and the potentials enshrined in many qualification requirements and procedures, licensing requirements and procedures, and technical standards.
- **Targeted efforts in difficult or complex areas help in exploring possibilities.** India's explorations of limited but creative Mode 4 access for tour guides and language teachers from LDCs show the way

towards serious detailed engagement with LDCs' services issues. The LDCs Services Waiver indeed provides the opportunity to expand trade in services by exploring better solutions for SME providers, and should be welcomed as such. This will be for the benefit of LDCs' providers as well as possibly others, but without detracting from the former.

4. Lessons learned

- **The squeaky wheel gets the grease.** LDCs have been proven right in their approach to confront WTO Members with very specific requests, room for improvement in the form and content of the request notwithstanding. The notifications on offer show that WTO Members have indeed responded to the challenge, some more enthusiastically than others, and some more creatively than others. But the overall lesson is clear: asking works, and there's much room for improvement in how LDCs' services and service providers are received.
- **Format influences content.** Arguably a bit of a trap has been the fact that WTO Members (including LDCs themselves) seem to gravitate towards using the tools and mechanics they know rather than those that fit the task. The use of the GATS (or other) schedule format has had two unwelcome effects. First, many WTO Members, their delegates and observers, including expert commentators, often find themselves discussing commitments rather than applied measures. While this works comfortably in trade negotiations, it risks reducing the Waiver's operation to very little. That function is to enable WTO Members to grant *applied MFN-violating preferences*. A promise to apply treatment that is actually granted to all on an MFN basis means something in FTAs, but nothing under the Waiver; such treatment does not require any deviation from MFN, hence does not need the Waiver, and should not count as its operationalization (even if intelligent and /or overdue MFN liberalization stimulated by reflections on preferences are welcome as long as they actually respond to LDCs' services exporters challenges). Second, the schedule format has allowed, if not enticed, WTO Members to largely abstain from granting regulatory preferences, despite a number of specific (and realistic) requests in the Collective Request. This is unfortunate and should be avoided in future, not necessarily by abandoning the format, but by challenging its completeness.

- **Applied MFN vs. actual preferences – many misunderstandings still intact.** As just indicated, much of the discourse (including admittedly within this paper) gravitates towards a consideration of 'commitments' instead of actually applied preferences. In many cases this is because the discourse never left the comfort of the known context. More awareness raising is required. Active usage of the notified preferences and systematic feedback can make a significant contribution over time.
- **Forward-looking approach.** While the requests so far have chiefly focused on areas of current export interest to LDCs, it is also important to seek for preferences in sectors that will contribute to longer-term development goals, including by contributing to diversification and upgrading. This means that LDCs, in addition to build on their existing comparative advantages, also need to challenge them and strive for new avenues and build new comparative advantages. Along this line, data on services value-added in all sectors, which is still scarce in LDCs, could be informative to evaluate what are the services sectors that are contributing more to overall productive capacity, productivity and competitiveness. This is important to expand the debate on development options, revealing that services are not an alternative to agriculture or industrial development, but instead they should be a key element of strengthening agriculture and of industrialization strategies.

D. PREFERENCES NOTIFIED BY MEMBERS AND CAMBODIA'S SERVICES EXPORTS

The effective value of the preferences for LDCs' services exports is under discussion. LDCs and other WTO Members are engaged in an ongoing dialogue at the WTO's Council for Trade in Services. A small number of studies have looked at some of the issues, including the mentioned study commissioned by UNCTAD in 2016, whose main findings were already reflected, which took a reasonably detailed look at the notifications and juxtaposed them with what LDCs had asked for through their Collective Request.

The 2016 study also recommends that a more systematic and detailed monitoring exercise be conducted, ideally regularly, considering the

perspectives of services exporters. The present case study serves as one of the pilots for that exercise. It presents a summary of a pilot review conducted in Cambodia aimed at reviewing the implementation of the LDCs Services Waiver, or rather: the underlying idea of improving effective market access for LDCs' services.

Taking a bottom-up approach the case study looks at Cambodia's services exports, the relevance of the notified preferences for these exports, and possible gaps and opportunities for further development of mechanisms for improved effective market access and its utilization by all LDCs' services exporters, and by Cambodia's services exporters, in particular. Focusing on sector(s) of particular export interest to the country, this case study assesses, where appropriate on an anecdotal basis, whether and to what extent the preferences granted respond to the market access, regulatory and other barriers experienced by services exporters from Cambodia in their export market(s) of interest. By doing so, the analysis aims at identifying existing gaps and proposing options for further improvements.

This pilot analysis relies on desk research combined with brief and compact in-country consultations held with services exporters, services regulators, representatives of relevant government agencies and representatives of services related business associations.¹³ It aims to bring together what knowledge is available to allow an instructive picture to emerge.

Based in particular anecdotal research this paper looks at Cambodia's current and emerging interests in terms

of services exports and hence in the related, potential, removal or modification of barriers encountered in its export markets under the LDCs Services Waiver. These interests are then juxtaposed with the preferences on offer, both directly (Does any preference granted respond to the needs or desires identified?) and indirectly (Are there other positive elements in the notified preferences?) with a view to identifying both remaining gaps and useful achievements.

A word of caution is needed: This exercise remains by its nature necessarily a limited one, a work in progress that should stimulate further, progressively broader and deeper engagement by LDCs' governments, stakeholders and experts on the subject of services exports, the obstacles encountered and the solutions to be sought. Its bottom-up approach looking for the real-life example of barriers to services trade by those who know: The services providers affected. Identifying those stories is a challenging exercise, but it remains without alternative: It is those stories that identify the obstacles to be removed, as usable data on export interests and obstacles encountered are hardly available, often in the form of anecdotes.

The purpose of this paper is to generate insights into pertinent challenges to LDCs' services exports in their export markets, and potential measures that could make a contribution to addressing those challenges. This paper is thus not a "study" on the services sector in Cambodia; rather, it is a collection of useful anecdotal evidence from few selected sectors of export interest that serves to understand the bigger picture in order to pave the way for a more meaningful operationalization of the LDCs Services Waiver.

Box 1: Services Data – A Caveat

When considering services trade data, it is important to note that current statistics in many countries, including not least LDCs, rarely capture with any accuracy what is actually happening. This reflects both the secondary attention accorded to services trade and the objective difficulties in collecting and collating the relevant information. These difficulties include:

- First, unlike in trade in goods usually no physical commodity crosses the border, and hence can be observed, counted and measured. Balance of payments (BOP) statistics provide some help, but the collection of traditional BOP statistics primarily relies on measuring cross-border transfers of money, and hence does not “see” the actual transaction of the service that is being paid for. Even if the service provider can be identified as the recipient of the payment, it is often not clear which service was provided (as the provider may provide different services), nor in which mode of supply. Modes 1, 2 and 4 will usually trigger international money transfers as provider and recipient are based in different jurisdictions, so bank or cash transfers across borders will happen and can thus be reflected in the BOP. However, central banks or statistics agencies have little means to tell which mode was actually applied – did the lawyer travel to the client, the client to the lawyer, or just the legal memo through the internet before the client made the bank transfer to the lawyer?
- The picture is further complicated for purposes of accounting the value of services provided by natural persons (Mode 4) who stay for a period that is longer than a year in the export market. Those are usually treated as residents of the host country while under the GATS they are still considered as Mode 4 services providers beyond this period – for example as intra corporate transferees staying for 2-3 years. Remuneration for services provided by (resident) natural persons often appear only as net of costs in the form of remittances in the BOP statistics, effectively underreporting the value of services.
- Second, sectoral classifications traditionally used in BOPs are largely out of synch with categories usually used in trade policy, making it difficult for policy makers to use BOP data for many sectors, even if such data are available, as they will often be too aggregated. Much work has been done to advance convergence, but until today services trade statistics remain mostly unusable for trade policy making and trade negotiations.
- Third, Mode 3 is almost entirely under the BOP radar screen as it triggers local, not international payments (from a local service consumer to a foreign-invested, but locally established provider). The needed Foreign Affiliates Trade in Services Statistics (FATS), both inbound and outbound, are difficult and tedious to establish, and most developing countries do not even try. As a result, Mode 3 services provision goes largely unmeasured, except to the extent that it appears as part of FDI statistics.

All these (and some more) issues have long been recognised, and a group of international agencies including among others the International Monetary Fund (IMF), EUROSTAT, the WTO and UNCTAD, has made significant efforts to compile recommendations and international best practices,¹⁴ but actual practice lags far behind.

The issue of services trade statistics, notably, is not exclusive to developing countries. Traces of the magnitude of the challenge are found almost as much in developed country resources and discourse. For example, a report by the United States Congressional Research Service on members of the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) looked at United States of America services trade with only eight of the eleven (non-United States) CPTPP parties because the United States Bureau of Economic Analysis (BEA) lacked individual data for trade with the others.¹⁵

This weakness of data has the understandable but odd consequence that more often than not the unavailability of data translates directly into a lack of awareness among those who otherwise tend to rely on data, such as administrative agencies, politicians and negotiators.

This effect is exacerbated in trade in services as many stakeholders (including businesses themselves) have only a shallow grip on the concepts and mechanics of trade in services. Finally, the sheer sectoral spread in services adds to the resulting confusion.

The result is a political and economic discourse that is sometimes perilously removed from reality. However, the fact that something is difficult to measure of course does not mean that it is not there. These observations and any exchange with service providers and their clients will make it clear that trade in services is a major reality, and an even bigger potentiality, for any economy. It is therefore incumbent on policy makers and other stakeholders to make every effort to ensure that the absence or paucity of data does not lead to misinterpretations. This requires an enhanced qualitative, as opposed to just quantitative, discourse, and arguably an even closer engagement with stakeholders than elsewhere.



SERVICES AND SERVICES TRADE IN CAMBODIA

Cambodia is a Southeast Asian country with over 15 million inhabitants, neighboured by Viet Nam, Lao People's Democratic Republic, Thailand and the Gulf of Thailand. It is a member of the Association of Southeast Asian Nations (ASEAN).

Cambodia is one of East Asia's most liberal economies. The country's accession to the WTO in 2004 followed by two decades of economic modernization and regulatory reforms led to an impressive economic growth and to the country's upgrade from low-income to lower middle-income status in 2015. Cambodia's openness, its young population and agile work force attracted the flow of foreign capital and foreign skill to invest in and develop the country's fast-growing industries especially in sectors such as tourism, infrastructure, construction, telecommunication and manufacturing. It is not surprising that Cambodia recorded the largest improvement among its ASEAN neighbours since 2007 in World Economic Forum (WEF)'s Global Competitiveness Index (from 3.5 to a 4.0 score).¹⁶

Much of Cambodia's economic growth is driven by its services sector as illustrated in Table 1. At 41.6 per cent, the contribution of services to Cambodia's gross domestic product (GDP) is much higher than the regional average.¹⁷ Originally dominated by textile, wearing apparel and footwear destined for export, Cambodia's industrial sector is going through a process of diversification to manufacture electric machinery, auto parts and equipment started few years ago. Within five years the number of factories in the metallic, electronic, electrical, machinery, motor vehicle and other transport equipment segments have almost tripled.¹⁸ Manufacturing contributed 31.7 per cent to Cambodia's GDP in 2016 while the contribution of the agriculture stood at 26.6 per cent in 2016, 24 per cent lower than that two decades ago.

The value and share of services exports illustrated in table 2 is arguably higher than indicated as most of Cambodia's exports in Mode 1 and 4 including information technology and related services (IT and IT-enabled services), animation, design, entertainment

and professional services are likely not captured by trade data and statistics.

Tourism remains Cambodia's largest services export sector as already illustrated. According to World Bank data, tourism accounts for about 27.49 per cent of total exports in 2015 and this figure is expected to grow in the upcoming years. During the first six months of 2017, the total tourist arrivals grew by 12.8 per cent in relation to the same period in 2016; in particular, air arrivals recorded the highest level since a decade ago with 23.1 per cent increase.¹⁹

Construction is another key driver of growth, mainly boosted by rising inflows of foreign direct investment (FDI). In 2015, the sector reported a 19 per cent growth with respect to the previous year. The majority of the construction activity is focused on modern commercial and residential projects, and in a newly emergent small segment of affordable housing projects.²⁰

The modest values attached to Cambodia's exports of services such as IT and IT-enabled services, animation services, entertainment, design and professional services, exported via Mode 1 and 4, are likely due to lack of statistics and data. As mentioned in box 1, it is important to stress that available services trade statistics generally and in LDCs including Cambodia, in particular, is often incomplete and unreliable, and therefore cannot provide the only basis for developing adequate policy responses.

Despite the inaccuracy of services data, statistics indicate that Cambodia is a net exporter of services as illustrated in figure 1.

As to employment, 44 per cent of the labour force works in the agriculture sector. Nevertheless, services are the second largest employer contributing 30.4 per cent to total employment. The majority of it focused in tourism, which directly contributes 11.4 per cent of total employment.²¹

Table 1: Sectoral contribution in Cambodia's gross domestic product, 1980–2016 (in percentage of gross domestic product)

Sector	1995	2000	2005	2010	2015	2016
Agriculture	50.07	38.3	32.74	36.45	28.6	26.6
Industry	14.96	23.3	26.64	23.5	29.8	31.7
Services	34.9	38.4	40.6	40	41.5	41.6

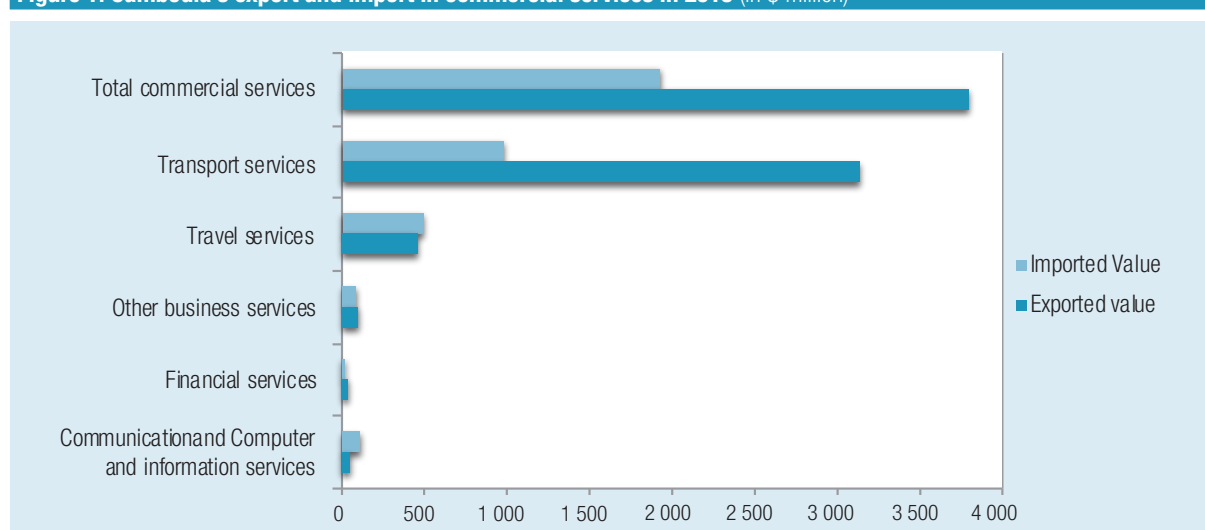
Source: World Bank, World Development Indicators.

Table 2: Value and share of exports for different commercial service subsectors in Cambodia, selected years

Sector	2012		2014		2015	
	Value (\$ million)	Share (%)	Value (\$ million)	Share (%)	Value (\$ million)	Share (%)
Commercial Services	3 054.346	100.0	3 713.478	100.0	3 783.9	100.0
Transport	333.935	10.9	417.239	11.2	459.0	12.1
Travel	2 462.750	80.6	2 953.12	79.6	3 137.0	82.9
Other commercial services	-	0.0	-	0.0	-	-
Communications and Computer and information services	45.3	1.5	49.2	1.2	47.0	1.2
Construction	16.557	0.5	10.237	0.3	10.1	0.3
Insurance	1.4	0.1	0.436	0.0	0.2	0.0
Financial services	19.120	0.6	25.057	0.7	33.8	0.9
Royalties and license fees	3.84	0.1	2.659	0.1	0.6	0.0
Other business services	168.990	5.6	251.938	6.8	95.7	2.5
Personal, cultural & recreational services	2.5	0.1	3.6	0.1	0.5	0.0

Source: Cambodia's Trade in Services, by Major Categories, ASEANstats. See also: ITC, Trade Map.

Note: The shares in the table have been calculated after excluding "Government services n.i.e." The export value for Total Commercial services is estimated by UNCTAD, WTO and ITC.

Figure 1: Cambodia's export and import in commercial services in 2015 (in \$ million)

Source: ASEAN, Cambodia's Trade in Services, by Major Categories, ASEANstats.



CROSS-SECTORAL ISSUES: MODE 4

A. DEFINITION

The GATS defines Mode 4 as 'the supply of service by a service supplier of one Member, through the presence of natural persons of a Member in the territory of any other Members'. It is worth recalling, that the GATS and other trade agreements aim to distinguish between temporary presence to provide services, on the one side, and labour migration which involves joining the local labour market, on the other side.²²

This section ultimately focuses on trade in services, and hence services supplied in Mode 4 by Cambodian providers, as a subset of the broader group of (temporary) economic migrants from Cambodia. This should be kept in mind when considering this section, particularly where reference is made to data on economic migration, which encompasses more than Mode 4 exports.

B. MODE 4 AND ECONOMIC MIGRATION FROM CAMBODIA: AN OVERVIEW

Comprehensive data on the number of temporary economic migrants is not available. The primary destination for Cambodian workers is Thailand.²³ The geographical proximity and the governments' efforts to enhance cross-border labour movement under the Memorandum of Understanding (MoU) on cooperation in the employment of workers have increased the flow of labour migration to the country. In 2016, 117'424 entries under the MOU were registered in Thailand, the majority of them to work in fishing, agriculture, livestock, construction, manufacturing and services sectors, including domestic work.²⁴

The second major destination for Cambodian economic migrants is the Republic of Korea. The Manpower Training and Overseas Sending Board (MTOSB) regulates Cambodian labour migration to the Republic of Korea in the manufacturing, construction, agriculture and livestock, fishing, and service industry sectors.²⁵ The MTOSB allows SMEs from the Republic of Korea to recruit internationally when the demand for labour cannot be supplied locally. As part of the

program, 43'571 Cambodian temporary migrants for employment were registered between 2007 and 2015.²⁶

Malaysia was also a major destination for work until 2011, when the government of Cambodia restricted recruitment agencies to send workers to the country. Despite the restriction, 40,011 temporary workers migrated to Malaysia between 1998 and 2016. This number is expected to grow in the coming years, as the restriction was lifted in 2015. The Government of Cambodia has also signed an MoU with Japan, however far fewer have been deployed since 2007, due to the technical requirements of the Industrial Training Program and Technical Internship Program. In addition, Cambodia signed similar MoUs with Kuwait (2009), Qatar (2011) and Saudi Arabia (2016), but so far there is no data capturing the migration of Cambodian employees to these destinations.

The vast majority of Cambodia's economic migrants do not fall under the definition of Mode 4 as those are employed by foreign service suppliers in their host countries (secured for the most part through placement agencies).

The economic significance of economic migration in Cambodia

Total remittances sent by migrant workers to Cambodia were worth 1.9 per cent of the GDP in 2016, higher than its neighbouring countries except for Viet Nam. This share has varied from the past twenty years. A major growth was reported from 1997 to 2002, when remittances increased from 0.35 to 2.9 per cent of the GDP. Since then the share decreased to 1.1 per cent in 2013, followed by a major growth to 2.5 per cent in 2014.

Despite the small GDP share of remittances, financial help from relatives working abroad have a major impact in Cambodian households. "Forty per cent of Cambodian migrant workers in Thailand reported that remittances were the main sources of income for their families".²⁷ The money sent helps to provide a better quality of life, as families are able to cover daily expenses, health care, and household appliances.



**SECTORAL REVIEW LEAST
DEVELOPED COUNTRIES
SERVICES EXPORTS AND
THEIR INTERESTS
UNDER THE WAIVER**

A. AUDIOVISUAL SERVICES/ ANIMATION SERVICE

1. Definition

Under the WTO's Services Sectoral Classification List 'Communication Services' include postal, courier, telecommunication, audiovisual and other communication services.

Under the W/120 definition, audiovisual services include motion picture and video tape production and distribution services, motion picture projection services, radio and television services, radio and television transmission services and sound recording. The focus of the in-country consultations and thereby of this study is on animation services, a subsector of audiovisual services.

2. Audiovisual/Animation Services in Cambodia

Animation is a forward-looking fast-growing industry worldwide. Animation, including animated films, augmented reality, gaming, design and advertising does not only capture the interest of young people but it also creates jobs in a creative industry. Producing animated content requires skill, creativity and imagination but it does not necessarily require formal education, which makes it an interesting industry to support and develop especially in countries with high unemployment rates among the youth.

The rapid advancement in computer technologies, telecommunication infrastructure and the increase in broadcasting hours by cable, satellite television (TV) and Internet have expanded the demand for animated entertainment worldwide. Digital animation today is one of the fastest growing creative industries with an annual growth rate of 5 per cent. In 2015, the global animation industry recorded output value of approximately \$244 billion.²⁸

Large multinational studios, TV broadcast companies and cable channels are engaged in all production and distribution activities, as well as in digital versatile disc (DVD) sales and intellectual property licensing of animated content.²⁹ As technology and connectivity advance multinational studios have sought various forms of partnership, joint ventures and coproduction with global partners to explore wider market opportunities and reduce costs.

Asia has become an attractive destination for outsourced input producing about 90 per cent of American television animation. China, Japan the Republic of Korea and Taiwan Province of China used to be the main outsourcing destination; but over the past decade India, the Philippines, Indonesia, Thailand and Viet Nam have emerged as new outsourcing locations.³⁰

Cambodia is home to few but interesting high-quality providers of animation services, some with social and human development missions, offering full production services of 2-dimensional animation for television series, feature films, commercials and public service announcements. Some also offer 3-dimensional animation and at least two of the studios offer post-production services (special effects, editing and output) to international companies.³¹

Data on the growth of Cambodia's animation industry is not available. Anecdotal evidence generated during the in-country consultations confirms World Bank's findings that despite the industry's infancy stage, animation studios in Cambodia are already exporting high-value-added niche services, such as digital animation.³²

iThink Asia, Cambodia's top animation studio founded in 2012, has already been engaged in several noteworthy animation projects. The company's international portfolio includes the French film 'Funan', the Irish series 'Joe & Jack, The Neighbours' and its currently working on 'Buñuel, in the Labyrinth of the Turtles', a Spanish and Dutch co-production with two more Cambodian co-produced feature films in discussion with Italian, French and Singaporean studios. Other export markets include the United States, China, the Republic of Korea, the Netherlands, Australia and New Zealand. The company also offers film production and post-production services.³³ Committed to building capacities, iThink Asia is not only contributing to developing the industry in Cambodia but also to nurturing creativity domestically.

Phare Creative Studio offers animation, graphic design and video productions to local clients and international development agencies including United Nations Children's Fund (UNICEF), Oxfam Quebec and EXO Foundation. The studio is a social enterprise that helps fund the NGO Phare Ponleu Selpak. It specializes in cartoon animation with focus on educational and public service projects.³⁴

Social Compass, an NGO with the aim to address social problems through design has created interesting animated content most recently to further the physical education, promote environmental objectives and online safety to name just a few. Social Compass services Japanese clients and local and international NGOs.³⁵

3. Barriers encountered, possible preferences and preference notifications

Barriers encountered

Stakeholders reported a host of supply side constraints including access to finance which translates into access to technology, shortage in skills and weak exposure of Cambodian staff to creative content, disconnect between the academia and the requirements of the market place, infrastructure constrains including unreliable electricity supply and connectivity in addition to challenges related to marketing and outreach. Financing constraints inhibit necessary developments, expansion potential and the scaling up of Cambodian animation studios.

In regard to capacity constraint, the main animation studios in Cambodia, iThink Asia and Phare Creative Studio, provide their own capacity building and training. iThink Asia has developed its own 2D animation curriculum, which is ESL sensitive and has been developed into an online learning platform. It has also been granted exclusivity over the 3D curriculum developed by Edenz Colleagues, a tertiary institution based in New Zealand.³⁶ The company currently provides training free of charge to over 20 young Cambodians. Phare Creative Studio provides training on 2D animation through its sister institution Visual & Applied Art School. The School has developed its own curriculums in graphic design, animation and visual arts. Both organizations are part of Phare Ponleu Selpak, a non-governmental organization founded in 1986.

In regard to market access and regulatory constraints, stakeholders reported local content and film funding – coproduction, visas and withholding taxes as the main barriers encountered in export markets.

Local Content – Coproduction

A classical barrier facing film productions including animation is that funding for films in important film producing markets is heavily state driven and this funding translates into a strong local content

requirement to use national inputs as a precondition for access to financial support by the state (film funding, tax relief, etc.). This significantly limits the marketplace not only for LDCs' movies but also input services that are, or could be, provided by Cambodian and other LDCs' service providers to international productions.

Such local content requirements are often effectively modified through co-production agreements, but these again impose specific requirements that often exclude LDCs' inputs. Their impact on third parties is sometimes even worse than 'pure' local content requirements. This is because bilateral co-production agreements often require all or a fixed share of inputs of production services (including studio and post-production work) to be provided in the coproduction parties, hence effectively excluding third party (e.g. Cambodian) audiovisual service inputs.

Cambodia is a party to one co-production agreement with France since 2013 which provides an incentive for French film producers to cooperate with and outsource part of the production to studios in Cambodia. Film producers from film producing countries with state funding other than France do not have the same incentive to cooperate with or outsource part of the production to Cambodian studios.

Physical market access: visas

Another barrier LDCs' service providers face, including in animation, is the difficulty to obtain entry visas to travel to meet clients to participate in important film festivals and events.

One might mistakenly assume that visas are less important for producers of animation services as their main service, the animated production, can be transmitted to foreign clients in Mode 1, without them travelling. That, however, would mean to miss a key element. For artists and animators, the physical presence at film festivals including at Cannes, Florida and Annecy for example in addition to special screenings, award ceremonies and workshops'/ marketplaces' for filmmakers (often organized in the context of festivals) is crucial.³⁷ In addition, the ability to travel to meet clients (or potential clients) is also key to concluding contracts. This is especially true when the service provider is established in countries with weak regulatory frameworks (e.g. weak intellectual property protection), which can affect the building of trust. Face-to-face personal interaction between the provider and client is, therefore, of paramount importance.

Withholding taxes

One of Cambodia's animation studios reported a withholding of income tax at a 25 per cent on income in Spain.

Possible preferences

Possible measures that could be devised as preferences for LDCs under the waiver to address the challenges encountered would thus include the following:

- Reduce local content requirements to allow for greater shares of inputs from LDCs (e.g. by allowing for X per cent LDC inputs to qualify as local content for purposes of or subsidies).
- Relax or remove local content requirements for access to public funding and tax reliefs for LDCs' productions.
- Grant national treatment to LDCs' providers of audiovisual services under government procurement tenders.
- Unilaterally extend the benefits of coproduction agreements (with third parties) to LDCs' services and service suppliers, possibly even under more favourable terms, e.g. lower minimum financial contribution requirements (10 per cent for LDCs, while maintaining 20 per cent minimum for all others).
- Waive for LDCs' input services any restrictions on third party inputs contained in co-production agreements between A and B (e.g. the requirement that production and post-production services must be performed in A or B), thus allowing LDCs' inputs without affecting the benefits of the co-production agreement for the participating providers from A and B.
- Create special visa categories for bona fide LDCs' cultural professionals including providers of audiovisual services, with fewer conditions attached.
- Reduce visa fees for bona fide LDCs' cultural service providers.
- Refund visa fees in case of refusal.
- Grant longer visa duration and multiple entry visas for cultural professionals where needed to cover several festivals, possibly in several countries.
- Waive or reduce withholding taxes for LDCs' service providers.

Preference notifications by WTO Members: To what extent they respond to the needs?

While many of the mentioned suggested preferences were in fact demanded in the 2014 Collective Request submitted by the LDC Group, the response in the 24 notifications is very limited.

- **Only two WTO Members (i.e. the United States and Taiwan Province of China) offer preferences in the audiovisual sector.** The United States in particular underscores its strong commitment to open markets for audiovisual by providing for near-full market opening, especially in motion picture and video-related subsectors, complementing its existing GATS offer. The United States inter alia commits to open distribution markets. That said, the United States solution likely does not involve an LDC-only preference but rather an existing MFN openness, so its value as an example for preferential (carve-out based) solutions is limited.

- **None however addresses the specific issues related to local content / coproduction.**
- **None of the notifications addresses – in relation to this sector – withholding taxes, social security contributions, nor Mode 4 issues of physical market access (visa, work permit-related).**

B. ENTERTAINMENT SERVICES

1. Definition

In the WTO's Services Sectoral Classification List W/120 "Entertainment services" are a sub-category to "Recreational, cultural and sporting services". It includes theatre, live bands and circus services.

The subcategory of "Entertainment services" has seen some significant evolution since the provisional Central Product Classification (CPC) was drawn up in 1991,

still acting as the reference document for the WTO's W/120 list. There the relevant services are subdivided into in particular "Theatrical producer, singer group, band and orchestra entertainment services" and "Services provided by authors, composers, sculptors, entertainers and other individual artists". (Later versions of the United Nations CPC go into significantly more detail and would appear to more accurately reflect the reality of the various services involved.) In the case of Cambodia Mode 4 supply through the live performance of artists and circus services is particularly relevant.

2. Entertainment services in Cambodia: performing arts and circus services

Cambodia's oral and intangible cultural heritage is vast, ranking 36 in terms of number of expressions in WEF's Travel and Tourism Competitiveness Report and first in South Asia.³⁸ The country's impressive cultural heritage encompasses a long-standing lineage of performing arts traditions whose roots and evolution are difficult to trace as knowledge is mainly passed by word-of-mouth. In the 1970s during the Pol Pot regime, Cambodia's intangible heritage was nearly annihilated. Several initiatives to revive these arts were introduced over the past two decades and new genres have come into existence with the return of diaspora artists, who infused traditional art with western elements.³⁹

Traditional performing arts in Cambodia are classified in five genres, including over 83 titles of classical dance, 49 folk and popular dances, over 20 forms of theatre, music and traditional circus.⁴⁰ Apsara dance and traditional shadow puppet shows are two of the most internationally recognized performances. With precise hands movements, ornate and elegant customs or with intricate carved leather puppets, these dances tell Cambodian mythical stories of spirits, nymphs and gods.

Cambodia is home to internationally recognized makers and providers of culture. The Royal Ballet of Cambodia, founded by the Princess Norodom Buppha Devi, was established with the aim of rescuing traditional royal dances after the end of the civil war. It is mainly focused on Apsara dances that perpetuate myths and legends on the origins of Khmer people. The Ballet embodies values of refinement, respect and spirituality expressed through graceful hand gestures and elegant costumes.⁴¹ Considering its particular

features and invaluable history, the United Nations Educational, Scientific and Cultural Organization (UNESCO) proclaimed the Royal Ballet of Cambodia a masterpiece of oral and intangible heritage in 2013.⁴² This status has helped to raise the Ballet's profile opening doors in several countries. It has performed in international theatres across Europe; North America; Morocco; and Hong Kong, China.

Phare Performing Arts is one of the organizations committed to the further development and exposure of Cambodian performing arts. It is part of the NGO Phare Ponleu Selpak that works to improve the lives of Cambodian children and young adults through artistic expression. Phare Performing Arts was founded in 1996 as a music school, but today it contains circus, music and theatre departments. The organization offers training in seven disciplines and in three different levels to young Cambodians aged between 7 and 18 years. For almost 15 years, circus and music students from Phare Performing Arts have toured Europe performing in different festivals.⁴³ Recently, Phare performed the contemporary circus "See You Yesterday" at the Kigeme refugee camp in Rwanda, attracting over 5,000 people each night.⁴⁴

Cambodia Living Arts has become a key international exponent of Cambodia's performing arts. Founded in 1998 by a genocide survivor, Cambodia Living Arts is an NGO devoted to the transformation of individuals and communities in Cambodia through arts. It offers capacity building programs to artist and the arts community. Some of its activities include courses and conferences, as well as regular exchange programs, in which students and fellows not only participate in festival and conferences, but also in workshops worldwide. The NGO offers the Living Arts Fellow program, in which artists and arts managers study a dedicated professional development curriculum and exchange with artists and cultural leaders from around the region.⁴⁵ In 2012, Cambodian Living Arts organized the first-ever festival of Cambodian traditional arts, dance and music in New York with over 200 Khmer artists performed across the interdisciplinary platform.⁴⁶ Entitled "Season of Cambodia" and led by Cambodian artists and cultural workers, the festival took place also a year later and in 2015.⁴⁷

The sector suffers from funding related challenges. Public funding for culture is limited. Culture is not self-sustainable and is in need of public funding. The government has recently launched promotion

programs, such as the Arts Forum of Cambodia chaired by the Ministry of Culture and Fine Arts (MCFA). The forum gathers stakeholders representing government agencies, NGOs, private companies and individual artists to discuss funding and promotion alternatives of Cambodian arts. During the second meeting of the Forum held in November 2017 a Cultural Task Force (CTF) was established to develop strategies and build bridges among cultural actors and to find means to provide training on arts management related aspects. The MCFA was mandated to operationalize the National Arts Support and Development Fund in consultation with the CTF, and to advocate and discuss with the Ministry of Economy and Finance tax support measures to promote arts. NGOs and international support organizations provide some support to the sector especially training and capacity building.

3. Barriers encountered, possible preferences and preference notifications

Stakeholders reported several supply-side constraints including access to finance, additional taxation imposed on entertainment services and capacity constraints.

Entertainment services are exported primarily through Modes 2 and 4. Some of Cambodia's providers of entertainment services are based in Siem Riep to perform for tourists visiting Cambodia (Mode 2). No barriers of relevance are reported in this context.

Export of entertainment services in Mode 4 through live performances abroad, however, encounters a host of market access and regulatory barriers mostly classical to Mode 4 service delivery including visas, social security contributions and withholding taxes.

Barriers encountered

Physical market access: Visa

Performing artists are among those most affected by horizontal visa/work permit issues, *i.e.* physical entry challenges faced by all Mode 4 services suppliers. Musicians, dancers and other performers, often young, unmarried and without a visa track record,

are particularly affected compared to other service providers and professionals.

Bank account balance requirements are frequently required to obtain visa, posing a major challenge, especially for younger performers, when required from each member of a music or dance group individually (something reportedly practiced by some Schengen countries, for example). The inability to meet such requirements often means that the band/troupe as a whole will not be able to travel, and hence will not perform.

The cost of visas is another challenge. The cost of a Schengen visa (EUR 40) corresponds to a significant portion of a minimum salary in some LDCs, and so is the non-refundability of visa fees in case of rejection.

Withholding taxes and social security contributions

Cambodian performing artists who as contractual service suppliers or independent professionals provide their services in Mode 4 sometimes see their fees subjected to withholding taxes and social security contributions. This is, for example the case in France, which imposes the deduction from their income of the contributions and costs of affiliation to the social security system in France, usually applicable to all employment contracts in France. Article L762-1 of the French Labour Code specifies that "any contract by which a natural or legal person ensures, for remuneration, the assistance of a performer to its production, is presumed to be a contract of employment (...)". Foreign visiting artists, in other words, are treated as local employees for purposes of social security treatment, with expensive consequences. This stands in contrast to the treatment granted to performing artists from European Economic Area (EEA) countries who get treated as independents/entrepreneurs, and hence do not pay the same charges – a situation that demonstrates, incidentally, that better treatment is reasonably possible from an administrative perspective.

Possible preferences

Possible measures that could be devised as preferences for LDCs under the waiver to address the challenges encountered would thus include the following:

- Create special visa categories for bona fide LDCs' cultural professionals, with less conditions attached, to account for their often-challenging visa profiles (young, unmarried, no bank account, no visa track record, etc.).
- Reduce visa fees for bona fide LDCs' cultural service providers.
- Refund visa fees in case of refusal.
- Reduce or waive bond/guarantee requirements, and/or flexible mechanisms to allow exporting governments or other third parties to provide guarantees on preferential terms.
- Grant longer visa duration and multiple entry visas for cultural professionals where needed to cover several festivals, possibly in several countries (often a challenge in Europe as festivals are spread out over a season).
- Waive or reduce withholding taxes and social security contributions for performing artists and other visiting cultural professionals.

Preference notifications by WTO Members: to what extent they respond to the needs?

While many of the mentioned suggested preferences were in fact demanded in the 2014 Collective Request submitted by the LDC Group, the response in the 24 notifications is very limited.

- Eight WTO Members offer preferences in “Entertainment Services”, the main sector for cultural performers. These are Chile; Iceland; India; Japan; Republic of Korea; Mexico; and Hong Kong, China; and Taiwan Province of China. Chile, Iceland, India, Republic of Korea, and Mexico, explicitly extend their horizontal commitments on Mode 4 to this subsector, with small differences in coverage. (Chile’s and India’s notification remains partly ambiguous on the sectoral coverage). While this does not solve an important issue in the classical Mode 4 categories, namely (where reserved) education requirements for Independent Professionals and Contractual Service Suppliers (CSS) – most musicians, dancers and art performers do not possess academic degrees – it is a step in the desired direction, and may indeed help in practice, depending on implementation (including visa/work permit practice).
- Importantly, Chile’s definition of CSS does not insist on such educational requirements, but rather states in general and open terms that “They must also have the necessary qualifications, expertise and proven work experience (...) in conformity with Chile’s domestic legislation on the activity in which the service supplier wishes to engage

in Chile.” This would appear to normally exclude education requirements not suited to the sector.

- The situation is similar for Taiwan Province of China, which includes a subset of entertainment services in a list of CSS openings, with no onerous formal education requirements attached.
- The remainder of the preferences offered is mostly full market access commitments in Modes 1, 2 and 3, some with small caveats.
- None of the notifications addresses – in relation to this sector – withholding taxes, social security contributions, nor Mode 4 issues of physical market access (visa, work permit-related).

C. IT AND IT RELATED SERVICES

1. Definition

The provision of IT and IT-enabled services, including, for purposes of this discussion, business process outsourcing (BPO) services has experienced a rapid growth over the past decade with increasing technological possibilities and businesses’ willingness to outsource their back-office, client relation and other business-related operations.

For BPO services, the classification for GATS purposes depends on the type of service supplied. Moreover, the supply of services in multiple modes may be relevant for the provision of these services. As a rapidly evolving market, the current classifications of IT and IT-enabled services under both the WTO’s

W/120 Services Sectoral Classification List and under the United Nations CPC list appears insufficient to capture with precision all elements of the relevant market. For purposes of this study, however, such precision is not essential, and a certain liberty is hence taken when discussing services in this group.

Under W/120 most IT services are captured in the category of “computer and related services” which includes the following five sub-sectors: “Consultancy services related to the installation of computer hardware”, “software implementation services”, “data processing services”, “database services” and “other computer and related services”.

Business process outsourcing services, on the other hand, are a somewhat cross-cutting group of services, often defined as including (in particular) the following three sub-sectors: Customer interaction services, such as sales support, back-office operations, such as data entry and handling, and independent professional or business services provided through electronic means such as accounting or taxation services. BPO services partly transcend classifications, which complicates any discussion of statistics.

For the purposes of this study, the ensuing discussion concerns the following types of services: Computer and related services as defined in the WTO classification list, with a particular emphasis on cloud computing, data processing and database management services and IT enabled business services.

2. IT and IT related services in Cambodia

Cambodia's rapid economic growth has increased the demand for modern technological solutions for non-technology businesses, which in turn has attracted young and innovative foreign and local professionals living abroad to invest in the sector. Mobile telephony costs in Cambodia are among the lowest in the region,⁴⁸ post-paid computer-based mobile broadband prices are the lowest worldwide⁴⁹ and recent developments in the telecoms infrastructure further enhanced the competitiveness of the IT sector to position itself as a new place for outsourcing and innovation in the region. The country ranks third among LDCs in the ICT development Index⁵⁰ and according to WEF's Global Competitiveness Index, it ranks 54 in FDI and technology transfer,⁵¹ a position higher than its regional partners except for Thailand, to which score difference

is of 0.2 points (Cambodia scores 4.6, while Thailand 4.8 and ranks 40).⁵²

Cambodia's IT industry is primarily concentrated in the BPO segment offering services to international clients. There is also a growing niche of call centres, as well as web and IT software development businesses and e-commerce companies. In the area of BPOs, companies are focused on data processing, data analysis, document processing and non-voice call centres (e.g. chat services or IT support).⁵³ Call centres mainly provide services to other countries in the region, profiting from language skills of young Cambodians.

According to the last economic census of 2011, there were 4,711 establishments in the ICT sector.⁵⁴ Of those 701 focused on information technology and computer services including computer programming activities, data processing, hosting and related activities and web portals.⁵⁵ As of 2017, there are a number of recognized outsourcing Cambodian companies with international presence and wide foreign clientele.

With 300 employees in Cambodia (and 1,000 worldwide) and branches in Lao People's Democratic Republic and Kenya and a sales office in the United States, Digital Divide Data (DDD), provides BPO solutions including digitalization of content including newspapers, books and journals to libraries and universities, such as Harvard and Brown universities. The company also offers content development, data services, research services and image processing. DDD has been recognized worldwide for quality service, innovation and social impact. Besides its International Organization for Standardization (ISO) certification, the company was awarded the Google Award for Innovation in BPO and was recognized as a “Rising star” by the International Association of Outsourcing Professionals in 2015.⁵⁶ In addition to in-house training, DDD offers scholarships for employees after 4 years of service to pursue academic education.

Another example is Pathmazing, Inc, a software solution provider, which has established itself as the strategic technology partner of over ten start-ups in the area of biotech, e-commerce, gaming, virtual reality and social media. With a team of over 80 developers fluent in English, the company provides services to several international clients such as Coca-Cola and eBay. It has also expanded to Malaysia, the United States and Singapore through joint ventures (Mode 3).⁵⁷ In 2017,

Tesjor, the company's latest e-payment app, won the Best Product in Private Sector prize in Cambodia's ICT Awards and the Best E-Commerce Startup prize in Cambodia Rice Bowl Startup Awards.

Due to categorization-related issues, there is insufficient reflection of IT and IT enabled services, including BPO services, in both the United Nations CPC and the WTO's W120. Importantly, a reliable data on exports of these services is currently not available. International Trade Centre statistics suggest that as of 2014 the industry was estimated to be worth over \$ 3 million in export revenues, although for reasons previously outlined, this figure is likely to be a significant underestimate.

3. Barriers encountered, possible preferences and preference notifications

Barriers Encountered

Stakeholder reported several supply-side constraints that hamper the development of the sector and reduce its export potential. Key among those is capacity constraints. Stakeholders reported that the academic / vocational training curriculum in Cambodia is outdated and that despite the IT saviness of Cambodian graduates, the level of their training does not match the requirements of the job market. Most companies consulted have their own training and capacity building programs for new staff that range from a few weeks to three months.

Market access and regulatory challenges to exports of relevance for this study, as underscored by stakeholders, are local partnering requirements,

restricted access to subsidy, grants and tax breaks, challenges in tendering on government procurement tenders and difficulties with obtaining visas.

Local partnering requirement & access to grants, subsidies and tax breaks

Stakeholders reported local partnering requirements for the export of IT and related services in Mode 3 in export markets of interest including Singapore and Malaysia including for purposes of accessing grants, state subsidies or tax breaks.

While in some cases local partnering is a limitation to incorporate a foreign company in certain markets, in others it is a barrier to access to public funding programs or public procurement tenders. Singapore, for instance, offers a support package for information and communication technology (ICT) start-ups where three of programs under the package require 30 per cent of local partnering and at least one is subject to 51 per cent local shareholding.⁵⁸

Procurement: Local preference

Governments are among the biggest consumers of IT services. Government procurement is thus a crucial sales avenue. Cambodian providers when bidding for governmental contracts often face strong local preferences, which often translate into requirements to work with local partners. These partnering exercises can be heavy and risky.

Government procurement is largely not disciplined by the GATS and technically WTO Members do not need the Waiver to grant preferences for LDC providers as explained in box 2.

Box 2: Government procurement under the GATS and the LDCs Services Waiver

Government procurement is largely exempted from GATS disciplines. Article XIII of the GATS specifies that Articles II (MFN), XVI (market access) and XVII (national treatment) shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of services purchased for governmental purposes.

Therefore, WTO Members are permitted to prefer national suppliers or distinguish between services on the basis of their origin and to prefer the services of particular origin(s) over those of other origin(s) provided that two conditions are met:

- (i) The services are purchased by governmental agencies; and
- (ii) The services are purchased for "governmental purposes" (*i.e.*, for example, not for resale or other commercial purposes).

Box 2: Government procurement under the GATS and the LDCs Services Waiver (cont.)

This means that already under the GATS proper WTO Members are entitled to prefer LDC services over services originating in non-LDCs. Recourse to the LDC Services Waiver is therefore not necessary to justify such preferential treatment.⁵⁹

It is not clear whether any such preferential treatment is currently extended to LDCs by any WTO Member. In contrast, however, non-LDCs are indeed recipients of preferential treatment with respect to foreign procurement markets, not least under the WTO's Government Procurement Agreement (GPA), a reciprocal plurilateral agreement.

This contrasts sharply with the needs on the ground as far as LDCs' service providers are concerned. While government is often one of the biggest consumers in many sectors and hence one of the biggest potential customers for foreign services exporters, many LDCs' service providers encountered underscored the difficulty in bidding on government procurement tenders and providing services to government-procured projects in their actual or potential export markets. In light of the economic significance of services procured by governments for service providers including LDCs' providers, not least especially in some key sectors of interest to LDCs such as construction, engineering and IT and computer-related services (e.g. to provide e-government solutions, a major market), it seems appropriate to harness the momentum generated by the LDCs Services Waiver to consider demand-side measures that would facilitate LDCs' access to services procured under government procurement tenders.

Physical market access: visas

Information technology professionals, while often providing the bulk of their services through remote means, *i.e.* Mode 1, occasionally, but importantly, do need to travel to meet clients, install software, establish and fine-tune systems, train local staff, etc. They may thus need to cross borders as ICT, CSS or independent professionals, depending on the contractual construction.

Several industry representatives recalled challenges in obtaining the necessary access permits to markets including the United States, the United Kingdom of

Great Britain and Northern Ireland and others, and to obtain it at the required speed. Delays can be a major problem, as speed is often of the essence in IT service contracts, and delayed travel and unreliable access can have a major impact on delivery and hence contracts more generally.

Possible preferences

Possible measures that could be devised as preferences for LDCs under the Waiver to address the challenges encountered would thus include the following:

- Waive local partnering requirement for Mode 3 LDC IT/BPO service providers.
- Extend national treatment for Mode 3 LDC IT/BPO service providers in accessing grants, subsidies and tax breaks.
- Exempt LDC IT/BPO service providers from local partnering requirements in government procurement of IT/BPO services.
- Grant LDC IT/BPO service providers access to otherwise closed government procurement; grant national treatment to LDC IT/BPO service providers (*i.e.*, grant access to national quota)
- (Note: These preferences do not require Waiver coverage, as procurement is not covered by the GATS and hence not subject to the MFN obligation.)
- Grant facilitated access to visas/work permits for visiting IT professionals (Mode 4, usually as CSS or ICT); ideally create a suitable, separate visa category, or ensure uncomplicated coverage in larger category.
- Provide a fast-track procedure for LDC IT professionals (and possibly other service providers) and/or facilitated access to multiple entry visas.

Preference notifications by WTO Members: To what extent they respond to the needs?

None of the preference notifications directly addresses the mentioned specific barriers and challenges.

However, the notifications received from nine WTO Members still overall represent a significantly increased bundle of market access opportunities for IT service providers, at least on paper, as several WTO Members offer comprehensive market access coverage for all or most subsectors, and all or most modes of supply, in 'Computer and Related Services' (CPC 84), often on the basis of a 'best PTA' approach:

- Panama offers comprehensive market access, with the exception of Database services where it only opens Mode 3, corresponding to its commitments under the European Union-Central America Association Agreement;
- Chile offers complete coverage, corresponding to its CPTPP offer;
- India offers comprehensive market access, save for an incorporation requirement for Mode 3, corresponding to its commitments under the 2015 India-ASEAN agreement;
- Mexico offers comprehensive coverage, except for one subsector (System analysis and data processing, where it leaves out Modes 1 and 2, allowing for localization);
- The European Union offers comprehensive coverage in Modes 1-3, but several European Union Members reserve economic needs tests (ENTs) for Mode 4, watering down the otherwise significant opening due to the inclusion of IT services in the general promise to admit CSS;
- Australia opens Mode 4 ('as in horizontal section') which means that IT services now benefit from the arguably improved horizontal coverage of CSS and independent professionals;
- Brazil only offers Mode 3, but without limitations;
- Switzerland complements its already almost comprehensive commitments in 'Computer and Related Services' a comprehensive offer in the apparently only remaining subsector not yet committed under GATS, namely "Services for the analysis and diagnosis of addictive and compulsive Internet-related behaviour; Internet addiction treatment services" ('best PTA');
- Iceland complements its schedule with a Mode 4 opening (also 'best PTA').

While it is not clear how much of the above, if anything, represents new and increased openness rather than already existing MFN reality, the signal WTO Members sent in this sector still rings clear: There's a general trend towards broad openness in this sector, something that caters to the needs of LDCs such as Cambodia who will benefit from overall increased markets where it can advance its cost advantage.

No LDC preferences in public procurement. While the LDC Services Waiver would not be needed to cover such preferences because they are already possibly under the GATS, and while this would thus explain why they do not appear in Waiver-related notifications, it bears repeating that a meaningful opening of procurement markets, however limited and conditioned, would be of great interest to the Cambodian IT and related services sector.

None of the notifications addresses access to subsidies, grants or tax breaks. India's notification offers to conduct specially designed courses for around 1,000 natural persons from LDC each year in areas such as Management Consulting and Technical Consulting. While the last does not directly related to ICT services, it may be more considered as cross-sectoral capacity building to help all services providers, including providers of ICT services to improve enhance their capacities.

D. BANKING SERVICES

1. Definition

The WTO Services Sectoral Classification List sub-divides "Financial services" into "Insurance" and "Banking and other financial services". Banking and other financial services in turn include virtually any services related to the acceptance, deposit, lending, leasing, transmission, brokering and clearing of financial assets, including asset management for cash or portfolio and advisory and other auxiliary financial services.

2. Banking services in Cambodia

The Cambodian banking system experienced a major restructuring since late 1999, which has resulted in an increase of available financial services that better meet business needs and protects borrowers and lenders rights. According to WEF's Global Competitiveness Report, since 2010, Cambodia has progressively upgraded the availability of financial services (ranking

88 in 2010 and upgrading to 75 in 2017);⁶⁰ however, the cost of financial services has increased (lowering the rank from the 71 to the 75 position).⁶¹ Likewise, since 2013, the country has sum up three points to its score in the legal rights index, ranking fourth in 2017 along with Australia, Rwanda and the United States.⁶²

Today, the sector is highly competitive comprising the country's central bank (National Bank of Cambodia) and a number of private financial institutions. As of 2016, there were 37 commercial banks in the country, 7 of which have local majority ownership, 5 mostly owned by foreigners, 14 foreign subsidiary banks and 11 branches of foreign banks. Besides these, there are 15 specialized banks, 7 representative offices of foreign banks and 71 microfinance institutions, of them 7 are eligible to collect customer deposits.⁶³

The banking sector has experienced a steady growth in the past years. Total bank assets have increased at an average of 30 per cent from 2011 to 2016, which in monetary terms accounts for \$ 7.9 billion in 2011 to \$ 27.8 billion by the end of 2016.⁶⁴ Credit and deposit also increased 18.3 per cent and 20.7 per cent respectively in the last year accounting for about \$ 17.6 billion and \$ 15.4 billion. The number of ATMs across the country grew from 588 in 2011 to 1'118 in 2015; likewise debit cards issued increased from 761,876 to 1.4 million during the same period.⁶⁵

The growth of banks and microfinance institutions has also contributed to Cambodia's financial inclusion rate, which although is still below the East Asia and Pacific average of 69 per cent,⁶⁶ has witnessed great growth levels. As of 2016, 59 per cent of the adult population had access to formal financial services, however 42 per cent uses other formal but not commercial bank products and only 17 per cent uses banking services.⁶⁷

Cambodian banks provide various services and products to national and international clients including deposit, loan, currency exchange, international money transfer services and credit cards. Its international services are provided in the four modes of supply.

As of 2017, at least two Cambodian banks exported banking services in Mode 3 to regional markets. Aceda Bank was established in 1993 with the assistance of the International Labour Organization (ILO) and United Nations Development Programme (UNDP) as a national NGO for SMEs' development and credit. In 2003, the bank was licensed as a commercial bank and in 2008 it opened its first subsidiary in Myanmar followed by a second subsidiary in Lao

People's Democratic Republic in 2013. Canadia Bank, established in 1991 and privatized in 1998, opened a subsidiary in Lao People's Democratic Republic in 2015 and has a representative office in Shanghai.

In addition to banking services, Aceda Bank provides and exports business training and consultancy services in Modes 2 and 4 to several commercial banks, central banks, microfinance institutions, companies, NGOs and universities worldwide, including entities located in Australia, China, Egypt, Germany, India, Japan, Lao People's Democratic Republic, Luxembourg, Peru, Tajikistan, United States, Viet Nam, among others.⁶⁸ Through Aceda Institute of Business, the Bank offers short courses, tailor-made trainings with simultaneous interpretation to Lao, Mandarin and Vietnamese and capacity building through study visits.

3. Barriers encountered, possible preferences and preference notifications

Barriers Encountered

There are several supply-side constraints that hamper the development of the sector and reduce its export potential. Key among those are capacity and infrastructure constraints. The Financial Sector Development Strategy 2011-2020 reported that the sector "lacks the infrastructure to engage in all financial operations",⁶⁹ in addition, it lacks qualified human resources, managerial and supervision capacity, as well as reliable credit information and related infrastructure. One of the consulted Banks has its own training institute and the others offer their staff capacity building training programs.

Banking services are exported primarily through commercial presence (Mode 3) in addition to the cross-border supply (Mode 1). Challenges to trade in banking services include classical market access restrictions relating to incorporation in foreign markets.

Key restrictions reported by stakeholders in exporting to neighbouring markets including Myanmar include limitations on the types of services provided (limited to micro finance agency), restrictions on currency of loans (local currency), restrictions on interest rate and limitations on amount of loan offered to customers.

Stakeholders further reported restrictions on lending in foreign currency in other neighbouring markets including Lao People's Democratic Republic.

Possible preferences

Possible measures that could be devised as preferences for LDCs under the Waiver to address the challenges encountered should first recognize the

prudential rationale behind some of these restrictions while suggesting that less broad-brush regulations could reduce barriers faced by LDC exports. Those could include:

- Reduce/relax incorporation related limitations;
- Relax the limitations on the type of service provided;
- Extend national treatment to LDCs' banking institutions in regard to the currency of loans;
- Extend national treatment to LDCs' banking Institutions in regard to interest rates; and
- Extend national treatment to LDCs' banking institutions in regard to max loan amounts offered to customers.

Preference notifications by WTO Members: To what extent they respond to the needs?

None of the specific preferences suggested are addressed in the Notifications made under the Waiver. There are, however, some gradual openings of interest for banking service providers that addressed some of their challenges, particularly on market access in Modes 1 and 3 (e.g. foreign equity participation and commercial presence requirements).

- Six notifications offered specific preferences in the banking sector. These are Iceland, European Union (Belgium, France, Germany, Italy, , Netherlands, Spain, United Kingdom and European Union all), Liechtenstein, Norway, South Africa, and Switzerland. While the notifications in fact relax market access and national treatment limitations, restrictions still exist.
 - The majority of the notifications offer banking services partial liberalization of Mode 3, however in most cases the treatment offered is equal to the DDA offer of the relevant WTO Member. Norway, for instance, raised from 10 to 25 per cent the ceiling for the acquisition or holding of share capital of commercial banks by one single foreign financial institution. This is equal to Norway's DDA offer and the EFTA- Central America trade agreement ('Best PTA'). Likewise, Liechtenstein establishes a foreign equity ceiling of 49 per cent and other licensing requirements, which is equal to its DDA offer.
 - The European Union, South Africa and Switzerland, in turn, offer more than its DDA commitments by relaxing some of the requirements on commercial presence and licensing.

- Few notifications contain preferences in Mode 1, which remains virtually unbound except for particular financial services, such as the provision of financial information and financial data processing. Switzerland opens Mode 1 with the reservation that foreign investment funds can only be marketed or distributed through a licensed representative agent resident in Switzerland.
- None of the notifications addresses issues on currency related restrictions.

E. LEGAL SERVICES

1. Definition

Legal services are a subset of professional services under the WTO Services Sectoral Classification List – referred to as the 'W/120'⁷⁰ "Professional services" are listed as a sub-sector of "business services." The category of 'professional services', divided into 10 sub-sectors, encompasses the classical professions (lawyers, doctors etc.) and other services offered by professionals with specialized higher education, often these are organized in professional membership groups such as the bar associations or national medical associations which in many cases are endowed with self-regulatory functions and powers.

2. Legal services in Cambodia

The recent significant economic growth in Cambodia as well as increased inflow of foreign investment has created a growing demand for qualified providers of professional services including legal services.

The provision of legal services in Cambodia is governed by a set of laws approved in 1995: The Law on the Bar, the Internal Rule on the Bar and the Code of Ethics for lawyers amended in 2012. The first of these normative acts established the Bar association of the Kingdom of Cambodia (BAKC), the first regulatory body of the legal profession. BAKC also represents the interest of lawyers, promotes continuing education and protects the professional integrity.

A legal professional may only practice in Cambodia by becoming a BAKC member. As of 2016, there were 1'139 lawyers registered with BAKC, of them 1'045 practice within the country.⁷¹ 485 attorney offices were registered as of August 2017, which includes 22 law firms, 315 law offices with few independent lawyers, 42 branch offices and 106 independent lawyers.⁷²

Most of Cambodian law firms provide legal defence and advice in public and private law. Some supply services in Modes 1 and 2 to international clients but the majority of which are foreign investors or potential investors in Cambodia. In this case, consultancy is provided in corporate and investment issues, banking and finance, tax and accounting, dispute resolution, labour law, contract law, as well as assistance in registering independent professionals' assets. Some also provide real state advice and due diligence for acquisition of properties. Few have established partnerships with regional or international networks of lawyers to reach global customers.

BNG Legal, for instance, is a Cambodian leading law firm that provides legal services to facilitate investments, business and trade between Cambodia and the rest of the world.⁷³ Besides the mentioned services, the firm also does civil law advisory by assisting foreign citizens in children inter-country adoption, in marriage and divorce legal counselling, as well as in immigration related issues. The firm has a strong international client's base from the United States, the United Kingdom, Europe, Australia and China. Among some of its clients stands Coca-Cola

Company, to which BNG Legal advised in the direct acquisition of a local bottler; a regional agricultural conglomerate that requested counselling in the initial public offering in the Hong Kong Stock Exchange; as well as a United States-based radio station which BNG Legal defended in a Cambodian court. The firm has expanded its operations to Myanmar, where it has a branch.

Another example is SokSiphana & Associates. It provides legal advice to private and public companies, government agencies, international energy companies and others in a wide spectrum of domestic (IP, banking and finance, dispute resolution and corporate matters) and cross-border deals and transactions. The firm is a member of Zico law, a network of independent leading law firms with presence in 17 cities across Southeast Asia and Australia. As part of Zico, the firm has been able to reach international clients and has represented multinational Asian real estate investors and developers in property development projects in Cambodia.

3. Barriers encountered, possible preferences and preference notifications

Barriers encountered

Stakeholders consulted exported legal services in Mode 2 to foreign investors in Cambodia and in Mode 3 to Myanmar. While no restrictions were reported on exports in Mode 2, stakeholders reported that their exports of legal services encounter incorporation and local partnering requirements.

The sample (consulted firms) might be too narrow and additional research is needed to distil broader conclusions into the types of barriers encounters.

Possible preferences

Possible measures that could be devised as preferences for LDCs under the waiver to address the challenges encountered would thus include the following:

- Relax incorporation requirements for LDCs' providers of legal services; and
- Relax or waive local partnering requirements for LDCs' providers of legal services.

Preference notifications by WTO Members: To what extent they respond to the needs?

The Notifications do not address specific preferences suggested, but some reflect existing challenges.

- Four WTO Members address legal services specifically in their notifications. These are Chile, the European Union (particularly Belgium, France, Germany, Italy, Netherlands, Spain, and the United Kingdom), Switzerland, and the United States.
 - In the United States certain states partially opened Mode 3 for foreign legal consulting services – subject to an in-state office requirement, while in other states, it is subject to the association with an in-state law office requirement. This is however, less than its offers in CPTPP, where local partnering is required in fewer states.
 - Similarly, in European Union markets several members have local partnership requirements, some with a significant “minimum” of local participation. In France, for instance, at least 75 per cent of the partners holding 75 per cent of the shares shall be lawyers fully admitted to the Bar, if the law firm provides services in respect of French or European Union law. In Austria foreign lawyers’ equity participation and shares in a law firm may not exceed 25 per cent. In Hungary, commercial presence should take the form of partnership with a Hungarian barrister or barrister’s office. In Poland, foreign lawyers only have access to the legal forms of registered partnership and limited partnership. In Belgium quotas apply for appearing before the “Cour de cassation” in non-criminal cases.
 - Other European Union Members, such as Croatia and Spain, keep their reservations on nationality requirements for the supply of legal services in Mode 3.
- The remainder notifications relate mainly to Mode 4, where some WTO Members (e.g. Chile, India) open their market to CSS, specialist and independent professionals. Other WTO Members partially liberalize Mode 4 keeping its reservation to bar admission requirements.

F. TOURISM SERVICES

1. Definition

The WTO Services Sectoral Classification List defines “Tourism and Travel Related Services” as the services

provided by hotels and restaurants, including catering, travel agencies and tour operators, and tourist guides. “Hotel and restaurant services” are further defined to include “Hotel and other lodging services” (hotel lodging services, motel lodging services, holiday camp services, youth hostel, etc.), “food serving services (restaurant services, self-serving facilities, catering services and others)” and “beverage serving services for consumption on the premises (with entertainment, without entertainment)”.

It is important to keep in mind that in the context of balance of payments statistics and other statistical exercises, such as tourism satellite accounts, partly different categorizations and clusters are used to capture what happens when people travel. For example, under the EBOPS 2010 (Extended Balance of Payments Services Classification) the category ‘travel’ includes all expenditures made by business and leisure travellers, including on goods and services other than the above which they consume during their travel; it also includes the expenditures of seasonal workers. That means that while the statistical values for ‘travel’ certainly relate closely to the actual economic value of tourism (once seasonal workers are excluded), they cover much more than the service captured under ‘Tourism’ in W/120.⁷⁴

2. Tourism services in Cambodia

Cambodia is a price competitive destination in the Mekong region, ranked 20 in purchasing power parity terms by WEF’s Travel and Tourism Competitiveness Report.⁷⁵ Cambodia benefits from being part of the Indochina/Southeast Asia circuit – a route through a set of affordable destinations that usually includes Lao People’s Democratic Republic, Thailand and Viet Nam. As a result, most tourists spend only few days (between 4.6 and 7) in Cambodia to visit as many neighbouring countries as possible in a short period of time.

Phnom Penh and Siem Reap are the main tourist hotspots, particularly attracting visitors to the Angkor Wat temple, a UNESCO World Heritage site in Siem Reap. In July 2017, Sambor Prei Kuk, a seventh-century temple in Kampong Thom region, became a World Heritage Site and is expected to attract tourist interest in the upcoming years. The coast area around Preah Sihanouk (Kampong Saom) and the cruises along the Mekong River are also a major tourist attraction.

Tourism and travel is the third largest sector in the country's economy with a high impact on employment rates. As mentioned, obtaining reliable statistics on tourism services is challenging given the highly aggregated level at which tourism revenues are recorded. According to the World Travel and Tourism Council (WTTTC), in 2016 travel and tourism services as per the CPC classification accounted for 12.2 per cent of Cambodia's GDP and 11.4 per cent of total employment. If indirect and induced impact is also accounted, the sector contributed 28.3 per cent to the GDP and 25.9 per cent to total employment.⁷⁶ In any of both cases the contribution of the sector to Cambodia's GDP and employment rate stands above the world average.⁷⁷

Since 1990 the tourist sector has experienced a sustainable growth, as the country started to open up after decades of civil war. Tourist receipts increased from 18.9 per cent of total exports in 2000 to 28.6 per cent in 2014.⁷⁸ In monetary terms, the sector's revenue accounted for \$ 347 million in 2003, which grew to \$ 1,585 million in 2008 and to \$ 3,212 million in 2016.⁷⁹ According to the World Bank, in 2016 tourism accounted for 29 per cent of Cambodia's exports.⁸⁰

As of 2016 Cambodia has 585 travel agencies and tour operators employing over 3,000 licensed guides, 89 per cent of whom are based in Siem Reap.⁸¹ Besides tours and guides most agencies also offer air and land ticketing, hotel reservations and visa services. Some also offer cruise trip services along Kampot, Kep and Battambang, aqua expeditions and golf tourism. The vast majority of tourism and travel related services are traded through Mode 2 with foreign tourist consuming tourism services in Cambodia and organizing international conferences and events for foreign clients, such as the Johnnie Walker Cambodian Open, an Asian tour golf tournament.

Cambodia's tourist visa regime is among the most relaxed worldwide; the country was ranked fifth by WEF's Travel and Tourism Competitiveness Report in terms of entry visa requirements for a tourism visit of a limited duration from worldwide source markets.⁸² This contributed to the steady increase in international tourist arrivals from 3,584,307 in 2012 to 5,011,712 in 2016, the majority of them from other Asian countries. In 2016, tourist from Viet Nam, China, Thailand accounted for 43.6 per cent of all tourist arrivals followed by Lao People's Democratic Republic, Republic of Korea, United States, Japan,

Malaysia and France.⁸³ The vast majority of travellers go to Cambodia for holidays, leisure and reunion with relatives in the country. As of 2016, the share of international tourism was much greater than that of national tourism (81.6 per cent as opposed to 18.4).⁸⁴

Accommodation choices range from small family-owned enterprises to five-star internationally branded properties. During 2004–2013, the number of hotels and guesthouses more than doubled, to 2,007.⁸⁵ According to the Ministry of Tourism the hotel occupancy rate is 68.9 per cent.

3. Barriers encountered, possible preferences and preferences notifications

Barriers Encountered

Tourism services are exported in all modes of supply but primarily in Mode 2. The interviewed Cambodian stakeholders stressed primarily supply-side constraints but also mentioned regulatory and market access challenges including those associated with the promotion of the tourism offer from LDCs, travel warnings and visa.

Barriers to the promotion of tourism services from LDCs

One of the challenges facing Cambodian tour operators and tourist agencies is to effectively market their tourism offer and to identify the needs of tourists from specific destinations, to anticipate the flow of visitors, and to design and tailor their tourism offer to those needs.

These challenges can be exacerbated (i) by the exclusion of LDC service suppliers and services from the benefits of preferential agreements (*i.e.* tourism MoUs) entered into by the countries to promote their tourism services exports and (ii) by comparison with the large tourism marketing budgets available to developed countries in particular (*i.e.* supporting/promoting domestic tourism services exports).

Travel warnings

Travel warnings are published by foreign embassies, foreign ministries or other agencies warning their nationals from political, health, other risks in the travel destination. Travel warnings have a major impact on tourism arrivals not only because tourists shy

away from such travel destinations but also because the insurance coverage is not extended to these destinations. While it is fully legitimate for government to protect their nationals from any risks abroad, the authorities publishing the warning often do not communicate sufficiently with host country authorities, operators and experts before issuing warnings. Also, risks might be overstated or poorly described, and advisories do not differentiate sufficiently between regions affected and regions not affected by risks. In addition, advisories are not updated frequently enough and often stay on websites for months after the risk dissipated.

An industry representative mentioned that some countries issued travel warnings after the recent arrest of the opposition leader by Cambodian authorities that had an impact on the image of Cambodia as a safe tourism destination.

Physical Market Access: Visas

Another barrier that LDC service providers, including tourist agencies and providers of tourism services, face is the difficulty to obtain entry visas to travel.

One might mistakenly assume that visas are less important for exporters of tourism services as their main service is exported in Mode 2, without them travelling. However, the ability to travel to meet clients (or potential clients), to participate in international fairs and to showcase their services abroad is key to understanding customers' needs and preferences and to concluding contracts.⁸⁶

Possible preferences

Possible measures that could be devised as preferences for LDCs under the waiver to address the challenges encountered would thus include the following:

- Provide direct support to LDCs and their tourism operators with respect to marketing and information;
- Extend unilaterally the benefits found in tourism MoUs to LDC tourism service suppliers;
- With respect to the promotion of domestic tourism services through marketing campaigns, including those organized by countries' tourism boards, extend national treatment so the tourism boards market LDC tourism services too;
- Red telephone' consultation mechanism specifically for LDC tourism destinations to ensure prior consultation with LDC local authorities, operators etc. before any warning is issued, including on the formulation of the text of warning;
- Regular review of travel warnings for LDCs;
- Provide space alongside the travel warning for tourism authorities of affected LDCs to comment publicly;
- Create special visa categories for bona fide LDC cultural professionals including providers of tourism services, with fewer conditions attached.

Preference notifications by WTO Members: To what extent they respond to the needs?

• Fourteen WTO Members offered preferences in "Tourism services". Australia, Brazil, Canada, Chile, Iceland, India, Japan, Liechtenstein, Republic of Korea, Mexico, Norway, Panama, Thailand, Turkey, and European Union (Belgium, France, Germany, Italy, Spain, Netherlands and all European Union)⁸⁷. Some of these are interesting vis-a-vis the challenges underscored by LDC exporters, at least in principle and to some extent.

- Brazil, Canada, and Iceland explicitly open their markets to services provided by travel agencies and tour operators in Mode 3. While these do not address the particular challenges mentioned, it is the first step in the desired direction that allows LDC providers to establish a commercial presence, get closer to their clientele and promote their services, which is at the root of LDCs concerns.
- Some WTO Members explicitly extend their horizontal commitments on Mode 4 to this sector, with small differences in coverage. Such measures

facilitate business visits of executives, managers and specialists to promotional events and deal-breakers negotiations with key international partners.

- Some WTO Members go beyond GATS and offer capacity building assistance. India, for example, offers a free space to LDCs during the Indian edition of Global Exhibition on Services (GES) - an interesting unilateral initiative that is worth replicating as directly

supports LDCs and their tourism operators in terms of marketing and information. Likewise, China offers to intensify training programs in several services, including tourism.

- None of the notifications addresses travel warnings or travel advisories.
- None of the notifications addresses – in relation to this sector – Mode 4 issues of physical market access (visa).



CONCLUDING OBSERVATIONS

Cambodia is one of the most promising LDC economies in terms of growth, rapid development, services landscape and services export potential. The country's openness, liberal market economy, young and agile population and proximity to important markets promise further development of its services economy especially if supply side constraints such as capacity constraints, weak infrastructure and challenges related to governance and regulations are duly addressed.

As other LDCs, Cambodia's services exporters encounter market access, national treatment and regulatory challenges in export markets (including incorporation, local partnering requirements, visas, local content requirements and access to public procurement). Besides these classical barriers to trade, services exporters face a myriad of additional challenges ranging from administrative procedures, to qualification requirements, to fees and charges. So far these challenges have been left almost entirely untouched in the Waiver operationalization process. This has several reasons, some structural, some substantive. Chiefly, on one hand, the fact that most of Cambodia's key trading partners have not responded to the call for preference in the context of the LDC Services Waiver, and, on the other, the fact that the notified preferences are broadly designed and lack detail; consequently, these preferences appear to contain little direct value for Cambodia's services exporters.

This pilot case study, thus, shows that while the preference notifications submitted under the LDC Services Waiver clearly mark a step forward, they often fail to address the specific challenges faced by LDC service suppliers. Further efforts towards more attentive, generous and creative preferences are needed. This may require leaving an institutional, sometimes political comfort zone, but often demands much less flexibility and political capital than one might think.

Moreover, a forward-looking approach could be further pursued by LDCs. While the requests so far have chiefly focused on areas of current export interest to LDCs, it is also important to seek for preferences in sectors that will contribute to longer-term development goals, including by contributing to diversification and upgrading. Data on services value-added in all sectors, which is still scarce in LDCs, could be informative to evaluate what are the services sectors that are contributing more to overall productive

capacity, productivity and competitiveness. This would highlight that services are not an alternative to agriculture or industrial development, but instead they should be a key element of strengthening agriculture and of industrialization strategies.

An option for the future is the expansion of geographical coverage. While the primary expectations to provide preferences are on "developed countries and developing countries in a position to do", unilateral preferences for LDCs can be usefully considered and granted by all WTO Members, including LDCs themselves.

This applies even in the context of progressive regional integration, as in the case of Cambodia in its participation in the ASEAN Framework Agreement on Services (AFAS). The LDC Services Waiver, even in the immediate context of regional integration, can offer a complementary tool, namely in cases where there is readiness to grant limited preferences to weak exporters only, hence not to all RTA partners; where there is hesitation or insecurity as to whether a facilitation measure will work and not cause damage, so that the flexibility to retract a preference under the Waiver is welcome; or where the implementation of regional measures depends on cooperation that may be delayed, so that a unilateral measure under the Waiver could be a useful way to make provisional progress.

That said, Cambodia is well-advised to advance the regional agenda forcefully while keeping the Waiver closely in view as an important tool in the toolbox. When formulating specific demands and presenting them to trading partners, the Waiver should always be considered as a complementary or alternative option to the often bigger, more intensive regional integration tools. In other words, Cambodia should address at the WTO the challenges encountered in global markets such as Europe, Australia, or North America. In turn, the regional integration process under AFAS could provide a promising avenue especially for services exports to regional markets such as banking and professional services, and to some extent IT related and audiovisual services.

This paper shares and supports the cross-cutting conclusions emerging from the overall pilot exercise. These are reflected and explored in some detail in the Overview Paper. We outline here that:

- There is a need for, and a space for, a move towards more attentive, generous and creative preferences

to address – through realistic, feasible but targeted measures – the specific challenges encountered by Cambodian and other LDC services exporters.

- There is a need and space for broader geographical coverage. The LDC Services Waiver is a tool that is available to all WTO Members. All countries could and should embrace the opportunities offered by the LDC Services Waiver and consider granting preferences to services and service providers from LDCs.
- There is a case for moving towards a more holistic process of support to LDC services exports, including on the institutional level. Better data collection will help understand current and future services trade options; better research,

analysis and information dissemination could help improve the design and implementation of trade preferences in services; capacity building and technical assistance to support LDCs in the design of coherent and development oriented domestic policies and regulations in the area of services will contribute greatly to the goal – where UNCTAD's Services Policy Reviews (SPRs) could provide key benchmarks of significance and viability to feed preferential treatment initiatives; and establishing and empowering a forum for dialogue, exchange of experiences and continuous monitoring, peer review and mutual inspiration will be very useful. Given its longstanding and comprehensive experience in this area, UNCTAD would be ideally placed to provide such a forum.

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- ⁸ Ibid.
- ⁹ Ibid, p. 23.
- ¹⁰ UNCTAD, 2018, Services and Structural Transformation for Development, UNCTAD/DITC/TNCD/2017/2.
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- ³⁵ In country Consultations.
- ³⁶ In-country consultations.
- ³⁷ It is worth recalling that GATS Article XXVIII defines 'supply of a service' to include marketing and sale activities, *i.e.* 'business visits' of various types, which for filmmakers etc. logically includes presence at festivals.
- ³⁸ World Economic Forum, *The Travel and Tourism Competitiveness Report 2017* (Geneva, 2017), p. 117; See also, World Economic Forum, "Oral and intangible cultural heritage", Available from <http://reports.weforum.org/travel-and-tourism-competitiveness-report-2017/ranking/#series=INTANGHERITAGE>.
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- ⁴⁰ Some Chan Thoeun, "Country Report: Cambodia Safeguarding of Cultural Heritage Performing Arts: Royal Ballet is Special", paper presented at the Training Course for Safeguarding of Intangible Cultural Heritage of the International Partnership Programme for Safeguarding of Intangible Cultural Heritage, 11-17 December, Kyoto, Japan.
- ⁴¹ In country consultations. See also Kate Whitehead, "Royal Ballet of Cambodia: a princess brings sacred dance to the masses", *Post magazine*, 2 September 2017. Available from <http://www.scmp.com/magazines/post-magazine/long-reads/article/2109137/royal-ballet-cambodia-princess-brings-sacred>.
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- ⁴³ Compilation of information based on discussions during the in-country consultations and the Phare Ponleau Selpal website, <https://phareps.org/>.
- ⁴⁴ Rama Ariadi, "Cambodia's arts and culture scene growing and improving", *Khmer Times*, 2 January 2018. Available from <http://www.khmertimeskh.com/5099237/cambodias-arts-culture-scene-growing-improving/>.
- ⁴⁵ Information generated from in country consultations and from Cambodia Living Arts website, <https://www.cambodianlivingarts.org/about-us/>.
- ⁴⁶ Kate Hodal, "Cambodia's art of survival".
- ⁴⁷ Information available at Season of Cambodia website, <http://www.seasonofcambodia.org>.
- ⁴⁸ Sven Callebaut, *Cambodia Services Sector Assessment and Contribution to SDG*, 2016; see also ITU, *Measuring the Information Society Report 2016* (Geneva, 2016), p.135, 138.
- ⁴⁹ ITU, *Measuring the Information Society Report 2016*, p.138.
- ⁵⁰ ITU, "IDI 2017 RANK: LDC". Available from <https://www.itu.int/net4/ITU-D/idi/2017/#idi2017byregion-tab>.
- ⁵¹ Klaus Schwab, *The Global Competitiveness Report 2017-2018* (Geneva, WEF, 2017), p. 79.
- ⁵² *Ibid*, pp. 135 and 341.
- ⁵³ Matthieu de Gaudemar, "An inside track on outsourcing", *Phnom Penh Post*, 08 August 2016. Available from <http://www.phnompenhpost.com/business/inside-track-outsourcing>.
- ⁵⁴ Cambodia, National Institute of Statistics, *Economic Census of Cambodia 2011 National Report on Final Census Results* (Phnom Penh, Ministry of Planning, 2012), p. III-2-3. Available from https://www.nis.gov.kh/nis/EC2011/EC2011_Final_Results_Revised.pdf.
- ⁵⁵ *Ibid*, p. III-2-37.
- ⁵⁶ In-country consultations and review of company's profile available at the Digital Divide Data website: <https://www.digitaldividedata.com/about>.
- ⁵⁷ In-country consultations and company's profile available at the Pathmazing Inc. website: <http://www.pathmazing.com/about>.
- ⁵⁸ Singapore, Monetary Authority of Singapore. "Setting up your FinTech Business in Singapore". Available from <http://www.mas.gov.sg/Singapore-Financial-Centre/Smart-Financial-Centre/Setting-up-your-Business.aspx>.
- ⁵⁹ Note, however, that unlike under the LDC Services Waiver, which requires any preferences to be extended to all LDCs on a non-discriminatory basis, preferential treatment for services procured for governmental purposes within the definition of GATS Article XIII may distinguish among LDCs.

- ⁶⁰ Klaus Schwab, *The Global Competitiveness Index 2010 – 2011* (Geneva, World Economic Forum, 2010), p. 117; Klaus Schwab, *The Global Competitiveness Index 2017–2018*, p. 79
- ⁶¹ Ibid.
- ⁶² World Economic Forum, “Legal rights index”. Available from <http://reports.weforum.org/global-competitiveness-index-2017-2018/competitiveness-rankings/#series=LEGRGHTIDX>
- ⁶³ Cambodia, General Directorate of Banking Supervision, *Annual report 2016* (Phnom Penh, National Bank of Cambodia, 2017) pp. 2–3.
- ⁶⁴ Ibid.
- ⁶⁵ Hor Kimsay, “A roadmap of financial growth”, *Phom Penh Post*, 16 June 2017. Available from <http://www.phnompenhpost.com/business/roadmap-financial-growth>.
- ⁶⁶ World Bank, Financial Inclusion, Global Findex. Available from <http://datatopics.worldbank.org/financialinclusion/region/east-asia-and-pacific> (accessed 7 December 2017).
- ⁶⁷ MAP Cambodia, “FinScope Cambodia 2015 Consumer Survey Highlights”, 2016, pp. 13-14. Available from <http://www.finmark.org.za/wp-content/uploads/2016/07/finscope-cambodia-pocket-guide.pdf>.
- ⁶⁸ In-country consultations and information available at Aceda Institute of Business’s website, http://www.aceda-aib.edu.kh/tc/eng/am_customer.
- ⁶⁹ Cambodia and Asian Development Bank, *Financial Sector Development Strategy 2011 – 2020* (Mandaluyong City, Philippines, Asian Development Bank, 2012) p. 3-4. Available from <https://www.adb.org/sites/default/files/publication/30158/financial-sector-development-strategy-2011-2020.pdf>
- ⁷⁰ World Trade Organization, MTN.GNS/W/120. Available from <http://docsonline.wto.org>.
- ⁷¹ World Trade Organization, Trade Policy Review Cambodia 2017, p.188.
- ⁷² Bar Association of the Kingdom of Cambodia, Attorney’s Office statistics, August 2017. Available from: <http://www.bakc.org.kh/index.php/2017-07-24-08-31-33> (accessed 18 December 2017).
- ⁷³ In country consultations
- ⁷⁴ These definitional differences are of great importance for all those who need to understand and assess the value of tourism and travel, including for trade negotiations; they go well beyond, and are not of major relevance for purposes of, this assessment. Readers interested in more detail are advised to consult as a first step the MSITS 2010, p. 51-54.
- ⁷⁵ World Economic Forum, The Travel and Tourism Competitiveness Report 2017, p. 117.
- ⁷⁶ World Travel & Tourism Council, “Economic Impact 2017 Cambodia” in *Travel and Tourism Impact 2017 – March 2017* (London, World Travel & Tourism Council, 2017), pp. 3, 4. Available from <https://www.wttc.org/-/media/files/reports/economic-impact-research/countries-2017/cambodia2017.pdf>.
- ⁷⁷ Ibid, p. 8.
- ⁷⁸ World Bank, World Development Indicators, Data bank.
- ⁷⁹ Cambodia, Ministry of Tourism, *Tourism statistics Report in 2016* (Phnom Pehn, 2017). Available from http://www.tourismcambodia.org/images/mot/statistic_reports/tourism_statistics_year_new_2016.pdf.
- ⁸⁰ World Bank, “Balancing Act”, East Asia and Pacific Economic update, October 2017 (Washington D.C., 2017), p. 11.
- ⁸¹ Asian Development Bank, Tourism Sector Assessment, Strategy, and Road Map for Cambodia, Lao People’s Democratic Republic, Myanmar, and Viet Nam (2016 -2018) (Manila, Philippines, 2017), p. 6.
- ⁸² World Economic Forum, “The Travel and Tourism Competitiveness Report 2017: Visa requirements”. Available from <http://reports.weforum.org/travel-and-tourism-competitiveness-report-2017/ranking/#series=VISAREQ>.
- ⁸³ Cambodia, Ministry of Tourism, *Tourism statistics Report in 2016*.
- ⁸⁴ World Travel & Tourism Council, “Economic Impact 2017 Cambodia”, p. 6.
- ⁸⁵ Asian Development Bank, *Tourism Sector Assessment*, p. 6.
- ⁸⁶ It is worth recalling that GATS Article XXVIII defines ‘supply of a service’ to include marketing and sale activities, *i.e.* ‘business visits’ of various types, which for filmmakers etc. logically includes presence at festivals.
- ⁸⁷ European Union’s notification contains two types of preferences/reservations. Some apply equally in all European Union Members, whereas others specifically refer to one or several countries.