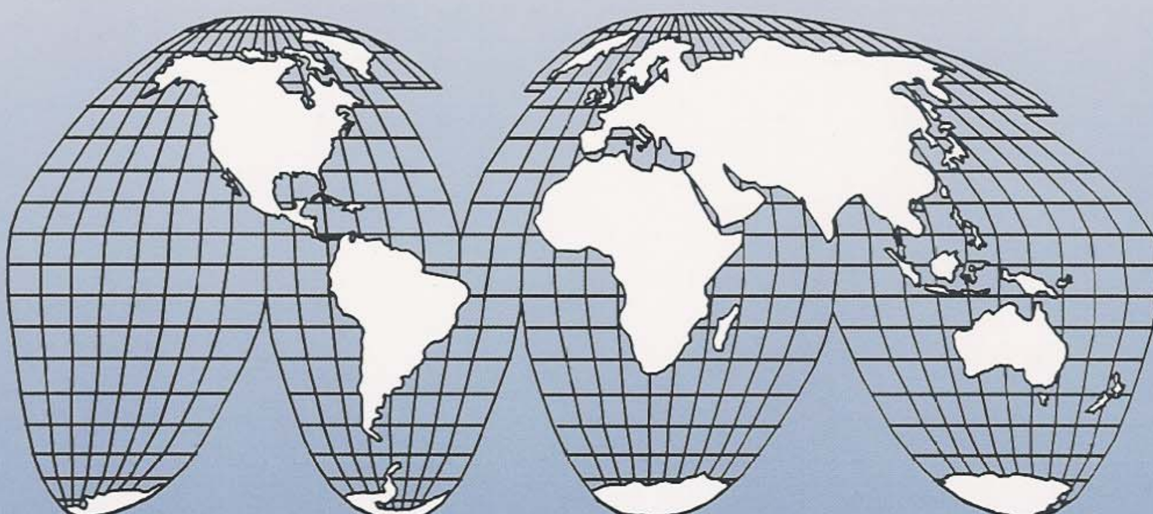
USAID

OFFICE OF INSPECTOR GENERAL

Audit of USAID/Cambodia's Monitoring of USAID-Financed Commodities Held in Customs

Audit Report No. 5-442-03-001-P

June 23, 2003



UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

USAID

Manila, Philippines

June 23, 2003

MEMORANDUM

FOR: Lisa Chiles, Director, USAID/Cambodia

FROM: George R. Jiron, Jr., Acting RIG/Manila /s/

SUBJECT: Audit of USAID/Cambodia's Monitoring of USAID-Financed Commodities Held in Customs. (Report No. 5-442-03-001-P).

This is our final report for the subject audit. We reviewed your comments to the draft report and included them in their entirety as Appendix II.

This report contains three recommendations. Based on your response to the draft report, a management decision has been reached on Recommendation No. 3. Please coordinate the final action on this recommendation with USAID's Office of Management Planning and Innovation. Based on your responses to the draft report, we do not consider Recommendation Nos. 1 and 2 to have received management decisions. Recommendation No. 2 is a monetary recommendation involving questioned costs of $49,725. We request that you provide written notice within 30 days relating to actions planned or taken to implement these two recommendations. Because Recommendation No. 2 is a monetary recommendation, please comment on the potential monetary savings from implementing the recommendation.

I appreciate the cooperation and courtesy extended to my staff during the audit.

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Summary of Results

As part of its fiscal year 2002 audit plan, the Regional Inspector General/Manila conducted this audit to determine whether USAID/Cambodia has ensured that USAID-financed commodities were tax exempt and promptly released from customs. (See page 6.)

USAID conducts its assistance programs in Cambodia under a Bilateral Agreement between the U.S. Government and the Royal Government of Cambodia. The Bilateral Agreement provides broad tax exemptions to commodities brought into Cambodia in furtherance of USAID's assistance programs. The Bilateral Agreement also provides for prompt release of those commodities from Cambodian customs. (See pages 7 and 8.)

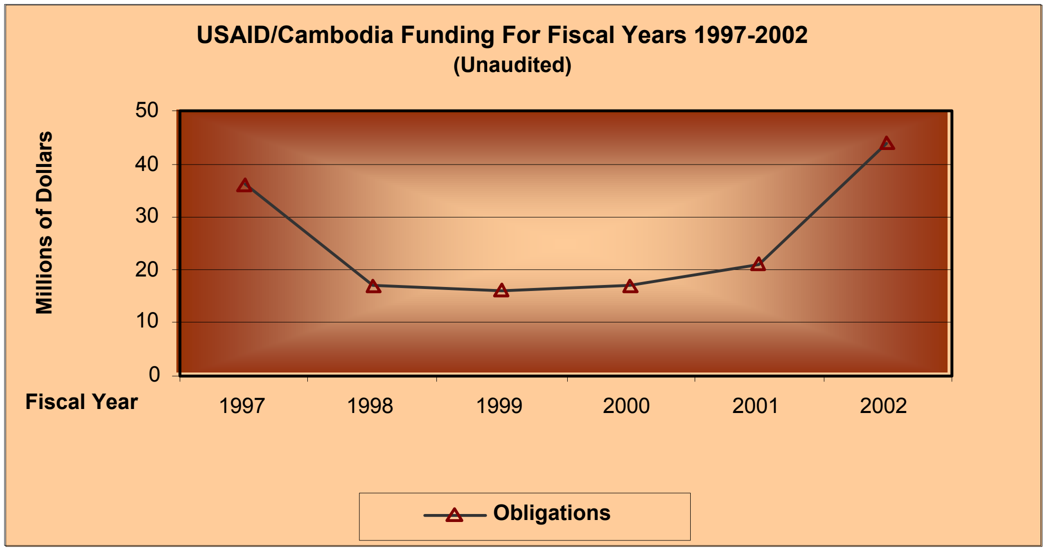
USAID/Cambodia has not ensured that USAID-financed commodities were tax exempt and promptly released from customs. Consequently, we recommended that USAID/Cambodia: (1) establish an action plan—with time frames and milestones—to work with the Royal Government of Cambodia to enforce the Bilateral Agreement's provisions of tax exemption for and prompt release of USAID-financed commodities; (2) recover taxes and storage fees totaling $49,725 paid by its implementing partners to the Royal Government of Cambodia in contradiction to the provisions of the Bilateral Agreement; and (3) conduct a review and recover any additional taxes or unreasonable storage fees that its implementing partners might have paid to the Royal Government of Cambodia for the importation of USAID-financed commodities for the period from April 2002 through March 2003. (See pages 7 and 11.)

Background

For 30 years, Cambodia was torn by civil strife and warfare, including the genocidal Khmer Rouge period. As a result, the country's infrastructure was ravaged and its human resources decimated. The Paris Peace Accords of 1991 effectively ended the many years of upheaval, thus opening the door for external assistance to Cambodia.

In October 1994 the U. S. Government and the Royal Government of Cambodia signed the "Economic, Technical and Related Assistance Agreement" (Bilateral Agreement) to foster economic, social and national development in Cambodia. USAID conducts its assistance program in Cambodia pursuant to the provisions of this Agreement.

However, in 1997, the U. S. Congress placed legislative and policy restrictions on assistance to Cambodia in response to a coup in that country. These restrictions resulted in severe cuts to USAID's program in Cambodia. For example, USAID assistance to Cambodia plunged from $36 million to $17 million between fiscal years 1997 and 1998. Along with the sharp decline in funding, the Mission either suspended or stopped altogether, direct funding and assistance to the Cambodia central government. With the easing of Congressional restrictions, USAID assistance to Cambodia rebounded dramatically in fiscal year 2002 to $44 million. However, USAID activities are still being funneled principally through non-governmental organizations. The following chart illustrates how USAID assistance to Cambodia fluctuated between fiscal years 1997 to 2002.[1]



USAID/Cambodia's implementing partners import commodities such as medical supplies, radio equipment and vehicles to carry out their USAID programs in Cambodia. The Royal Government of Cambodia imposes import and other taxes on imported commodities. Additionally, storage charges are imposed on commodities held in customs beyond a certain period. We reviewed the process of importation of USAID-financed commodities for the period from October 2000 to March 2002.

Audit Objective

The Regional Inspector General/Manila added this audit to its fiscal year 2002 audit plan as a result of preliminary findings in the audit of USAID/Cambodia's HIV/AIDS program. That audit indicated USAID-financed vehicles had been held in customs for more than a year before being released. USAID/Cambodia officials requested that we conduct a separate audit of customs delays because they thought the issue could involve its entire assistance program. This audit was performed to answer the following objective:

- Has USAID/Cambodia ensured that USAID-financed commodities were tax exempt and were promptly released from customs?

Appendix I describes the audit's scope and methodology.

[1] These obligations include both Mission direct funding and field support funding.

Audit Findings

Has USAID/Cambodia ensured that USAID-financed commodities were tax exempt and were promptly released from customs?

USAID/Cambodia has not ensured that USAID-financed commodities were tax exempt and promptly released from customs. Rather, 3 of the Mission's 21 implementing partners either paid taxes and/or incurred unreasonable customs delays on USAID-financed commodities. The next section details these issues.

USAID-financed Commodities Subjected to Taxes and Customs Delays

Contrary to the 1994 Bilateral Agreement, USAID-financed commodities were taxed and/or unduly delayed at customs. This occurred for 3 of the Mission's 21 implementing partners because USAID/Cambodia officials avoided addressing the issues of taxes and customs delays directly with the Royal Government of Cambodia. As a result, USAID activities were affected to the extent that USAID funds were used to pay for taxes and customs storage fees instead of program activities, and to the extent that the commodities could not be used for program purposes while confined at customs.

USAID has conducted its assistance program in Cambodia pursuant to the 1994 Bilateral Agreement. In order to assure the maximum benefits to the people of Cambodia from the assistance furnished by USAID, the Bilateral Agreement contains several exemptions from taxes, duties and other levies. One such exemption contained in Article III (1) states:

> All property including supplies, materials, equipment, or funds introduced into or acquired in the Kingdom of Cambodia used or to be used in connection with this Agreement, or in furtherance of the purposes, programs, projects and operations for which assistance is made available pursuant to this agreement, by the Government of the United States of America or by any person or entity, public or private financed by that Government shall be exempt from any taxes on ownership or use or any other taxes, investment or deposit requirements, and currency controls in the Kingdom of Cambodia and the import, export, acquisition, use or disposition of any such property or funds in connection with this Agreement shall be exempt from any tariffs, customs duties, import and export taxes, taxes on purchase or disposition and any other taxes or similar charges in the Kingdom of Cambodia.

Similar to the above provision on taxes, the Bilateral Agreement addresses the issue of prompt release of USAID-financed commodities from customs. Specifically, Article III (2) states:

> All property including supplies, materials, equipment, introduced into the Kingdom of Cambodia by the Government of the United States of America or by any person or entity, public or private, financed by that Government and used or to be used in connection with this Agreement, or in furtherance of the purposes, programs, projects and operations for which assistance is made available pursuant to this Agreement, upon arrival shall be exempt from any garnishment, attachment, seizure, or other legal process when the Government of the United States of America advises the Government of the Kingdom of Cambodia that such would interfere with the attainment of the objectives of the assistance program, and such property upon arrival in the Kingdom of Cambodia shall be kept safe and secure in customs or any import holding facility by the Government of the Kingdom of Cambodia and promptly released upon request into the custody of designated personnel of the Government of the United States of America or of the person or public or private entity financed by that Government, who shall be afforded full access to the facility to inspect the property as and when requested.

Contrary to Article III (1) of the Bilateral Agreement, the Reproductive Health Association of Cambodia (RHAC), one of USAID/Cambodia's 21 implementing partners, paid import and other taxes totaling $31,277. The Royal Government of Cambodia (RGC) taxed RHAC for the import of three vehicles and medical equipment because it is a Cambodian non-government organization (NGO) and not an international NGO. In our opinion, however, the exemptions in the Bilateral Agreement clearly apply to RHAC as the commodities were to be used in implementing USAID programs. In this particular case, USAID/Cambodia did not directly address RHAC's tax exempt status with the RGC. As a consequence, rather than being used to provide direct program services, the $31,277 was used to pay taxes. Appendix III summarizes the taxes paid.

Contrary to Article III (2) of the Bilateral Agreement, 3 of 21 implementing partners reported that USAID-financed commodities were held in customs for unduly long periods.[2] For example, Population Services International imported a Ford Pickup and a Ford Explorer [seen in the photo on the next page] under its grant agreement with USAID. The RGC held these vehicles in customs for 388 and 470 days, respectively. The table on page 10 details customs delays and associated storage fees paid by the three implementing partners. More detailed information is found in Appendix III.

[2] For this audit we considered 30 days a reasonable period for Cambodian customs to process USAID-financed commodities.

Photograph of a Ford Explorer imported by Population Services International and held in customs for 470 days. The photograph was taken in October 2002 at the recipient's field office in Phnom Penh, Cambodia.

Implementing partners had to pay storage charges on the detained vehicles. According to host government customs regulations, the Cambodian customs authority allows seven days of free storage of commodities from the date the shipping vessel arrives at port. Thereafter, there are daily storage charges. All told, the three implementing partners that had commodities detained in customs used USAID funds to pay $18,448 in such charges to the host government.

These detentions were caused by the host government's decision to hold international NGOs' commodities in customs until each international NGO signed a Memorandum of Understanding (MOU) with the host government, and because USAID/Cambodia did not ensure that the Bilateral Agreement was followed.

In 1995, the Royal Government of Cambodia proposed that it sign a standard MOU with each international NGO as a mechanism to register all international NGOs operating in Cambodia. At that time, the proposed MOU included blanket tax exemptions for international NGOs. However, as a result of Cambodia's tax reform efforts in 1997, the proposed MOU was revised to include taxation provisions. International NGOs and some of their foreign government sponsors objected to these and other provisions, and protracted negotiations involving these and other parties ensued. In calendar year 2000, the Royal Government of Cambodia finalized a standard MOU. One measure used by the RGC to ensure international NGOs signed an MOU was to hold their commodities—including USAID-financed commodities—at customs until an MOU was signed.

USAID-Financed Commodities Held in Customs for the Period from October 2000 through March 2002			
Implementing Partners	**Commodity**	**Days Held In Customs**	**Storage Charges Paid**
The Asia Foundation	Ford Explorer	384	$2,407
	Ford Explorer	384	$2,407
	Ford Explorer	384	$2,407
	Ford Explorer	384	$2,407
	Radio Equipment	37	$2,079
Population Services International	Ford Pickup	388	$2,438
	Ford Explorer	470	$2,955
Reproductive Health Association of Cambodia	Ford Pickup	234	$1,348
Total			**$18,448**

Although involved in the issues raised by the proposed MOU, USAID/Cambodia did not take an essential step to ensure compliance with the Bilateral Agreement. USAID/Cambodia actions included reviewing the MOU and examining its effects on USAID program and implementing partners. However, it did not directly engage the host government to ensure that the provisions in the Bilateral Agreement were adhered to. For example, rather than addressing the issue of detained vehicles with the host government, in fiscal year 2000, the Mission decided to no longer finance imported vehicles, and it instructed implementing partners to purchase any needed vehicles with non-USAID funds or lease them locally. A Mission official explained that because of the 1997 sanctions imposed on Cambodia by the U. S. Congress, it made it difficult for the Mission to approach the host government to resolve such problems.

Using USAID funds to pay storage on USAID-financed commodities that should have been promptly released unnecessarily diverted $18,448 from being used to provide direct program services. Similarly, program services were affected to the extent that the confined commodities could not be used to provide those services.

USAID/Cambodia should take advantage of the tax exemption and prompt release provisions of the Bilateral Agreement. This agreement between the U.S. Government and the Royal Government of Cambodia—signed in 1994—provides USAID-financed commodities with protection from taxes and protection from unreasonable delays at port. By ensuring that all its implementing partners are afforded these protections, the Mission can channel more funding to direct services for beneficiaries. To this end, we are making the following recommendations:

> **Recommendation No. 1: We recommend that USAID/Cambodia establish an action plan—with timeframes and milestones—to work with the Royal Government of Cambodia to enforce the Bilateral Agreement's provisions of tax exemption for and prompt release of USAID-financed commodities.**
>
> **Recommendation No. 2: We recommend that USAID/Cambodia recover taxes and storage charges totaling $49,725 from the Royal Government of Cambodia which were paid by the Mission's implementing partners in contradiction to the provisions of the Bilateral Agreement.**
>
> **Recommendation No. 3: We recommend that USAID/Cambodia conduct a review and recover any additional taxes or unreasonable storage fees that its implementing partners might have paid to the Royal Government of Cambodia for the importation of USAID-financed commodities during the period from April 2002 through March 2003.**

Related Issue

As discussed in the prior section, the Royal Government of Cambodia required international NGOs to sign a standard MOU, taking actions such as detaining commodities at customs to secure their cooperation. At the time of our audit fieldwork, 11 of USAID/Cambodia's implementing partners had signed such MOUs.

However, the tax provisions in the standard MOU contradict the tax exemptions afforded by the Bilateral Agreement. Specifically, the MOU allows the import of materials, equipment, and machinery as defined in approved project proposals but stipulates that import taxes are to be paid by the host government. This language indicates that imported commodities are taxable, although the tax will be paid by the RGC. In contrast, the Bilateral Agreement clearly states that commodities imported to further U.S. programs are tax exempt.

USAID/Cambodia did not ensure that the MOUs signed by its implementing partners were fully compatible with the Bilateral Agreement because, as noted in the previous section of this report, the sanctions made it difficult for Mission officials to engage the host government to resolve such problems.

Because the standard MOU does not require that USAID's implementing partners themselves pay import taxes, there does not seem to be an immediate impact on USAID-financed commodities imported into Cambodia. However, what happens if the RGC decides to no longer pay the tax? Further, the RGC could attempt to change the standard MOU provision to require that USAID implementing partners pay taxes on imported commodities.

The contradictory language between the MOU and the Bilateral Agreement underscores the need for Mission officials to ensure that all its implementing partners are afforded the tax protections of the Bilateral Agreement when importing USAID-financed commodities. We are not making a specific recommendation on the issue of the contradictory language of the MOU because there was no immediate impact on USAID-financed commodities, and because we believe that Recommendation No. 1, if implemented, would nullify the tax provisions of the MOU.

Management Comments and Our Evaluation

In response to our draft report, USAID/Cambodia provided written comments that are included in their entirety as Appendix II. Based on the Mission's comments, a management decision has been reached on Recommendation No. 3. This recommendation can be closed when the Mission provides evidence to USAID's Office of Management Planning and Innovation that the Mission has implemented the necessary actions. Management decisions for Recommendation Nos. 1 and 2 have not yet been reached.

For Recommendation No. 1, USAID/Cambodia noted that the recent easing of legislative restrictions for some of its programs makes it now possible for it to work with Royal Government of Cambodia (RGC) to implement part of its assistance program. The Mission proposes establishing a Strategic Objective Grant Agreement (SOAG) for each USAID activity, where it has such approval, under which it can obtain the RGC's commitment to ensure that tax exemption provisions are implemented and importation of commodities is facilitated.

However, the proposed tax provisions for the SOAGs would not agree with the tax provisions in the Bilateral Agreement. The Mission notes that each SOAG would require that the payment of taxes, duties and any other charges on USAID-financed commodities would be provided for out of the RGC's own budgetary resources and made part of that government's contribution to total program cost. The Mission's proposal reads very much like the tax language in the Memorandum of Understanding (MOU) that is discussed under the "Related Issue" section of this report. As noted in that section, the MOU tax language indicates that USAID-financed commodities would be taxable but that the RGC would pay the tax. In contrast, under the Bilateral Agreement USAID-financed commodities are tax exempt. Additionally, we don't believe that the RGC's payment of taxes, duties and other charges could be considered host country contributions when the Bilateral Agreement exempts USAID-financed commodities from such charges. Finally, the Bilateral Agreement was negotiated in 1994, in part, to provide tax exemptions that USAID believed were necessary.

In a January 1994 Action Memorandum to the USAID Administrator, the Assistant Administrator for the Asia and Near East Bureau requested authorization to negotiate a new Bilateral Agreement with the RGC, in part, to secure appropriate tax exemption guarantees. Specifically, the Action Memorandum noted that since USAID assistance including commodities to Cambodia would be provided through grantees and contractors, tax exemption for U.S. Government-financed goods and services must be guaranteed, something which the 1971 Bilateral Agreement did not provide. The Action Memorandum also stated that while Limited Scope Grant Agreements (the precursors to SOAGs) with standard tax exemption provisions had been signed, the provisions gave only minimal assurances and were limited to those activities falling under the agreements.

Automated Directives System, Chapter 350, Grants to Foreign Governments, contains a mandatory standard provision providing comprehensive exemptions for USAID-financed commodities from taxes and customs duties. Chapter 350 states that the standard provision should be used unless "post practice" provides more in the way of exemptions. We believe that the Bilateral Agreement represents what USAID intended to be the "post practice". In either case, both the standard provision and the Bilateral Agreement provide more comprehensive tax exemptions than what the Mission seems to be proposing. Further, the Bilateral Agreement addresses prompt release of U.S. Government-financed commodities whereas the Mission's proposed actions do not address this issue.

Since USAID felt it needed the tax exemption and prompt release provisions negotiated in 1994, we still believe that the Mission should work with the RGC to enforce the Bilateral Agreement's provisions of tax exemption for and prompt release of USAID-financed commodities, unless the Mission can provide adequate justification for not enforcing the Bilateral Agreement. This recommendation remains open pending agreement with the Mission.

For Recommendation No. 2, USAID/Cambodia stated that the draft report did not specify which taxes were paid, by whom, and on what dates. The Mission added that it was unable to respond to the recommendation without the detailed information on which the $49,725 is based, and without then engaging the relevant grantees/recipients. While the audit report may not have provided all the information the Mission felt it needed, it does identify the affected commodities and the implementing partners that paid taxes and storage costs on those commodities. Those implementing partners had the relevant documentation as the RIG/Manila auditor worked closely with them. Additionally, when the Mission asked for more time to respond to the draft report, it did not cite a lack of information as the reason why more time was needed. We are, however, providing additional information in Appendix III. This recommendation remains open pending agreement with the Mission.

As for Recommendation No. 3, USAID/Cambodia stated it had initiated a review to determine whether any additional taxes or storage fees were paid by its implementing partners during the period from April 2002 to March 2003. The Mission also stated that it would take appropriate action if any taxes or storage charges were paid during the period. Based on the Mission's comments, a management decision has been reached.

Scope and Methodology

Scope

RIG/Manila conducted this audit in accordance with generally accepted government auditing standards. The purpose of this audit was to determine whether USAID/Cambodia ensured that USAID-financed commodities were tax exempt and promptly released from Cambodian customs during the period from October 2000 to March 2002. The audit covered USAID-financed commodities imported into Cambodia, but not commodities purchased in Cambodia. Our on-site fieldwork was conducted at USAID/Cambodia in Phnom Penh and at 20 of its implementing partners between September 23 and October 11, 2002. In addition, we communicated with implementing partners over the period from October 2002 to February 2003.

We obtained an understanding of and assessed the management controls used by USAID/Cambodia to ensure that USAID-financed commodities were tax exempt and promptly released from customs. Our work included interviewing cognizant Mission officials, reviewing the Mission's most recent self-assessment of its compliance with the Federal Manager's Financial Integrity Act of 1982, reviewing Mission and U.S. Government agreements with the Royal Government of Cambodia (RGC), the RGC Memorandum of Understanding with international NGOs, and reviewing other documentation and correspondence relative to the Mission's policies, procedures and actions to ensure that USAID-financed commodities were tax exempt and promptly released from customs.

Methodology

Prior to conducting our fieldwork, we developed a standard questionnaire which we sent to all USAID/Cambodia implementing partners. The questionnaire requested implementing partners to report any instances where taxes were paid on imported USAID-financed commodities and any instances where such commodities were held more than 30 days in customs. Additionally, the questionnaire asked implementing partners to report any adverse programmatic impact from any payment of taxes or customs delays. Some implementing partners did not initially respond to the questionnaire, but in those cases we did follow-up interviews.

At USAID/Cambodia, we interviewed responsible officials and reviewed relevant documentation such as Mission and U.S. Government agreements with the RGC, Mission agreements with implementing partners, and other documentation and correspondence related to the Mission's policies, procedures and actions to ensure that USAID-financed commodities were tax exempt and promptly released from customs.

We visited all but one of USAID/Cambodia's implementing partners and interviewed responsible officials. For those implementing partners that responded to the questionnaire, we reviewed documentation that supported those answers. For those implementing partners that did not respond, we obtained the documentation needed to answer the questionnaire. We also reviewed other documentation at the implementing partners such as agreements and correspondence with USAID and the RGC related to the import of USAID-financed commodities.

We judged that if 5 percent or less of implementing partners had paid taxes on or incurred customs delays on USAID-financed commodities, it would result in an unqualified (positive) opinion. If between 5 and 10 percent had paid taxes or incurred customs delays, the opinion would be qualified (both positive and negative findings). If 10 percent or more had paid taxes or incurred customs delays, it would result in adverse (negative) opinion. We used these rather stringent materiality thresholds, considering the absolute requirements contained in the Bilateral Agreement and the conflicting policies and actions of the RGC regarding commodities brought into Cambodia by international NGOs.

Management Comments

United States Agency for International Development
Phnom Penh, Cambodia

MEMORANDUM

TO:	Bruce Boyer, RIG/Manila	DATE:	June 4, 2003
FROM:	Lisa Chiles, USAID/Cambodia Mission Director /s/	REF:	Boyer/Chiles Transmittal Memo dated April 28, 2003
SUBJECT:	Audit of USAID/Cambodia's Monitoring of USAID-Financed Commodities Held in Customs (Report No. 5-442-03-XXX-P)		

We very much appreciate the opportunity to comment on the subject draft audit report. We share your interest in ensuring adherence to the terms of the 1994 Bilateral Agreement between the U.S. Government (USG) and the Royal Government of Cambodia (RGC), the tax exemption and prompt release provisions in particular.

There are a number of statements in the draft report which we plan to address, particularly those which comment on what USAID/Cambodia is said to have done or not done regarding the apparent payment of taxes and storage fees by USAID recipients and non-enforcement of the US-Cambodia Bilateral Agreement. It is difficult to reply, however, because the draft report does not specify which taxes were paid, by whom, and on what dates. We need that information to enable us not only to fairly respond to whether the Mission performed adequately and reasonably regarding this issue, but also to determine allowability of the questioned costs under the relevant individual grants and cooperative agreements.

To my knowledge, USAID has always been responsive to inquiries or requests for assistance from our partner organizations regarding the subject of taxes. It should be noted that the primary responsibility for avoiding the payment of taxes for which an exemption is available is with the grantee or recipient (see OMB Circular A-122, attachment B, section 51, "Taxes"). In other words, if the host government attempts to assess a tax for which an exemption is available, it is incumbent upon the USAID grantee or recipient to attempt to avoid paying such a tax, including seeking

USAID's assistance if necessary. Similarly, regarding the Memoranda of Understanding (MOUs) which the Cambodian government has requested non-governmental organizations (NGOs) to sign, while USAID was actively involved in reviewing draft form MOUs and in counseling NGOs in Cambodia regarding this subject (including highlighting the existence and effect of the Bilateral Agreement), so far as I know, no USAID grantee or recipient requested USAID to clear off on a final MOU they were asked to sign. We are reviewing our files on this latter point, but suffice it to say that USAID would never have counseled an NGO to sign an MOU which contained provisions contrary to our Bilateral Agreement with the host government. In fact our guidance to our NGO partners, when we were engaged in discussions about the whole MOU process early on, was exactly to the contrary.

<u>Recommendation No. 1</u>: That USAID/Cambodia establish an action plan—with timeframes and milestones—to work with the RGC to enforce the Bilateral Agreement's provisions of tax exemption for and prompt release of USAID-financed commodities.

<u>Mission Response</u>: The recent easing of legislative restrictions related to HIV/AIDS, infectious diseases, maternal and child health, anti-trafficking and basic education makes it now possible for the USAID Mission to work with RGC again in the implementation of part of our assistance program. USAID/Cambodia's plan is to establish a Strategic Objective Agreement (SOAG) for each USAID activity, where we have such approval, with the respective line ministries within the central government. Under a SOAG, which is the commitment of both the USG and the host government to implement a specific activity, we can obtain RGC ministry commitment to ensure tax exemption provisions are implemented and facilitate importation of commodities.

We also plan to develop and adopt a Mission Order on the preparation of SOAGs that would require every SOAG to specify an estimated amount of taxes, duties and any other charges associated with the importation of USAID-financed commodities into Cambodia to be provided for out of RGC's own budgetary resources and made part of the government contribution to the total program cost. The RGC contribution shall be included in the Financial Plan which is an integral part of the SOAG. We anticipate drafting and adopting the Mission Order within the next six months.

With respect to establishing SOAGs for each USAID activity, we have already initiated action on this plan. Our first SOAG, which was signed on May 2, 2003, is with the Ministry of Education under the Basic Education program. Our timeframe for the rest of the USAID program is as follows:

For HIV/AIDS and Health—the SOAG with the Ministry of Health target date is July 2003.
For Anti-trafficking program—the SOAG with the Ministry of Women's Affairs is under consideration after the national election in July.
For Democracy portfolio—the SOAG will be developed as soon as Congressional approval is received to work directly with the respective Ministries of the Cambodian government, including the Ministries of Commerce, Justice, and Interior.

Based on the above discussion, we request your concurrence that a management decision has been reached with respect to Recommendation No. 1.

Recommendation No. 2: That USAID/Cambodia recover taxes and storage charges totaling $49,725 from the RGC which were paid by the Mission's implementing partners in contradiction to the provisions of the Bilateral Agreement.

Mission Response: The Mission is unable to respond to this recommendation without the detailed information on which the $49,725 is based, and without then engaging the relevant grantees/recipients to determine the circumstances under which each payment was made. At the conclusion of that review, the Mission would be in a better position to make decisions regarding all such payments, which could include disallowing certain payments and recovering the disallowed amounts from the grantee or recipient which paid them or from the Cambodian government, if appropriate.

Recommendation No. 3: That USAID/Cambodia conduct a review and recover any additional taxes or unreasonable storage fees that its implementing partners might have paid to the RGC for the importation of USAID-financed commodities during the period from April 2002 through March 2003.

Mission Response: As requested, we have initiated a review to determine if any additional taxes or storage fees were paid by our implementing partners during the period from April 2002 through March 2003. If any additional taxes and storage charges were paid, the Mission will take the appropriate action as discussed in Recommendation No. 2 above. Based on this action, we request your concurrence that a management decision has been reached with respect to Recommendation No. 3.

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Summary of Taxes and Storage Charges Paid on USAID-Financed Commodities for the Period from October 2000 to March 2002

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Implementing Partners	**Commodity**	**Purchase Price**	**Date Arrived At Port**	**Date Cleared**	**Days Held in Customs**	**Storage Charges**	**Demurrage**	**Over Stockage Taxes**	**Import Taxes**	**Specific Tax 10%**	**Value Added Taxes**	**Other Taxes**	**Total Taxes and Storage Charges**	**Implementing Partners' Payment Documents**
The Asia Foundation	Ford Explorer	$26,750	01/05/2001	01/25/2002	384	$602	$1,805						$2,407	Check 47755 ($8,976) dated 1/16/02
	Ford Explorer	$27,450	01/05/2001	01/25/2002	384	$602	$1,805						$2,407	Check 8895 ($651) dated 1/30/02
	Ford Explorer	$27,450	01/05/2001	01/25/2002	384	$602	$1,805						$2,407	Same as above
	Ford Explorer	$27,450	01/05/2001	01/25/2002	384	$602	$1,805						$2,407	Same as above
	Radio Equipment	$62,959	02/12/2001	03/22/2001	37	$2,079							$2,079	Airbill No. 20348 ($2,079) paid 4/11/2001
Population Services International	Ford Pickup	$27,650	01/22/2001	02/14/2002	388	$1,280	$1,158						$2,438	Check 187815 ($4,000) dated 23/01/02
	Ford Explorer	$26,750	11/01/2000	02/14/2002	470	$1,551	$1,404						$2,955	Check 187861 ($1,393) dated 2/20/02
Reproductive Health Association of Cambodia	Ford Pickup	$25,920	01/17/2001	09/08/2001	234	$715	$633	$3,886	$3,369	$2,583	$3,389	$2,084	$16,659	Check 9317 ($12,624) dated 8/21/01 Check 9393 ($3,535) dated 9/7/01 Spreadsheet provided to auditor ($500)
	Ford Explorer	$21,450			0				$2,506	$1,921	$2,114	$8	$6,549	Customs Form 219379 dated 9/21/01
	Ford Explorer	$21,450			0				$2,506	$1,921	$2,114	$8	$6,549	Customs Form 219583 dated 9/21/01
	Medical Equipment	$10,803			0				$1,517		$1,351		$2,868	Spreadsheet provided to auditor ($2,868)
Totals		**$306,082**				**$8,033**	**$10,415**	**$3,886**	**$9,898**	**$6,425**	**$8,968**	**$2,100**	**$49,725**	

	Summary: Storage Charges	**Columns:**
	$8,033	(G)
	$10,415	(H)
Total	$18,448	

	Summary: Taxes	**Columns:**
	$3,886	(I)
	$9,898	(J)
	$6,425	(K)
	$8,968	(L)
	$2,100	(M)
Total	$31,277	